

JOINT DEBTS ON DIVORCE

A divorce decree has no impact on joint debts incurred by you and your spouse. Each of you are responsible for the joint debts incurred before you divorce. Your creditors have no knowledge of the divorce you are contemplating. So when a judge orders your ex-spouse to pay a debt, and she does not pay it, the creditor has every right to collect from you, and to report any delinquent payment on **your** credit report.

To protect your credit rating, you should:

Obtain a credit report. It is important to know the creditors who are looking to you for payment. Use this report as a checklist of debts to be dealt with during the separation and before the divorce. A credit report combining data from the “big three” reporting agencies can be downloaded from the internet for approximately \$40 from many providers. One of these is www.truecredit.com. [Credit card is required, and you will need to answer identity questions only your should know.] This report will provide a mailing address and phone number for each creditor.

Look at your debts. Mortgage, car loans, credit card bills, everything. Did each of you benefit equally from each debt, or is a “joint” debt really a personal debt. Decide who should be responsible for each.

Keep paying your bills. During the separation and divorce negotiations, keep sending at least the minimum payments to stay in good standing with your creditors. Missed payments will be posted to both of your reports.

Anticipate default by an ex-spouse. In planning your finances after the divorce, expect the worst. If you expect that your spouse will default on a joint obligation, determine if you can assume and pay for that obligation. By assuming an obligation, you may be entitled to “credit” in another part of the property settlement or alimony or support obligation, and protect your future credit rating.

Remove yourself from joint obligations. Call each creditor and attempt to remove your name from a joint obligation. The creditor is not required to do this, and may insist on proof that the remaining party has sufficient ability to assume full responsibility for the loan. If creditor refuses to remove you from the account, send **by certified mail, return receipt requested**, a notice to the creditor at the address provided in the credit report, that you will not be responsible for any **new** charges made to the account after a specific date. Keep a copy of your letter and the return post card acknowledging creditor’s receipt of the letter, to defend yourself from any later attempt to collect new charges on the account from you.

Consider selling major assets held jointly. To make a clean break and get a fresh start, it may be necessary to sell the home or car, to pay off the joint obligation.

Budget honestly. It is important to assess what your income and expenses will be after the divorce. If you project insufficient income to pay off your debts, you should seek professional help by consulting a **reputable** debt counselor. **[Beware!** Many so-called “debt counselors,” are scam artists, who do more harm than good. Check the government’s Federal Trade Commission web site for advice (www.ftc.gov). Generally, LSS / Consumer Credit Counseling does an excellent job in this area.] If there is no way to service your debt and maintain the expenses of a separate household, Bankruptcy may be necessary. If necessary, consider filing jointly, before the divorce is final.