



THE UNIFORM COHABITANTS' ECONOMIC REMEDIES ACT (2021)

-A Summary-

The Uniform Cohabitants' Economic Remedies Act provides a mechanism to address the division of cohabitants' property interests when the cohabitation ends. The act does not create any special status for cohabitants. The act enables cohabitants to exercise the usual rights of individual citizens of a state to contract with others and to bring equitable claims against others in appropriate circumstances by affirming the capacity of each cohabitant to contract with the other and to claim a contract or equitable remedy against the other. Such claims may proceed without regard to any intimate relationship that exists between the cohabitants and without subjecting them to hurdles that would not be imposed on litigants of similar claims. Significantly, the act recognizes the value of non-sexual services, activities, and efforts of a party to the relationship as a basis for contractual and equitable claims. The Act has no effect on marriage or state law governing marriage. Marriage is a formal legal status that provides spouses with rights and remedies unavailable to cohabitants under the act.

For purposes of the act, a "cohabitant" is defined as one member of a couple if the two individuals live together "as a couple" and are not married to each other. The term does not set a time limit as to how long the individuals must cohabit to meet the definition. Individuals who are minors and those who are too closely related to marry cannot be cohabitants. A cohabitant might be married to someone else. Living "as a couple" is an intentionally fact-specific and broad standard. A sexual element is not required. If individuals living together are "mere roommates," including them within the act does no harm; their claims and remedies will generally be identical whether under this act or other state law. On the other hand, had the act included an elaborate definition litigants would spend considerable time and money attempting to establish that they were (or were not) cohabitants within the definition. The point of the act is to ensure that the nature of the parties' relationship is not a bar to their ability to bring claims against one another.

The act recognizes that contractual and equitable claims can be based on the provision of non-sexual services, activities, and efforts by a party to the relationship. Courts have not always recognized the value of non-material contributions to the relationship, such domestic services, as an adequate basis for recovery, reasoning instead that they are part of the cohabiting relationship and are thus rendered gratuitously.

The act protects third parties. The interests of secured creditors of, and good faith purchasers from, a cohabitant, cannot be adversely affected by a remedy granted under the act. Child support obligations may not be affected by a claim under the act. The spouse of a cohabitant represents a special interest third party. Any transfer of property by a married cohabitant to the other cohabitant necessarily reduces the pool of assets potentially available to spouse of the married cohabitant. The Act offers states five different approaches to address the situation when

a cohabitant is married, ranging from protecting the spouse against any diminution of value to treating the spouse as simply one more creditor.

The remedies provided in this act are not the only remedies available to cohabitants. Cohabitants may have claims against one another based on other state law that are not covered by the act, including, for example, tort claims and partnership claims. The act, in most instances, supplements and does not replace existing state law. An enacting state's procedural law will generally govern the claims between cohabitants.

For further information about Uniform Cohabitants' Economic Remedies Act, please contact Legislative Counsel Libby Snyder at (312) 450-6619 or lsnyder@uniformlaws.org.