

California Bankruptcy Exemptions

(As of April 1, 2019)

NOTE: Nothing in this document should be considered legal advice, or advice specific to any one person's particular situation. This listing is intended to be a general description of some common exemptions that might be available. For a complete listing, please see the California Code of Civil Procedure ("C.C.P."), 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 that best suits your needs. **You cannot "mix and match"** exemptions from both sets. In other words, you must **use exemptions from one set or the other.** Married filers both must use same set of exemptions, but cannot double exemptions.

To use a particular state's exemptions, a debtor must have resided in that state for the entire **two (2) years prior to the bankruptcy filing date.** If a debtor resided in more than one state during that time, then the laws apply of the state in which they resided for the 180 days before the 2-year period (**or during a longer portion of the 180-day period than in any other place**).

California Set #1

1. **PRIMARY RESIDENCE OR BURIAL PLOT** — C.C.P. § 703.140(b)(1)
A **\$29,275** exemption is allowed in real property or personal property (including a mobile home) that the debtor or a dependent of the debtor uses as a residence.
2. **MOTOR VEHICLE** — C.C.P. § 703.140(b)(2)
The maximum allowed is **\$5,680** in one or more motor vehicles.
3. **HOUSEHOLD FURNISHINGS & PERSONAL EFFECTS** — C.C.P. § 703.140(b)(3)
An **unlimited exemption** is allowed in household goods and furnishings, clothes and shoes, 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 \$725.**
4. **JEWELRY** — C.C.P. § 703.140(b)(4)
The maximum exemption is **\$1,750** in jewelry held primarily for personal, family, or household use of the debtor.
5. **WILD CARD** — C.C.P. § 703.140(b)(5)
The "wild card" can exempt **any** asset(s). It totals **\$1,550, plus** any unused portion of the **\$29,275** exemption for a primary residence listed above in # 1. In other words, someone who does not use any of exemption #1 has a **\$30,825** exemption to protect **any** asset or assets. You can also use the "wild card" to **supplement other exemption(s)** in this set of exemptions.

6. **TOOLS OF THE TRADE** — C.C.P. § 703.140(b)(6)
An **\$8,725** exemption is allowed for professional books or tools of your trade.
7. **LIFE INSURANCE** — C.C.P. § 703.140(b)(8)
An exemption is allowed in any unmaturred life insurance policy with no cash value. If the policy has cash value, **\$15,650** is exempt.
8. **HEALTH AIDS** — C.C.P. § 703.140(b)(9)
An **unlimited** amount is allowed for health aids (e.g., wheelchairs, walkers, CPAP machines, etc.).
9. **BENEFITS PAYMENTS** — C.C.P. § 703.140(b)(10)
A **total exemption** is allowed for accrued Social Security, unemployment, veterans, and disability benefits.

Back alimony or support payments are also exempt, but only **to the extent reasonably necessary*** for the support of the debtor and his or her dependents.

10. **RETIREMENT ACCOUNTS** — 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.

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

Also: Retirement funds in a tax-exempt account under Internal Revenue Codes §§401, 403, 408, 408A, 414, 457, or 501(a), are exempt **regardless** of how they are treated under state exemptions. This exemption protects IRA accounts up to a maximum of **\$1,095,000**, although this amount may be increased “if the interests of justice so require.”

11. **MISCELLANEOUS PAYMENTS** — C.C.P. § 703.140(b)(11)
Payments received under a **crime victims’ reparation** law or for the **wrongful death** of a person on whom the debtor was a dependent or on account of a life insurance contract are protected **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 **\$29,275**. Compensation for loss of future earnings is exempt **to the extent reasonably necessary*** for the support of the debtor and his or her dependents.

* 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.

California Set #2

1. **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 head of household;
- **\$175,000** for:
 - a person 65 or older, or
 - a physically or mentally disabled person,
 - a person 55 or older with annual income under \$25,000 (\$35,000 for a married couple)

To qualify for the homestead exemption, the property must be the **primary residence** of the debtor or the debtor's spouse. Under Bankruptcy Code, a person is entitled to a **maximum** homestead of \$125,000 until that person has lived in that state for approximately 3.4 years. (This is relevant only to those seeking the \$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 (e.g., mortgages and deeds of trust).

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

The maximum allowed is **\$3,325** 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. **HOME IMPROVEMENT MATERIALS** — C.C.P. § 704.030

Materials for repairing or improving a person's residence are exempt up to **\$3,500**.

5. **JEWELRY, HEIRLOOMS, ART** — C.C.P. § 704.040

The maximum exemption is **\$8,725** in jewelry, heirlooms, and works of art.

6. **HEALTH AIDS** — C.C.P. § 704.050

Reasonably necessary health aids are **fully exempt**.

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

A person can exempt up to **\$8,725** in tools, books, and equipment. Up to \$4,850 of this exemption may be used for a commercial motor vehicle used for business purposes.

Note: If both spouses are in a trade, business, or profession, they may claim a combined **\$17,450** exemption (of which up to \$9,700 may be used for a commercial motor vehicle used for business purposes).

8. **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. (All wages received after the bankruptcy is filed are free of creditors' claims.)

9. **BENEFITS PAYMENTS IN BANK 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 **\$3,500** for an individual and up to **\$5,250** for a couple.

If a bank account can be shown to receive **public benefits**, it is protected up to **\$1,750** for an individual and **\$2,600** for a couple.

10. **INMATE TRUST ACCOUNT** — C.C.P. § 704.090
The maximum exemption is **\$1,750**. For a restitution fine or order, the maximum is **\$325**.

11. **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 **\$13,975, 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.

12. **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.

13. **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 applies only to 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 may be exempt if designed and used principally for retirement purposes. Amounts in **self-employment** retirement plans and IRAs are exempt **only to the extent reasonable necessary for the support of the debtor and his or her spouse and dependents*** at retirement, taking into account the resources likely to be available to debtor at retirement.

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

Also: Retirement funds in a tax-exempt account under Internal Revenue Codes §§401, 403, 408, 408A, 414, 457, or 501(a), are exempt **regardless** of how they are treated under state exemptions. This exemption protects IRA accounts up to a maximum of **\$1,095,000**, although this amount may be increased "if the interests of justice so require."

14. **DISABILITY, UNEMPLOYMENT, HEALTH INSURANCE BENEFITS** — C.C.P. § 704.120, 704.130
Payments from these types of insurance are exempt **with no dollar limit**.
15. **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 the debtor and his or her 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.
16. **WRONGFUL DEATH CLAIMS** — C.C.P. § 704.150
A wrongful death claim is exempt **to the same extent as a personal injury claim**.
17. **WORKERS' COMPENSATION CLAIMS AND AWARDS** — C.C.P. § 704.160
A workers' compensation claim and award is completely exempt **without limitation**.
18. **CHARITABLE AID, STUDENT LOANS, 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.
19. **CEMETERY PLOT** — C.C.P. § 704.200
Any cemetery plot owned is exempt.

* 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.