

D R A F T  
FOR DISCUSSION ONLY

## **Economic Rights of Unmarried Cohabitants Act**

**[Proposed new name: Economic Interests of Unmarried Cohabitants Act]**

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Uniform Law Commission

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February 26, 2021 Video Committee Meeting



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February 19, 2021

## **Economic Rights of Unmarried Cohabitants Act**

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# **Economic Rights of Unmarried Cohabitants Act**

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1                                   **Economic Rights of Unmarried Cohabitants Act**

2                   **Section 1. Title**

3                   This [act] may be cited as the [Uniform] Economic Rights of Unmarried Cohabitants Act.  
4 [Proposed new name: Economic Interests of Unmarried Cohabitants Act.]

5                   **Section 2. Definitions**

6                   In this [act]:

7                   (1) “Cohabitant” means each of two individuals not married to each other who, after each  
8 has reached the age of majority or been emancipated, live together as a couple. The term does  
9 not include individuals in an incestuous relationship.

10                  (2) “Cohabitants’ agreement” means an agreement between individuals regarding an  
11 economic interest if the individuals are to become, are, or were cohabitants, and includes a  
12 waiver of any such interest. A cohabitants’ agreement may be in a record, oral, or implied-in-  
13 fact.

14                  (3) “Contributions to the relationship” means contributions of a cohabitant which benefit  
15 the other cohabitant, both cohabitants, or the cohabitants’ relationship, whether those  
16 contributions are in the form of efforts, activities, services, or property. The term includes  
17 domestic services, such as cooking, cleaning, shopping, household maintenance, and conducting  
18 errands for the benefit of the other cohabitant or the cohabitants’ relationship, and otherwise  
19 caring for the other cohabitant, a child in common, or another family member of the other  
20 cohabitant. The term does not include sexual services.

21                  (4) “Economic interest” means a right, interest, duty, promise, or obligation of a  
22 cohabitant relating to contributions to the relationship.

23                  (5) “Individual” means a natural person.

(6) “Property” means anything that may be the subject of ownership, whether real or personal, tangible or intangible, legal or equitable, or any interest therein, and includes responsibility for a debt.

(7) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(8) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(9) “Termination of cohabitation” means the earliest of:

(A) the death of a cohabitant;

(B) the date the cohabitants stop living together as a couple; or

(C) the date the cohabitants marry each other.

### **Section 3. Scope**

(a) This [act] applies to the recognition and enforcement of contractual and equitable claims regarding economic interests, including claims (1) between cohabitants who marry each other, or (2) by or against a deceased cohabitant’s estate.

(b) This [act] does not affect marriage.

(c) This [act] does not create, affect, enlarge, or diminish a cohabitant’s rights or duties under law of this state other than this [act].

### **Section 4. Governing Law**

(a) Unless otherwise specified in this [act], a claim to enforce an economic interest is governed by the law of this state other than this [act], including the choice-of-law rules of this state.

(b) The validity, enforceability, interpretation, and construction of a cohabitants' agreement are determined: (1) by the law of the jurisdiction designated in the agreement in accordance with law of this state, other than this [act]; or (2) absent an effective designation described in subparagraph (1), by the law of this state, including the choice-of-law rules of this state.

(c) The rights and remedies provided to cohabitants by this [act] are not exclusive, and the law of this state and principles of equity supplement the [act].

#### **Section 5. Rights of Cohabitants to Bring Claims**

(a) Except as otherwise provided in this [act], a contractual or equitable claim between cohabitants (1) shall not be barred solely because the parties are or were cohabitants, and (2) shall not be subjected to additional substantive or procedural requirements because the parties are or were cohabitants.

(b) A claim under this [act] may be brought by or against a deceased cohabitant's estate.

(c) A claim under this [act] may be brought by cohabitants who marry each other.

#### **Section 6. Agreements between Cohabitants**

(a) Contributions to the relationship are sufficient consideration for a cohabitants' agreement.

(b) A claim for breach of a cohabitants' agreement accrues on breach and may be commenced during cohabitation or after termination of cohabitation.

(c) A term in a cohabitants' agreement which operates to limit, restrict, or require a cohabitant to pursue a civil, criminal, or administrative remedy is unenforceable to the extent the remedy is available because the cohabitant is a victim of a [crime] [a crime of violence] [felony]].

1           **Section 7. Equitable Relief**

2           (a) In addition to remedies available under the law of this state other than this [act], and  
3 unless inconsistent with an enforceable cohabitants' agreement, an equitable claim between  
4 cohabitants may be predicated on contributions to the relationship.

5           (b) A claim for equitable relief under this Section accrues on termination of cohabitation.

6           (c) In addition to other provisions of law governing equitable claims, the court shall  
7 adjudicate an equitable claim between cohabitants under this Section upon consideration of the  
8 following factors:

9                   (1) contributions to the relationship by each cohabitant, without restricting the value  
10 of such efforts, activities, and services to the market value of those efforts, activities, or services;

11                   (2) whether and to what extent a cohabitant intended to share property or  
12 liabilities with the other cohabitant during or upon termination of cohabitation; and

13                   (3) the duration and continuity of the cohabitation; and

14                   (4) such other factors as the court deems relevant.

15           **Section 8. Effect of Court Order or Judgment on Third Parties**

16           (a) A court order or judgment entered with respect to a claim made under this [act] may  
17 not impair the rights of a good faith purchaser from, or secured creditor of, a cohabitant.

18           (b) Unless barred or restricted by law of this state other than this [act], a claim of a  
19 surviving spouse in probate is superior to the rights of a cohabitant as determined by a court  
20 order or judgment entered pursuant to this [act].

21           **Section 9. Uniformity of Application and Construction**

22           In applying and construing this uniform act, consideration must be given to the need to  
23 promote uniformity of the law with respect to its subject matter among states that enact it.

1           **Section 10. Relation to Electronic Signatures in Global and National Commerce Act**

2           This [act] modifies, limits, or supersedes the federal Electronic Signatures in Global and  
3 National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede  
4 Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of  
5 the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

6           **Section 11. Savings and Transitional Provisions**

7           (a) This [act] validates and applies to a cohabitants' agreement made before, on, or after  
8 [the effective date of this [act]].

9           (b) This [act] validates and applies to an equitable claim that accrues before, on, or after  
10 [the effective date of this [act]].

11          **Section 12. Repeals; Conforming Amendments**

12          (a) . . . .

13          (b) . . . .

14          (c) . . . .]

15          **Section 13. Effective Date**

16          This [act] takes effect . . . .