

*"There would be no society if living together depended on understanding each other."*

Eric Hoffer

BURNS AND BURNS, P.C. IS AN AV RATED LAW FIRM THAT REPRESENTS MULTI-GENERATIONAL FAMILIES AND BUSINESS OWNERS WITH THEIR ASSET PROTECTION, REAL ESTATE, AND ESTATE PLANNING NEEDS.

## Unmarried and Living Together, Are You Protected Financially?

### Introduction

If you currently live with or are thinking about living with your "significant other," who is not your legal spouse, you should know that the protections provided under Arizona's community property laws will not apply to your relationship. As the trend for couples deciding to forego or delay marriage continues to grow, fewer and fewer of these non-married couples will be able to take advantage of the current community property law protections. A further troublesome fact is that as the numbers of cohabitating couples sever their relationships, the non-breadwinning member will be put at a financial disadvantage. As a result, every unmarried cohabitating couple needs to take the proper steps to protect their financial future.

### Community Property Protections

Community property laws attempt to protect people by implementing what is commonly referred to as the Double Ownership Theory. Under this Theory, each spouse is deemed to own an undivided and indivisible one half of all community property regardless of which spouse actually paid for the property. For example, if the salary of one spouse was used to purchase a home, establish a retirement account or purchase a car, that house, car, and retirement account would generally belong to both spouses equally. Therefore, if the spouses in this example divorced, the non-breadwinning spouse has the financial security of knowing that they have a one half ownership interest in all of the community property assets as well as the potential to collect marital support following the divorce.

Unmarried cohabitating couples unfortunately do not receive these same community property law

protections. Therefore, if the couple (from the previous example) were not married, upon their breakup, the non-breadwinning partner would not have been able to claim a community property ownership interest in the assets acquired during the relationship (namely the other partner's salary, home, car, and savings account.) As a result, cohabitating couples, especially the non-breadwinning partner, need to take steps to protect themselves financially in the event their relationship dissolves.

### Unmarried Couples Protections

As previously stated, no community property rights exist between unmarried cohabitating couples. However, an unmarried cohabitating couple may establish property rights based on an express or implied agreement to share property, if there is consideration other than the meretricious relationship. [Cook v. Cook, 142 Ariz. 573 (1984)] Although limited property rights can exist between unmarried couples, couples severing their relationship do not want to incur expensive legal fees and the associated time of going through the court system in order to enforce their rights. Therefore, every unmarried cohabitating couple should execute the necessary agreements to protect and establish their property rights as well as protect their rights in the event their partnership incurs a large amount of debt.

### Protection Services

If you are interested in learning more about how unmarried cohabitating couples can plan to protect their financial integrity, please contact BURNS AND BURNS, P.C. The lawyers at BURNS AND BURNS, P.C. have experience handling real property ownership rights, asset protection planning, and debt planning issues.

BURNS AND BURNS, P.C.

Asset Protection, Estate Planning, and Real Estate Law

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**About the Author**  
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Scott F. Burns, Esq. is an Arizona attorney. His clientele include professional athletes, business owners, and families desirous of protecting their personal and professional legacies through the use of asset protection strategies, tax planning, estate planning, and business consulting.

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