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LEGAL UPDATES

New Law Changes Homestead Exemption

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On September 18, 2020, Governor Gavin Newsom signed Assembly Bill 1885 ("AB 1885"), which significantly increases the creditor homestead exemption for personal residences in California. AB 1885 amends Section 704.730 of the Code of Civil Procedure, relating to the enforcement of judgments. Prior to this amendment, section 704.730 provided a tiered system in which a homeowner was permitted to exempt from the forced sale of a home a maximum of either \$75,000, \$100,000 or \$175,000, depending on certain characteristics of the homestead's residents. These characteristics included the homeowner's age, gross annual income, whether the homeowner is disabled, and whether a dependent lives in the home.

AB 1885 abolishes the tiered system based on the residents' characteristics, and increases the amount of the homestead exemption for homeowners to the greater of: \$300,000, or the countywide median sale price of a single-family home in the calendar year prior to the year in which the judgment debtor claims the exemption, up to a maximum of \$600,000. The bill also provides that the amounts are to be adjusted annually for inflation. AB 1885 goes into effect on January 1, 2021.

This legislation considerably enlarges the amount a homeowner can exempt from a forced sale of a home in the event of a bankruptcy, or a judgment creditor enforcing judgment. Historically, "the homestead law is not designed to protect creditors, but protects the home against creditors . . . thereby preserving the home for the family." *Amin v. Khazindar*, 112 Cal.App.4th 582, 588 (2003). The homestead exemption does not affect voluntary liens such as deeds of trust, or other creditor liens that have priority over the exemption such as liens for child or spousal support judgments.

Please contact our experienced team of creditors' rights attorneys to help with these and other bankruptcy issues.

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