

## CHAPTER 519

### MARRIED PERSONS; RIGHTS, PRIVILEGES

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#### 519.01 SEPARATE LEGAL EXISTENCE.

Women shall retain the same legal existence and legal personality after marriage as before, and every married woman shall receive the same protection of all her rights as a woman which her husband does as a man, including the right to appeal to the courts in her own name alone for protection or redress.

**History:** (8616) RL s 3605; 1985 c 248 s 65

#### 519.02 PROPERTY RIGHTS.

All property, real, personal, and mixed, and all choses in action, owned by any woman at the time of her marriage, shall continue to be her separate property, notwithstanding such marriage; and any married woman, during coverture, may receive, acquire, and enjoy property of every description, and the rents, issues, and profits thereof, and all avails of her contracts and industry, free from the control of her husband, and from any liability on account of his debts, as fully as if she were unmarried.

**History:** (8617) RL s 3606

#### 519.03 RESPONSIBLE FOR TORTS AND BOUND BY CONTRACT.

Every married woman is bound by her contracts and responsible for her torts, and her property shall be liable for her debts and torts to the same extent as if unmarried. She may make any contract which she could make if unmarried, and shall be bound thereby, except that every conveyance and contract for the sale of her real estate or any interest therein, shall be subject to and governed by the provisions of section 507.02.

**History:** (8618) RL s 3607; 1905 c 255; 1907 c 417 s 1

#### 519.04 PROPERTY ACQUIRED BY WIFE DURING SEPARATION; CONVEYANCES.

All property, real and personal, acquired by any woman in her own name during any period of time in which she shall have been or may hereafter be legally separated from her husband by a decree of any court of this state, shall be and remain her separate property during the continuance of such separation and any such real property may be conveyed by her without her husband joining in the deed of conveyance and all such property may be conveyed, sold, and disposed of by her without her husband joining with her in the conveyance thereof, and any and

all conveyances of such property heretofore made are hereby declared legal and valid and the same and all such are declared valid.

**History:** (8619) 1913 c 237 s 1

#### **519.05 LIABILITY OF HUSBAND AND WIFE.**

(a) A spouse is not liable to a creditor for any debts of the other spouse. Where husband and wife are living together, they shall be jointly and severally liable for necessary medical services that have been furnished to either spouse, including any claims arising under section 246.53, 256B.15, 256D.16, or 261.04, and necessary household articles and supplies furnished to and used by the family. Notwithstanding this paragraph, in a proceeding under chapter 518 the court may apportion such debt between the spouses.

(b) Either spouse may close a credit card account or other unsecured consumer line of credit on which both spouses are contractually liable, by giving written notice to the creditor.

**History:** (8620) RL s 3608; 1981 c 31 s 11; 1997 c 245 art 2 s 7; 2001 c 158 s 5; 2009 c 79 art 5 s 73

#### **519.06 CONTRACTS BETWEEN HUSBAND AND WIFE.**

No contract between husband and wife relative to the real estate of either, or any interest therein, shall be valid, except as provided in section 500.19, subdivisions 4 and 5; but, in relation to all other subjects, either may contract with the other. A husband or wife may appoint the other as an attorney-in-fact with respect to all property of the principal, or any interest in the property, whether real, personal, or mixed. Use of a power of attorney is subject to section 518.58, subdivision 1a. In all cases where the rights of creditors or purchasers in good faith come in question, each spouse shall be held to have notice of the contracts and debts of the other as fully as if a party thereto.

