

Protecting Credit During Divorce & Selling

Even the divorces and breakups that start out amicable can eventually turn sideways -- if not completely inside out -- despite well-intentioned efforts to remain civil. Regardless of who was wronged, who was innocent, how the blame is divided, or whether the union simply drifted apart, it's a death of a relationship, a time to mourn. It's also a time of rebirth and a new life.

So, don't get sidetracked. Although your "better half" may be out of the picture, your finances will follow you wherever the future leads you.

Steps You Can Take to Protect Your Credit

- **First, Obtain Your Credit Report.** You can get a copy of your credit report by notifying each of the three credit bureaus, Experian, TransUnion or Equifax.
- **Second, Inventory Credit.** Make a list of all creditors, secured and unsecured.
 1. Secured creditors are those that attach an asset as security for the debt. If your home is mortgaged or you have a loan on your car, for example, your home and car are assets used as security.
 2. Unsecured creditors are those that lend you money based solely on your promise for repayment such as credit cards.
- **Third, Separate Joint Accounts From Individual Accounts.** Joint accounts are those containing both names, and each of you is responsible for the debt. Individual accounts are those opened solely in your name.
- **Fourth, Call Your Joint Credit Card Lenders.** Find out if the credit extended is based on your credit or your partner's credit.
 1. If the credit is based on your credit, but your partner has a card, ask to have your partner removed.
 2. If the credit is based on your partner's credit, put the credit card in your pocket. OK, just joking. Ask to have your name removed.
 3. If the lender refuses to remove a name from the account, close the account and open a new account.
 4. If you have a balance on your credit card, the creditor will not close the account unless you pay off the balance. But you can prevent further charges on the account by asking for the account to be frozen.
- **Fifth, Sell or Refinance Secured Assets.** It is important to separate the liability for secured assets.
 1. If a car is financed in both names, regardless of whose name is on the title, both of you are responsible for the loan.
 2. If a mortgage is held in both names, regardless of whose name is on the deed, both of you are responsible for the mortgage.
 3. Even if your divorce decree assigns possession of those assets to one party, or if one of you voluntarily transfers title to the other, the liability for the loan will remain if you do not sell or refinance the asset.

Refinancing Your House

Should you reach an agreement whereby one person will remain in possession of the home, then the prudent course of action is to remove the existing loan and replace it with a new loan, providing, of course, that you lack the capital to pay off the loan in cash.

- **Record a New Deed.** Ask your lawyer or title company to draw up a deed that transfers title from one person to the other. The common type of deeds used for this purpose are quitclaim deeds, but your lawyer may prefer to use a warranty deed or a grant deed.
- **Obtain a New Mortgage.** Call us or send us a request from our contact tab and we can start the motion of setting one up for you.
 1. If you cannot qualify by yourself, you can either sell the property or obtain a co-signer such as asking a relative to help you qualify.
 2. Should you owe your partner equity, ask your partner if he or she would be willing to let you obtain a large enough loan to pay off the existing loan and then carry a second mortgage for the amount owed. This way you can make payments to your partner for the equity, perhaps at a lower interest rate and better terms than a lender would give you.
 - Bear in mind that obtaining a new loan will require an appraisal to substantiate value, but since lenders have a vested interest in making you a loan, you might want to also ask a trusted real estate agent to pull comparable sales for you as well. Appraisals are not written in gold. You do not want to pay your partner more for the property than it is worth, and refinance appraisals often result in higher values than you might get upon resale.
 - A new mortgage will also require a new title policy. Although you will be insuring the lender and not yourself, this process will give you relative assurance that your partner has not further encumbered the property without your knowledge.