

Protecting Your Credit in a Divorce

It is not uncommon for married couples to have joint accounts, including joint credit cards. However, once married couples are involved in a divorce, they must decide how to apportion the credit card debt. At that time, each spouse should be looking to protect their credit as much as possible.

In Massachusetts, each spouse's credit is effectively protected during the divorce through the automatic financial restraining order that is put into place at the beginning of the divorce through Supplemental Probate and Family Court Rule 411. That rule states:

The following restraining order shall remain in effect during the pendency of the action, unless it is modified by agreement of the parties or by further order of the court.

(1) Neither party shall sell, transfer, encumber, conceal, assign, remove or in any way dispose of any property, real or personal, belonging to or acquired by, either party, except: (a) as required for reasonable expenses of living; (b) in the ordinary and usual course of business; (c) in the ordinary and usual course of investing; (d) for payment of reasonable attorney's fees and costs in connection with the action; (e) written agreement of both parties; or (f) by order of the court.

(2) Neither party shall incur any further debts that would burden the credit of the other party, including but not limited to further borrowing against any credit line secured by the marital residence or unreasonably using credit cards or cash advances against credit or bank cards.

(3) Neither party shall directly or indirectly change the beneficiary of any life insurance policy, pension or retirement plan, or pension or retirement investment account, except with the written consent of the other party or by order of the court.

(4) Neither party shall directly or indirectly cause the other party or the minor child(ren) to be removed from coverage under an existing insurance policy, including medical, dental, life, automobile, and disability insurance. The parties shall maintain all insurance coverage in full force and effect.

Thus, during a divorce, neither party may further incur any debts or credit of the other party, as a result of Supplemental Rule 411.

The issue remains how to protect a spouse's credit after a divorce. Massachusetts is an equitable division state, which means property and debt of the parties are divided between each party based upon a number of equitable factors enumerated in M.G.L. c. 208 §34. Thus, when discussing settlement in a divorce, the debt will be apportioned between the parties. Also, it is

important to address removing spouses as joint or authorized users on each credit account, so that there is no longer any joint debt after the divorce.

After the debt is apportioned, should either party fail to pay the debt apportioned to him/her, the other party would have the remedy of filing a Complaint for Contempt for enforcement of these provisions to ensure the debt is paid and neither party's credit is adversely impacted.

Divorce debt, credit and divorce, credit and separation, credit protection divorce, divorce MA, divorce Massachusetts, divorce Boston, divorce Winthrop, divorce Revere