

The Florida Homestead Exemption in A Chapter 7 Bankruptcy

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When filing a Chapter 7 Bankruptcy in the [Middle District of Florida](#), debtors are entitled to several exemptions that allow them to keep assets out of the reach of the trustee. One of those exemptions is the Homestead exemption under Article X, Section 4(a) of the Florida Constitution which allows debtors to exempt the full amount of their homestead property from the bankruptcy estate. Under one of the newer additions to the bankruptcy law, referred to as the “wildcard exemption”, debtors are able to exempt up to \$4,000 of personal property from the bankruptcy estate.

The relationship of these two exemptions to each other is important for debtors to understand. The reason is that if you use one of them you are not entitled to use the other at the same time. For instance, if you own your home and it is your homestead you must claim the homestead exemption when you file for a Chapter 7 bankruptcy in the Middle District of Florida if you wish to exempt your property from the bankruptcy estate and creditors. To that end, you will only be entitled to \$1,000 in personal property exemptions under the Florida Constitution Article X, Section 4(b). However, if you are behind on your home mortgage, have no hope of reinstating your mortgage or do not wish to, you can surrender your house, discharge your mortgage, and take advantage of the “wildcard exemption” to protect up to \$4,000 of your personal property, including a vehicle.

An important aspect of this exemption interplay to remember in the [Middle District of Florida, Jacksonville Division](#), is that the Court has decided once you claim the Homestead Exemption you cannot amend your petition prior to the discharge and claim the “wildcard exemption”. You must make up your mind prior to filing the petition which exemption you wish to use. This is where the advice of a [Jacksonville Bankruptcy Attorney](#) can prove invaluable. If you wish to discuss filing for Bankruptcy in Florida contact us at [Wood, Atter, & Wolf, P.A.](#)