

A photograph of a large, multi-story house with a gabled roof, partially obscured by a thick layer of fog or mist. The house is dark and the windows are barely visible. The foreground is a dark, flat expanse, possibly a field or road.

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 \(utcle.org/elibrary\)](https://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

[Hooked on CLE: March 2024](#)

First appeared as part of the conference materials for the
57th Annual William W. Gibson, Jr. Mortgage Lending Institute session
"Dealing with Loans in the Context of Divorces, Death, and other Family Disruptions"