



New CA Law May Let Divorcing Spouses Keep Low Mortgage Rates

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California Assembly Bill 3100 will allow divorcing co-borrowers to assume existing mortgages starting in 2027 ? but couples filing now face a different set of rules

A new California law signed in September 2024 will change how divorcing couples handle their mortgage ? but as Charles M. Green, APLC notes, it will not help the thousands of families filing for divorce right now. California Civil Code Section 2951, enacted through Assembly Bill 3100, requires conventional home mortgage lenders to allow co-borrower assumptions in connection with divorce, legal separation, or property settlement for loans originated on or after January 1, 2027.

The law addresses a financial trap that has affected divorcing homeowners for decades. Under current rules, when a court awards the family home to one spouse, that spouse must typically refinance the mortgage into their name alone. With the average 30-year fixed rate at 6.38 percent as of late March 2026, according to Freddie Mac, a borrower refinancing from a pandemic-era rate of 2.8 percent on a \$700,000 loan would face

approximately \$1,500 more per month in housing costs ? a difference exceeding \$540,000 over the life of the loan.

"Refinancing from under three percent to over six percent does not just change a monthly payment. It determines whether a parent can afford to keep the family home or is forced to sell during the worst possible moment," said Charles M. Green, a Certified California Family Law Specialist and licensed CPA who has practiced complex divorce law in Los Angeles for 27 years.

Section 2951 specifically requires conventional loans on owner-occupied properties with four or fewer units to include provisions allowing one co-borrower to assume the other's share of the mortgage, provided the assuming borrower qualifies independently with the lender. The qualifying spouse would retain the original interest rate, repayment schedule, and remaining balance ? eliminating the need to secure new financing at current market rates. The law does not apply to FHA, VA, or USDA loans, which already have separate assumption frameworks under federal guidelines, nor does it apply retroactively to existing mortgages.

For couples divorcing in 2026, the current landscape remains unchanged. Divorce decrees do not bind mortgage lenders. Both co-borrowers remain liable on the original note regardless of what the court orders, and missed payments by either party affect both credit profiles. In many cases, the inability to refinance due to income, credit, or rate concerns forces the sale of a home that both parties intended to keep.

"A divorce judgment tells the court who gets the house. It does not tell the lender who owes the money. If your name is still on that mortgage, you are still financially responsible ? and planning around that requires someone who can read both the legal code and the loan documents," Green said.

California's enactment of AB 3100 represents a significant shift in how state law intersects with mortgage lending during family law proceedings. While the protections will not reach borrowers until 2027, the legislation signals growing recognition that forced refinancing during divorce creates unnecessary financial harm ? particularly in a market where the gap between locked-in rates and current rates remains historically wide. Couples currently navigating divorce are advised to consult with an attorney experienced in both the legal and financial dimensions of property division before making decisions about the family home.

Charles M. Green, APLC is a Los Angeles family law firm founded in 1998. Led by Charles M. Green ? a Certified California Family Law Specialist and licensed CPA ? the firm represents individuals in divorce, child custody, spousal support, and complex asset division matters throughout California. The firm provides bilingual legal services in Spanish and Korean.

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Charles M. Green, APLC is a Los Angeles family law firm founded in 1998. Lead attorney Charles M. Green is a Certified Family Law Specialist and licensed CPA, handling complex divorce, custody, and high-asset cases with bilingual Spanish/Korean support.

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