

Texas

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In 1987, Texas adopted the Uniform Premarital Agreement Act. The current version can be found in the Texas Family Code Chapter 4: Premarital and Marital Property Agreements. According to Texas' Family Code, a couple's choice of law will govern issues of construction. It is silent on whether the choice of law provision will also apply to questions of validity and enforcement. There are only a handful of Texas cases that address the choice of law for prenuptial agreements. In *Rathjen v. Rathjen*, the couple included a choice of law provision designating Hawaii as the governing law of the agreement. The court stressed that an application of Hawaiian law would not offend the public policy of Texas and therefore it could apply in the case. The court applied Hawaiian law to determine whether the agreement was valid. This diverges from the statutory law (see above). Couples that wish to draft a prenuptial agreement that can be enforced in Texas, should seek legal counsel who is well versed in both the statutory and common law of Texas.