

## (ONTARIO) FAMILY LAW ACT ("FLA")

### PART 1 – FAMILY PROPERTY: (Equalization of Net Family Property)

The theory behind the *FLA* is that marriage is a partnership, akin to a business partnership. Any partnership has a date it begins – in this context, the date of marriage and, a date it ends, and again in this context the date of separation. Premised on this partnership theory, the *FLA* provides a **formula** that results is the equal sharing of the fruits (i.e. – “property”) of this partnership between those two dates **regardless** of the roles assumed by each spouse during the marriage. The law deems the contributions of each spouse (monetary or otherwise) to be of equal value **UNLESS** the spouses have a cohabitation agreement or marriage contract that provides otherwise

The *FLA* calls the “**date of separation**” – the date you separated from your spouse - the “**valuation date**” as all property is **valued** as of the date; this is the date where the sharing of the “fruits of the partnership” end as the partnership ends as of this date.

<b>SPOUSE #1: (YOU)</b>	<b>SPOUSE #2: (YOUR SPOUSE)</b>
-List and calculate the <b>value</b> of the following <b>as of the date of separation that is in your name</b> – so “title governs” subject to trust claims	-the <b>value</b> of the following <b>as of the date of separation that is in your spouse's name</b> – so “title governs” subject to trust claims
<b>All Property:</b> <ul style="list-style-type: none"> <li>Real property (land/buildings, i.e. homes, condo's, townhomes, cottages, rental properties, etc.)</li> <li>Personal property- i.e. cars, household chattels, bank accounts, RRSP's pensions, annuities, stocks, stock options, bonds, interest in trusts, interests in businesses, accounts receivable, etc.</li> </ul>	<b>All Property:</b> <ul style="list-style-type: none"> <li>Real property (land/buildings, i.e. homes, condo's, townhomes, cottages, rental properties, etc.)</li> <li>Personal property- i.e. cars, household chattels, bank accounts, RRSP's pensions, annuities, stocks, stock options, bonds, interest in trusts, interests in businesses, accounts receivable, etc.</li> </ul>
<b><u>SUBTRACT/LESS:</u></b> <b>All liabilities:</b> <ul style="list-style-type: none"> <li><u>Actual liabilities:</u> i.e. mortgage, line of credit, credit card, lease obligations, monies owing to CRA or other third parties</li> <li><u>Contingent liabilities:</u> unrealized capital gains or other taxes or costs of disposition that will be payable in the future (on such things as pensions, RRSP's, stocks, shares, real estate commissions, etc.); guarantor obligations</li> </ul>	<b><u>SUBTRACT/LESS:</u></b> <b>All liabilities:</b> <ul style="list-style-type: none"> <li><u>Actual liabilities:</u> i.e. mortgage, line of credit, credit card, lease obligations, monies owing to CRA or other third parties</li> <li><u>Contingent liabilities:</u> unrealized capital gains or other taxes or costs of disposition that will be payable in the future (on such things as pensions, RRSP's, stocks, shares, real estate commissions, etc.); guarantor obligations</li> </ul>
<b><u>SUBTRACT/LESS:</u></b> The value of property owned <b>on the date of marriage</b> (except what is on valuation date a 'matrimonial home')	<b><u>SUBTRACT/LESS:</u></b> The value of property owned <b>on the date of marriage</b> (except what is on valuation date a 'matrimonial home')
<b><u>SUBTRACT/LESS:</u></b> 'Excluded property' – primarily gifts or inheritances received <b>after</b> the date of marriage	<b><u>SUBTRACT/LESS:</u></b> 'Excluded property' – primarily gifts or inheritances received <b>after</b> the date of marriage
<b>Spouse #1's Net Family Property: ("NFP")</b>  e.g. <b><u>\$100,000.00</u></b>	<b>Spouse #2's Net Family Property: ("NFP")</b>  e.g. <b><u>\$50,000.00</u></b>

**STEP #1:** Calculation of equalization **payment** (“e/p”):

Spouse #1's net family property (the greater):	\$100,000.00
Spouse #2's net family property (the lesser):	<u>-\$ 50,000.00</u>
	\$ 50,000.00 divided by 2 (spouses) = <b><u>\$25,000.00</u></b>

**SPOUSE #1: \$100,000.00 - \$25,000.00 = \$75,000.00**

**SPOUSE #2: \$50,000.00 + \$25,000.00 = \$75,000.00**

\*\*\***SPOUSE 1 PAYS SPOUSE 2 AN EQUALIZATION PAYMENT OF \$25,000.00**\*\*\*

*Each spouse thereby walks away from the marriage with DIFFERENT property but with equivalent VALUE*