

## Homestead Declaration

You should be aware that a recorded Homestead Declaration does not protect against the forced sale of property by a bank, savings and loan or another lender holding a mortgage deed of trust on the property. Thus, a Homestead Declaration does not usually protect against a foreclosure action initiated by a lender. Also, a Homestead Declaration will not protect against a judgment for child support, spousal support or the enforcement of a valid mechanic's lien.

### What is a Homestead and what does it do?

In California, a Homestead gives protection against involuntary claims against an owner's home. If someone wins a money judgment against you in court, the person or entity that won the judgment against you may try to collect the monetary damages by garnishing your wages, bank accounts, or having your home or other property sold to pay off the judgment. A Homestead Declaration does not prevent a creditor from garnishing wages. The Homestead law protects a specific amount of equity in a home, depending on the age, family structure, income and physical or mental disability of the homeowner. A Homestead can be either automatic or declared. The State of California provides for an automatic Homestead, but it may still be wise to record a Declaration of Homestead with the County Recorder's office.

### Automatic Homestead

On September 18, 2020 Governor Gavin Newsom signed into law Assembly Bill 1885. It replaced virtually the entire prior homestead exemption law effective January 1, 2021. Besides greatly increasing the exemption amounts, the new law is much shorter and, in some ways, simpler. Now everyone with a principal residence gets a homestead exemption that is the greater of the following two amounts:

“(1) The countywide median sale price for a single-family home in the calendar year prior to the calendar year in which the judgment debtor claims the exemption, not to exceed six hundred thousand dollars (\$600,000).

(2) Three hundred thousand dollars (\$300,000).”

(B) The amounts specified in this section shall adjust annually for inflation, beginning on January 1, 2022, based on the change in the annual California Consumer Price Index for All Urban Consumers for the prior fiscal year, published by the Department of Industrial Relations.

So, your new homestead exemption will be one of three amounts. It will be at least \$300,000 throughout California. That is if your home is in a county where the prior year's median sale price for a single-family home was \$300,000 or less. The homestead exemption will be \$600,000 if your home is in a county where that year's median sale price was \$600,000 or more. Or the exemption amount will be the county's prior year median sale price amount in counties where the median price was between \$300,000 and \$600,000.

### Declared Homestead Exemption

To declare a Homestead, you can file your completed Homestead Declaration with the County Recorder in the county where the property is located. A declared Homestead does not change or increase the exemption amounts, but offers extra protection in that it is not automatically lost when a homeowner sells. It also protects proceeds of a sale exempted by the homestead from creditors for six months after the house is sold, even if the home was sold voluntarily. It is preferable to file a Homestead Declaration before a claim is filed against the property. However, before such a claim can be filed against the property, a lawsuit judgment is normally required. Thus, there is usually plenty of notice, and a Homestead Declaration can be filed even at the last minute.

### How do I file a Declared Homestead?

If you want a Homestead Declaration on your property, you can do it yourself. Complete the Homestead Declaration form using information which should be available from the deed you received when you purchased the property. You can find this form on our website at [www.CorinthianTitle.com](http://www.CorinthianTitle.com) under “Editable Documents” on the Home Page. You will need to sign the forms and have them notarized. To file, simply record the Homestead Declaration with the county recorder's office.

*Contact us today for all your title insurance questions!*

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