

THE ISSUE: PAYING FOR DIVORCE

Splitting up? A funding option for those who lack liquidity

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MONEY FIX

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Divorce is not only heartbreaking, it's expensive. Paying for it is more stress at a time when stress is off

the charts. What if you don't have the cash? The answer for some is divorce funding. Didn't know such an option existed? Relax, you're not alone.

Hopefully, you won't need it for yourself. But just in case, here are the details.

What it is, how it works

Divorce funding is a loan against the ultimate divorce settlement. Think of it as an advance. The money borrowed from private lenders can be used to pay for an attorney, forensic accountant or appraiser, as well as living expenses.

Eligibility is based on the expected divorce settlement proceeds, not current assets, income or credit score, explains Russell Marnell, a divorce attorney and principal of the Marnell Law Group in Melville.

The borrower may have to sign a promissory note, or a binding obligation to repay at the end of the divorce, once the marital assets are divided. The divorce process can proceed to the finish line without interruption due to lack of money.

The pros

No doubt, a divorce is a big-ticket item. The total cost of a New York divorce ranges from \$5,000 to \$37,000. "A more complex divorce may cost much more," says Nicole Noonan, CEO of New Chapter Capital, a divorce funding company in Manhattan. A contested divorce can be 10 times more expensive, especially if it goes to trial, Noonan says.

"Borrowing enables you to fund the costs of the divorce without adversely impacting cash flow or your ability to pay for regular expenses. In a more heavily contested case, it also allows the non-monied spouse access to funds to retain counsel of his or her choosing. . . without seeking court inter-



The cost of divorce can exceed \$30,000 in New York, experts say. Divorce funding allows parties to borrow against anticipated settlement proceeds.

vention," says Michael Mosberg, a partner with Aronson Mayefsky & Sloan in Manhattan.

Having good counsel is essential. "I tell clients to beg, borrow and do whatever they can to be able to hire a proper attorney . . . it can weigh heavily on the outcome," says Darin Giglio, chief investigator of North American Investigations in Mineola. As a private investigator, he often investigates cases involving infidelity, child custody disputes or hidden assets.

The cons

The big question though, is whether you should take on debt to pay for a divorce. "There is so much that is unknown financially after a divorce that taking out a loan . . . can put you over the edge in terms of being able to stay afloat," warns Leslie Tayne, a debt resolution attorney with the Tayne Law Group in Melville.

Dori Shwartz, a divorce mediator and coach at DivorceHarmony.com, is against borrowing. "Divorce is stressful enough, why collect more debt?"

That debt isn't cheap either. "If an unsecured line of credit is 5%, divorce funding would likely be at least 6 or 7%, maybe as high as 10%," says Jack Choros, chief marketing officer of SophisticatedInvestor.com.

Attorney Fern Frolin, a member of the Family Law Group at Mirick O'Connell in Boston, said she doesn't feel comfortable recommending divorce funding to her clients. "If I cannot guarantee a client that he or she will receive enough at the end of the case to repay the loan, I don't think it's ethical to bankrupt my client so

that I can get paid."

Explore options

Aviva Pinto, director of the National Association of Divorce Professionals' Long Island chapter in Garden City, offers other strategies for funding a divorce. Consider a home equity loan (both parties would have to sign on a joint property), personal loans (you must show separate assets and have a good credit score), or borrow from family or friends, she suggests.

Another option, says Pinto, is a home equity line of credit. It allows you to borrow up to 85% of the home's value. Instead of getting the money in a lump sum upfront, you can withdraw the amount you need when needed. But again, both parties would have to agree on a jointly owned house.

The best alternative, says mediator Shwartz, "is mediation where both parties make all the decisions for themselves — not a judge and dueling attorneys. And it's much easier on the wallet too. No borrowing necessary."

Melissa Fecak, an attorney with South Jersey Divorce Solutions in Merchantville, New Jersey, says mediation cases can cost one-third of a typical court divorce. A collaborative divorce can cost more than mediation but still is often less expensive than a litigated divorce. She says, "Not every divorce is suited for out-of-court options, but in the majority that can, the parties find that they have a greater level of satisfaction, are more likely to cooperate with the end result and spend less money in their divorce."

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