

2973

2009-2010 Regular Sessions

I N S E N A T E

March 9, 2009

Introduced by Sen. SAMPSON -- read twice and ordered printed, and when printed to be committed 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:

1 Section 1. Paragraph c of subdivision 1 of part B of section 236 of
2 the domestic relations law, as amended by chapter 281 of the laws of
3 1980, is amended to read as follows:
4 c. The term "marital property" [shall mean] MEANS all property
5 acquired by either or both spouses during the marriage and before the
6 execution of a separation agreement or the commencement of a matrimonial
7 action, regardless of the form in which title is held, except as other-
8 wise provided in AN agreement pursuant to subdivision three of this
9 part. IN MAKING AN EQUITABLE DISTRIBUTION OF THE MARITAL PROPERTY, THE
10 COURT SHALL INCLUDE THE VALUE OF ANY MARITAL PROPERTY TRANSFERRED OR
11 ENCUMBERED IN CONTEMPLATION OF A MATRIMONIAL ACTION WITHOUT FAIR CONSID-
12 ERATION. ANY TRANSFER OR ENCUMBRANCE OF MARITAL PROPERTY MADE WITHIN TWO
13 YEARS OF THE COMMENCEMENT OF A MATRIMONIAL ACTION SHALL BE PRESUMED TO
14 BE A TRANSFER OR ENCUMBRANCE IN CONTEMPLATION OF A MATRIMONIAL ACTION
15 AND SHALL BE PRESUMED TO BE WITHOUT FAIR CONSIDERATION, UNLESS THE
16 TRANSFEROR SHOWS THAT THE TRANSFER OR ENCUMBRANCE WAS MADE FOR FAIR
17 CONSIDERATION. Marital property shall not include separate property as
18 hereinafter defined.
19 S 2. This act shall take effect immediately and shall apply to all
20 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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