

**SUBSTITUTE FOR
HOUSE BILL NO. 4751**

A bill to amend 1981 PA 216, entitled

"An act to provide for the rights and liabilities of married women with respect to certain real and personal property; to abrogate the common law disabilities of married women with respect to certain contracts; to prescribe the payment and satisfaction of judgments rendered upon certain written contracts; and to repeal certain acts and parts of acts,"

by amending section 8 (MCL 557.28).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8. **(1)** A contract relating to property made between
2 persons in contemplation of marriage shall remain in full force
3 after marriage takes place.

4 **(2) A CONTRACT DESCRIBED IN SUBSECTION (1) IS UNENFORCEABLE IF**
5 **A PARTY AGAINST WHOM ENFORCEMENT IS SOUGHT PROVES EITHER OF THE**
6 **FOLLOWING:**

7 **(A) THE PARTIES' CONSENT TO THE CONTRACT WAS THE RESULT OF**

1 FRAUD, DURESS, OR MISTAKE.

2 (B) BEFORE SIGNING THE CONTRACT, THE PARTY DID NOT RECEIVE
3 ADEQUATE FINANCIAL DISCLOSURE, INCLUDING DISCLOSURE OF ASSETS IN A
4 DOMESTIC ASSET PROTECTION TRUST. A PARTY HAS ADEQUATE FINANCIAL
5 DISCLOSURE UNDER THIS SUBDIVISION IF 1 OF THE FOLLOWING APPLIES:

6 (i) THE PARTY RECEIVES A REASONABLY ACCURATE DESCRIPTION AND
7 GOOD-FAITH ESTIMATE OF VALUE OF THE PROPERTY, LIABILITIES, AND
8 INCOME OF THE OTHER PARTY.

9 (ii) THE PARTY EXPRESSLY WAIVES THE RIGHT TO FINANCIAL
10 DISCLOSURE BEYOND THE DISCLOSURE PROVIDED.

11 (iii) THE PARTY HAS ADEQUATE KNOWLEDGE OR A REASONABLE BASIS
12 FOR HAVING ADEQUATE KNOWLEDGE OF THE INFORMATION DESCRIBED IN
13 SUBPARAGRAPH (i).

14 (3) A COURT MAY REFUSE TO ENFORCE A TERM OF THE CONTRACT OR
15 THE ENTIRE CONTRACT IF, IN THE CONTEXT OF THE CONTRACT TAKEN AS A
16 WHOLE, EITHER OF THE FOLLOWING APPLIES:

17 (A) THE TERM WAS UNCONSCIONABLE AT THE TIME THE CONTRACT WAS
18 SIGNED.

19 (B) ENFORCEMENT OF THE TERM MAY BE UNCONSCIONABLE FOR A PARTY
20 AT THE TIME OF ENFORCEMENT BECAUSE OF A MATERIAL CHANGE IN
21 CIRCUMSTANCES ARISING AFTER THE CONTRACT WAS SIGNED THAT WAS NOT
22 REASONABLY FORESEEABLE AT THE TIME THE CONTRACT WAS SIGNED.

23 (4) THE COURT SHALL DECIDE THE QUESTION OF UNCONSCIONABILITY
24 UNDER SUBSECTION (3) AS A MATTER OF LAW.

25 (5) THIS SECTION APPLIES TO CONTRACTS RELATING TO PROPERTY
26 MADE BETWEEN PERSONS IN CONTEMPLATION OF MARRIAGE MADE BEFORE AND
27 AFTER THE EFFECTIVE DATE OF THE 2017 AMENDATORY ACT THAT AMENDED

1 THIS SECTION.

2 Enacting section 1. This amendatory act takes effect 90 days
3 after the date it is enacted into law.