Fidelity National Title
CALIFORNIA

About the
California Homestead Exemption

Under California law, homeowners are entitled to protection of a certain amount of equity in their home. The amount protected varies depending on the age, marital status, and income of the property owner.

The homestead exemption does not prohibit the sale of the property. The property can be sold if the sale would produce enough money to:

- Pay all existing liens on the property
- Pay off all mortgages and loans secured by the equity in the home
- Pay the costs of selling the home
- Allow the homeowner to keep equity in the amount protected by the homestead exemption

Rather than prohibiting the sale, the homestead exemption merely ensures that the homeowner receives the amount of the exemption before the creditors are paid from the sale proceeds. The exempt funds received from the voluntary sale of the property remain exempt from debt collection attempts for six months, and can be used to purchase another residence.

The homestead exemption does not apply in the following situations:

- Judgments obtained prior to the recording of the homestead declaration
- Debts secured by encumbrances on the premises executed by the owner before the declaration was recorded
- Obligations secured by mechanics' liens on the premises
- Voluntary encumbrances on the premises, such as mortgages or deeds of trust
- Judgments for child, family, or spousal support

AUTOMATIC HOMESTEAD VS. DECLARED HOMESTEAD

In California, you don't necessarily have to file a homestead declaration. An automatic homestead protects your home against a forced sale if the proceeds wouldn't be enough to pay the homestead before the creditor. If there's a judgement lien on your property, the creditor gets paid from a home sale before you get the homestead.

Homestead amounts are the same for automatic and declared homesteads. The difference is that a declared homestead only protects exempt equity when a home is sold voluntarily. Proceeds are protected for six months during which you can reinvest the homestead in a new home (if that amount covers the sale price and other costs).

Filing a declaration is a good idea if you have equity in your home and experience financial trouble. Your homestead won't be lost after a property sale and the proceeds will be protected for a full six months.

THE CALIFORNIA HOMESTEAD EXEMPTION ALSO HAS TWO DIFFERENT SYSTEMS:

System 1 applies to any property where you reside and to proceeds from forced sales of property received six months before filing for bankruptcy.

System 2 applies to property a debtor uses as a residence (the resident can be independent of the debtor as well) and allows for unused portions of the exemption plus a wildcard amount to be used.

AMOUNT OF EXEMPTION

The California homestead exemption in 2020 was $75,000 for a single homeowner, with a maximum of $175,000 for homeowners who met specific family, income, and age requirements. The new law that took effect on January 1, 2021 eliminates many qualifying conditions and provides a homestead exemption to anyone with a principal residence. As of January 1, 2021, the California homestead exemption amount will be at least $300,000 if the median sale price for homes in your county were less than that during the prior year. However, it can be as high as $500,000 if the median sale price in your county was more than that amount. These amounts would adjust annually for inflation.

For more information, please visit https://saclaw.org/wp-content/uploads/sbs-homestead-declaration.pdf

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