S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

February 26, 2009

Introduced by M. of A. WEINSTEIN, GALEF, PAULIN, O'DONNELL -- Multi-Sponsored by -- M. of A. BOYLAND, BRENNAN, BRODSKY, CLARK, CYMBROWITZ, GOTTFRIED, HIKIND, JACOBS, JAFFEE, JOHN, McENENY, MILLMAN, NOLAN, PERRY -- read once and referred to the Committee on Judiciary

AN ACT to amend the domestic relations law, in relation to the definition of marital property

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph c of subdivision 1 of part B of section 236 of the domestic relations law, as amended by chapter 281 of the laws of 1980, is amended to read as follows:

c. The term "marital property" [shall mean] MEANS all property acquired by either or both spouses during the marriage and before the execution of a separation agreement or the commencement of a matrimonial action, regardless of the form in which title is held, except as otherwise provided in AN agreement pursuant to subdivision three of this part. IN MAKING AN EQUITABLE DISTRIBUTION OF THE MARITAL PROPERTY, THE COURT SHALL INCLUDE THE VALUE OF ANY MARITAL PROPERTY TRANSFERRED OR ENCUMBERED IN CONTEMPLATION OF A MATRIMONIAL ACTION WITHOUT FAIR CONSIDERATION. ANY TRANSFER OR ENCUMBRANCE OF MARITAL PROPERTY MADE WITHIN TWO YEARS OF THE COMMENCEMENT OF A MATRIMONIAL ACTION SHALL BE PRESUMED TO BE A TRANSFER OR ENCUMBRANCE IN CONTEMPLATION OF A MATRIMONIAL ACTION AND SHALL BE PRESUMED TO BE WITHOUT FAIR CONSIDERATION, UNLESS THE TRANSFEROR SHOWS THAT THE TRANSFER OR ENCUMBRANCE WAS MADE FOR FAIR CONSIDERATION. Marital property shall not include separate property as hereinafter defined.

S 2. This act shall take effect immediately and shall apply to all actions and proceedings commenced on or after such effective date.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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