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:

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

(2) A contract described in Subsection (1) is unenforceable if a party against whom enforcement is sought proves either of the following:

(A) The parties' consent to the contract was the result of fraud, duress, or mistake.

(B) Before signing the contract, the party did not receive reasonable financial disclosure, including disclosure of assets in a domestic asset protection trust. A party has reasonable financial disclosure under this Subdivision if 1 of the following applies:

(i) The party receives a reasonably accurate description and good-faith estimate of value of the property, liabilities, and income of the other party.

(ii) The party expressly waives the right to financial disclosure beyond the disclosure provided.

(iii) The party has reasonable knowledge of the information described in Subparagraph (i).

(3) A court may 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 applies:

(A) The term was unconscionable at the time the contract was signed.

(B) Enforcement of the term may be unconscionable for a party at the time of 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.
(4) The Court shall decide the question of unconscionability under Subsection (3) as a matter of law.

(5) If, after review of paragraphs (2) and (3) above, a Court determines that the prenuptial agreement is enforceable and that said agreement bars a party's right to receive spousal support, then a Court shall not be permitted to exercise its authority set forth in MCL 552.23.

(6) If after review of paragraphs (2) and (3) above, a Court determines that the prenuptial agreement is enforceable and that under the agreement a party has waived his or her right to invade separate property, then a Court shall not be permitted to exercise its authority set forth in MCL 552.23, and MCL 552.401.

(7) This section applies to contracts relating to property made between persons in contemplation of marriage made before and after the effective date of the 2017 amendatory act that amended this section.

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