**UNIFORM MARITAL PROPERTY ACT** \*

*Drafted by the*

NATIONAL CONFERENCE OF COMMISSIONERS

ON UNIFORM STATE LAWS

*and by it*

APPROVED AND RECOMMENDED FOR ENACTMENT

IN ALL THE STATES

*at its*

ANNUAL CONFERENCE

MEETING IN ITS NINETY-SECOND YEAR

IN BOCA RATON, FLORIDA

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Without Prefatory Note or Comments

Approved by the American Bar Association

Chicago, Illinois, August 8, 1984



\* The Conference changed the designation of the Marital Property Act (1983) from Uniform to Model as approved by the Executive Committee on July 16, 1996.

**UNIFORM MARITAL PROPERTY ACT**

The Committee that acted for the National Conference of Commissioners on Uniform State Laws in preparing the Uniform Marital Property Act was as follows:

WILLIAM C. HILLMAN, 403 S. Main St., Providence, RI 02903, *Chairman*

GEORGE C. BERK, 632 Fleet Bank Building, Providence, RI 02903

PETER J. DYKMAN, 211 N. Capitol, Madison, WI 53702

BION M. GREGORY, 3021 State Capitol, Sacramento, CA 95814

LINDA JUDD, P.O. Box 999, Post Falls, ID 83854

HENRY D. STRATTON, P.O. Box 851, Pikeville, KY 41501

RICHARD V. WELLMAN, University of Georgia, School of Law, Athens, GA 30602

WILLIAM P. CANTWELL, Suite 2900, 633 17th St., Denver, CO 80202, *Reporter*

M. KING HILL, 6th Floor, 100 Light St., Baltimore, MD 21202, *President, Member Ex Officio*

WILLIAM J. PIERCE, University of Michigan School of Law, Ann Arbor, MI 48109, *Executive Director*

THOMAS E. CAVENDISH, 37 W. Broad St., Columbus, OH 43215, *Chairman, Division G, Member Ex Officio*

Review Committee

GLEE S. SMITH, P.O. Box 360, Larned, KS 67550, *Chairman*

JACK DAVIES, William Mitchell College of Law, 875 Summit Ave., St. Paul, MN 55105

SUSAN S. ENGELEITER, Room 408 S., State Capitol Building, Madison, WI 53702

Advisors to Committee

THOMAS M. BOYKOFF, *American Bar Association, Section of Taxation*

EDWIN H. FRANK, JR., *American Bar Association, Section of Real Property, Probate and Trust Law*

JOHN GOODE, *American Land Title Association*

BEVERLY A. GRONER, *American Bar Association*

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ON UNIFORM STATE LAWS

645 N. Michigan Ave., Suite 510

Chicago, IL 60611

**UNIFORM MARITAL PROPERTY ACT**

**§ 1. General Definitions**

In this [Act]:

(1) "Acquire" in relation to property includes reduction of indebtedness on encumbered property and obtaining a lien on or security interest in property.

(2) "Appreciation" means a realized or unrealized increase in the value of property.

(3) "Decree" means a judgment or other order of a court.

(4) "Deferred employment benefit" means a benefit under a plan, fund, program, or other arrangement under which compensation or benefits from employment are expressly, or as a result of surrounding circumstances, deferred to a later date or the happening of a future event. Such an arrangement includes a pension, profit sharing, or stock‑bonus plan; an employee stock‑ownership or stock‑purchase plan; a savings or thrift plan; an annuity plan; a qualified bond‑purchase plan; a self‑employed retirement plan; a simplified employee pension; and a deferred compensation agreement or plan. It does not include life, health, accident, or other insurance, or a plan, fund, program, or other arrangement providing benefits comparable to insurance benefits, except to the extent that benefits under the arrangement: (i) have a present value that is immediately realizable in cash at the option of the employee; (ii) constitute an unearned premium for the coverage; (iii) represent a right to compensation for loss of income during disability; or (iv) represent a right to payment of expenses incurred before time of valuation.

(5) "Determination date" means the last to occur of the following: (i) marriage; (ii) 12:01 a.m. on the date of establishment of a marital domicile in this State; or (iii) 12:01 a.m. on the effective date of this [Act].

(6) "Disposition at death" means transfer of property by will, intestate succession, nontestamentary transfer, or other means that take effect at the transferor's death.

