



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4751 (Substitute H-1 as passed by the House)
Sponsor: Representative Klint Kesto
House Committee: Law and Justice
Senate Committee: Families, Seniors, and Human Services

Date Completed: 11-6-17

CONTENT

The bill would amend Public Act 216 of 1981, provides for the rights and liabilities of married women, to regulate the enforceability of contracts relating to property made between individuals in contemplation of marriage, commonly called prenuptial agreements.

The Act specifies that a contract relating to property made between individuals in contemplation of marriage remains in full force after the marriage takes place.

Under the bill, a prenuptial agreement would be unenforceable if a party against whom enforcement was sought proved either of the following:

- The parties' consent to the contract was the result of fraud, duress, or mistake.
- Before signing the contract, the party did not receive adequate financial disclosure, including disclosure of assets in a domestic asset protection trust.

A party would have adequate financial disclosure if one of the following applied:

- The party received a reasonably accurate description and good-faith estimate of value of the property, liabilities, and income of the other party.
- The party expressly waived the right to financial disclosure beyond the disclosure provided.
- The party had adequate knowledge or a reasonable basis for having adequate knowledge of the value of the property, liabilities, and income of the other party.

The court could refuse to enforce a term of the contract or the entire contract if, in the context of the contract taken as a whole, either of the following applied:

- The term was unconscionable at the time the contract was signed.
- Enforcement of the term could be unconscionable for a party at the time of the enforcement because of a material change in circumstances arising after the contract was signed that was not reasonably foreseeable at the time the contract was signed.

The court would be required to decide the question of unconscionability as a matter of law.

The bill would apply to prenuptial agreements made both before and after its effective date.

The bill would take effect 90 days after it was enacted.

MCL 557.28 & 551.204

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Ryan Bergen

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.