

Wealth KEEPER[®]S

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What Is the Benefit of State Exemptions?

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State exemptions are promulgated by the constitution and statutes of each state to allow each resident citizen of that state to keep certain assets for themselves, notwithstanding that citizen may have a money judgment against him or her. Each state has its own set of exemptions. Some states are much more generous than others. It is important to note that exemptions do not apply to businesses; they only are available to human beings.

Texas has probably the best state exemptions over any other state. Some say Florida and Nevada have the best. It all depends on what kind of assets you own and whether Texas, Florida, Nevada or your state of residence exempts them and how much in value can be exempted. State exemptions are only applicable to you for the state in which you maintain your principal residence or legally have your domicile.

Texas exempts two types of real property: (a) one or more cemetery plots: and (b) a homestead. Either families or single adults may claim homesteads. The homestead may be either rural or urban. An urban homestead may be used as a home and business. The size of an urban homestead is the same for families or single adults: it may consist of up to ten acres on one or more contiguous lots, including any and all improvements on the land. A rural homestead for a family is limited to 200 acres and includes any improvements on the land. A rural homestead for a single person is limited to 100 acres and any improvements on the land. So, you can build the Taj Mahal on your urban homestead of 10 acres or less and feel secure in living out your days in peace, so long as you pay your mortgage, taxes (income and property,) and those you hire to improve or add on to your

property. The same goes for a rural homestead. If you sell your homestead, the proceeds are exempt for six months. In other words, if you do have a creditor with a judgment against you, you have six months to reinvest in another homestead or other exempt property or spend it, or any combination thereof.

Now, let's discuss personal property exemptions in Texas. We have two different types of exemptions for personal property: (1) an "aggregate" exemption for certain kinds of personal property, limited by the combined value of the property; and (2) unlimited exemptions for other kinds of personal property. Families and single adults may exempt certain kinds of personal property from the claims of creditors as long as the combined fair market value of the property does not exceed: (1) \$60,000 for a family; or (2) \$30,000 for a single adult. The kinds of personal property that may be included in the aggregate exemption are: (a) home furnishings and family heirlooms; (b) food and staples; (c) farming or ranching vehicles and implements; (d) tools, equipment, books and apparatus, including boats and motor vehicles, used in a trade or profession; (e) clothes; (f) jewelry, as long as it does not exceed 25% of the value of the aggregate \$60,000 or \$30,000 exemption; (g) two firearms; (h) athletic and sporting equipment, including bicycles; (i) a motor vehicle for each member of a family or single adult who holds a driver's license or does not hold a driver's license but relies on another person to operate the vehicle for the unlicensed person; (j) the following animals, including food on hand for their consumption: (A) two horses, mules, or donkeys, including a saddle, blanket and bridle for each one; (B) 12 head of cattle; (C) 60 head of other types of livestock; and (D) 120 fowl; and last, but not least, (k) household pets. There is one more addition to this list and it is unpaid commissions for personal services as long as the amount does not exceed 25% of the \$30,000 or \$60,000 aggregate.

In addition to the kinds of personal property that may be exempted under the aggregate exemption just described, a debtor may also exempt, without regard to value, the following kind of property: (a) current wages for personal services; (b) professionally prescribed health aids of the debtor or a dependent of the debtor; and (c) alimony, support, or separate maintenance received or to be received by the debtor for the debtor's support or a dependent of the debtor. "Current wages" are wages owed to an employee. Once the wages have been paid to the employee, they are not "current wages" for and they are no longer exempt. This means that if you are an employee, your employer

cannot be required to hand over your paycheck to your creditor, but if you deposit it in an account or cash it in, it is no longer exempt. Also, if you are a deadbeat dad or mom, your current wages will be subject to the enforcement of court-ordered child support payments.

But wait, there is more. A debtor is entitled to an unlimited exemption for his rights in retirement plans. The exemption includes the debtor's right to payments under, or the right to assets held in, the following types of plans: (a) stock bonus, pension, profit-sharing plans, and similar plans, including retirement plans for self-employed individuals; (b) annuities purchased with assets distributed from such plans; (c) retirement annuities or accounts described in section 403(B) or 408A of the Internal Revenue Code; (d) individual retirement accounts or annuities, including a simplified employee pension plan; and (e) government or church plans or contracts that qualify under the Employee Retirement Income Security Act of 1974.

Finally, an insured or beneficiary of a life insurance policy or annuity has an unlimited exemption of the policy value or benefits to be paid from seizure of a judgment creditor, except for a child support lien.

I don't know about you, but Texas looks like a pretty good place to hang your hat.

This article has been a brief overview of the Texas state exemptions. There are many nuances to these exemptions, additionally, there are many other esoteric exemptions afforded certain types of employees. Contact us to find out more. Call 713-461-9699 to schedule an appointment today. We offer a 1-hour initial conference at no charge to discuss your asset protection issues. WealthKeepers® is an asset protection and wealth transfer planning firm.

James C. Mulder, a Houston based attorney with over thirty years of experience in Wealth Transfer, Tax and Asset Protection Planning is Board Certified by the Texas Board of Legal Specialization. He is one of only nine attorneys in the Houston area that are Board certified in both Estate Planning and Probate Law and in Tax Law. Mr. Mulder concentrates his practice primarily in the areas of Wealth Transfer, Tax and Asset Protection Planning, which includes the development and preparation of very comprehensive Wills and Trusts, Business Organizations and Family Partnerships. Mr. Mulder has prepared over 1,000 asset protection plans.