

I GOT THE CAR IN THE DIVORCE. HOW DO I TRANSFER THE TITLE AND WHAT DO WE DO WITH THE NOTE?

By Nancy M. Perry

If either the court awards you the marital car or you both agree that you will take it, how do you transfer the title and the note on the car? Most divorce decrees will have language in it stating that one spouse is awarded a car and is also responsible for making the payments on the car. Also, decrees will state that the other party is ordered to sign the documents necessary to the transfer of the title in the name of the spouse who is awarded the car.

Transferring the title and the loan for the car are two separate things. The only way you can transfer the loan on the car is if it's refinanced in the name of the person taking the car. That can cause problems if you don't require the spouse taking the car to refinance the car in his or her own name. If you are the one on the note and the spouse awarded the car decides not to make the payments, the lender will come after the person responsible for payment on the note and will not care what the divorce decree states. Your decree should have language in it that the other party will indemnify you should he quit paying on the note.

For example, wife is awarded the car in the divorce and is responsible for making the car payments. The loan on the car is in husband's name only. Wife quits making the car payments and husband starts getting collection calls from the lender. The lender eventually repossesses the car and sues husband for payment for the balance owed on the note. At that point, husband's only recourse is to bring wife into the lawsuit and sue her for indemnification and make her pay for the loan. This can be an expensive, legal mess and even if husband gets a monetary judgment against wife for the loan, he may never be able to collect on it if she has no assets.

If you think this could be a problem after the divorce, the best thing to do is to sell the car and have her buy her own car. Another option is to put language in the decree that wife has a certain number of days to refinance the note and if she can't, she has to return the car to husband and husband keeps the car.

If your ex refuses to sign the documents necessary to transfer the title of the car to your name, you will have to go back to court to enforce the order in the divorce decree. Once you get the court to order that the title is transferred, you can also be awarded your attorney's fees for having to initiate this action to force the other spouse to sign the documents he or she was ordered to sign in the first place.