

ASSEMBLY, No. 4472

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 3, 2024

Sponsored by:

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Co-Sponsored by:

Assemblyman Marengo

SYNOPSIS

Allows written palimony agreements to be entered into without advice of counsel.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/20/2024)

1 AN ACT concerning palimony and amending R.S.25:1-5.

2

3 **BE IT ENACTED** by the Senate and General Assembly of the State
4 of New Jersey:

5

6 1. R.S.25:1-5 is amended to read as follows:

7 25:1-5. Promises or agreements not binding unless in writing.

8 No action shall be brought upon any of the following agreements or
9 promises, unless the agreement or promise, upon which such action
10 shall be brought or some memorandum or note thereof, shall be in
11 writing, and signed by the party to be charged therewith, or by some
12 other person thereunto by him lawfully authorized:

13 a. (Deleted by amendment, P.L.1995, c.360.)

14 b. (Deleted by amendment, P.L.1995, c.360.)

15 c. An agreement made upon consideration of marriage entered
16 into prior to the effective date of the "Uniform Premarital
17 Agreement Act," N.J.S.37:2-31 et seq.;

18 d. (Deleted by amendment, P.L.1995, c.360.)

19 e. (Deleted by amendment, P.L.1995, c.360.)

20 f. A contract, promise, undertaking or commitment to loan
21 money or to grant, extend or renew credit, in an amount greater than
22 \$100,000, not primarily for personal, family or household purposes,
23 made by a person engaged in the business of lending or arranging
24 for the lending of money or extending credit. For the purposes of
25 this subsection, a contract, promise, undertaking or commitment to
26 loan money shall include agreements to lease personal property if
27 the lease is primarily a method of financing the obtaining of the
28 property;

29 g. An agreement by a creditor to forbear from exercising
30 remedies pursuant to a contract, promise, undertaking or
31 commitment which is subject to the provisions of subsection f. of
32 this section; or

33 h. A promise by one party to a non-marital personal
34 relationship to provide support or other consideration for the other
35 party, either during the course of such relationship or after its
36 termination. **【**For the purposes of this subsection, no such written
37 promise is binding unless it was made with the independent advice
38 of counsel for both parties.**】**

39 (cf: P.L.2009, c.311 s.1)

40

41 2. This act shall take effect immediately.

42

43

44

STATEMENT

45

46 This bill would allow written palimony agreements to be entered
47 into without advice of counsel.

EXPLANATION – Matter enclosed in bold-faced brackets **【**thus**】** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 Pursuant to P.L.2009, c.311, all palimony agreements must be in
2 writing and made with the advice of counsel for both parties. The
3 statute, set out in subsection h. of N.J.S.A.25:1-5, defines palimony
4 as “a promise by one party to a non-marital personal relationship to
5 provide support or other consideration for the other party, either
6 during the course of such relationship or after its termination.” In
7 Moynihan v. Lynch, 250 N.J. 60 (2022) the New Jersey Supreme
8 Court held that the provision concerning the advice of counsel was
9 unconstitutional. The court found that the provision contravenes the
10 substantive due process guarantee of the New Jersey Constitution,
11 as it interferes with an individual's right of autonomy, singles out
12 written palimony agreements from other agreements, and unduly
13 burdens those who cannot afford counsel. This bill would codify the
14 court’s decision in Moynihan.

15 The bill embodies a recommendation by the New Jersey Law
16 Revision Commission, “Final Report Regarding New Jersey Statute
17 of Frauds – Mandatory Attorney Review Provision in N.J.S.25:1-
18 5(h),” issued July 20, 2023.