



What property can I keep?

Florida law is known to be generous in protecting the assets of individuals whether in bankruptcy or not. The most notable being the unlimited homestead protection. The following is a list of several exemptions for Florida residents.

Constitutional Asset Protection

- Florida homestead. Under the Florida Constitution, one's home is truly his castle, a castle which creditors cannot enter. Whether you live in a house, condominium, or mobile home, a person's equity investment in his primary residence cannot be touched by a creditor.
- This includes condominiums and mobile homes. In whatever unlimited homestead protection if under one-half of an acre in a municipality, otherwise 160 acres. No value limit. But if bankruptcy is filed, property must be owned for 1215 days, or only \$125,000 exemption. (Probably a total of \$250,000 for husband and wife). If prior homestead sold and proceeds used to buy a new homestead, exemption continues. But remember, even the \$125,000 is not protected if debtor had not been a Florida resident for two years. This change was designed to prevent people from moving from out of state to take advantage of Florida's homestead protection. This exemption adjusts due to inflation. As of April 1, 2007, the amount increased to \$136,875.00.
- Tenancy by the entireties. Assume only the husband has debts. If property is owned by husband and wife, the property cannot be seized by creditors. Even a million dollar business property would be exempt. (But if a car is titled as husband or wife, this is not the same as husband and wife).
- A qualified retirement account, such as a 401(k), IRA, Thrift Savings Plan, or pension.

- \$1,000 in personal property, \$2,000 for husband and wife (so \$5,000 in a savings account could not be all exempt).
- \$1,000 in equity in a motor vehicle; husband and wife, \$1,000 per vehicle up to 2 vehicles.
- July 1, 2007: A new exemption allows an additional \$4,000 personal property exemption if the debtor does not claim a homestead exemption.
- Wages of head of household (primary wage-earner).
- Bank account consisting of the deposits from the wages of the head of household.
- Florida Prepaid Tuition Fund and a portion of 529 Plans.
- Earned income credit portion of tax refund (tax refunds can be taken by the chapter 7 trustee).
- Social Security or disability income (lump sum award received for social security disability might not be entirely exempt).
- Worker's compensation award.
- Right to receive child support or alimony necessary for support.
- Life insurance cash value (not the death benefit).
- Annuities.
- Homestead protection applies to mobile homes that remain on the real estate lot.
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