(7) "Dissolution" means: (i) termination of a marriage by a decree of dissolution, divorce, annulment, or declaration of invalidity; or (ii) entry of a decree of legal separation or separate maintenance.

(8) "During marriage" means a period that begins at marriage and ends at dissolution or at the death of a spouse.

(9) Property is "held" by a person only if a document of title to the property is registered, recorded, or filed in a public office in the name of the person or a writing that customarily operates as a document of title to the type of property is issued for the property in the person's name.

(10) "Income" means wages, salaries, commissions, bonuses, gratuities, payments in kind, deferred employment benefits, proceeds, other than death benefits, of a health, accident, or disability insurance policy, or of a plan, fund, program, or other arrangement providing benefits comparable to those forms of insurance, other economic benefits having value which are attributable to the effort of a spouse, dividends, interest, income from trusts, and net rents and other net returns attributable to investment, rental, licensing, or other use of property, unless attributable to a return of capital or to appreciation.

(11) "Management and control" means the right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, institute or defend a civil action regarding, or otherwise deal with, property as if it were property of an unmarried person.

(12) "Marital property agreement" means an agreement that complies with Section 10.

(13) A person has "notice" of a fact if the person has knowledge of it, receives a notification of it, or has reason to know that it exists from the facts and circumstances known to the person.

(14) "Presumption" or a "presumed" fact means the imposition on the person against whom the presumption or presumed fact is directed of the burden of proving that the nonexistence of the presumed condition or fact is more probable than its existence.

(15) "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property.

(16) "Written consent" means a document signed by a person against whose interests it is sought to be enforced.

**§ 2. Responsibility Between Spouses**

(a) Each spouse shall act in good faith with respect to the other spouse in matters involving marital property or other property of the other spouse. This obligation may not be varied by a marital property agreement.

(b) Management and control by a spouse of that spouse's property that is not marital property in a manner that limits, diminishes, or fails to produce income from that property does not violate subsection (a).

**§ 3. Variation by Marital Property Agreement**

Except as provided in Sections 2, 8(e), 9(c) and 10(b), a marital property agreement may vary the effect of this [Act].

**§ 4. Classification of Property of Spouses**

(a) All property of spouses is marital property except that which is classified otherwise by this [Act].

(b) All property of spouses is presumed to be marital property.

(c) Each spouse has a present undivided one‑half interest in marital property.

(d) Income earned or accrued by a spouse or attributable to property of a spouse during marriage and after the determination date is marital property.

(e) Marital property transferred to a trust remains marital property.

(f) Property owned by a spouse at a marriage after the determination date is individual property.

(g) Property acquired by a spouse during marriage and after the determination date is individual property if acquired:

(1) by gift or a disposition at death made by a third person to the spouse and not to both spouses;

(2) in exchange for or with the proceeds of other individual property of the spouse;

(3) from appreciation of the spouse's individual property except to the extent that the appreciation is classified as marital property under Section 14;

(4) by a decree, marital property agreement, written consent, or reclassification under Section 7(b) designating it as the individual property of the spouse;

(5) as a recovery for damage to property under Section 15, except as specifically provided otherwise in a decree, marital property agreement, or written consent; or

(6) as a recovery for personal injury except for the amount of that recovery attributable to expenses paid or otherwise satisfied from marital property.

(h) Except as provided otherwise in this [Act] the enactment of this [Act] does not alter the classification and ownership rights of property acquired before the determination date.

(i) Except as provided otherwise in this [Act] and to the extent it would affect the ownership rights of the spouse that existed in the property before the determination date, during marriage the interest of a spouse in property owned immediately before the determination date is treated as if it were individual property.

**§ 5. Management and Control of Property of Spouses**

(a) A spouse acting alone may manage and control:

(1) that spouse's property that is not marital property;

(2) except as provided in subsections (b) and (c), marital property held in that spouse's name alone or not held in the name of either spouse;

(3) a policy of insurance if that spouse is designated as the owner on the records of the issuer of it;

(4) the rights of an employee under an arrangement for deferred employment benefits that accrue as a result of that spouse's employment;

(5) a claim for relief vested in that spouse by other law; and

(6) marital property held in the names of both spouses in the alternative, including a manner of holding using the names of both spouses and the word "or".

