

# BANKRUPTCY EXEMPTION GUIDE - CALIFORNIA

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**Overview:** Within a bankruptcy case, an individual or a married couple may claim certain of assets exempt, and thus free from turn-over to the bankruptcy trustee. The rationale behind exemptions is to assist the "fresh start" of the bankruptcy discharge by allowing retention of certain assets deemed necessary or desirable to continuing and maintaining the household. In California, debtors may choose one of two exemption classifications, commonly referred to as the "703" exemptions or the "704" exemptions. Married persons must choose only one exemption classification, even if they file separate bankruptcy petitions. Exemptions are not available for business entities.

| <b>“703” Exemptions – California Code of Civil Procedure § 703.140(b)</b> |   |                           |
|---|---|---------------------------|
| 703.140(b)(1)   | <u>Homestead</u> – Equity in real or personal property actually used as residence.  | \$26,800.00               |
| 703.140(b)(2)   | <u>Motor Vehicles</u> – Equity in one or more motor vehicles.   | \$5,350.00                |
| 703.140(b)(3)   | <u>Furnishings, Clothing, Goods, Etc.</u> – Household goods, wearing apparel, appliances, books, animals, crops, or musical instruments held for personal, family or household use. (value is of any particular item) | up to \$675 per item      |
| 703.140(b)(4)   | <u>Jewelry</u> – Total equity value of all personal or family jewelry.  | \$1,600.00                |
| 703.140(b)(5)   | <u>Wild Card</u> – \$1,425.00 equity, plus any unused portion of the homestead exemption, in any property.  | \$1,425.00 to \$28,225.00 |
| 703.140(b)(6)   | <u>Tools of Trade</u> – Equity in tools of trade, books or implements.  | \$8,000.00                |
| 703.140(b)(7)   | <u>Life Insurance Contract</u> – Any unmaturred life insurance contract owned by debtor.  | No stated limit           |
| 703.140(b)(8)   | <u>Life Insurance Cash Value</u> – Value of accrued dividend, interest or loan value.   | \$14,325.00               |
| 703.140(b)(9)   | <u>Health Aids</u> – Professionally prescribed health aids.   | No stated limit           |
| 703.140(b)(10)(A), (B) & (C)  | <u>Benefits</u> – Rights to receive social security, unemployment, public assistance, veterans', disability, or illness benefits.   | No stated limit           |
| 703.140(b)(10)(D)   | <u>Benefits</u> – Alimony, support or separate maintenance, to extent necessary for support of debtor and dependents.   | No stated limit           |

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| 703.140(b)(10)(E) | <u>Benefits</u> – Payments under stock bonus, pension, profit sharing, or annuity plan, if payment on account of illness, disability, death, age, or length of service, and only to extent necessary for support of debtor and dependents. | No stated limit   |
| 703.140(b)(11)(A) | <u>Personal Injury Compensation</u> – Crime victim’s award   | No stated limit   |
| 703.140(b)(11)(B) | <u>Personal Injury Compensation</u> – Wrongful death payment, if debtor was dependent of decedent, and only to extent necessary for support of debtor and dependents.  | No stated limit   |
| 703.140(b)(11)(C) | <u>Personal Injury Compensation</u> – Life insurance payment, if debtor was dependent of decedent, and only to extent necessary for support of debtor and dependents.  | No stated limit   |
| 703.140(b)(11)(D) | <u>Personal Injury Compensation</u> – Up to \$26,800.00 in payment of personal injury, for personal bodily injury to debtor or to individual of whom debtor is a dependent.  | Up to \$26,800.00 |
| 703.140(b)(11)(E) | <u>Personal Injury Compensation</u> – Payment in compensation of loss of future earnings of debtor or an individual of whom debtor is a dependent, but only to extent necessary for support of debtor and dependents.                      | No stated limit   |

