HB 577

A bill to be entitled

1 2 An act relating to premarital agreements; providing a short title; creating s. 61.079, F.S.; defining the terms 3 4 "premarital agreement" and "property"; requiring that a 5 premarital agreement be in writing and signed by both parties; providing that the agreement is enforceable 6 without consideration; authorizing the parties to a 7 8 premarital agreement to contract with respect to certain 9 specified issues; providing that an agreement becomes 10 effective upon marriage; providing for amendments to, revocation, and abandonment of an agreement; providing for 11 enforcement of an agreement; providing for application of 12 the act; providing for severability; providing an 13 effective date. 14 15 Be It Enacted by the Legislature of the State of Florida: 16 17 18 Section 1. This act may be cited as the "Uniform 19 Premarital Agreement Act." 20 Section 61.079, Florida Statutes, is created to Section 2. read: 21 22 61.079 Premarital agreements. --(1) DEFINITIONS.--As used in this section, the term: 23 24 (a) "Premarital agreement" means an agreement between 25 prospective spouses made in contemplation of marriage and to be 26 effective upon marriage. 27 (b) "Property" includes, but is not limited to, an interest, present or future, legal or equitable, vested or 28 Page 1 of 4

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29	contingent, in real or personal property, tangible or
30	intangible, including income and earnings, both active and
31	passive.
32	(2) FORMALITIESA premarital agreement must be in
33	writing and signed by both parties. It is enforceable without
34	consideration other than the marriage itself.
35	(3) CONTENT
36	(a) Parties to a premarital agreement may contract with
37	respect to:
38	1. The rights and obligations of each of the parties in
39	any of the property of either or both of them whenever and
40	wherever acquired or located;
41	2. The right to buy, sell, use, transfer, exchange,
42	abandon, lease, consume, expend, assign, create a security
43	interest in, mortgage, encumber, dispose of, or otherwise manage
44	and control property;
45	3. The disposition of property upon separation, marital
46	dissolution, death, or the occurrence or nonoccurrence of any
47	other event;
48	4. The establishment, modification, waiver, or elimination
49	of spousal support;
50	5. The making of a will, trust, or other arrangement to
51	carry out the provisions of the agreement;
52	6. The ownership rights in and disposition of the death
53	benefit from a life insurance policy;
54	7. The choice of law governing the construction of the
55	agreement; and
56	8. Any other matter, including their personal rights and

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58this state or a law imposing a criminal penalty.59(b) The right of a child to support may not be adverse60affected by a premarital agreement.61(4) EFFECT OF MARRIAGEA premarital agreement become62effective upon marriage of the parties.63(5) AMENDMENT, REVOCATION, OR ABANDONMENTAfter64marriage, a premarital agreement may be amended, revoked, or65abandoned only by a written agreement signed by the partiese66amended agreement, revocation, or abandonment is enforceable67without consideration.68(6) ENFORCEMENT69(a) A premarital agreement is not enforceable in an agreement y against whom enforcement is sought proves that:711. The party did not execute the agreement voluntaril732. The agreement was the product of fraud, duress,74coercion, or overreaching; or753. The agreement was unconscionable when it was execut76and, before execution of the agreement, that party:77a. Was not provided a fair and reasonable disclosure78the property or financial obligations of the other party;79b. Did not voluntarily and expressly waive, in writint81of the other party beyond the disclosure provided; and82c. Did not have, or reasonably could not have had, arr	of
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85 If a provision of a premarital agreement modifies or (b) 86 eliminates spousal support and that modification or elimination 87 causes one party to the agreement to be eligible for support 88 under a program of public assistance at the time of separation or marital dissolution, a court, notwithstanding the terms of 89 the agreement, may require the other party to provide support to 90 the extent necessary to avoid that eligibility. 91 An issue of unconscionability of a premarital 92 (C) 93 agreement shall be decided by the court as a matter of law. 94 (7) ENFORCEMENT; VOID MARRIAGE.--If a marriage is determined to be void, an agreement that would otherwise have 95 96 been a premarital agreement is enforceable. 97 (8) LIMITATION OF ACTIONS. -- Any statute of limitations 98 applicable to an action asserting a claim for relief under a 99 premarital agreement is tolled during the marriage of the 100 parties to the agreement. However, equitable defenses limiting 101 the time for enforcement, including laches and estoppel, are 102 available to either party. If any provision of this act or its application 103 Section 3. 104 to any person or circumstance is held invalid, the invalidity 105 does not affect other provisions or applications of this act which can be given effect without the invalid provision or 106 107 application, and to this end the provisions of this act are 108 severable. 109 Section 4. This act shall take effect October 1, 2007, and 110 applies to any premarital agreement executed on or after that 111 date.

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