(b) Spouses may manage and control marital property held in the names of both spouses other than in the alternative only if they act together.

(c) The right to manage and control marital property transferred to a trust is determined by the terms of the trust.

(d) The right to manage and control marital property does not determine the classification of property of the spouses and does not rebut the presumption of Section 4(b).

(e) The right to manage and control marital property permits gifts of that property only to the extent provided in Section 6.

(f) The right to manage and control any property of spouses acquired before the determination date is not affected by this [Act].

(g) A court may appoint a [conservator, guardian] to exercise a disabled spouse's right to manage and control marital property.

**§ 6. Gifts of Marital Property to Third Persons**

(a) A spouse acting alone may give to a third person marital property that the spouse has the right to manage and control only if the value of the marital property given to the third person does not aggregate more than [$500] in a calendar year, or a larger amount if, when made, the gift is reasonable in amount considering the economic position of the spouses. Any other gift of marital property to a third person is subject to subsection (b) unless both spouses act together in making the gift.

(b) If a gift of marital property by a spouse does not comply with subsection (a), the other spouse may bring an action to recover the property or a compensatory judgment in place of the property, to the extent of the noncompliance. The other spouse may bring the action against the donating spouse, the recipient of the gift, or both. The action must be commenced within the earlier of one year after the other spouse has notice of the gift or 3 years after the gift. If the recovery occurs during marriage, it is marital property. If the recovery occurs after a dissolution or the death of either spouse, it is limited to one‑half of the value of the gift and is individual property.

**§ 7. Property Transactions Between Spouses**

(a) Restrictions on the power of spouses to enter into property transactions with each other are abolished.

(b) Spouses may reclassify their property by gift or marital property agreement.

**§ 8. Obligations of Spouses**

(a) An obligation incurred by a spouse during marriage, including one attributable to an act or omission during marriage, is presumed to be incurred in the interest of the marriage or the family.

(b) After the determination date:

(i) a spouse's obligation to satisfy a duty of support owed to the other spouse or to a child of the marriage may be satisfied only from all marital property and all other property of the obligated spouse that is not marital property;

(ii) an obligation incurred by a spouse in the interest of the marriage or the family may be satisfied only from all marital property and all other property of that spouse that is not marital property;

(iii) an obligation incurred by a spouse before or during marriage that is attributable to an obligation arising before marriage or to an act or omission occurring before marriage may be satisfied only from property of that spouse that is not marital property and that part of marital property which would have been the property of that spouse, but for the marriage; and

(iv) any other obligation incurred by a spouse during marriage, including one attributable to an act or omission during marriage, may be satisfied only from property of that spouse that is not marital property and that spouse's interest in marital property and in that order.

(c) This [Act] does not alter the relationship between spouses and their creditors with respect to any property or obligation in existence on the determination date.

(d) Provisions of a written consent signed by a creditor which diminish the rights of the creditor provided in this section are binding on the creditor.

(e) No provision of a marital property agreement adversely affects the interest of a creditor unless the creditor had actual knowledge of that provision when the obligation to that creditor was incurred. The effect of this subsection may not be varied by a marital property agreement.

(f) This [Act] does not affect the exemption of any property of spouses under other law.

**§ 9. Protection of Bona Fide Purchasers Dealing With Spouses**

(a) In this section:

(1) "Bona fide purchaser" means a purchaser of property for value who: (i) has not knowingly been a party to fraud or illegality affecting the interest of the spouses or other parties to the transaction; (ii) does not have notice of an adverse claim by a spouse; and (iii) has acted in the transaction in good faith.

(2) "Purchase" means to acquire property by sale, lease, discount, negotiation, mortgage, pledge, or lien or otherwise to deal with property in a voluntary transaction other than a gift.

(3) A purchaser gives "value" for property acquired: (i) in return for a binding commitment to extend credit; (ii) as security for or in total or partial satisfaction of a pre‑existing claim; (iii) by accepting delivery pursuant to a pre‑existing contract for purchase; or (iv) generally, in return for any other consideration sufficient to support a simple contract.

(b) Notice of the existence of a marital property agreement, a marriage, or the termination of a marriage does not affect the status of a purchaser as a bona fide purchaser.

(c) Marital property purchased by a bona fide purchaser from a spouse having the right to manage and control the property under Section 5 is acquired free of any claim of the other spouse. The effect of this subsection may not be varied by a marital property agreement.