**History:** (8621) RL s 3609; 1979 c 123 s 6; 1987 c 26 s 3; 1995 c 130 s 6

#### **519.07 BARRING INTEREST OF SPOUSE; RIGHTS RECIPROCAL.**

A person who has an interest in real estate may bring an action in any county in which all or a part of the real estate is located, seeking a decree that will bar any inchoate interest of the person's spouse in the real estate. The court may grant such a petition if the court finds by clear and convincing evidence that the person's spouse is an incapacitated person as defined in section 524.5-102, subdivision 6, that the person has been deserted by the spouse for a period of at least one year, or that other similar circumstances warrant. The decree may grant the person full control of all the person's real estate located in Minnesota, with power to sell, convey, mortgage, lease, or transfer title to it, subject to any limitations the court considers proper in the circumstances. The decree may not be granted or must be vacated if the petitioner caused or contributed to the incapacity or disappearance of the petitioner's spouse. A certified copy of such decree may be recorded in the office of the county recorder or filed in the office of registrar of titles in any county wherever such real estate, or any part thereof, may be situated.

**History:** (8622) RL s 3610; 1976 c 181 s 2; 1986 c 444; 1995 c 130 s 7; 2004 c 146 art 3 s 38

**519.08** [Repealed, 1979 c 67 s 2]

**519.09** [Repealed, 1991 c 144 s 4]

**519.091 RESIDUAL MARITAL PROPERTY RIGHTS ABOLISHED.**

Subdivision 1. **Interest abolished.** The marital property interest in real property, as defined in section 518.003, subdivision 3b, that was owned by a person's former spouse is abolished effective July 1, 1990, as against the interest of a third person that is of record before January 1, 1989.

Subd. 2. **Exceptions.** Subdivision 1 does not apply if:

(1) the marital property interest is determined under a decree of dissolution, legal separation, or annulment; or

(2) an action claiming the marital property interest is begun before July 1, 1990, and a notice is recorded within that period in the office of the county recorder or registrar of titles in the county where the property is located.

**History:** 1989 c 229 s 3; 2005 c 4 s 124; 2005 c 164 s 29; 1Sp2005 c 7 s 28

**519.10** [Repealed, 1971 c 25 s 88]

**519.101 DOWER AND CURTESY ACTIONS.**

Subdivision 1. **General.** The following actions must be commenced, and a notice of lis pendens filed with the county recorder or registrar of titles in the county where the property is located, within 15 years after the conveyance on which the action is based was recorded with the county recorder or registrar of titles:

(1) an action for the recovery of title to or possession of real property or a right in the property based on a person having a marital interest or estate in dower or curtesy or a marital interest or estate or statutory interest in lieu of dower or curtesy, or by anyone claiming by, through, or under the person, if the spouse of the person conveyed the real property, or any interest in the property; or

(2) an action for the recovery of title to or possession of real property or a right in real property by a person claiming by reason of the failure of a spouse to join in a conveyance of real property that was the homestead of the grantor at the time of the conveyance.

Subd. 2. **Inchoate interests.** An inchoate estate or statutory interest in lieu of dower or curtesy in real property in this state that is conveyed in writing by the spouse of the person entitled to the inchoate estate or interest is abolished if the conveyance has been recorded with the county recorder or registrar of titles of the county where the real property is located for 15 years or longer. This subdivision does not affect an inchoate estate or statutory interest in lieu of dower or curtesy if an action is commenced and a notice of lis pendens is filed with the county recorder or registrar of titles in the county where the property is located during the 15-year period.

**History:** 1949 c 308 s 2; 1957 c 375 s 2; 1965 c 772 s 2; 1973 c 12 s 2; 1976 c 181 s 2; 1984 c 566 s 4; 1987 c 26 s 5; 1991 c 144 s 1

**519.11 ANTENUPTIAL AND POSTNUPTIAL CONTRACTS.**

Subdivision 1. **Antenuptial contract.** A man and woman of legal age may enter into an antenuptial contract or settlement prior to solemnization of marriage which shall be valid and enforceable if (a) there is a full and fair disclosure of the earnings and property of each party, and (b) the parties have had an opportunity to consult with legal counsel of their own choice. An antenuptial contract or settlement made in conformity with this section may determine what

rights each party has in the nonmarital property, defined in section 518.003, subdivision 3b, upon dissolution of marriage, legal separation or after its termination by death and may bar each other of all rights in the respective estates not so secured to them by their agreement. This section shall not be construed to make invalid or unenforceable any antenuptial agreement or settlement made and executed in conformity with this section because the agreement or settlement covers or includes marital property, if the agreement or settlement would be valid and enforceable without regard to this section.

