



WHAT ASSETS ARE EXEMPT FROM CREDITORS' CLAIMS?

State law usually determines what assets are exempt from creditors' claims. Because laws differ from state to state, one should carefully review the current exemptions granted under his or her state law. The following are classes of assets that may be exempt under state law:

- Retirement plan assets, including, but not limited to, Individual Retirement Accounts (IRAs), Roth IRAs, Simplified Employee Pension plans (SEPs), and 403(b) annuities. 401(k) assets are exempt under ERISA (Employee Retirement Income Security Act), a federal law.
- Life insurance on one's life, whether the cash surrender value, proceeds upon death, or both.
- 529 Plans.
- Annuities.
- Homestead property (that is, one's primary residence). A handful of states fully protect homestead property. For example, in general, Florida law protects Florida homestead property from forced sale as long as it is within the size limitations, which are up to 160 acres of contiguous land if located outside a municipality or up to a 1/2 acre if located within a municipality.
- As between spouses, tenancy by the entireties property is exempt from a creditor of a single spouse. Tenancy by the entireties property is more commonly permitted in real estate but several states permit it in personal property, such as vehicles, and intangible personal property (e.g., financial accounts and interests in entities like corporations, partnerships and limited liability companies).