PREVENTIVE LAW

SERIES

Legal Assistance Program

TOPIC:

CREDIT & DIVORCE

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If you have questions concerning the topic of this pamphlet, please contact the Legal Assistance Office

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Credit and Divorce

Mary and Bill were recently divorced. Their court-approved divorce decree stated that Bill would pay the balances on their three joint credit card accounts. Some months later, after Bill neglected to pay off these accounts, all three creditors contacted Mary for payment. She referred them to the divorce decree, insisting that she was not responsible for the accounts. The creditors stated correctly that they were not parties to the divorce proceeding and that Mary was still legally responsible for paying off the couple's joint accounts. Mary later found out that the late payments appeared on her own credit report.

If you have recently been through a divorce, or are contemplating one, you may want to look closely at issues involving credit. As the above example illustrates, you may discover unanticipated problems.

Understanding the different kinds of credit accounts opened during a marriage may help illuminate the potential benefits and pitfalls of each.

There are two types of credit accounts: individual and joint. With either type, you can permit authorized users to use the account. When you apply for credit, whether a charge card or a mortgage loan, you will be asked to select one kind.

Applying for an Individual or Joint Account

Individual account: When you apply for an individual account, only your own income, assets, and credit history are considered by the creditor. Whether married or single, you alone are responsible for paying off the debt on this account. The account will appear only on your credit report.

Advantages/Disadvantages: For spouses who do not work for pay outside the home, work part-time, or work in lower-paying jobs, it may be difficult to demonstrate a strong financial picture without the income of the other spouse. But, if you are able to open an account in your own name, nobody else can adversely affect your credit record.

Joint Account: The income, financial assets, and credit history of both spouses are taken into consideration for a joint account. No matter who actually handles the household bills, both spouses are responsible for seeing that all debts are paid. A creditor who reports the credit history of a joint account to credit bureaus must report it in both names (if the account was opened after June 1, 1977).

Advantages/Disadvantages: A joint application combining the financial resources of two people may present a stronger case to a creditor for granting a loan or credit card. Since two people applied together for the credit, each spouse is legally responsible to the creditor for the entire debt accumulated. This is true for a joint account if a divorce decree assigns separate debt obligations to each spouse. A former spouse can adversely affect another spouse's credit history on a jointly-held account, for example, by running up bills and not paying them.

Allowing “Users” on your account

If you open an individual or joint account, you may authorize another person, often a relative, to use that account. You apply for credit based on your own financial information and are fully responsible for paying any debt. If you authorize your spouse to “use” your individual account, a creditor who reports the credit history to a credit bureau must report it in the name of your spouse as well as in your name (if the account was opened after June 1, 1977).

Advantages/Disadvantages: These accounts are often opened for convenience. They are helpful to people who might not qualify for credit on their own, such as students or homemakers. While these persons may use the account, they are not contractually liable for paying the debt, if you are permitting others to use your credit card, know that you alone are responsible for paying the bills.

What to do in the event of divorce

If you are contemplating divorce or separation, be sure to pay attention to the status of your credit accounts. If you maintain joint accounts during that time, it is important to make regular payments, or your credit record may suffer. As long as there is an outstanding balance on any joint account, both you and your spouse are liable for it.

You may also want to ask creditors to close any joint accounts or accounts in which your former spouse was an authorized user. Or, preferably, ask the creditor to convert these accounts to individual ones or to the name of the spouse handling the debt.

By law, creditors cannot close a joint account because of a change in marital status, but they can do so at the request of either spouse. A creditor, however, does not have to agree to change joint accounts to individual ones. The creditor can require you to reapply for credit on an individual basis and then, based on your new application, extend or deny you credit.

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