



# Dealing with Loans in the Context of Divorce, Death, and Other Family Disruptions

1

## DIVORCE



2

## Questions to be asked during divorce process:

- Does the house need to be sold or can one spouse afford to keep it?
- How much equity is in the home?
- Can the remaining spouse “buy out” the other spouse?
- What other assets do the spouses have to divide?
- Can the remaining spouse qualify for a refi or HELOC?
- Can the other spouse wait to receive his/her portion of the equity?
- Are the spouses civil enough to work together toward a sale?
- Who will remain in the home pending sale?
- Who will pay the house-related expenses (and will they get credit for payment of repairs or reduction of principal prior to sale)?



3

## For the spouse who is moving out:

- How do I need to structure a settlement to ensure I can purchase another house?
- Does my name need to come off the mortgage?
- What liquid assets will I need to show a lender to qualify?
- What will be the effect of either paying or receiving alimony?
- What will be the effect of either paying or receiving child support?
- Will I have to wait to purchase a new residence? How long?
- What kinds of debt will and will not be considered in the qualification process?



4

## Emotions at work

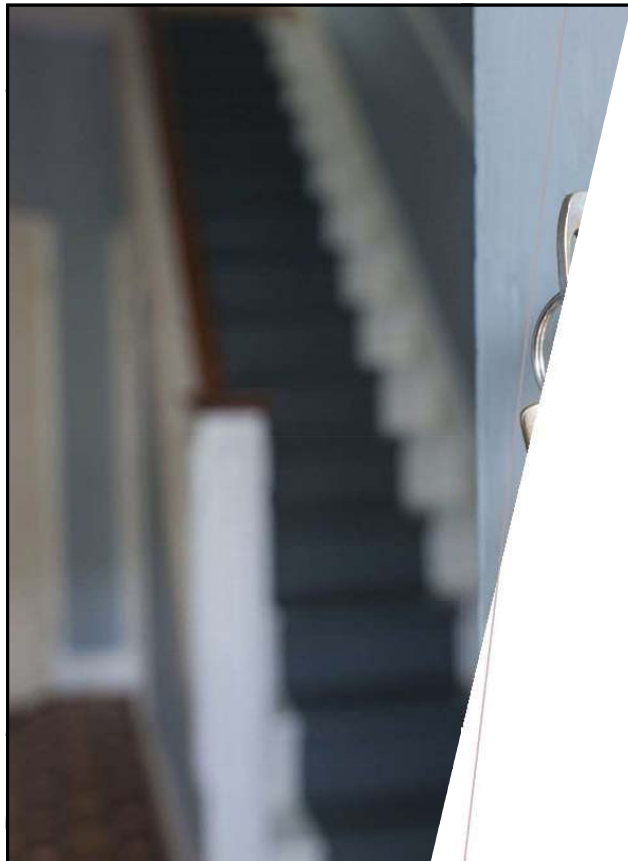
- One spouse wants the divorce more than the other
- Breadwinner can afford the house, but stay-at-home mom selected it, decorated it
- Children's school / friends / activities revolve around the house and neighborhood
- Spouse's friends / family / activities are in the area
- Positive emotional ties to the house (e.g. where children were raised)
- Negative emotional ties to the house (e.g. where my spouse cheated)



5

## Practical Considerations

- House purchased when interest rates were at 2%, and now they are at 8%
- Housing costs in the area have increased dramatically
- Children will have to change schools
- There are no other assets from which to “buy out” the other spouse
- Family / support system is far away



6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

## Title search: Dealing with Loans in the Context of Divorces, Death, and other Family Disruptions

Also available as part of the eCourse

[Dealing with Loans in Context of Divorces, Death and Other Family Disruptions](#)

First appeared as part of the conference materials for the

57<sup>th</sup> Annual William W. Gibson, Jr. Mortgage Lending Institute session

"Dealing with Loans in the Context of Divorces, Death, and other Family Disruptions"