

REFERENCE TITLE: premarital and postmarital agreements; registry

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

# **SB 1183**

Introduced by  
Senator Gray L

AN ACT

AMENDING TITLE 25, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 25-216; REPEALING SECTION 33-413, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 33-413; RELATING TO MARITAL PROPERTY AND CONTRACT RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 25, chapter 2, article 2, Arizona Revised Statutes,  
3 is amended by adding section 25-216, to read:

4 25-216. Premarital and postmarital agreements registry:  
5 requirements; effect; fees; fund

6 A. ON OR BEFORE JANUARY 1, 2009, THE SECRETARY OF STATE SHALL  
7 ESTABLISH AND MAINTAIN A PREMARITAL AND POSTMARITAL AGREEMENTS REGISTRY FOR  
8 THE FILING OF THE FOLLOWING:

- 9 1. PREMARITAL AGREEMENTS.  
10 2. POSTMARITAL AGREEMENTS.  
11 3. AMENDMENTS TO A PREMARITAL OR POSTMARITAL AGREEMENT.  
12 4. EXCERPTS OF A PREMARITAL OR POSTMARITAL AGREEMENT.

13 B. THE SECRETARY OF STATE SHALL MAKE THE REGISTRY ACCESSIBLE THROUGH A  
14 WEBSITE MAINTAINED BY THE SECRETARY OF STATE.

15 C. THE SECRETARY OF STATE MAY CHARGE A FEE FOR EACH REGISTRATION. THE  
16 SECRETARY OF STATE MAY ACCEPT GIFTS, GRANTS, DONATIONS, BEQUESTS AND OTHER  
17 FORMS OF VOLUNTARY CONTRIBUTIONS TO SUPPORT, PROMOTE AND MAINTAIN THE  
18 REGISTRY.

19 D. A PERSON WHO SUBMITS A DOCUMENT FOR REGISTRATION PURSUANT TO THIS  
20 SECTION MUST PROVIDE A RETURN ADDRESS.

21 E. REGISTRATION OF AN AGREEMENT PURSUANT TO THIS SECTION OR AN  
22 AMENDMENT TO AN AGREEMENT REGISTERED PURSUANT TO THIS SECTION CONSTITUTES  
23 NOTICE TO CREDITORS AND THIRD PARTIES OF THE AGREEMENT OR AMENDMENT.  
24 REGISTRATION OF AN EXCERPT OF AN AGREEMENT CONSTITUTES NOTICE TO CREDITORS  
25 AND THIRD PARTIES ONLY OF THOSE TERMS CONTAINED IN THE EXCERPTED AGREEMENT.

26 F. ON RECEIPT OF A COMPLETED REGISTRATION FORM, THE SECRETARY OF STATE  
27 SHALL CREATE A DIGITAL REPRODUCTION OF THE FORM, ENTER THE REPRODUCED FORM  
28 INTO THE REGISTRY DATABASE AND ASSIGN IT A FILE NUMBER.

29 G. THE SECRETARY OF STATE IS NOT REQUIRED TO REVIEW A DOCUMENT TO  
30 ENSURE THAT IT COMPLIES WITH THE PARTICULAR STATUTORY REQUIREMENTS APPLICABLE  
31 TO THE DOCUMENT.

32 H. THE PERSON WHO SUBMITTED THE DOCUMENT SHALL REVIEW THE PRINTED  
33 RECORD. IF THE INFORMATION IS ACCURATE, THE PERSON SHALL CHECK THE BOX  
34 MARKED "NO CORRECTIONS REQUIRED" AND SIGN AND RETURN THE PRINTED RECORD TO  
35 THE SECRETARY OF STATE'S OFFICE.

