

Bankruptcy Exemptions – How to Protect Your Property During Bankruptcy

By Arizona Bankruptcy Attorney John Skiba

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A big concern of a most people going through bankruptcy have is whether they are going to lose all of their property. It is a valid concern but generally not one you need to worry much about. All states have exemption laws that protect certain property from creditors. A common example most people are aware of is the homestead exemption that protects a certain amount of equity in your home. The bankruptcy code even has its own set of federal exemptions to protect certain property.

Many states have opted out of the federal exemptions, preferring to craft their own exemptions to protect property. In Arizona we have opted out of the federal exemptions and in many instances the Arizona state exemptions are more generous than the federal ones, meaning that you can protect more of your property through the bankruptcy process.

Below are some examples of exempt property under Arizona law:

Homestead Exemption

In Arizona during bankruptcy you are entitled to an exemption of up to \$150,000 in equity in your home. While this is great to have, I haven't seen anyone with this amount of equity in years now. Interestingly when the real estate boom was occurring in 2006-2007 we often ran into the issue of having too much equity due to the rising house prices, and now, a few short years later almost no one has equity in their home in Arizona.

Exemption for Your Car

Each individual in Arizona is entitled to an exemption of up to \$5,000 in equity in one car. If you are married you can double up your exemptions and protect up to \$10,000 in equity on one car or you can divide them and each protect up to \$5,000 on two cars. Important note here – married couples cannot divide their vehicle exemptions in any other fashion other than 50/50. What I mean by that is you cannot use \$7,000 of the exemption to protect one car in bankruptcy and then use the remaining \$3,000 of the exemption on a second car. It is \$10,000 one car or up to \$5,000 on two cars.

Wedding Rings Exemption

A big concern many have is if the bankruptcy court is going to require a sale of a wedding ring. Fortunately Arizona law provides an exemption for wedding rings of up to \$2,000 in value. In valuing your property it is not automatically what you paid for it, but more along the lines of what it would reasonably sell for today.

Retirement Account Exemption

Retirement accounts such as 401(k) accounts and IRA accounts are exempt under both Arizona state law and federal law. Social Security is also exempt, meaning that your creditors cannot take this from you.

Exemption for Household Goods

Items such as furniture, appliances, and general household items are exempt in Arizona in the amount of \$4,000 for each individual or \$8,000 for a couple. I haven't seen this really ever be an issue in bankruptcy. Not much resale value on the old couch, no matter what you paid for it.

The above are just a handful of the bankruptcy exemptions here in Arizona. The law provides protection for most personal property, and truthfully the statistics I have read show that 94% of chapter 7 bankruptcy filers in Arizona do not lose any property in the bankruptcy process.

I offer a free bankruptcy consultation where we can review your property and help you determine if you have any assets that would be at risk during bankruptcy and what we can do to protect them.

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