

BANKRUPTCY AND YOUR PROPERTY

Filing bankruptcy does not necessarily mean that you have to give up any of your property. By the application of available “exemptions” in bankruptcy, you can keep a certain amount of property safe. Many exemptions protect specific types of property, such as your house, your vehicles, and your wedding rings. Sometimes an exemption protects the entire value of the property. Other times, an exemption protects up to a certain dollar amount of property. Some exemptions, called “wildcard exemptions”, can be applied towards any property you own. If you can exempt property, then you don’t have to worry about it being taken away or affecting your bankruptcy.

How Do Exemptions Work?

Exemptions play different roles depending on whether you are filing a Chapter 7 or Chapter 13 bankruptcy. Exemptions were created in order to allow debtors to keep a reasonable amount of property owned while at the same time obtaining relief from the overwhelming debts that cause financial distress.

Chapter 7 Bankruptcy:

A Chapter 7 is a liquidation bankruptcy. This means that the Chapter 7 Trustee assigned to your case will be looking for property that is not exempt. If any non-exempt property is found, this property will be seized and sold to pay the debts listed in the bankruptcy. However, the bankruptcy trustee cannot sell any property that is exempt. This is how bankruptcy exemptions help you to protect your property in a Chapter 7 bankruptcy. As long as all of your property is exempt when you file bankruptcy, the Chapter 7 trustee may not seize your property, and you will enjoy a discharge (elimination) of your debts.

Chapter 13 Bankruptcy:

A Chapter 13 bankruptcy allows you to keep all your property and reorganize your debts. However, the amount you must pay certain creditors depends on how much property you can exempt. The value of any non-exempt property (that you chose to keep) must be paid to your unsecured creditors (such as credit card creditors, and medical debt creditors, ect.) in your bankruptcy. In a Chapter 13 debt repayment plan, exemptions help keep your plan payments low because exemptions reduce the amount of money that may ultimately have to be paid to creditors.

Arkansas bankruptcy filers may choose between the Arkansas Exemptions and Federal Exemptions.

The Federal Exemptions are most often preferred over Arkansas Exemptions unless the Debtor has a large amount of equity in her home. In this case, Arkansas exemptions can be used to exempt an unlimited amount of equity in a debtor’s home.

Current Amounts for Federal Bankruptcy Exemptions

If you are married and filing jointly, you may double all of the federal bankruptcy exemptions. For example, you may claim a homestead exemption of \$45,950 (which is double the listed homestead exemption amount of \$22,975).

Homestead

522(d)(1), (5) - Real property, including mobile homes and co-ops, or burial plots up to \$22,975. Unused



portion of homestead, up to \$11,500 may be used for other property.

Personal Property

522(d)(2) - Motor vehicle up to \$3,675.

522(d)(3) - Animals, crops, clothing, appliances and furnishings, books, household goods, and musical instruments up to \$575 per item, and up to \$12,250 total.

522(d)(4) - Jewelry up to \$1,550.

522(d)(9) - Health aids.

522(d)(11)(B) - Wrongful death recovery for person you depended upon.

522(d)(11)(D) - Personal injury recovery up to \$22,975 except for pain and suffering or for pecuniary loss.

522(d)(11)(E) - Lost earnings payments.

Pensions

522(b)(3)(C) - Tax exempt retirement accounts (including 401(k)s, 403(b)s, profit-sharing and money purchase plans, SEP and SIMPLE IRAs, and defined benefit plans).

522(b)(3)(C)(n) - IRAs and Roth IRAs to \$1,245,475.

Public Benefits

522(d)(10)(A) - Public assistance, Social Security, veteran's benefits, unemployment compensation.

522(d)(11)(A) - Crime victim's compensation.

Tools of Trade

522(d)(6) - Implements, books and tools of trade, up to \$2,300.

Alimony and Child Support

522(d)(10)(D) - Alimony and child support needed for support.

Insurance

522(d)(7) - Unmatured life insurance policy except credit insurance.

522(d)(8) - Life insurance policy with loan value up to \$12,250.

522(d)(10)(C) - Disability, unemployment or illness benefits.

522(d)(11)(C) - Life insurance payments for a person you depended on, which you need for support.

Wildcard

522(d)(5) - \$1,225 of any property, and unused portion of homestead up to \$11,500.