| <b>“704” Exemptions – California Code of Civil Procedure § 704 et seq.</b> |   |                 |
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| 704.720  | <u>Homestead</u> – Equity amount in principal place of residence. Dwelling can be: conventional house and land, mobile home, boat or other vessel, condominium, planned development, stock cooperative, or community apartment project. | - see below -   |
| 704.730(a)(1)  | Unmarried, with no dependents   | \$75,000.00     |
| 704.730(a)(2)  | Married & living together, or single with dependents  | \$100,000.00    |
| 704.730(a)(3)  | Either debtor or spouse is:<br>(A) 65 or older,<br>(B) Disabled, mentally or physically, or<br>(C) 55 or older with annual income not more than \$25,000, or if married, with joint annual income not more than \$35,000                | \$175,000.00    |
| 704.010  | <u>Motor Vehicles</u> – Equity in one or more vehicles.   | \$3,050.00      |
| 704.020  | <u>Household Goods &amp; Clothing</u> – Furnishings, appliances, provisions, clothes, personal effects, if ordinarily and reasonably necessary to debtor and dependents at principal residence.   | No stated limit |
| 704.030  | <u>Residence Improvement Materials</u> – Materials to be used to repair or improve the residence.   | \$3,200.00      |
| 704.040  | <u>Jewelry, Heirlooms, Art</u> – Total equity in jewelry, heirlooms, and works of art.  | \$8,000.00      |
| 704.050  | <u>Health Aids</u> – Health aids reasonably necessary to work or sustain health of debtor or dependents.  | No stated limit |

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| 704.060             | <u>Tools of Trade</u> – Total equity in tools, implements, instruments, materials, uniforms, furnishings, books, equipment, one commercial vehicle, one vessel and other property used in the business. Separate exemption allowed for spouse if trade requires tools. Exemption limit is \$15,975 if debtor and spouse work in same business. The maximum tool of trade exemption which may be applied to a commercial motor vehicle is \$4,850.00 per spouse, or \$9,700.00 if each work in same business. | \$8,000.00               |
| 704.070             | <u>Paid Earnings</u> – Earnings paid within 30-days of filing, if traceable into cash or bank accounts. 100% exempt if wages then subject to a wage garnishment or wage assignment for support. 75% exempt if wages not then subject to garnishment or assignment.   | No stated limit          |
| 704.080 (b)(1); (3) | <u>Deposit Account - Public Benefits</u> – Up to \$1,600 in a bank account that receives direct deposits of public benefits (other than social security benefits) for a single payee. If the deposit account receives direct deposits on behalf of two or more payees, the exemption is up to \$2,375.   | \$1,600<br>or<br>\$2,375 |
| 704.080 (b)(2); (4) | <u>Deposit Account - Social Security Benefits</u> – Up to \$3,200 in a bank account which receives direct deposits of social security benefits (including retirement, survivor, supplement security income, coal miners' health, and disability insurance benefits) for a single payee. If the deposit account receives direct deposits on behalf of two or more payees, the exemption is up to \$4,800.   | \$3,200<br>or<br>\$4,800 |
| 704.080 (c)         | <u>Deposit Account - Traceable Benefits</u> – Without regard to the dollar limits of §704.080(b), all monies traceable as social security benefits or public benefits which remain in the bank account which received direct deposits of such benefits are fully exempt.   | No stated limit          |
| 704.090             | <u>Deposits of Incarcerated Debtor</u> – Inmate trust funds held by public agency.   | \$1,600.00               |
| 704.100             | <u>Life Insurance Policies</u> – Total loan value of unmatured life policies. If married, the exemption amount is doubled. Unmatured policies fully exempt, without dollar value. Benefits under matured policies (including annuity) exempt to extent reasonably necessary for support of debtor, spouse and dependents.  | \$12,800.00              |
| 704.110             | <u>Public Retirement Benefits</u> – All amounts held, controlled or in process of distribution as benefits from state, city, county or other public agency. All amounts received by debtor from public retirement system or from United States federal retirement.   | No stated limit          |
| 704.113             | <u>Vacation Credits</u> – All vacation credits or payments to public employee.   | No stated limit          |
| 704.115             | <u>Private Retirement Benefits</u> – Benefits under private retirement plans, union retirement plans, profit-sharing plans, Keogh plans, and Individual Retirement Accounts are exempt to the extent necessary to provide for support of debtor, spouse and dependents when the debtor retires, taking into account all resources likely to then be available.   | No stated limit          |
| 704.120             | <u>Unemployment and Disability Benefits</u> – All benefits payable as unemployment and disability by state, employer plan, or union.   | No stated limit          |

