

**SENATE 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 REASONABLE FINANCIAL DISCLOSURE, INCLUDING DISCLOSURE OF ASSETS IN
4 A DOMESTIC ASSET PROTECTION TRUST. A PARTY HAS REASONABLE 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 REASONABLE KNOWLEDGE OF THE INFORMATION
12 DESCRIBED IN SUBPARAGRAPH (i) .

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

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

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

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

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

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