

# Uniform Cohabitants' Economic Remedies Act\*

Drafted by the

Uniform Law Commission

and by it

Approved and Recommended for Enactment  
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*Without Prefatory Note and Comments*



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## **Uniform Cohabitants' Economic Remedies Act**

### **Section 1. Title**

This [act] may be cited as the Uniform Cohabitants' Economic Remedies Act.

### **Section 2. Definitions**

In this [act]:

(1) "Cohabitant" means each of two individuals not married to each other who live together as a couple after each has reached the age of majority or been emancipated. The term does not include individuals who are too closely related to marry each other legally.

(2) "Cohabitants' agreement" means an agreement between individuals concerning contributions to the relationship if the individuals are to become, are, or were cohabitants. The term includes a waiver of rights under the [act].

(3) "Contributions to the relationship" means contributions of a cohabitant that benefit the other cohabitant, both cohabitants, or the cohabitants' relationship, whether in the form of efforts, activities, services, or property. The term:

(A) includes:

(i) cooking, cleaning, shopping, household maintenance, conducting errands, or other domestic services for the benefit of the other cohabitant or the cohabitants' relationship; and

(ii) otherwise caring for the other cohabitant, a child in common, or another family member of the other cohabitant.

(B) does not include sexual relations.

(4) "Property" means anything that may be the subject of ownership, whether real or personal, tangible or intangible, legal or equitable, or any interest therein. The term includes

responsibility for a debt.

(5) “Record” means information:

(A) inscribed on a tangible medium; or

(B) stored in an electronic or other medium and retrievable in perceivable form.

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

(7) “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 of the cohabitants’ marriage to each other.

### **Section 3. Scope**

This [act] applies only to a contractual or equitable claim between cohabitants concerning an interest, promise, or obligation arising from contributions to the relationship. The rights and remedies of cohabitants under this [act] are not exclusive.

### **Section 4. Right of Cohabitant to Bring Action**

(a) An individual who is or was a cohabitant may commence an action on a contractual or equitable claim that arises out of contributions to the relationship. The action is not:

(1) barred because of a sexual relationship between cohabitants;

(2) subject to additional substantive or procedural requirements because the parties are or were cohabitants or because of a sexual relationship between the cohabitants; or

(3) extinguished by the marriage of cohabitants to each other.

(b) An action may be commenced on behalf of a deceased cohabitant's estate.

(c) An action may be commenced against a deceased cohabitant's estate and adjudicated under this [act] and other law of this state applicable to claims against decedents' estates.

### **Section 5. Governing Law**

(a) Except as otherwise provided in this [act], a claim under this [act] is governed by other law of this state, including choice-of-law rules.

(b) The validity, enforceability, interpretation, and construction of a cohabitants' agreement are determined by:

(1) the law of the state designated in the agreement if such designation is valid under other law of this state; or

(2) in the absence of an effective designation under paragraph (1), the law of this state, including choice-of-law rules.

### **Section 6. Cohabitants' Agreements**

(a) A cohabitants' agreement may be oral or in a record, express or implied-in-fact.

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

(c) A claim for breach of a cohabitants' agreement accrues on breach and may be commenced, subject to [cite to the applicable statute of limitations], during cohabitation or after termination of cohabitation.

(d) A term in a cohabitants' agreement that affects adversely a child's right to support is unenforceable.

(e) A term in a cohabitants' agreement that limits the ability of the cohabitant, or requires a cohabitant, to pursue a civil, criminal, or administrative remedy is voidable to the extent the

remedy is available because the cohabitant is a victim of a [crime of violence].

**Legislative Note:** *Subsection (c) should cite to the state's statute of limitations on contractual claims.*

*Subsection (e) should be modified in a state that does not have a clear definition of "crime of violence".*

## **Section 7. Equitable Relief**

(a) Unless inconsistent with a valid provision of a cohabitants' agreement, and in addition to any remedies otherwise available, a cohabitant may maintain an equitable action concerning entitlement to property against the other cohabitant based on contributions to the relationship.

(b) An equitable claim that is based on contributions to the relationship accrues on termination of cohabitation and is subject to equitable defenses.

(c) In addition to other provisions of law governing an equitable claim, the court adjudicating a claim under this section shall consider:

(1) the nature and value of contributions to the relationship by each cohabitant, including the value to each cohabitant and the market value of the contributions;

(2) the duration and continuity of the cohabitation;

(3) the extent to which a cohabitant reasonably relied on representations or conduct of the other cohabitant;

(4) the extent to which a cohabitant demonstrated an intent to share, or not to share, property with the other cohabitant; and

(5) other factors the court considers relevant.

