



## **Property and Income Protected From Creditors**

Unexpected medical bills, the death of a spouse, or a sudden reduction of income due to a forced retirement can generate more debts than a senior citizen on a fixed income can pay. When this happens, questions often arise as to whether the person's income or property can be taken by creditors to satisfy a debt.

*Q. Do I have any legal protection if I owe a debt that I cannot pay?*

A. Yes, you should be aware that Minnesota law provides protection against the loss of some types of essential income and property. In addition, federal laws also offer protection for certain kinds of income, such as Social Security. It is also important to know that you do not have to file bankruptcy to obtain these protections.

*Q. How would a creditor attempt to collect a debt from my income or property?*

A. Generally, before a creditor could try to take your income or property against your wishes, they would have to sue you and get a court order (judgment) that states that you owe them money. Even with a proper court order, a creditor cannot take certain income or property that the state or federal legislature has declared to be exempt. When income or property is exempt, it is protected from creditors.

*Q. What types of property are exempt from creditors?*

A. Minnesota law protects certain types of essential property from creditors. The exemptions that are most relevant to senior citizens are as follows: (Values effective from July 1, 2020 through July 1, 2022)

- A homestead with a value of \$450,000 or less is protected from creditors' claims unless the creditor has a mortgage or an actual lien against the property for improvements made to the property.
- An automobile with a value of up to \$5,000 is also exempt. The value protected is much higher, \$50,000, if the vehicle has been modified at a cost of at least \$3,750 to accommodate a disability.
- A manufactured home (often called a "mobile home") is exempt if the debtor actually lives in the home.
- Personal belongings with a value of up to \$11,250 are also protected.
- Money held in a health savings account with a present value of up to \$25,000 is protected as of May 1, 2018.

*Q. What if I have property that is worth more than the exempt amounts?*

A. If you have property that is worth more than the exempt amount, the creditor may be able to force a sale of the property to pay the debt that is owed. However, the creditor would have to return the amount that is protected under the law to allow you to purchase replacement property that is within the exempt limits.

*Q. What types of income would be protected from creditors under Minnesota law?*

A. Minnesota law protects some earnings for a limited period of time. Certain pensions, annuities or similar retirement or disability benefits may also be protected if they meet specific tax requirements or have a present value of \$75,000 or less. However, the law may only protect pensions while they are in the hands of the pension administrator. If you have questions about the exempt status of these types of income, you should consult an attorney. Life insurance proceeds that are received by a surviving spouse due to the death of the other spouse are protected up to a limit of \$50,000. As of May 1, 2018, money held in a health savings account is protected up to a present value \$25,000. In addition, welfare benefits, including Minnesota Supplemental Assistance (MSA), Medical Assistance (MA) and General Assistance (GA), are also protected.

*Q. Are other types of income protected by federal law?*

A. Yes, federal law protects various types of income. The types of income most relevant to senior citizens include: Social Security; Supplemental Security Income (SSI); Veteran's Administration and Railroad Retirement benefits. Creditors cannot take these benefits from you against your wishes. It is important to know that these types of benefits will keep their exempt status when placed in a bank account if they can be identified as protected benefits. Federal benefits including: Social Security; SSI; Veteran's benefits; Railroad Retirement benefits and federal pensions cannot be frozen in your bank account if they are put into the account by direct deposit. The law protects the equivalent of two (2) months of benefits and your bank cannot charge you a fee if a creditor tries to attach your account. If you have any questions about your rights in dealing with a creditor you should contact a private attorney or your local legal services office.

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