

CHAPTER 113.

UNIFORM JOINT OBLIGATIONS ACT.

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113.01 Definitions. In this chapter, unless otherwise expressly stated, "obligation" includes a liability in tort; "obligor" includes a person liable for a tort; "obligee" includes a person having a right based on a tort; "several obligors" means obligors severally bound for the same performance.

113.02 Judgment, obligor not party, not discharged. A judgment against one or more of several obligors, or against one or more of joint, or of joint and several obligors shall not discharge a co-obligor who was not a party to the proceeding wherein the judgment was rendered.

113.03 Recoveries credited, limitation. The amount or value of any consideration received by the obligee from one or more of several obligors, or from one or more of joint, or of joint and several obligors, in whole or in partial satisfaction of their obligations, shall be credited to the extent of the amount received on the obligations of all co-obligors to whom the obligor or obligors giving the consideration did not stand in the relation of a surety.

113.04 Release of some, effect. Subject to the provisions of section 113.03, the obligee's release or discharge of one or more of several obligors, or of one or more of joint, or of joint and several obligors shall not discharge co-obligors, against whom the obligee in writing and as part of the same transaction as the release or discharge, expressly reserves his rights; and in the absence of such reservation of such rights shall discharge co-obligors only to the extent provided in section 113.05.

The driver of an automobile injuring a person, and a physician charged with malpractice in treating the injuries, would not be joint tortfeasors, and there would be no right of contribution as between them, but the automobile driver, if settling with the injured person and obtaining a complete release, would have a claim by subrogation to the injured person's rights for that part of the damages primarily due to the physician's negligence. The presumption that a settlement with the injured person by the person causing the injury includes compensation for injury occasioned by malpractice

prior to the settlement and release is conclusive unless, in releasing the primary tortfeasor, the injured person saves his cause of action against the physician by appropriate provision in the release, or by a covenant not to sue. *Greene v. Waters*, 260 W 40, 49 NW (2d) 919.

A document called a release may in fact be a covenant not to sue, and vice versa, the intention of the parties as revealed by the document itself, and not the name given to the document, being controlling. *Greene v. Waters*, 260 W 40, 49 NW (2d) 919.

113.05 Release of some; co-obligors protected. (1) If an obligee releasing or discharging an obligor without express reservation of rights against a co-obligor, then knows or has reason to know that the obligor released or discharged did not pay so much of the claim as he was bound by his contract or relation with that co-obligor to pay, the obligee's claim against that co-obligor shall be satisfied to the amount which the obligee knew or had reason to know that the released or discharged obligor was bound to such co-obligor to pay.

(2) If an obligee so releasing or discharging an obligor has not then such knowledge or reason to know, the obligee's claim against the co-obligor shall be satisfied to the extent of the lesser of two amounts, namely (1) the amount of the fractional share of the obligor released or discharged, or (2) the amount that such obligor was bound by his contract or relation with the co-obligor to pay.

Cross Reference: See also 269.53 concerning release of joint debtor.

113.06 Death of obligor, estate liable. On the death of a joint obligor in contract, his executor or administrator (or estate) shall be bound as such jointly and severally with the surviving obligor or obligors.

113.07 Not retroactive. This chapter shall not apply to obligations arising prior to the date it takes effect.

113.08 Interpretation. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

113.09 Short title. This chapter may be cited as the "Uniform Joint Obligations Act."

113.10 Repeals. All acts or parts of acts inconsistent with this chapter are repealed.