**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 9 TO CHAPTER 1, TITLE 20 SO AS TO ENACT THE “UNIFORM PREMARITAL AGREEMENT ACT” WHICH PROVIDES REQUIREMENTS FOR THE EXECUTION, CONTENT, AND AMENDMENT OR REVOCATION OF PREMARITAL AGREEMENTS, THE EFFECT OF MARRIAGE OR A VOID MARRIAGE ON THE AGREEMENT, THE ENFORCEMENT OF THESE AGREEMENTS, LIMITATION OF ACTIONS WITH REGARD TO THE AGREEMENT, AND THE APPLICATION AND CONSTRUCTION OF THIS ARTICLE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 20 of the 1976 Code is amended by adding:

“Article 9

Uniform Premarital Agreement Act

Section 20‑1‑900. This article may be cited as the ‘Uniform Premarital Agreement Act’.

Section 20‑1‑910. As used in this article:

(1) ‘Premarital agreement’ means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage.

(2) ‘Property’ means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

Section 20‑1‑920. A premarital agreement must be in writing and signed by both parties. It is enforceable without consideration.

Section 20‑1‑930. (A) Parties to a premarital agreement may contract with respect to:

(1) the rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;

(2) the right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property;

(3) the disposition of property upon separation, marital dissolution, death, or the occurrence or nonoccurrence of another event;

(4) the modification or elimination of spousal support;

(5) the making of a will, trust, or other arrangement to carry out the provisions of the agreement;

(6) the ownership rights in and disposition of the death benefit from a life insurance policy;

(7) the choice of law governing the construction of the agreement; and

(8) another matter, including their personal rights and obligations, not in violation of public policy or law imposing a criminal penalty.

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

Section 20‑1‑940. A premarital agreement becomes effective upon marriage.

Section 20‑1‑950. After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties. The amended agreement or the revocation is enforceable without consideration.

Section 20‑1‑960. (A) A premarital agreement is not enforceable if the party against whom enforcement is sought proves that:

(1) the party did not execute the agreement voluntarily; or

(2) the agreement was unconscionable when it was executed and, before execution of the agreement, that party:

(a) was not provided a fair and reasonable disclosure of the property or financial obligations of the other party;

(b) did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and

(c) did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.

(B) If a provision of a premarital agreement modifies or eliminates spousal support and that modification or elimination causes one party to the agreement to be eligible for support under a program of public assistance at the time of separation or marital dissolution, a court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility if the court finds the spouse otherwise entitled to receive support.

(C) An issue of unconscionablity of a premarital agreement must be decided by the court as a matter of law.

Section 20‑1‑970. Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

Section 20‑1‑980. The article must be applied and construed to effectuate its general purpose to make uniform among the states enacting it, the law on premarital agreements.”

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect July 1, 2009 and applies to premarital agreements entered into after June 30, 2009.

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