

# What property can you keep during and after a bankruptcy?

Property that is exempt is protected from creditors under either federal bankruptcy law or the laws of the state where the person lives. In Wisconsin, people can choose between federal exemptions and state exemptions.

Some types of property are completely protected, regardless of their value. These include:

- Prescribed health aids
- Government benefits, like Social Security (as long as the funds are kept separate from other money)

Other types of property are only protected up to a certain dollar amount. The exemption protects the equity you have in the property. Equity is the difference between the property's value and what you still owe on it. For example, if your car is worth \$5,000 and you owe \$4,500 on it, your equity in the car is \$500.

In a Chapter 7 bankruptcy, if your equity is higher than the exemption limit, the bankruptcy trustee might sell the property (liquidate it). If that happens, you'll get a cash payment equal to the exemption amount. The rest of the money is distributed to your creditors. In a Chapter 13 bankruptcy, the trustee doesn't sell property. But your creditors have a right to an amount equal to your nonexempt equity. This amount is added to your payment plan.

If your property is secured by a loan (like a car or home), and (1) you're current on payments, and (2) your equity in the property is fully covered by your exemptions, then you can usually keep the property by continuing to make loan payments.

If you're behind on your mortgage payments when you file for Chapter 7 bankruptcy, you'll likely lose your home even if your equity in the home is fully protected by the exemption. Why? Because Chapter 7 doesn't get rid of mortgage liens. If you don't pay what you owe, the lender can ask the bankruptcy court to lift the automatic stay

and allow the lender to foreclose on your home, or the lender can simply wait to foreclose until after your Chapter 7 bankruptcy is over.

## **Non-Exempt Property**

In a Chapter 7 bankruptcy, you lose property not protected by an exemption. The bankruptcy trustee responsible for managing your case will sell the property to pay your creditors. In a Chapter 13 bankruptcy, if you want to keep property that isn't exempt, you usually must pay the trustee the value of the non-exempt property.

## **Married Couples**

If you're filing jointly with your spouse, each of you can claim a full set of exemptions.

## **Timing**

You must live in a state for at least two years to use the state exemptions.

## **Federal vs. Wisconsin exemptions**

Below is a chart comparing major provisions of the federal and Wisconsin exemptions.

If the exemption below doesn't include a dollar amount, you can keep the entire asset regardless of its value.

Federal Bankruptcy Exemptions  
(valid starting 3/31/25 -  
amounts adjust every 3 years)

Wisconsin Bankruptcy Exemptions  
(amounts adjust periodically)

Home	<ul style="list-style-type: none"> <li>• <b>\$31,575</b> individuals</li> <li>• <b>\$63,150</b> for spouses who co-own property</li> </ul>	<ul style="list-style-type: none"> <li>• <b>\$75,000</b> of equity in a home</li> <li>• <b>\$150,000</b> of equity for joint filers</li> </ul>
Personal Property	<ul style="list-style-type: none"> <li>• <b>\$800</b> per item / <b>\$16,850</b> total for animals, crops, clothing, appliances and furnishings, books, household goods, and musical instruments.</li> <li>• jewelry up to <b>\$2,125</b></li> <li>• health aids</li> </ul>	<ul style="list-style-type: none"> <li>• household goods and furnishings; clothes, keepsakes, jewelry, appliances, books, musical instruments, firearms, sporting goods, animals, or other items for family use up to <b>\$12,000</b> total</li> <li>• bank deposits up to <b>\$5,000</b></li> <li>• college savings account or tuition trust fund</li> <li>• burial plot, tombstone, coffin</li> </ul>
Car	<b>\$5,025</b>	<b>\$4000</b> plus any unused portion of the <b>\$12,000</b> personal property exemption (above)
Tools of the Trade	<b>\$3,175</b>	<b>\$15,000</b> of business and farm property, equipment, inventory, etc.
Retirement Accounts	<ul style="list-style-type: none"> <li>• tax-exempt retirement accounts</li> <li>• IRA and Roth IRA up to <b>\$1,711,975</b></li> </ul> <p><b>Note:</b> These retirement accounts are exempt even if the filer uses WI exemptions.</p>	<ul style="list-style-type: none"> <li>• public employees</li> <li>• municipal employees</li> <li>• police officers and firefighters in cities with greater than 100,000 people</li> <li>• private and public employees</li> <li>• military personnel</li> </ul>

Public Benefits	<ul style="list-style-type: none"> <li>• Veteran's benefits</li> <li>• Public assistance</li> <li>• Social Security benefits</li> <li>• Unemployment Compensation</li> <li>• Crime victim's compensation</li> </ul>	<ul style="list-style-type: none"> <li>• Veterans' benefits</li> <li>• Public assistance</li> <li>• Workers' compensation</li> <li>• Unemployment compensation</li> <li>• Crime victims' compensation</li> </ul>
Insurance	<ul style="list-style-type: none"> <li>• unmaturred life insurance policy except for credit life insurance</li> <li>• life insurance policy with a loan value of up to <b>\$16,850</b></li> <li>• disability, unemployment, or illness benefits</li> <li>• life insurance payments for a person you depended on that you need for support</li> </ul>	<ul style="list-style-type: none"> <li>• unmaturred life insurance or annuity contract</li> <li>• fraternal benefit society benefits</li> <li>• life insurance proceeds</li> </ul>
Wage/Income	<ul style="list-style-type: none"> <li>• lost earning payments</li> <li>• personal injury recoveries to <b>\$31,575</b> (excludes pain and suffering and monetary loss)</li> <li>• wrongful death recoveries for a person on whom you depended</li> <li>• alimony and child support needed for support</li> </ul>	<ul style="list-style-type: none"> <li>• lost future earnings recoveries needed for support</li> <li>• personal injuries recoveries up to <b>\$50,000</b></li> <li>• wrongful death proceeds needed for support</li> <li>• alimony and child support needed for support</li> <li>• wages used to purchase savings bonds</li> <li>• 80% of disposable earnings</li> <li>• 75% of net income or 30 times federal minimum wage</li> </ul>

	<ul style="list-style-type: none"> <li>• <b>\$1,675</b>, and</li> </ul>	
Wildcard	<ul style="list-style-type: none"> <li>• unused homestead exemption up to <b>\$15,800</b></li> </ul>	None

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