



## Legal Note – Prenuptial Agreements

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Florida recently adopted the Florida Uniform Premarital Agreement Act. A couple intending to marry may now therefore agree to certain property rights under statutory protection. A Prenuptial Agreement may involve property, security interests, estate planning, spousal support, life insurance and any other matter involving personal property or obligations not in violation of public policy.

Premarital agreements will generally be upheld under the new statute unless a party can prove that execution of the agreement was not voluntary or was due to fraud, duress, coercion or overreaching. The agreement may also be challenged based upon unconscionability or inadequate disclosure by one party of financial obligations or assets.

Note that no consideration is required for enforcement of a Premarital Agreement except for the marriage itself. Moreover, even if the agreement is unconscionable, the agreement will generally be enforceable unless also lacking (i) fair and reasonable disclosure of property and financial obligations, (ii) a waiver of the disclosure or (iii) adequate knowledge by the challenger of the other party's property and financial obligations.

Premarital Agreements in Florida are therefore generally enforceable to the extent voluntarily entered into with full disclosure by both parties. Note that legal representation by independent counsel of both parties will generally help to eliminate most or all of the issues associated with improper execution, fraud or unconscionability. In light of the very high divorce rate in Florida, in many cases, it may be prudent to protect marital assets by having an experienced attorney handle preparation and negotiation of a Premarital Agreement.