

# COMMONLY USED CALIFORNIA EXEMPTIONS

(Updated January 2013)

**NOTE: Nothing in this document should be construed to be legal advice, or advice specific to any one person's particular situation. This listing is intended to be a general description of some of the most common exemptions that might be available. For a complete listing, please see the California Code of Civil Procedure, Sections 703 and 704. If you have any doubt about which set of exemptions may apply to you, please consult an attorney.**

Exemptions allow you to keep certain assets after bankruptcy. You must select the set of exemptions best suited for your needs. **You cannot use both, but rather you must choose one set or the other.** If filing as husband and wife, both must select the same set of exemptions. A husband and wife cannot double exemptions. The set of exemption selected will generally depend upon the nature and extent of a person's assets.

The U.S. Bankruptcy Code provides that, to be eligible to claim a particular state's exemptions, they must reside in that state for 2 years prior to the bankruptcy filing. If they did not reside in any one state for that period, then the laws of the state in which they resided during the 180-day period before the 2-year period applies (or during a longer portion of the 180-day period than in any other place).

## **CALIFORNIA SET #1**

1. **REAL PROPERTY** — C.C.P. § 703.140(b)(1)  
A **\$24,060** exemption in real property (including a mobile home) is allowed if used as a primary residence or burial plot.
2. **WILD CARD** — C.C.P. § 703.140(b)(5)  
The "wild card" can exempt **\$1,280, plus** any unused portion of the **\$24,060** exemption listed in paragraph number 1 above, in **any** asset. In other words, if a person does not claim an exemption in a primary residence, they have a **\$25,340** exemption that they can claim in any assets.
3. **MOTOR VEHICLE** — C.C.P. § 703.140(b)(2)  
The maximum allowed is **\$4,800** in one or more motor vehicles.
4. **HOUSEHOLD FURNISHINGS/PERSONAL EFFECTS** — C.C.P. § 703.140(b)(3)  
An **unlimited exemption** is allowed in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, which are held primarily for personal, family, or household use, **so long as no single item is worth more than \$600.**
5. **JEWELRY** — C.C.P. § 703.140(b)(4)  
The maximum exemption is **\$1,425** in jewelry held primarily for personal, family, or household use of the debtor.

6. **TOOLS OF THE TRADE** — C.C.P. § 703.140(b)(6)  
A **\$7,175** exemption is allowed for professional books or tools of your trade.
7. **LIFE INSURANCE** — C.C.P. § 703.140(b)(7) and (8)  
An exemption is allowed in any unmaturred life insurance policy with no cash value. If the policy has cash value, **\$12,860** is exempt.
8. **HEALTH AIDS** — C.C.P. § 703.140(b)(9)  
An **unlimited** amount is allowed for health aids.
9. **BENEFITS PAYMENTS** — C.C.P. § 703.140(b)(10)  
A total exemption is allowed for social security benefits, unemployment compensation, and veteran's, disability, or unemployment benefits. Alimony or support payments are also exempt, but only to the extent that they are reasonably necessary for a persons support and support of any dependents.
10. **PENSION PLANS** — C.C.P. § 703.140(b)(10)(E)  
An exemption is allowed for any payment under a stock, bonus, pension, profit-sharing, annuity, or similar plan on account of illness, death, disability, age, or length of service, to **the extent reasonably necessary for the support of the debtor**, his or her spouse and any dependents. This exemption applies to IRA accounts which are exempt to the extent required for the debtor's support at retirement. Courts have ruled that what is reasonably necessary for the support of the debtor should be sufficient to sustain basic needs, and not related to the debtor's former status in society or lifestyle to which he or she is accustomed.

**NOTE:** The U.S. Supreme Court has held that any retirement plan which is ERISA qualified or contains a "spendthrift" provision can be kept by a person filing bankruptcy regardless of the amount in the plan.

**ALSO NOTE:** The new bankruptcy law, effective October, 2005, protects retirement funds in an account exempt from taxation under IRC §§401, 403, 408, 408A, 414, 457, or 501(a). These funds are exempt **irrespective** of their treatment under the above state exemption. This new exemption includes IRA accounts up to a maximum of \$1,095,000 million, although this amount may be increased "if the interests of justice so require."

11. **MISCELLANEOUS PAYMENTS** — C.C.P. § 703.140(b)(11)  
Exemptions are allowed for (1) any payments under a crime victims' reparation law, and (2) any payments on account of the wrongful death of a person on whom the debtor was a dependent or on account of a life insurance contract, but only to the extent reasonably necessary for the support of the debtor and his or her dependents.
12. **PERSONAL INJURY CLAIMS** — C.C.P. § 703.140(b)(11)(D)  
Any payment on account of a personal injury lawsuit is exempt up to **\$24,060**. Compensation for loss of future earnings is exempt to the extent reasonably necessary for your support or the support of your dependents.

## **CALIFORNIA SET #2**

1. **A HOMESTEAD IN A PRIMARY RESIDENCE** — C.C.P. § 704.730

The amount of this exemption is:

**\$75,000** for a single person,  
**\$100,000** for a married person OR a head of household,  
**\$175,000** for a person 65 years or older OR a physically or mentally disabled person, OR a person 55 years or older with an income of less than **\$25,000** (or **\$35,000** if a married couple).

To qualify for the homestead exemption, the property must be the principal residence of the debtor or the debtor's spouse. The Bankruptcy Code now also requires that a person is only entitled to a maximum homestead of \$125,000 until such time as they have lived in that state for approximately 3.4 years. (This will obviously only relate to those claiming the larger \$175,000 homestead amount.)

