Chapter 52B.

Uniform Premarital Agreement Act.

§ 52B-1. Short title.

This Chapter may be cited as the "Uniform Premarital Agreement Act". (1987, c. 473, s. 1.)

§ 52B-2. Definitions.

As used in this Chapter:

(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. (1987, c. 473, s. 1.)

§ 52B-3. Formalities.

A premarital agreement must be in writing and signed by both parties. It is enforceable without consideration. (1987, c. 473, s. 1.)

§ 52B-4. Content.

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

(b) The right of a child to support may not be adversely affected by a premarital agreement. (1987, c. 473, s. 1.)

§ 52B-5. Effect of marriage.

A premarital agreement becomes effective upon marriage. (1987, c. 473, s. 1.)

§ 52B-6. Amendment, revocation.

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. (1987, c. 473, s. 1.)

§ 52B-7. Enforcement.

(a) A premarital agreement is not enforceable if the party against whom enforcement is sought proves that:

(1) That 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. Before the court orders support under this subsection, the court must find that the party for whom support is ordered is a dependent spouse, as defined by G.S. 50-16.1A, and that the requirements of G.S. 50-16.2A regarding postseparation support or G.S. 50-16.3A regarding alimony have been met.

(c) An issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law. (1987, c. 473, s. 1; 1995, c. 319, s. 11; 1997-456, s. 27.)

§ 52B-8. Enforcement: void marriage.

If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result. (1987, c. 473, s. 1.)

§ 52B-9. Limitation of actions.

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. (1987, c. 473, s. 1.)

§ 52B-10. Application and construction.

The Uniform Premarital Agreement Act shall be applied and construed to effectuate its general purpose to make uniform among the states enacting it, the law on premarital agreements. (1987, c. 473, s. 1.)

§ 52B-11. Severability.

If any provision of this Chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable. (1987, c. 473, s. 1.)