



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4404

Introduced 1/16/2024, by Rep. Daniel Didech

SYNOPSIS AS INTRODUCED:

New Act

Creates the Uniform Cohabitants' Economic Remedies Act. Allows an individual who is or was a cohabitant to commence an action on a contractual or equitable claim that arises out of contributions to the relationship, including allowing an action to be commenced on behalf of or against a deceased cohabitant. Provides that a claim for breach of a cohabitants' agreement accrues on breach and may be commenced, within 5 or 10 years after it first accrues, during cohabitation or after termination of cohabitation. Includes instances when a cohabitants' agreement may be unenforceable or voidable. Allows a cohabitant to commence an equitable action against the other cohabitant concerning entitlement to property based on the contributions to the relationship, and such an action accrues on termination of cohabitation. Sets forth applicability, governing law, effect of a court order or judgment on a third party, principles of law and equity, uniformity of application and construction, relation to electronic signatures, and transitional provisions. Defines terms.

LRB103 35869 LNS 65954 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Uniform Cohabitants' Economic Remedies Act.

6 Section 2. Definitions. In this Act:

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

12 (2) "Cohabitants' agreement" means an agreement between
13 two individuals concerning contributions to the relationship
14 if the individuals are to become, are, or were cohabitants.
15 The term includes a waiver of rights under this Act.

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

21 (A) includes:

22 (i) cooking, cleaning, shopping, household
23 maintenance, conducting errands, and other domestic

1 services for the benefit of the other cohabitant or
2 the cohabitants' relationship; and

3 (ii) otherwise caring for the other cohabitant, a
4 child in common, or another family member of the other
5 cohabitant; and

6 (B) does not include sexual relations.

7 (4) "Property" means anything that may be the subject of
8 ownership, whether real or personal, tangible or intangible,
9 legal or equitable, or any interest therein. The term includes
10 responsibility for a debt.

11 (5) "Record" means information:

12 (A) inscribed on a tangible medium; or

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

15 (6) "State" means a state of the United States, the
16 District of Columbia, Puerto Rico, the United States Virgin
17 Islands, or any other territory or possession subject to the
18 jurisdiction of the United States.

19 (7) "Termination of cohabitation" means the earliest of:

20 (A) the death of a cohabitant;

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

23 (C) the date of the cohabitants' marriage to each
24 other.

25 Section 3. Scope. This Act applies only to a contractual

1 or equitable claim between cohabitants concerning an interest,
2 promise, or obligation arising from contributions to the
3 relationship. The rights and remedies of cohabitants under
4 this Act are not exclusive.

5 Section 4. Right of cohabitant to bring action.

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

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

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

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

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

19 (c) The action may be commenced against a deceased
20 cohabitant's estate and adjudicated under law of this state
21 applicable to a claim against a decedent's estate.

22 Section 5. Governing law.

23 (a) Except as otherwise provided in this Act, a claim
24 under this Act is governed by other law of this state,

1 including this state's choice-of-law rules.

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

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

7 (2) in the absence of a designation effective under
8 paragraph (1), the law of this state, including this
9 state's choice-of-law rules.

10 Section 6. Cohabitants' agreement.

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

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

15 (c) A claim for breach of a cohabitants' agreement accrues
16 on breach and may be commenced, subject to Section 13-205 or
17 13-206 of the Code of Civil Procedure, during cohabitation or
18 after termination of cohabitation.

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

21 (e) A term in a cohabitants' agreement that requires or
22 limits the ability of a cohabitant to pursue a civil,
23 criminal, or administrative remedy is voidable to the extent
24 the remedy is available because the cohabitant is a victim of a
25 crime of violence, as defined in subsection (c) of Section 2 of

1 the Crime Victims Compensation Act.

2 Section 7. Equitable relief.

3 (a) Unless maintaining the action is inconsistent with a
4 valid cohabitants' agreement, a cohabitant may commence an
5 equitable action against the other cohabitant concerning
6 entitlement to property based on contributions to the
7 relationship. The action is in addition to any remedy
8 otherwise available to the cohabitant under this Act or other
9 law.

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

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

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

19 (2) the duration and continuity of the cohabitation;

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

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

25 (5) other relevant factors.

1 Section 8. Effect of court order or judgment on third
2 party.

3 (a) Except as provided in subsection (c), a court order or
4 judgment granting relief under this Act against a cohabitant
5 or a cohabitant's estate is an order or judgment in favor of a
6 general creditor.

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

10 (c) A court order or judgment granting relief under this
11 Act may not impair the right or interest of a cohabitant's
12 spouse or surviving spouse to the cohabitant's property
13 unless:

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

16 (2) before entering the order or judgment, the court
17 determines based on the totality of the circumstances that
18 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
21 spouse's right or interest as appropriate or legally
22 required.

23 Section 9. Principles of law and equity. The principles of
24 law and equity supplement this Act except to the extent

1 inconsistent with this Act.

2 Section 10. Uniformity of application and construction. In
3 applying and construing this uniform Act, a court shall
4 consider the promotion of uniformity of the law among
5 jurisdictions that enact it.

6 Section 11. Relation to Electronic Signatures in Global
7 and National Commerce Act. This Act modifies, limits, or
8 supersedes the Electronic Signatures in Global and National
9 Commerce Act, 15 U.S.C. Section 7001 et seq., but does not
10 modify, limit, or supersede 15 U.S.C. Section 7001(c), or
11 authorize electronic delivery of any of the notices described
12 in 15 U.S.C. Section 7003(b).

13 Section 12. Transitional provisions.

14 (a) This Act applies to a cohabitants' agreement made
15 before, on, or after the effective date of this Act.

16 (b) This Act applies to an equitable claim under this Act
17 that accrues before, on, or after the effective date of this
18 Act.

19 Section 13. Severability. The provisions of this Act are
20 severable under Section 1.31 of the Statute on Statutes.