The exemption is for *equity* in the property. For exemption purposes, equity is determined by taking the fair market value of the property and subtracting the value of any consensual liens (mortgages and deeds of trust).

2. **MOTOR VEHICLE** — C.C.P. § 704.010

The maximum allowed is **\$2,725** total equity in motor vehicles.

3. **HOUSEHOLD FURNISHINGS & PERSONAL EFFECTS** — C.C.P. § 704.020

Household furnishings, personal effects and appliances are free from creditors' claims when they are reasonable and necessary. A household item with an unusually high value (such as an extremely rare antique) may not be exempt.

4. **JEWELRY** — C.C.P. § 704.040

The maximum exemption is **\$7,175** in jewelry, heirlooms, and works of art.

5. **HEALTH AIDS** — C.C.P. § 704.050

Reasonably necessary health aides are fully exempt.

6. **TOOLS OF THE TRADE** — C.C.P. § 704.060

A person can exempt up to **\$7,175** in tools, books, equipment, and one commercial motor vehicle if reasonably necessary and actually used in the exercise of your trade, business, or profession. If both spouses are in a trade, business, or profession, this section specifically allows each a \$7,175 exemption. This may be used to exempt a vehicle so long as it is used for business purposes, up to **\$4,850**.

7. **BUILDING MATERIALS** — C.C.P. § 704.030

Materials that are to be used to repair or improve a person's residence are exempt up to **\$2,875**.

8. **LIFE INSURANCE** — C.C.P. § 704.100  
A policy with no cash value is totally exempt. The maximum exemption for the cash value of a policy is **\$11,475, or doubled if married**. Benefits from matured life insurance or annuity policies are exempt to the extent reasonably necessary for the support of the debtor and his or her spouse or dependents.
9. **DISABILITY, UNEMPLOYMENT, AND HEALTH INSURANCE BENEFITS** — C.C.P. § 704.120,704.130  
Payments from these types of insurance are exempt with no dollar limit.
10. **PERSONAL INJURY CLAIMS** — C.C.P. § 704.140  
A lawsuit, or the right to sue someone, is an asset in the eyes of the law. When a personal injury cause of action (the right to sue) has not yet been reduced to a judgment and paid, the entire claim is exempt. When money has been paid as a result of a personal injury accident, the money is exempt, but only to **the extent that is reasonably necessary for the support of you** and your dependents. If the award or settlement is payable in installments, each payment is exempt except to the extent that the same amount of earnings would be subject to wage garnishment.
11. **WRONGFUL DEATH CLAIMS** — C.C.P. § 704.150  
A wrongful death claim is exempt to the same extent as a personal injury claim.
12. **WORKERS' COMPENSATION CLAIMS AND AWARDS** — C.C.P. § 704.160  
A workers' compensation claim and award is completely exempt without limitation.
13. **PUBLIC RETIREMENT BENEFITS** — C.C.P. § 704.110  
All amounts held for retirement by a "public entity" are exempt without limitation. "Public entities" are governmental bodies as well as public corporations.
14. **PRIVATE RETIREMENT BENEFITS** — C.C.P. § 704.115(a)(1) & (2), (b)  
Benefits payable or paid under private retirement accounts, union retirement plans, and profit-sharing plans designed and used for retirement purposes are exempt in an unlimited amount. This section is intended to exempt only retirement plans established or maintained by *private employers or employee organizations*, such as unions, not arrangements by individuals to use specified assets for retirement purposes. Funds in *self-employment* retirement plans and individual retirement annuities and accounts (including IRAs) may be exempt if designed and used principally for retirement purposes.

Amounts in *self-employment* retirement plans and IRAs are subject to the further limitation that they are exempt only to the extent necessary for the support of the debtor (and his or her spouse and dependents) at the time of retirement, taking into account all of the resources likely to be available to debtor when he or she retires.

NOTE: The U.S. Supreme Court has held that any retirement plan which is ERISA qualified or contains a "spendthrift" provision can be kept by a person filing bankruptcy, regardless of the amount in the plan. The new bankruptcy law enacted in October, 2005

now protects retirement funds in an account exempt from taxation under IRC §§401, 403, 408, 408A, 414, 457, or 501(a). These funds are exempt **irrespective** of their treatment under the above state exemption. This new exemption includes IRA accounts up to a maximum of \$1,095,000, although this amount may be increased “if the interests of justice so require.”

15. **PRE-PETITION WAGES** — C.C.P. § 704.070  
Wages earned 30 days prior to the bankruptcy are partially exempt. This exemption protects 75 percent of the amount you received during this period. If these wages were subject to garnishment, all of these funds are exempt. (Of course, all wages you receive after the bankruptcy is filed are free of creditors’ claims).
16. **PRISONER’S FUND** — C.C.P. § 704.090  
The maximum exemption is **\$1,425**.
17. **CHARITABLE AID, STUDENT LOANS, AND RELOCATION BENEFITS** —  
C.C.P. § 704.080, C.C.P. § 704.190, and C.C.P. § 704.180  
Any funds received for these purposes are exempt.
18. **CEMETERY PLOT** — C.C.P. § 704.200  
Any cemetery plot owned is exempt.
19. **DEPOSIT ACCOUNTS** — C.C.P. § 704.080  
If a bank account can be shown to receive Social Security payments by direct deposit, it is protected up to **\$2,875** for an individual and up to **\$4,300** for a couple.