

## Dealing with Debt During a Divorce

It's routinely stated that 50% of marriages end in divorce. No matter how over- or understated that statistic may be, the truth is that many marriages do end. Part of splitting with your spouse means taking care of debt that was incurred during the divorce. In a perfect world, both people walk away responsible for the debts they created and with those debts in their own names. Unfortunately, that ideal state may be unreachable.

### Legal Liability for Debt

In [equitable distribution states](#), like Georgia, the court will assign debt responsibility in a way that is fair under the specific circumstances of the couple's situation. Typically debt belongs to the ex-spouse whose name is on it. That would leave you on the hook for your debt and your spouse on the hook for theirs. No matter how the court divides up the debt, the banks still expect you to pay the debts in your name. The original credit card agreement or loan contract supersedes a [divorce decree](#), at least in the bank's eyes. The division of debts can create a problem when a spouse has been ordered to make payments on a debt that's not in their name or one that's held jointly. Let's say your ex is responsible for making payments on a credit card that's in your name. Your credit is affected when your ex-spouse doesn't keep the payments on accounts with your name, even joint accounts. You can take legal action against a spouse who doesn't abide by the court order to make payments on the account. However, by the time you get to court, your credit may already have been ruined.

### Work Out Debt Issues Before the Divorce

Try to get the debt in the name of the spouse who's responsible before the debt is finalized. This won't be easy and requires both of working together, but the hard work will be necessary to get you off the hook for debt that's not yours. For credit card debt, that may mean [transferring balances](#) to other credit cards or [consolidating the balances](#) with another loan. Major loans like mortgages and car loans are more difficult and often require refinancing the loan into just one person's name, i.e. the person who's keeping the asset. If the divorce has already been completed, the lender may allow you remove your name from the loan and replace it with your ex spouse's name. You may have to show them the divorce decree stating your ex-spouse is responsible for the mortgage payments. If this doesn't work, talk to your attorney about having the judge the asset to be sold and the proceeds to be used to pay off the loan to prevent default.

### An Ex-Spouse's Bankruptcy Could Affect You

Your ex-spouse may choose to [file bankruptcy](#) if they can't keep up with the debt payments and other financial obligations. However, their bankruptcy doesn't protect you unless you file as well. In fact, things could get worse for you when one ex-spouse files bankruptcy to eliminate a debt that is joint; those debts aren't erased in bankruptcy court. Instead, bankruptcy wipes out that person's *liability* for the debt. The creditor will pursue the remaining debtor, the one who didn't file bankruptcy, for the full amount of the debt. Sometimes, the bankruptcy could erroneously wind up on your credit report, even though you weren't the one who filed bankruptcy.

## Protect Yourself Against Future Debt

Be careful about leaving joint accounts opened after the divorce or even leading up to it. A credit card or line of credit left open is dangerous. Your spouse can transfer balances from their own accounts to accounts that you hold jointly. Or, they can run up the balance leaving you to pay for the purchases. In the case of [authorized user accounts](#), the creditor only holds the primary account holder responsible for the debt. However, non-payment on the account could affect the authorized user's credit history since the account is listed on their credit report as well. A simple phone call can resolve authorized user issues. To protect your credit, you may choose to pay off the debts yourself and go back to court to have your ex-spouse repay you. This might be expensive, but it's the alternative to losing your good credit. Realize that if you pay off those debts, you may never get the money back from your ex-spouse, even with a court order. Alternatively, you can file bankruptcy, but consider it carefully since bankruptcy remains on your credit report for 10 years.