**§ 10. Marital Property Agreement**

(a) A marital property agreement must be a document signed by both spouses. It is enforceable without consideration.

(b) A marital property agreement may not adversely affect the right of a child to support.

(c) Except as provided in Sections 2, 8(e), and 9(c) and in subsection (b), in a marital property agreement spouses may agree with respect to:

(1) rights and obligations in any of their property whenever and wherever acquired or located;

(2) management and control of any of their property;

(3) disposition of any of their property on dissolution, death, or the occurrence or nonoccurrence of any other event;

(4) modification or elimination of spousal support;

(5) making a will, trust, or other arrangement to carry out the agreement;

(6) a provision that upon the death of either of them, any of their property, including after‑acquired property, will pass without probate to a designated person, trust, or other entity by nontestamentary disposition;

(7) choice of law governing construction of the agreement; and

(8) any other matter affecting their property not in violation of public policy or a statute imposing a criminal penalty.

(d) A marital property agreement may be amended or revoked only by a later marital property agreement. The amended agreement or the revocation is enforceable without consideration.

(e) Persons intending to marry each other may enter into a marital property agreement as if married, but the agreement becomes effective only upon their marriage.

(f) A marital property agreement executed during marriage is not enforceable if the spouse against whom enforcement is sought proves that:

(1) the agreement was unconscionable when made; or

(2) that spouse did not execute the agreement voluntarily; or

(3) before execution of the agreement, that spouse:

(i) was not provided a fair and reasonable disclosure of the property or financial obligations of the other spouse;

(ii) did not voluntarily sign a written consent expressly waiving any right to disclosure of the property or financial obligations of the other spouse beyond the disclosure provided; and

(iii) did not have notice of the property or financial obligations of the other spouse.

(g) A marital property agreement executed before marriage is not enforceable if the spouse against whom enforcement is sought proves that:

(1) that spouse did not execute the agreement voluntarily; or

(2) the agreement was unconscionable when made and before execution of the agreement that spouse:

(i) was not provided a fair and reasonable disclosure of the property or financial obligations of the other spouse;

(ii) did not voluntarily sign a written consent expressly waiving any right to disclosure of the property or financial obligations of the other spouse beyond the disclosure provided; and

(iii) did not have notice of the property or financial obligations of the other spouse.

(h) An issue of unconscionability of a marital property agreement is for decision by the court as a matter of law.

(i) If a provision of a marital property agreement modifies or eliminates spousal support and that modification or elimination causes one spouse to be eligible for support under a program of public assistance at the time of dissolution, the court may require the other spouse to provide support to the extent necessary to avoid that eligibility, notwithstanding the terms of the agreement.

(j) A document signed before the effective date of this [Act] by spouses or unmarried persons who subsequently married each other which affects the property of either of them and is enforceable by either of them without reference to this [Act] is not affected by this [Act] except as provided otherwise in a marital property agreement made after the determination date.

**§ 11. Optional Forms of Holding Property, Including Use of "And" or "Or"; Survivorship Ownership**

(a) Spouses may hold marital property in a form that designates the holders of it by the words "(name of one spouse) or (name of other spouse) as marital property." Marital property held in that form is subject to Section 5(a)(6).

(b) Spouses may hold marital property in a form that designates the holder of it by the words "(name of one spouse) and (name of other spouse) as marital property." Marital property held in that form is subject to Section 5(b).

(c) A spouse may hold individual property in a form that designates the holder of it by the words "(name of spouse) as individual property." Individual property held in that form is subject to Section 5(a)(1).

(d) Spouses may hold property in any other form permitted by law, including a concurrent form or a form that provides for survivorship ownership.

(e) If the words "survivorship marital property" are used instead of the words "marital property" in the form described in subsection (a) or (b), marital property so held is survivorship marital property. On the death of a spouse, the ownership rights of that spouse in survivorship marital property vest solely in the surviving spouse by nontestamentary disposition at death. The first deceased spouse does not have a right of disposition at death of any interest in survivorship marital property. Holding marital property in a form described in subsection (a) or (b) does not alone establish survivorship ownership between the spouses with respect to the property held in that form.

