



# HOUSE BILL No. 5205

November 16, 1993, Introduced by Reps. Jersevic, Lowe, Goschka, Dalman, Shugars, Dolan, McNutt, Bobier, Crissman, Bullard, Hammerstrom, Yokich, Jaye and McManus and referred to the Committee on Judiciary.

A bill to enact the uniform premarital agreement act.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the  
2 "uniform premarital agreement act".

3       Sec. 2. As used in this act:

4       (a) "Premarital agreement" means an agreement between pro-  
5 spective spouses made in contemplation of marriage.

6       (b) "Property" means an interest, present or future, legal  
7 or equitable, vested or contingent, in real or personal property,  
8 including income and earnings.

9       Sec. 3. A premarital agreement shall be in writing and  
0 signed by both parties. A premarital agreement is enforceable  
1 without consideration.

2       Sec. 4. (1) Parties to a premarital agreement may contract  
3 with respect to all of the following:

1 (a) The rights and obligations of each party in the property  
2 of either or both of them whenever and wherever acquired or  
3 located.

4 (b) The right to buy, sell, use, transfer, exchange, aban-  
5 don, lease, consume, expend, assign, create a security interest  
6 in, mortgage, encumber, dispose of, or otherwise manage and con-  
7 trol property.

8 (c) The disposition of property upon separation, marital  
9 dissolution, death, or the occurrence or nonoccurrence of any  
10 other event.

11 (d) The modification or elimination of spousal support.

12 (e) The making of a will, trust, or other arrangement to  
13 carry out the provisions of the agreement.

14 (f) The ownership rights in and disposition of the death  
15 benefit from a life insurance policy.

16 (g) The choice of law governing the construction of the  
17 agreement.

18 (h) Any other matter, including their personal rights and  
19 obligations, not in violation of public policy or a statute  
20 imposing a criminal penalty.

21 (2) The right of a child to support may not be adversely  
22 affected by a premarital agreement.

23 Sec. 5. A premarital agreement is effective upon marriage.

24 Sec. 6. After marriage, a premarital agreement may be  
25 amended or revoked only by a written agreement signed by the  
26 parties. The amended agreement or the revocation is enforceable  
27 without consideration.

1       Sec. 7. (1) A premarital agreement is not enforceable if  
2 the party against whom enforcement is sought proves either of the  
3 following:

4       (a) That party did not execute the agreement voluntarily.

5       (b) The agreement was unconscionable when it was executed  
6 and, before execution of the agreement, all of the following were  
7 true:

8       (i) That party was not provided a fair and reasonable dis-  
9 closure of the property or financial obligations of the other  
10 party.

11       (ii) That party did not voluntarily and expressly waive, in  
12 writing, any right to disclosure of the property or financial  
13 obligations of the other party beyond the disclosure provided.

14       (iii) That party did not have, or reasonably could not have  
15 had, an adequate knowledge of the property or financial obliga-  
16 tions of the other party.

17       (2) If a provision of a premarital agreement modifies or  
18 eliminates spousal support and that modification or elimination  
19 causes one party to the agreement to be eligible for support  
20 under a program of public assistance at the time of separation or  
21 marital dissolution, the court, notwithstanding the terms of the  
22 premarital agreement, may require the other party to provide sup-  
23 port to the extent necessary to avoid that eligibility.

24       (3) The court shall decide as a matter of law the issue of  
25 unconscionability of a premarital agreement.

26       Sec. 8. If a marriage is determined to be void, an  
27 agreement that would otherwise have been a premarital agreement

1 is enforceable only to the extent necessary to avoid an  
2 inequitable result.

3       Sec. 9. A statute of limitations applicable to an action  
4 asserting a claim for relief under a premarital agreement is  
5 tolled during the marriage of the parties to the agreement.  
6 However, equitable defenses limiting the time for enforcement,  
7 including laches and estoppel, are available to either party.

8       Sec. 10. This act shall be applied and construed to effec-  
9 tuate its general purpose to make uniform the law with respect to  
10 the subject of this act among states enacting it.

11       Sec. 11. This act is effective on January 1, 1994 and  
12 applies to a premarital agreement executed on or after that  
13 date.