

1                                   **Uniform Cohabitants' Economic Remedies Act**

2                                   **Amendments**

3                                   **July 13, 2021**

4                   **Section 6. Cohabitants' Agreements**

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

7                   **Section 7. Equitable Relief**

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

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

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

16                               \* \* \*

17                               (3) the extent to which a cohabitant reasonably relied on ~~conduct~~ of the other  
18 cohabitant;

19                               \* \* \*

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

21                   (a) [Except as provided in subsection(c), a][A] court order or judgment granting relief  
22 under this [act] against a cohabitant or a cohabitant's estate is an order or judgment in favor of a  
23 general creditor.

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

3 **Alternative A**

4 ~~{(c) A court order or judgment concerning [a claim granting relief under this [act]] [an~~  
5 ~~equitable claim under Section 7] does not supersede a~~ may not impair the rights or interests of a  
6 cohabitant's spouse or surviving spouse to the cohabitant's property. [unless:

7 ~~(1) the spouse had notice of the proceeding and an opportunity to be heard;~~

8 ~~(2) the court determines, based on the totality of the circumstances, that justice~~  
9 ~~requires that all or part of the cohabitant's claim should be satisfied; and~~

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

12 **Alternative B**

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

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

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

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

22 **Alternative C**

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

1 may not impair the rights or interests of a cohabitant's spouse or surviving spouse to the  
2 cohabitant's property.

3 **Alternative D**

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

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

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

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

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

16  
17 *(1) A state that seeks to treat a cohabitant's claim as a general creditor's claim in all cases*  
18 *should adopt only subsections 8(a) and (b) and not adopt any of the alternatives for subsection*  
19 *8(c).*

20  
21 *(2) A state that seeks to insulate a spouse from both contractual and equitable claims of a*  
22 *cohabitant should adopt ~~subsection 8(c) so that the subsection will read as follows:~~ Alternative*  
23 *A.*

24  
25 *~~(c) A court order or judgment concerning a claim under this [act] does not supersede a~~*  
26 *~~right or interest of a cohabitant's spouse or surviving spouse to the cohabitant's~~*  
27 *~~property.~~*

28  
29 *(3) A state that seeks to insulate a spouse from both contractual and equitable claims of a*  
30 *cohabitant but allow a court under certain circumstances to find that justice requires at least*  
31 *some satisfaction of the cohabitant's claims against a married cohabitant ~~will~~ should adopt*  
32 *Alternative B. ~~Section 8(c) so that the subsection will read as follows:~~*  
33

1 ~~(c) A court order or judgment concerning a claim under this [act] does not supersede a~~  
2 ~~right or interest of a cohabitant's spouse or surviving spouse to the cohabitant's~~  
3 ~~property, unless:~~

4  
5 ~~(1) the spouse had notice of the proceeding and an opportunity to be heard;~~

6  
7 ~~(2) the court determines, based on the totality of the circumstances, that justice requires~~  
8 ~~that all or part of the cohabitant's claim should be satisfied; and~~

9  
10 ~~(3) the order or judgment preserves as much of the spouse's right or interest as~~  
11 ~~appropriate and legally required.~~

12  
13 ~~(4) A state that seeks to treat a cohabitant's contractual claim in the same manner as a general~~  
14 ~~creditor's claim and insulate a spouse only from an equitable claim under Section 7 should~~  
15 ~~adopt subsection 8(c) so that the subsection will read as follows: Alternative C.~~

16  
17 ~~(c) A court order or judgment concerning an equitable claim under Section 7 does not supersede~~  
18 ~~a right or interest of a cohabitant's spouse or surviving spouse to the cohabitant's property.~~

19  
20 ~~(5) A state that seeks to treat a cohabitant's contractual claim in the same manner as a general~~  
21 ~~creditor's claim and allow a court under certain circumstances to find that the interest of justice~~  
22 ~~requires at least some satisfaction of the cohabitant's equitable claim even against a married~~  
23 ~~cohabitant will should adopt subsection 8(c) so that the subsection will read as follows:~~

24  
25 ~~(c) A court order or judgment concerning an equitable claim under Section 7 does not supersede~~  
26 ~~a right or interest of a cohabitant's spouse or surviving spouse to the cohabitant's property,~~  
27 ~~unless:~~

28  
29 ~~(1) the spouse had notice of the proceeding and an opportunity to be heard;~~

30  
31 ~~(2) the court determines, based on the totality of the circumstances, that justice requires~~  
32 ~~that all or part of the cohabitant's claim should be satisfied; and~~

33  
34 ~~(3) the order or judgment preserves as much of the spouse's right or interest as~~  
35 ~~appropriate and legally required Alternative D.~~