

COMMITTEE ON JUDICIARY
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2861
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 25-201, Arizona Revised Statutes, is amended to
3 read:

4 25-201. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Prenuptial agreement" means an agreement between prospective
7 spouses that is made in contemplation of marriage and that is effective on
8 marriage.

9 2. "POSTNUPTIAL AGREEMENT" MEANS AN AGREEMENT ENTERED INTO DURING
10 MARRIAGE TO DIVIDE OR DELINEATE ONE OR BOTH SPOUSE'S PROPERTY INTERESTS.

11 ~~2.~~ 3. "Property" means an interest, present or future, legal or
12 equitable, vested or contingent, in real or personal property, including
13 income and earnings.

14 Sec. 2. Title 25, chapter 2, article 1, Arizona Revised Statutes,
15 is amended by adding section 25-202.01, to read:

16 25-202.01. Enforcement of postnuptial agreements; exception

17 A. A POSTNUPTIAL AGREEMENT MUST BE IN WRITING AND SIGNED BY BOTH
18 PARTIES.

19 B. THE POSTNUPTIAL AGREEMENT BECOMES EFFECTIVE ON EXECUTION BY BOTH
20 PARTIES.

21 C. THE POSTNUPTIAL AGREEMENT IS NOT ENFORCEABLE IF THE PERSON
22 AGAINST WHOM ENFORCEMENT IS SOUGHT PROVES ONE OR MORE OF THE FOLLOWING:

23 1. THE POSTNUPTIAL AGREEMENT IS NOT FREE FROM ANY TAIN OF FRAUD,
24 COERCION OR UNDUE INFLUENCE.

25 2. THE PERSON DID NOT ACT WITH FULL KNOWLEDGE OF THE PROPERTY
26 INVOLVED AND THE PERSON'S RIGHTS IN THE POSTNUPTIAL AGREEMENT.

27 3. THE POSTNUPTIAL AGREEMENT IS NOT FAIR AND EQUITABLE.

28 4. THE POSTNUPTIAL AGREEMENT DOES NOT REFLECT A MUTUAL INTENT TO
29 DIVIDE OR DELINEATE ONE OR BOTH SPOUSE'S PROPERTY INTERESTS.

30 D. THE BURDEN IS ON THE PARTY SEEKING TO CHALLENGE THE POSTNUPTIAL
31 AGREEMENT TO PROVE BY CLEAR AND CONVINCING EVIDENCE THAT THE POSTNUPTIAL
32 AGREEMENT IS NOT ENFORCEABLE.

33 Sec. 3. Section 25-203, Arizona Revised Statutes, is amended to
34 read:

35 25-203. Scope of agreement

36 A. Parties to a prenuptial OR POSTNUPTIAL agreement may contract
37 with respect to:

1 1. The rights and obligations of each of the parties in any of the
2 property of either or both of them whenever and wherever acquired or
3 located.

4 2. The right to buy, sell, use, transfer, exchange, abandon, lease,
5 consume, expend, assign or create a security interest in, mortgage,
6 encumber, dispose of or otherwise manage and control property.

7 3. The disposition of property on separation, marital dissolution,
8 death or the occurrence or nonoccurrence of any other event.

9 4. The modification or elimination of spousal support.

10 5. The making of a will, trust or other arrangement to carry out
11 the provisions of the agreement.

12 6. The ownership rights in and disposition of the death benefit
13 from a life insurance policy.

14 7. The choice of law governing the construction of the agreement.

15 8. Any other matter, including their personal rights and
16 obligations, not in violation of public policy or a statute imposing a
17 criminal penalty.

18 B. The right of a child to support may not be adversely affected by
19 a premarital **OR POSTNUPTIAL** agreement.

20 Sec. 4. Section 25-204, Arizona Revised Statutes, is amended to
21 read:

22 25-204. Amendment or revocation of agreement

23 After marriage, a premarital **OR POSTNUPTIAL** agreement may be amended
24 or revoked only by a written agreement signed by the parties. The amended
25 agreement or the revocation is enforceable without consideration.

26

27 Sec. 5. Section 25-205, Arizona Revised Statutes, is amended to
28 read:

29 25-205. Limitation of actions

30 A statute of limitations applicable to an action asserting a claim
31 for relief under a premarital **OR POSTNUPTIAL** agreement is tolled during
32 the marriage of the parties to the agreement. However, equitable defenses
33 limiting the time for enforcement, including laches and estoppel, are
34 available to either party.

35 Amend title to conform

And, as so amended, it do pass

QUANG H. NGUYEN
CHAIRMAN

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