

37:2-32 Definitions.

37:2-32. As used in this article:

a. "Premarital or pre-civil union agreement" means an agreement between prospective spouses or partners in a civil union couple made in contemplation of marriage or a civil union and to be effective upon marriage or upon the parties establishing a civil union;

b. "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings;

c. (Deleted by amendment, P.L.2013, c.72).

amended 2006, c.103, s.27; 2013, c.72, s.1.

37:2-33 Formalties; consideration.

A premarital or pre-civil union agreement shall be in writing, with a statement of assets annexed thereto, signed by both parties, and it is enforceable without consideration.

L.1988, c.99; amended 2006, s.103, s.28.

37:2-34 Contents of premarital or pre-civil union agreement

Parties to a premarital or pre-civil union agreement may contract with respect to:

a. 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;

b. 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;

c. The disposition of property upon separation, marital dissolution, dissolution of a civil union, death, or the occurrence or nonoccurrence of any other event;

d. The modification or elimination of spousal or one partner in a civil union couple support;

e. The making of a will, trust, or other arrangement to carry out the provisions of the agreement;

- f. The ownership rights in and disposition of the death benefit from a life insurance policy;
- g. The choice of law governing the construction of the agreement; and
- h. Any other matter, including their personal rights and obligations, not in violation of public policy.

L.1988, c.99; amended 2006, s.103, s.29.

37:2-35 Premarital or pre-civil union agreement not to adversely affect right of child support.

A premarital or pre-civil union agreement shall not adversely affect the right of a child to support.

L.1988, c.99; amended 2006, s.103, s.30.

37:2-36 When premarital or pre-civil union agreement becomes effective.

A premarital or pre-civil union agreement becomes effective upon marriage of the parties or upon the parties establishing a civil union.

L.1988, c.99; amended 2006, s.103, s.31.

37:2-37 Amendment or revocation of premarital or pre-civil union agreement.

After marriage of the parties or the parties establishing a civil union, a premarital or pre-civil union agreement may be amended or revoked only by a written agreement signed by the parties, and the amended agreement or revocation is enforceable without consideration.

L.1988, c.99; amended 2006, s.103, s.32.

37:2-38 Enforcement of premarital or pre-civil union agreement; generally.

The burden of proof to set aside a premarital or pre-civil union agreement shall be upon the party alleging the agreement to be unenforceable. A premarital or pre-civil union agreement shall not be enforceable if the party seeking to set aside the agreement proves, by clear and convincing evidence, that:

- a. The party executed the agreement involuntarily; or
- b. (Deleted by amendment, P.L.2013, c.72)

c. The agreement was unconscionable when it was executed because that party, before execution of the agreement:

(1) Was not provided full and fair disclosure of the earnings, property and financial obligations of the other party;

(2) 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;

(3) Did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party; or

(4) Did not consult with independent legal counsel and did not voluntarily and expressly waive, in writing, the opportunity to consult with independent legal counsel.

d. The issue of unconscionability of a premarital or pre-civil union agreement shall be determined by the court as a matter of law. An agreement shall not be deemed unconscionable unless the circumstances set out in subsection c. of this section are applicable.

amended 2006, c.103, s.33; 2013, c.72, s.2.

37:2-39 Enforcement of premarital or pre-civil union agreement; marriage or civil union determined void.

If a marriage or civil union is determined to be void, an agreement that would otherwise have been a premarital or pre-civil union agreement is enforceable only to the extent necessary to avoid an inequitable result.

L.1988, c.99; amended 2006, s.103, s.34.

37:2-40 Construction of article.

a. This article shall be construed to effectuate its general purpose to make uniform the law with respect to the subject of the article among states enacting the "Uniform Premarital Agreement Act."

b. This article shall be construed to apply to pre-civil union agreements executed on and after the effective date of P.L.2006, c.103 (C.37:1-28 et al.).

L.1988, c.99; amended 2006, s.103, s.35.

37:2-41 Application of article.

This article shall apply to premarital agreements executed on and after its effective date.

This article as amended by P.L.2006, c.103 (C.37:1-28 et al.) shall apply to pre-civil union agreements executed on and after the effective date of P.L.2006, c.103 (C.37:1-28 et al.).

L.1988, c.99; amended 2006, s.103, s.36.