

# Declaration of Homestead

## What is a Homestead? What Does it Do?

A **Homestead** helps by protecting you from losing your house to people you owe money. If you are sued for money in court and lose, the person who sued you will receive a judgment from the court. If you do not pay the judgment, they can try to collect the money you owe by garnishing your wages or 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 the judgment. There are 2 kinds of Homestead Exemptions: one is **automatic** and the other is **declared**.

## Automatic Homestead

Every homeowner has an **Automatic Homestead Exemption** of at least \$50,000 for his or her residence. This protection does not require the signing or filling of any papers or documents. The amount of the Exemption increases to \$75,000 if at least one member of the family unit living in the house owns no interest in the house, as 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 as filing a Homestead Declaration form with the County Recorder in the county where the house is located. It is important to note that the amount of the Exemption does not change or increase when a Homestead Declaration is filed. A Declared Homestead offers extra protection in the sense that it is not automatically lost when a homeowner moves. It will also protect proceeds of the sale exempted by the Homestead from creditors for six months after the house is sold, even if the homeowner voluntarily sold the house.

## How Do I File A Declared Homestead?

It is easy to file a Declared Homestead by yourself. You do not need to pay someone to do it for you. Simply buy a Homestead Declaration form from an office supply store that carries legal forms. To fill out the form, all you need is 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 recording fees.

## **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 other lender holding a mortgage or Deed of Trust on the home, or against the enforcement of a valid mechanic's lien, or a judgment for child support or spousal support.

## **WARNING! Homestead Filing Services**

Many homeowners, especially those who have just purchased a home, receive mail from Homestead filing services. The letters often look like they are a government office and lead you to believe that you must file a Declared Homestead. Don't be fooled. 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.