**§ 12. Classification of Life Insurance Policies and Proceeds**

(a) In this section:

(1) "Owner" means a person appearing on the records of the policy issuer as the person having the ownership interest or, if no person other than the insured appears on those records as a person having that interest, it means the insured.

(2) "Ownership interest" means the rights of an owner under a policy.

(3) "Policy" means an insurance policy insuring the life of a spouse and providing for payment of death benefits at the spouse's death.

(4) "Proceeds" means the death benefit from a policy and all other economic benefits from it, whether they accrue or become payable as a result of the death of an insured person or upon the occurrence or nonoccurrence of another event.

(b) If a policy issuer makes payments or takes actions in accordance with the policy and the issuer's records, the issuer is not liable because of those payments or actions unless, at the time of the payments or actions, it had actual knowledge of inconsistent provisions of a decree or marital property agreement or of an adverse claim by a spouse, former spouse, surviving spouse, or persons claiming under a deceased spouse's disposition at death.

(c) Except as provided in subsections (d), (e), and (f):

(1) The ownership interest and proceeds of a policy issued after the determination date which designates the insured as the owner are marital property without regard to the classification of property used to pay premiums on the policy.

(2) The ownership interest and proceeds of a policy issued before the determination date which designates the insured as the owner are mixed property if a premium on the policy is paid from marital property after the determination date without regard to the classification of property used to pay premiums on that policy after the initial payment of a premium on it from marital property. The marital property component of the ownership interest and proceeds is the part resulting from multiplying the entire ownership interest and proceeds by a fraction of which the numerator is the period during marriage that the policy was in effect after the date on which a premium was paid from marital property and the denominator is the entire period the policy was in effect.

(3) The ownership interest and proceeds of a policy issued during marriage which designates the spouse of the insured as the owner are individual property of its owner without regard to the classification of property used to pay premiums on the policy.

(4) The ownership interest and proceeds of a policy that designates a person other than either of the spouses as the owner are not affected by this [Act] if no premium on the policy is paid from marital property after the determination date. If a premium on the policy is paid from marital property after the determination date, the ownership interest and proceeds of the policy are in part property of the designated owner of the policy and in part marital property of the spouses without regard to the classification of property used to pay premiums on that policy after the initial payment of a premium on it from marital property. The marital property component of the ownership interest and proceeds is the part resulting from multiplying the entire ownership interest and proceeds by a fraction of which the numerator is the period during marriage that the policy was in effect after the date on which a premium was paid from marital property and the denominator is the entire period the policy was in effect.

(5) Written consent by a spouse to the designation of another person as the beneficiary of the proceeds of a policy is effective to relinquish that spouse's interest in the ownership interest and proceeds of the policy without regard to the classification of property used by a spouse or another to pay premiums on that policy. A designation by either spouse of a parent or child of either of the spouses as the beneficiary of the proceeds of a policy is presumed to have been made with the consent of the other spouse.

(6) Unless the spouses provide otherwise in a marital property agreement, designation of a trust as the beneficiary of the proceeds of a policy with a marital property component does not reclassify that component.

(d) This section does not affect a creditor's interest in the ownership interest or proceeds of a policy assigned or made payable to the creditor as security.

(e) The interest of a person as owner or beneficiary of a policy acquired under a decree or property settlement agreement incident to a prior marriage or parenthood is not marital property without regard to the classification of property used to pay premiums on that policy.

(f) This section does not affect the ownership interest or proceeds of a policy if neither spouse is designated as an owner in the policy or the records of the policy issuer and no marital property is used to pay a premium on the policy.

**§ 13. Classification of Deferred Employment Benefits**

(a) A deferred employment benefit attributable to employment of a spouse occurring after the determination date is marital property.

(b) A deferred employment benefit attributable to employment of a spouse occurring during marriage and partly before and partly after the determination date is mixed property. The marital property component of that mixed property is the part resulting from multiplying the entire benefit by a fraction of which the numerator is the period of employment giving rise to the benefit that occurred after the determination date and during marriage and the denominator is the total period of the employment. Unless provided otherwise in a decree, marital property agreement, or written consent, valuation of a deferred employment benefit that is mixed property shall be made as of the death of a spouse or a dissolution.

(c) Ownership or disposition provisions of a deferred employment benefit which conflict with subsections (a) and (b) are ineffective between spouses, former spouses, or between a surviving spouse and a person claiming under a deceased spouse's disposition at death.

