

7142

I N   S E N A T E

April 30, 2014

---

Introduced by Sen. BONACIC -- (at request of the Office of Court Administration) -- 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 proof of acknowledgment of the agreement of the parties in an action or proceeding

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

1     Section 1. Subdivision 3 of part B of section 236 of the domestic  
2 relations law, as amended by chapter 595 of the laws of 2003, is amended  
3 to read as follows:  
4     3. Agreement of the parties. An agreement by the parties, made before  
5 or during the marriage, shall be valid and enforceable in a matrimonial  
6 action if such agreement is in writing, subscribed by the parties, and  
7 acknowledged or proven in the manner required to entitle a deed to be  
8 recorded. HOWEVER, WHERE THERE IS A WRITTEN CERTIFICATION OF ACKNOWLEDG-  
9 MENT THAT IS DEFECTIVE IN FORM, AND SIGNING OF THE DOCUMENT BY THE  
10 PARTIES AND THE PARTIES' ACKNOWLEDGMENT ARE PROVEN, THE COURT MAY IGNORE  
11 DEFECTS AS TO THE FORM OF THE ACKNOWLEDGMENT. Notwithstanding any other  
12 provision of law, an acknowledgment of an agreement made before marriage  
13 may be executed before any person authorized to solemnize a marriage  
14 pursuant to subdivisions one, two and three of section eleven of this  
15 chapter. Such an agreement may include (1) a contract to make a testa-  
16 mentary provision of any kind, or a waiver of any right to elect against  
17 the provisions of a will; (2) provision for the ownership, division or  
18 distribution of separate and marital property; (3) provision for the  
19 amount and duration of maintenance or other terms and conditions of the  
20 marriage relationship, subject to the provisions of section 5-311 of the  
21 general obligations law, and provided that such terms were fair and  
22 reasonable at the time of the making of the agreement and are not uncon-  
23 scionable at the time of entry of final judgment; and (4) provision for  
24 the custody, care, education and maintenance of any child of the  
25 parties, subject to the provisions of section two hundred forty of this  
26 article. Nothing in this subdivision shall be deemed to affect the

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

LBD13642-01-4

1 validity of any agreement made prior to the effective date of this  
2 subdivision.  
3 S 2. This act shall take effect immediately.