

DEBTS AND DIVORCE:

Responsibility for Payments of Debts:

- You and your spouse have debts for which you are both responsible, such as a bank or family loans, credit cards, medical bills or utility bills. Your divorce does not make either spouse free from the financial responsibility incurred while you were married. If a creditor cannot collect the debt from one of the spouses, the creditor can sue the other spouse for the debt.
- Cars may be repossessed and homes lost through bank foreclosure unless the spouses make a responsible and timely plan for how the debts will be paid off. Unpaid debts could result in both ex-spouses having a bad credit report and the loss of future credit.
- Spouses in a divorce may protect themselves by refinancing loans so that only one spouse will be liable on the debt. If you have debts which cannot be refinanced, carefully worded agreements which address in detail which spouse is responsible for repayment of the loan including the interest on the loan, the amounts to be repaid and over what periods of time, can provide protection for both spouses. **Consult an attorney** if you are unsure of how you can protect your financial interest.

Protecting Your Home:

- As part of a Temporary Order the judge may have ordered one spouse to make the mortgage payments. If the spouse who was ordered to pay the mortgage fails to pay, the mortgage holder may start foreclosure proceedings against you even if you were not living in the home and were not responsible to pay under the Temporary Order. **You should consult with a lawyer immediately** if foreclosure proceedings are started against you. A knowledgeable and timely response may protect you from loss.

How a Bankruptcy Petition Affects the Divorce Order:

- A person who is unable to pay his or her debts may under certain conditions be excused from paying these debts by filing a petition for bankruptcy. Such petition is filed in the United States Bankruptcy Court. An order of the Bankruptcy Court may affect your property rights received in a divorce. If, for example, the Family Court ordered your spouse to pay a loan that both spouses had taken out, and your spouse is excused from paying this loan in a bankruptcy, the creditor has the option of trying to collect payments from you for the loan, regardless of what your divorce order says.
- Filing for bankruptcy does not change the child support that has already been ordered by the Family Court. Filing for bankruptcy also does not generally change spousal maintenance obligations.
- Once a bankruptcy petition is filed with the Bankruptcy Court, the Family Court cannot change or modify child support or maintenance payments unless the Bankruptcy Court specifically permits such modification proceedings. This is because the Vermont State courts cannot make any orders, except enforcement of support orders, while the bankruptcy is being handled in the Federal Bankruptcy Court.

- Filing for bankruptcy can affect a divorce property settlement. Typically, if one spouse owes another spouse some property as part of a divorce order, this property award can be "discharged," or canceled, in bankruptcy if the Bankruptcy Court looks at the property award as a debt.
- **You should consult a bankruptcy lawyer** if you think there is a chance that your spouse will file for bankruptcy while there are outstanding property and support obligations in a divorce.
- If your spouse files for bankruptcy AFTER a final order, you may still request that the bankruptcy court NOT discharge your property settlement. This MUST be done within 60 days of the 'meeting of creditors", and **again it is recommended that you consult a lawyer.**

Vermont Legal Aid may be able to direct you to a bankruptcy lawyer who can assist you in this matter. You may reach them at: 1-800-889-2047

**You can obtain helpful information, as well as court forms at:
www.VermontJudiciary.org.**