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| 704.130 | <u>Disability or Health Insurance</u> – All benefits under disability insurance or health insurance.   | No stated limit |
| 704.140 | <u>Personal Injury</u> – Cause of action fully exempt. Damages or settlement exempt to extent necessary for support of debtor and dependents.                                | No stated limit |
| 704.150 | <u>Wrongful Death</u> – Cause of action fully exempt. Damages or settlement exempt to extent reasonably necessary for support of debtor and dependents.                      | No stated limit |
| 704.160 | <u>Workers' Compensation</u> – All claims and benefits.  | No stated limit |
| 704.170 | <u>Charitable Aid</u> – All aid provided by charitable organization or fraternal benefit society.  | No stated limit |
| 704.180 | <u>Relocation Benefits</u> – All claims and payments for relocation after displacement from residence.   | No stated limit |
| 704.190 | <u>Financial Aid</u> – All financial aid provided by institution of higher learning for expenses while attending.  | No stated limit |
| 704.200 | <u>Family Cemetery Plot</u> – Family plot, and plot for debtor and spouse.   | No stated limit |
| 704.210 | <u>Property Not Subject to Attachment</u> – All property which is not subject to enforcement of a money judgment [e.g.: rights to distributions from a “spend-thrift” trust] | No stated limit |
| 706.050 | <u>Accrued &amp; Unpaid Earnings</u> – 75% of accrued earnings and unpaid. [15 U.S.C. Section 1673(a)].  | No stated limit |

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| <b>Additional Exemptions Available Under Bankruptcy Code §522(b)(3)(C)</b> – Retirement funds in a fund or account exempt from income taxes under one of the following Internal Revenue Code Sections: |  |                 |
| IRC §401   | Profit sharing plan [a “401(k) Plan”]                    | No stated limit |
| IRC §403   | Plan established by public agency or tax-exempt employer | No stated limit |
| IRC §408   | Traditional IRA  | * see below     |
| IRC §408B  | Roth IRA   | * see below     |
| IRC §414   | Employee benefit plan                                    | No stated limit |
| IRC §457   | Deferred compensation plan                               | No stated limit |
| IRC §501(a)  | Tax-exempt employer plan                                 | No stated limit |
| Excluding the value traceable from rollovers of other ERISA-qualified plans, the maximum exemption for all Traditional and Roth IRA accounts combined is capped at <b>\$1,245,475</b> .                |  |                 |

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| <p><b>Exclusions From Property Of The Estate:</b> The following funds are excluded from property of the bankruptcy estate by Bankruptcy Code §541(b), and thus have the equivalent effect of claiming an exemption:</p> |   |   |
| <p>IRC §530(b)(1)</p>   | <p>Monies in an Education IRA contributed at least 365 days before the filing date, and:</p> <ul style="list-style-type: none"> <li>(a) only if beneficiary is child, step-child, grandchild or step-grand child of Debtor.</li> <li>(b) excluding "excess contributions".</li> <li>(c) no more than \$6,225 of all funds placed in all accounts for a single beneficiary within 365 and 720 days before filing date.</li> </ul>  | <p>no stated limit on funds contributed prior to 720 days before the bankruptcy filing date</p> |
| <p>IRC §529(b)(1)</p>   | <p>Monies in a qualified State 529 Plan contributed at least 365 days before the filing date, and:</p> <ul style="list-style-type: none"> <li>(a) only if beneficiary is child, step-child, grandchild or step-grand child of Debtor.</li> <li>(b) excluding any amounts not permitted under IRC §529(b)(6) for a particular beneficiary.</li> <li>(c) no more than \$6,225 of all funds placed in all accounts for a single beneficiary within 365 and 720 days before filing date.</li> </ul> | <p>no stated limit on funds contributed prior to 720 days before the bankruptcy filing date</p> |