

## CHAPTER 113

## UNIFORM JOINT OBLIGATIONS ACT

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**113.01 Definitions.** In this chapter, unless otherwise expressly stated:

- (1) “Obligation” includes a liability in tort.
- (2) “Obligee” includes a person having a right based on a tort.
- (3) “Obligor” includes a person liable for a tort.
- (4) “Several obligors” means obligors severally bound for the same performance.

**History:** 1983 a. 189.

**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.

Section 893.19 (3) [now 893.43] applies to an action for contribution against a joint tort-feasor arising out of the settlement of a tort claim. *State Farm Mutual Automobile Insurance Co. v. Schara*, 56 Wis. 2d 262, 201 N.W.2d 758 (1972).

**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 s. 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 the obligee’s rights; and in the absence of such reservation of such rights shall discharge co-obligors only to the extent provided in s. 113.05.

**History:** 1993 a. 492.

Release of one tort-feasor, reserving all rights against another, limits recovery against the other to the percentage of that other’s negligence. *Peiffer v. Allstate Insurance Co.* 51 Wis. 2d 329, 187 N.W.2d 182 (1971).

There is a rebuttable presumption that a general release of the original tort-feasor does not release a malpractice cause of action for damages that might be recovered against the original tort-feasor unless clearly and expressly stated in the release. Rights need not be reserved against the doctor. *Krenz v. Medical Protective Co.* 57 Wis. 2d 387, 204 N.W.2d 663 (1973); *Westphal v. Cantwell–Peterson Clinic*, 57 Wis. 2d 402, 204 N.W.2d 491 (1973).

**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 the obligor was bound by 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 the amount of the fractional share of the obligor released or discharged, or the amount that such obligor was bound by contract or relation with the co-obligor to pay.

**History:** 1993 a. 492.

**Cross-reference:** See also s. 113.11 concerning release of joint debtor.

**113.06 Death of obligor, estate liable.** On the death of a joint obligor in contract, the joint obligor’s personal representative or estate shall be jointly and severally bound with the surviving obligor or obligors.

**History:** 1993 a. 492; 2001 a. 102.

**113.07 Not retroactive.** This chapter shall not apply to obligations arising prior to June 17, 1927.

**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.

**113.11 Release of joint debtor; effect.** (1) If any creditor to whom persons are jointly indebted, either upon contract or the judgment of a court of record, shall release any of them such release shall operate as a satisfaction or discharge of such joint debt to the amount of the proportion which the person so released ought in equity, as between the person and the other joint debtors, to pay; and the balance of such joint debt shall remain in force as to joint debtors not released and may be enforced against them. If the amount paid by a debtor to procure the release shall exceed the proportion of such joint debt which the debtor, as between the debtor and co-debtors ought to pay then such joint debt shall thereby be satisfied to the extent of the sum so paid. If the person released is only a surety the person’s release shall operate as payment of such joint debt to the extent of the money paid by the person and no further.

(2) This section does not permit the discharge of a principal debtor without also discharging the principal debtor’s sureties.

**History:** Sup. Ct. Order, 67 Wis. 2d 585, 760 (1975); 1975 c. 218.

**Cross-reference:** See also s. 113.05 concerning release of co-obligor.