

Exempt Property Discussion

Upon the filing of a Bankruptcy petition, an estate is created. With some exceptions, the estate consists of all legal or equitable interests in property as of the commencement of the case. In a Chapter 7 proceeding, the Trustee liquidates the estate property and uses the proceeds to pay creditors with legitimate claims. However, the Trustee may not liquidate exempt property, which is property that the debtor may keep free from his creditors, as allowed by the applicable statute. There are federal and state exemptions, and each state determines which scheme their residents will use. Ohio has opted out of the federal system, and Ohio debtors must use the exemptions found in Ohio R.C. §2329.66.

The debtor lists all property on the required Bankruptcy schedules, and then must declare which property to exempt on Schedule C. Interested parties then have until 30 days after the conclusion of the meeting of creditors to object to the claimed exemptions. Ohio debtors are entitled to exempt the following property from liquidation by the Trustee (partial list only, with figures below representing the amount of the exemption after calculating the CPI increase on April 1, 2010, as published by the Ohio Judicial Conference & effective until April 1, 2013):

<u>Description of Property</u>	<u>Specific Citation</u>	<u>Amount</u>
Home, used as residence	2329.66(A)(1)(a) & (b)	\$21,625
One motor vehicle	2329.66(A)(2)	\$3,450
Clothing	2329.66(A)(4)(a)	\$550 (max per item)
Cash on hand, or money on deposit (i.e., landlord)	2329.66(A)(3)	\$425
Any other property (wildcard)	2329.66(A)(18)	\$1,150
Household furnishings	2329.66(A)(4)(a)	\$550 (max per item) \$11,525 in total
Jewelry	2329.66(A)(4)(b)	\$1,450

Professional Tools	2329.66(A)(5)	\$2,175
Burial Lot	2329.66(A)(8)	Potentially All
Pension Plans	2329.66(A)(10)(a) (Public Employee Pension)	Potentially All
	2329.66(A)(10)(b) (Private Pension Plan)	Potentially All
	2329.66(A)(10)(c) (IRAs)	Potentially All
Child Tax Credit	2329.66(A)(9)(g)	Only the additional child tax credit, to the extent that is considered a payment
Earned Income Tax Credit	2329.66(A)(9)(g)	All

The below example is provided to illustrate a common situation where the debtor's property is partially exempt:

<u>Property Description</u>	<u>Fair Market Value</u>	<u>Secured Creditor's Lien</u>	<u>Exemption</u>
2007 Silverado	\$8,000.00	\$2,000.00	\$3,450.00

Here, the Trustee would liquidate the debtor's truck, pay the secured creditor the amount of its lien to receive clear title to the vehicle, send a check to the debtor for his exemption in the amount of \$3,450, and distribute the remaining balance to the creditors, after paying fees and costs.