

HOMESTEAD

WHAT IS A HOMESTEAD AND WHAT DOES IT DO?

A homestead protects a homeowner from losing their home due to creditors. For example, if you are sued for money in court and lose the case, the person who sued you will receive a judgment against you from court. If you do not pay the judgment, they can try to collect the money you owe by garnishing your wages, bank accounts or by having your automobile or home sold to pay the debt. The homestead law protects a certain amount of the value of your home from being taken to pay a judgment. There are two kinds of homestead exemptions: one is automatic and the second is declared.

AUTOMATIC HOMESTEAD

Every homeowner has an automatic homestead exemption of at least \$50,000 for his or her residence. Due to the fact that this type of homestead does not require the signing or filing of any paper or documents, very few people know they are protected. Furthermore, the amount of the exemption increased to \$75,000 if at least one member of the family unit living in the house owns no interest in the house. For example, when a homeowner lives with his or her minor children. If a homeowner is 65 years of age or older, or is physically or mentally disabled, the amount of the exemption is \$150,000. The \$150,000 exemption also applies to persons 55 years of age and older if the person is (1) single and has a gross annual income of not more than \$15,000, or (2) married and the individual and his/her spouse have a combined annual income of less than \$20,000, and the sale is involuntary.

DECLARED HOMESTEAD EXEMPTION

The homeowner can have a declared homestead exemption as well by filing a homestead declaration form with the County Recorder in the county where the house is located. Although the amount of the exemption does not change or increase when a homestead is filed, it does offer extra protection in that it is not automatically lost when homeowner moves. It also protects proceeds of the sale exempted by the homestead from creditors for six months after the house is sold, even if the house was voluntarily sold by the homeowner.

HOW DO I FILE A DECLARED HOMESTEAD?

You do not have to pay someone else to file a homestead for you because the procedure is very easy. You can find declaration forms in an office supply store that carries legal forms or online. Simply, fill out the form which needs your name, the name of the co-owner, if any, and the legal description of the property which can be found on your deed. Sign the form and have it notarized. Take or mail the form to the County Recorder's office along with the required recording fee.

WHAT A HOMESTEAD DOES NOT DO

A homestead does not protect against the forced sale of a house by a bank, savings and loan or any other lender holding a mortgage or deed of trust on the home. It also does not protect against the enforcement of a valid mechanic's lien, or judgment for child or spousal support.

A WORD OF CAUTION

Many homestead filing agencies target homeowners who have just purchased a home. Their letters often look like they are from a government office and mislead you by making you believe that you must file a declared homestead. Do not believe them. The law prohibits homestead filing agencies from making false or misleading statements or presenting themselves as a government agency. The law also prohibits them from charging more than \$25 to file a homestead declaration, or from collecting any fees until after they have recorded a homestead declaration.

WHERE DO I RECORD A HOMESTEAD?

At the County Recorder's office for the county which the property is located.

Please call your WFG Title Representative for information on the County Recorder's Office for the county your property is located in.

