

UNIFORM DECLARATORY JUDGMENTS ACT

Drafted by the

**NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS**

and by it

**APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES**

at its

**CONFERENCE AT SAN FRANCISCO, CAL.
AUGUST 2 – 8, 1922**

**COMMITTEE ON DECLARATORY JUDGMENTS OF
THE COMMISSIONERS ON UNIFORM STATE
LAWS — 1922–1923**

JAMES R. CATON, Alexandria, Va. *Chairman*

GEORGE A. BOURGEOIS, Law Building, Atlantic City, N.J.

T. A. HAMMOND, Atlanta, Ga.

CHARLES S. LOBINGIER, Shanghai, China.

D. A. G. OUZTS, Greenwood, S.C.

EDGAR B. STEWART, Morgantown, W. Va.

BEN F. WASHER, Louisville, Ky.

NATHAN WILLIAM MacCHESNEY, *President of the Conference*

THE NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

The National Conference of Commissioners on Uniform State Laws is composed of Commissioners appointed by Legislative or Executive authority from the States, the District of Columbia, the territory of Alaska, and the Island Possessions of the United States. The organization meeting was held at Saratoga, New York, in August, 1892; and annual meetings have been regularly held since that time, immediately preceding the meetings of the American Bar Association.

The purpose of the organization, as its name imports, is to promote uniformity of legislation on subjects of common interest throughout the United States. The Commissioners are chosen from the legal profession, and serve without compensation or emoluments of any sort. Many of them have for years paid their own expenses, and all of them have rendered unstinting services for the public welfare. There is nothing of a personal or private nature about any of the aims or objects of the National Conference. Proposed acts are carefully drawn by special committees of trained lawyers, assisted by experts in many instances, and are printed, distributed and discussed in the national Conference at more than one annual session. When finally approved by the Conference, the Uniform Acts are recommended for general adoption throughout the jurisdiction of the United States and are submitted to the American Bar Association for its approval. Each uniform act is thus the fruit of one or more tentative drafts submitted to the criticism, correction and emendation of the Commissioners, and represents the experience and the judgment of a select body of lawyers chosen from every part of the United States.

The Uniform Negotiable Instruments Act, one of the earlier productions of the National Conference, has now been adopted in 51 out of the 53 jurisdictions of the United States, and other Uniform Acts are being generally adopted.

Some of the other Uniform Acts are the Uniform Sales Act, adopted in 25 jurisdictions; Uniform Warehouse Receipts Act, adopted in 48 jurisdictions; Uniform Bills of Lading Act, adopted in 25 jurisdictions; Uniform Partnership Act, adopted in 14 jurisdictions.

National Conference of Commissioners on Uniform State Laws.
By its Executive Committee.

GEORGE G. BOGERT, *Secretary*
Cornell Law School,
Ithaca, N.Y.
October, 1922.

At the Thirty-second Meeting of the National Conference of Commissioners on Uniform State Laws held at San Francisco, Cal., August 2–8, 1922, the following resolution was adopted on the 5th day of August, 1922:

“*Resolved*, By the National Conference of Commissioners on Uniform State laws that the third tentative draft of an Act Concerning Declaratory Judgments and Decrees and to Make Uniform the law Relating Thereto, be and the same is hereby approved, and that the same be submitted to the legislatures of the different states, the territories of Alaska and Hawaii, the District of Columbia, and the Insular Possessions of the United States for enactment at their next session.”

A true copy.

Attest:

GEORGE G. BOGERT, *Secretary*,
Ithaca, N.Y.

UNIFORM DECLARATORY JUDGMENTS ACT

CONTENTS

- Section 1. Scope.
- Section 2. Power to Construe, etc.
- Section 3. Before Breach.
- Section 4. Executor, etc.
- Section 5. Enumeration Not Exclusive.
- Section 6. Discretionary.
- Section 7. Review.
- Section 8. Supplemental Relief.
- Section 9. Jury Trial.
- Section 10. Costs.
- Section 11. Parties.
- Section 12. Construction.
- Section 13. Words Construed.
- Section 14. Provisions Severable.
- Section 15. Uniformity of Interpretation.
- Section 16. Short Title.
- Section 17. Time of Taking Effect.

**AN ACT CONCERNING DECLARATORY JUDGMENTS
AND DECREES AND TO MAKE UNIFORM
THE LAW RELATING THERETO**

Be it enacted

SECTION 1. [Scope.] Courts of record within their respective jurisdictions shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree.

SECTION 2. [Power to Construe, etc.] Any person interested under a deed, will, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status or other legal relations thereunder.

SECTION 3. [Before Breach.] A contract may be construed either before or after there has been a breach thereof.

SECTION 4. [Executor, etc.] Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin, or *cestui que trust*, in the administration of a trust, or of the estate of a decedent, an infant, lunatic, or insolvent, may have a declaration of rights or legal relations in respect thereto:

- (a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others; or
- (b) To direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or
- (c) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

SECTION 5. [Enumeration Not Exclusive.] The enumeration in Section 2, 3, and 4 does not limit or restrict the exercise of the general powers conferred in Section 1, in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

SECTION 6. [Discretionary.] The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceedings.

SECTION 7. [Review.] All orders, judgments and decrees under this act may be reviewed as other orders, judgments and decrees.

SECTION 8. [Supplemental Relief.] Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a court having jurisdiction to grant the relief. If the application be deemed sufficient, the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted forthwith.

SECTION 9. [Jury Trial.] When a proceeding under this Act involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions in the court in which the proceeding is pending.

SECTION 10. [Costs.] In any proceeding under this act the court may make such award of costs as may seem equitable and just.

SECTION 11. [Parties.] When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party, and shall be entitled to be heard, and if the statute, ordinance or franchise is alleged to be unconstitutional, the Attorney-General of the State shall also be served with a copy of the proceeding and be entitled to be heard.

SECTION 12. [Construction.] This act is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations; and is to be liberally construed and administered.

SECTION 13. [Words Construed.] The word “person” wherever used in this act, shall be construed to mean any person, partnership, joint stock company, unincorporated association, or society, or municipal or other corporation of any character whatsoever.

SECTION 14. [Provisions Severable.] The several sections and provisions of this act except sections 1 and 2, are hereby declared independent and severable, and the invalidity, if any, of any part of feature thereof, shall not affect or render the remainder of the act invalid or inoperative.

SECTION 15. [Uniformity of Interpretation.] This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States which enact it, and to harmonize, as far as possible, with federal laws and regulations on the subject of declaratory judgments and decrees.

SECTION 16. [Short Title.] This act may be cited as the Uniform Declaratory Judgments Act.

SECTION 17. [Time of Taking Effect.] This act shall take effect ().