Subd. 1a. **Postnuptial contract.** (a) Spouses who are legally married under the laws of this state may enter into a postnuptial contract or settlement which is valid and enforceable if it:

(1) complies with the requirements for antenuptial contracts or settlements in this section and in the law of this state, including, but not limited to, the requirement that it be procedurally and substantively fair and equitable both at the time of its execution and at the time of its enforcement; and

(2) complies with the requirements for postnuptial contracts or settlements in this section.

(b) A postnuptial contract or settlement that conforms with this section may determine all matters that may be determined by an antenuptial contract or settlement under the law of this state, except that a postnuptial contract or settlement may not determine the rights of any child of the spouses to child support from either spouse or rights of child custody or parenting time.

(c) A postnuptial contract or settlement is valid and enforceable only if at the time of its execution each spouse is represented by separate legal counsel.

(d) A postnuptial contract or settlement is presumed to be unenforceable if either party commences an action for a legal separation or dissolution within two years of the date of its execution, unless the spouse seeking to enforce the postnuptial contract or settlement can establish that the postnuptial contract or settlement is fair and equitable.

(e) Nothing in this section shall impair the validity or enforceability of a contract, agreement, or waiver which is entered into after marriage and which is described in chapter 524, article 2, part 2, further, a conveyance permitted by section 500.19 is not a postnuptial contract or settlement under this section.

Subd. 2. **Writing; execution.** Antenuptial or postnuptial contracts or settlements shall be in writing, executed in the presence of two witnesses and acknowledged by the parties, executing the same before any officer or person authorized to administer an oath under the laws of this state. An antenuptial contract must be entered into and executed prior to the day of solemnization of marriage. A power of attorney may not be used to accomplish the purposes of this section.

Subd. 2a. **Amendment or revocation.** An antenuptial contract or settlement may be amended or revoked after the marriage of the parties only by a valid postnuptial contract or settlement which complies with this section and with the laws of this state. A postnuptial contract or settlement may be amended or revoked only by a later, valid postnuptial contract or settlement which complies with this section and with the laws of this state.

Subd. 3. **Filing; recording.** An antenuptial or postnuptial contract or settlement which by its terms conveys or determines what rights each has in the other's real property and sets forth the legal description of the real estate granted or affected by the agreement may be filed or recorded in every county where any real estate so described is situated, in the office of the county recorder for the county or in any public office authorized to receive a deed, assignment or other instrument

affecting the real estate, for filing or recording.

Subd. 4. **Effect of recording.** Any antenuptial or postnuptial contract or settlement not recorded in the office of the county recorder or other public office authorized to receive the document, where the real property is located, shall be void as against any subsequent purchaser in good faith and for a valuable consideration of the same real property, or any part thereof, whose conveyance is first duly recorded, and as against any attachment levied thereon or any judgment lawfully obtained at the suit of any party against the person in whose name the title to the property appears of record prior to recording of the conveyance.

Subd. 5. **Evidence; burden of proof.** An antenuptial or postnuptial contract or settlement duly acknowledged and attested shall be prima facie proof of the matters acknowledged therein and as to those matters, the burden of proof shall be and rest upon the person contesting the same.

Subd. 6. **Effective date.** This section shall apply to all antenuptial contracts and settlements executed on or after August 1, 1979, and shall apply to all postnuptial contracts and settlements executed on or after August 1, 1994.

Subd. 7. **Effect of sections 519.01 to 519.101.** Nothing in sections 519.01 to 519.101, shall be construed to affect antenuptial or postnuptial contracts or settlements.

**History:** 1979 c 67 s 1; 1980 c 509 s 176; 1994 c 545 s 1; 1995 c 130 s 8; 2000 c 444 art 2 s 44; 2002 c 338 s 1; 2005 c 164 s 29; 1Sp2005 c 7 s 28