

In Florida, property acquired during the marriage with joint efforts or funds of the parties is called **marital property**. Under Florida law, when parties divorce, marital property is divided between them equitably, not equally. It does not matter who holds legal title to the property, if the property is acquired during the marriage, it is owned equally by both the husband and the wife. The judge starts with the presumption that the property shall be divided between the parties 50/50, and then considers whether there are circumstances where one party shall be awarded more than his or her equal share. Under Florida law, all property acquired by either of the spouses during the marriage is presumed to be marital property, unless the party can prove otherwise.

**Nonmarital property** means property acquired outside of the marital relationship. Such property could be the inheritance money received by one of the spouses prior to the marriage or property that was owned by one of the parties before the marriage. This property should be an identifiable asset, meaning that it should be easy to prove when the party acquired this specific property. Nevertheless, if the property was commingled with other marital assets or used for marital purposes (for example, money put in a joint bank account), the property may be considered marital and may then be equally divided between the parties.

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The same concept applies to **liabilities**, which are debts owed by the spouses. If the liabilities were incurred during the marriage, regardless of whose name they are under (for example a mortgage on the house), they are considered to be a joint liability of the parties. If the liability was acquired by only one of the parties and was not spent for marital purposes, the court may order only that party to be responsible for the debt.

**Special Equity** is a legal term describing a circumstance where one of the parties in a divorce has an interest in the property titled in another party's name. For example, if one of the spouses had acquired a house prior to the marriage which he/she subsequently titled in both parties names after the marriage, he/she will need to prove that no gift of property was intended.

**Effect on the creditors.** During the dissolution process, the judge divides the parties' liabilities and debts. Nevertheless, if a debt was ordered to be a single party's liability, it does not mean that the bank cannot request the payment from the other party. If one spouse fails to pay a jointly held debt, such as a credit card, the creditor may still treat the debt as a joint liability and the other spouse will be held liable. If one of the spouses is awarded the house and defaults on the mortgage, the other spouse may be responsible for any deficiency or payments on the note.



Eviana J. Martin

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