36 I. IF THE PERSON WHO SUBMITTED THE DOCUMENT DETERMINES THAT THE  
37 PRINTED RECORD IS INACCURATE, THE PERSON SHALL CORRECT THE INFORMATION AND  
38 SIGN AND RETURN THE CORRECTED PRINTED RECORD TO THE SECRETARY OF STATE. ON  
39 RECEIPT OF A CORRECTED PRINTED RECORD, THE SECRETARY OF STATE SHALL MAKE THE  
40 PROPER CORRECTIONS AND SEND A CORRECTED PRINTED RECORD TO THE PERSON WHO  
41 SUBMITTED THE DOCUMENT. IF THE INFORMATION IS ACCURATE, THE PERSON SHALL  
42 CHECK THE BOX MARKED "NO CORRECTIONS REQUIRED" AND SIGN AND RETURN THE  
43 PRINTED RECORD TO THE SECRETARY OF STATE'S OFFICE.

1 J. THE SECRETARY OF STATE SHALL ACTIVATE THE ENTRY INTO THE REGISTRY  
2 DATABASE ONLY AFTER RECEIVING A PRINTED RECORD MARKED "NO CORRECTIONS  
3 REQUIRED".

4 K. THE ENTRY OF A DOCUMENT PURSUANT TO THIS SECTION DOES NOT:  
5 1. AFFECT THE VALIDITY OF THE DOCUMENT.  
6 2. RELATE TO THE ACCURACY OF INFORMATION CONTAINED IN THE DOCUMENT.  
7 3. CREATE A PRESUMPTION REGARDING THE VALIDITY OF THE DOCUMENT OR THE  
8 ACCURACY OF INFORMATION CONTAINED IN THE DOCUMENT.

9 L. THE SECRETARY OF STATE SHALL USE INFORMATION CONTAINED IN THE  
10 REGISTRY ONLY FOR PURPOSES PRESCRIBED IN THIS SECTION.

11 M. AT THE REQUEST OF THE PERSON WHO SUBMITTED THE DOCUMENT, THE  
12 SECRETARY OF STATE MAY TRANSMIT THE INFORMATION RECEIVED REGARDING THE  
13 DOCUMENT TO THE REGISTRY SYSTEM OF ANOTHER JURISDICTION AS IDENTIFIED BY THE  
14 PERSON.

15 N. THE PREMARITAL AGREEMENT AND POSTMARITAL AGREEMENT REGISTRY FUND IS  
16 ESTABLISHED CONSISTING OF MONIES RECEIVED PURSUANT TO THIS SECTION. THE  
17 SECRETARY OF STATE SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE  
18 CONTINUOUSLY APPROPRIATED. ON NOTICE FROM THE SECRETARY OF STATE, THE STATE  
19 TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION  
20 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND. THE  
21 SECRETARY OF STATE SHALL USE FUND MONIES TO SUPPORT, PROMOTE AND MAINTAIN THE  
22 REGISTRY.

23 Sec. 2. Repeal

24 Section 33-413, Arizona Revised Statutes, is repealed.

25 Sec. 3. Title 33, chapter 4, article 2, Arizona Revised Statutes, is  
26 amended by adding a new section 33-413, to read:

27 33-413. Invalidity of unregistered marriage contract as to bona  
28 fide purchases or creditor; exception

29 A. A PREMARITAL OR POSTMARITAL CONTRACT MADE BETWEEN SPOUSES WHO  
30 REMAIN MARRIED TO EACH OTHER IS NOT VALID AGAINST A PURCHASER FOR VALUABLE  
31 CONSIDERATION OR A CREDITOR THAT DOES NOT HAVE NOTICE OF THE CONTRACT UNLESS  
32 THE CONTRACT IS REGISTERED WITH THE SECRETARY OF STATE PURSUANT TO SECTION  
33 25-216.

34 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, A COVENANT OR  
35 AGREEMENT MADE IN CONSIDERATION OF MARRIAGE BEFORE THE EFFECTIVE DATE OF THIS  
36 SECTION IS VALID AGAINST A PURCHASER FOR VALUABLE CONSIDERATION OR A CREDITOR  
37 WHO DOES NOT HAVE NOTICE IF THE COVENANT OR AGREEMENT WAS DULY ACKNOWLEDGED  
38 AND RECORDED IN THE MANNER AND FORM REQUIRED FOR DEEDS AND OTHER CONVEYANCES  
39 BEFORE THE EFFECTIVE DATE OF THIS SECTION.