(d) If an administrator of an arrangement for deferred employment benefits makes payments or takes actions in accordance with the arrangement and the administrator's records, the administrator is not liable because of those payments or actions unless, at the time of the payments or actions, it had actual knowledge of inconsistent provisions of a decree or marital property agreement or of an adverse claim by a spouse, former spouse, surviving spouse, or a person claiming under a deceased spouse's disposition at death.

**§ 14. Mixed Property**

(a) Except as provided otherwise in Sections 12 and 13, mixing marital property with property having any other classification reclassifies the other property to marital property unless the component of the mixed property which is not marital property can be traced.

(b) Application by one spouse of substantial labor, effort, inventiveness, physical or intellectual skill, creativity, or managerial activity on individual property of the other spouse creates marital property attributable to that application if:

(i) reasonable compensation is not received for the application; and

(ii) substantial appreciation of the individual property of the other spouse results from the application.

**§ 15. Interspousal Remedies**

(a) A spouse has a claim against the other spouse for breach of the duty of good faith imposed by Section 2 resulting in damage to the claimant spouse's present undivided one‑half interest in marital property.

(b) A court may order an accounting of the property and obligations of the spouses and may determine rights of ownership in, beneficial enjoyment of, or access to, marital property and the classification of all property of the spouses.

(c) A court may order that the name of a spouse be added to marital property held in the name of the other spouse alone, except with respect to:

(1) a partnership interest held by the other spouse as a general partner;

(2) an interest in a professional corporation, professional association, or similar entity held by the other spouse as a stockholder or member;

(3) an asset of an unincorporated business if the other spouse is the only spouse involved in operating or managing the business; or

(4) any other property if the addition would adversely affect the rights of a third person.

(d) Except as provided otherwise in Section 6(b), a spouse must commence an action against the other spouse under subsection (a) not later than 3 years after acquiring actual knowledge of the facts giving rise to the claim.

**§ 16. Invalid Marriages**

If a marriage is invalidated by a decree, a court may apply so much of this [Act] to the property of the persons who were parties to the invalid marriage as is necessary to avoid an inequitable result.

**§ 17. Treatment of Certain Property at Dissolution**

Except as provided in Section 16:

(1) In a dissolution, all property then owned by the spouses that was acquired during marriage and before the determination date which would have been marital property under this [Act] if acquired after the determination date must be treated as if it were marital property.

(2) In a dissolution, any property of either spouse which can be traced to property received by a spouse after the determination date as a recovery for a loss of earning capacity during marriage must be treated as if it were marital property.

(3) After a dissolution, each former spouse owns an undivided one‑half interest in the former marital property as a tenant in common except as provided otherwise in a decree or written consent.

[ (4) In an action for legal separation, the court may decree the extent to which property acquired by the spouses after the legal separation is marital property and the responsibility of each spouse for obligations incurred after the decree of legal separation.]

**§ 18. Treatment of Certain Property at Death of Spouse**

(a) At the death of a spouse domiciled in this State, all property then owned by the spouse that was acquired during marriage and before the determination date which would have been marital property under this [Act] if acquired after the determination date must be treated as if it were marital property.

(b) At the death of a spouse domiciled in this State, any property of the spouse which can be traced to property received by the spouse after the determination date as a recovery for a loss of earning capacity during marriage must be treated as if it were marital property.

**[§ 19. Estate by Entireties**

This [Act] does not affect the relationship between spouses and their creditors with respect to property held by spouses in an estate by entireties after the determination date.]

**§ 20. Rules of Construction**

Unless displaced by this [Act], the principles of law and equity supplement its provisions.

**§ 21. Uniformity of Application and Construction**

This [Act] shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this [Act] among states enacting it.

**§ 22. Short Title**

This [Act] may be cited as the "Uniform Marital Property Act."

**§ 23. Severability**

If any provision of this [Act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [Act] which can be given effect without the invalid provision or application, and to this end the provisions of this [Act] are severable.

**§ 24. Time of Taking Effect**

This [Act] takes effect on January 1, 19[\_\_\_\_].

**§ 25. Repeal**

The following Acts and parts of Acts are repealed:

**§ 26. Laws Not Repealed**

This [Act] does not repeal:

(1)

(2)

(3)