

Get Out -- and You're Not Taking That Chair!

By Camille Noe Pagán
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When Michelle Lamont* and her live-in boyfriend of seven years broke up, their unresolved relationship issues ended -- but their financial issues had just begun. "It was nearly impossible to determine whose possessions were whose," recalls the 30-something Chicago resident. "We had to divide the antique furniture we refinished together, our photos -- even our two dogs." Although Lamont's split was amicable, the aftermath lingered far longer than she expected. "Sometimes I'd look for an item -- say, kitchen shears or a particular baking pan -- and then realize my ex had taken it during the move and I'd get annoyed," she recalls. "Plus, we finally decided to share custody of the dogs for the first year, so I still had to see him regularly. Talk about prolonging the breakup."

A whopping 5.5 million women in the United States live with -- but are not married to -- a significant other. Some, like Lamont, will break up with their partner. Others may stay together but choose not to wed; or, in the case of gay couples, they remain prohibited from marrying by most states. And others will eventually tie the knot. Whatever the choice, the legal limbo unmarried women are left in can cause countless problems. "In the eyes of the law, unmarried women have few if any of the rights that married women do," says Brette Sember, a retired lawyer and author of *Gay & Lesbian Rights: A GLBT Guide for Singles, Couples and Families* (Sourcebooks) and the forthcoming *The Complete Gay Divorce* (Career Press, Nov. 2005). A cohabitation contract, says Sember, can save these women time, money and heartache.



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A What?

A cohabitation contract is something of a cross between a marriage certificate and a prenuptial agreement. A cohabitation contract -- also known as a cohabitation agreement -- is a legally binding document that can specify any number of financial and legal issues. "It's essentially a shared understanding of how you'll handle money and property in your relationship, and how you'd resolve these issues if you were to break up," says Marshall Miller, who, with his partner Dorian Solot, is co-author of *Unmarried Together: The Essential Guide to Living Together* and co-founder of The Alternatives to Marriage Project [www.unmarried.org].

Cohabitation contracts are especially useful when two partners decide to end their relationship and then find themselves faced with the daunting task of splitting everything -- from furniture to real estate to pets. "The problem is that unlike married people, who have divorce laws, there is no set way for cohabitants to parcel out these items," explains Sember. "A cohabitation contract can help by specifying who owns -- or, in the case of debt, is responsible for -- each thing, so there's less fighting and misunderstanding." With the help of a cohabitation contract, many couples are able to work out the separation on their own or by using mediation. In the worst-case scenario, they may end up in either small claims court or, if there's a large sum of money or a jointly owned home, a higher court. (Notably, a cohabitation contract, like any legal document, is no guarantee that things will go smoothly in court, but it can help.)

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That said, cohabitation contracts aren't just about what happens when a couple goes their separate ways. "Money is the number-one thing that couples fight about -- and that's often because they don't have a common understanding about how they'll deal with it," says Miller. A cohabitation contract can address financial issues and prevent future disagreements, which can actually make your relationship stronger. "It lifts the burden of uncertainty," he explains. "For example, if you're paying for your boyfriend to attend medical school on the expectation that the two of you will get married, you can stipulate whether or not he'll need to pay you back if you don't wed. Knowing that you're on the same page can be enormously stress-relieving."

Okay, How Do I Get One?

Miller says that 90 percent of drawing up a cohabitation contract is having the conversation, and the other 10 percent is writing it down, either with your partner, or with your partner and an attorney. If you choose to draw up the document on your own, it won't be any less "legal" than one created by an attorney, although she will be better able to inform you of your state's laws about cohabitating couples. (State laws vary; for example, California offers domestic partnership laws whereas most states do not.)

Exactly what you include in your document is up to you. "Lots of couples include everything from who does the dishes to how they'll divide up credit card debt," says Sember. However, if you want to make sure that your agreement is airtight and enforceable in court, it's best



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to stick only to financial issues (rather than household chores and the like), and to have an attorney draw it up for you. If you do decide to seek legal help, Sember advises making sure that your attorney has worked with couples in similar situations.

What a Cohabitation Contract *Can't* Do

Certain issues regarding custody, medical care and death should be addressed in separate documents, such as a custody agreement or a will. "If one partner were to die, a will has more legal clout than a cohabitation contract," says Miller. Similarly, for medical situations, health care directives can specify your wishes and give your partner the right to make decisions for you, should you be unable to make the decisions yourself.

Why It's Worth It

No woman wants to think about the possibility that her relationship might end one day -- but a practical woman understands it may happen. Reframing the idea of a cohabitation contract can make creating one that much easier. "Sure, it's a separation safety net," says Miller. "But more importantly, it's a road map to living together that can increase your chances of success."

*Not her real name.

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