## **Section 8. Effect of Court Order or Judgment on Third Party**

(a) [Except as provided in subsection(c), a][A] court order or judgment granting relief

under this [act] against a cohabitant or a cohabitant's estate is an order or judgment in favor of a general creditor.

(b) A court order or judgment granting relief under this [act] may not impair the rights of a good-faith purchaser from, or secured creditor of, a cohabitant.

#### **Alternative A**

(c) A court order or judgment granting relief under this [act] may not impair the rights or interests of a cohabitant's spouse or surviving spouse to the cohabitant's property.

#### **Alternative B**

(c) A court order or judgment granting relief under this [act] may not impair the rights or interests of a cohabitant's spouse or surviving spouse to the cohabitant's property, unless:

(1) the spouse had notice of the proceedings on the claim and an opportunity to be heard;

(2) the court determines, before entering an order or judgment granting relief, based on the totality of the circumstances, that justice requires that all or part of the cohabitant's claim should be satisfied; and

(3) the order or judgment preserves as much of the spouse's right or interest as appropriate or legally required.

#### **Alternative C**

(c) A court order or judgment granting relief based on an equitable claim under Section 7 may not impair the rights or interests of a cohabitant's spouse or surviving spouse to the cohabitant's property.

#### **Alternative D**

(c) A court order or judgment granting relief based on an equitable claim under Section 7

may not impair the rights or interests of a cohabitant's spouse or surviving spouse to the cohabitant's property, unless:

(1) the spouse had notice of the proceedings on the claim and an opportunity to be heard;

(2) the court determines, before entering an order or judgment granting relief, based on the totality of the circumstances, that justice requires that all or part of the cohabitant's claim should be satisfied; and

(3) the order or judgment preserves as much of the spouse's right or interest as appropriate or legally required.

### **End of Alternatives**

***Legislative Note:*** This section provides five options for treating claims of a spouse and a cohabitant to a married cohabitant's property:

*(1) A state that seeks to treat a cohabitant's claim as a general creditor's claim in all cases should adopt only subsections 8(a) and (b) and not adopt any of the alternatives for subsection 8(c).*

*(2) A state that seeks to insulate a spouse from both contractual and equitable claims of a cohabitant should adopt Alternative A.*

*(3) A state that seeks to insulate a spouse from both contractual and equitable claims of a cohabitant but allow a court under certain circumstances to find that justice requires at least some satisfaction of the cohabitant's claims against a married cohabitant should adopt Alternative B.*

*(4) A state that seeks to treat a cohabitant's contractual claim in the same manner as a general creditor's claim and insulate a spouse only from an equitable claim under Section 7 should adopt Alternative C.*

*(5) A state that seeks to treat a cohabitant's contractual claim in the same manner as a general creditor's claim and allow a court under certain circumstances to find that justice requires at least some satisfaction of the cohabitant's equitable claim under Section 7 against a married cohabitant should adopt Alternative D.*

## **Section 9. Principles of Law and Equity**

The principles of law and equity supplement this [act] except to the extent inconsistent with this [act].

## **Section 10. Uniformity of Application and Construction**

In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact it.

## **Section 11. Relation to Electronic Signatures in Global and National Commerce Act**

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

***Legislative Note:*** *It is the intent of this act to incorporate future amendments to the cited federal law. A state in which the constitution or other law does not permit incorporation of future amendments when a federal statute is incorporated into state law should omit the phrase “, as amended”. A state in which, in the absence of a legislative declaration, future amendments are incorporated into state law also should omit the phrase.*

## **Section 12. Transitional Provisions**

(a) This [act] applies to a cohabitants’ agreement made before, on, or after [the effective date of this [act]].

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

***Legislative Note:*** *A state that previously has not recognized a claim between cohabitants based on contract or in equity arising from contributions to their relationship may want to apply this act only to a claim that accrues on or after the effective date.*

## **[Section 13. Repeals; Conforming Amendments**

(a) . . .

(b) . . .]



***Legislative Note:*** *A state should examine its statutes to determine whether conforming revisions are required by provisions of this act relating to accrual of an equitable claim. See Section 7(b). A state should also consider whether modifications to this act or other law are desirable to reflect the state's public policy regarding domestic partnerships or civil unions.*

#### **Section 14. Effective Date**

This [act] takes effect . . . .