



CalDocs, Inc.

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City and County of San Francisco
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FREE CALIFORNIA HOMESTEAD DECLARATION

Attached is a free “Homestead Declaration” (Adobe PDF Fill-In Form) for use in California. The Homestead Declaration is provided as a free public service, without warranty. If you have any questions regarding the use of this form, you should contact a licensed California attorney.

(NOTE: This form is designed to be executed by a declared homestead owner or spouse. Additional language is required by law if it is executed by a guardian or conservator of the person or the estate of a declared homestead owner or a person acting under a power of attorney or otherwise authorized to act for a declared homestead owner or spouse.)

Given the current housing and foreclosure crisis, it is not surprising that many people are interested in Homestead Declarations. Unfortunately, there are many unscrupulous websites and companies that are attempting to illegally capitalize from confusion over California’s Homestead laws. You should know that **it is illegal for a homestead filing service to charge more than \$25 (including recording fees and notary fees) to prepare and file a homestead declaration on your behalf.** Furthermore, a homestead filing service is **prohibited from collecting a fee until the homestead declaration is recorded.** If you have any questions about the regulation of homestead filing services, please read Department of Consumer Affairs Legal Guide H-1. You can download it from the California Department of Consumer Affairs website or [HERE](#).

You should also 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

Every homeowner has an automatic Homestead exemption of at least \$50,000 for their residence.¹ In California, this protection is automatic and does not require the signing or filing a Homestead Declaration. The amount of the exemption increases to \$75,000 if at least one member of the family unit living in the home does not own any interest in the home.² For example, when a homeowner lives with their minor children, the exemption may be increased to \$75,000. The exemption rises to \$150,000 when a homeowner is 65 years or older, or is physically or mentally disabled.³ The \$150,000 exemption also applies to persons 55 years of age and older if that person is single and has a gross annual income of \$15,000 or less. The same \$150,000 exemption amount applies to married homeowners that have a combined annual income of \$20,000 or less, and the property sale is involuntary.

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. Fill-out the form provided below using information which should be available from the deed you received when you purchased the property. You will need to sign the forms and have them notarized. To file, simply record the Homestead Declaration with the county recorder's office.

Is a Homestead Declaration the same as a Revocable Living Trust?

No, a Homestead Declaration is not the same thing as a [revocable living trust](#). A Homestead Declaration is designed to protect a person's equity in their home against certain types of claims. Revocable living trusts are designed to provide estate planning protection. A properly funded revocable living trust specifies how property should be disposed of at a person's death and may also provide for probate avoidance and possible estate tax savings. Please visit [CalDocs.com](#) to learn more about our living trust and will packages for California residents.

1 [CCP §704.730\(a\)\(1\)](#)

2 [CCP §704.730\(a\)\(2\)](#)

3 [CCP §704.730\(a\)\(3\)](#)

Recording Requested by :

When recorded mail to:

SPACE ABOVE THIS LINE FOR RECORDER USE ONLY

HOMESTEAD DECLARATION

[CCP §704.930](#)

APN#:

1. Name(s) of Declared Homestead owners:

, do hereby claim a Declared

Homestead in the following real property located in:

the City of , County of , State of California,

more commonly known as:

(Insert Common Street Address Above)

and more particularly described as follows:

(Insert Property Legal Description Above)

2. The Declared Homestead is the principal dwelling of the Declared Homestead Owner(s) listed above or such person(s) spouse.

3. The Declared Homestead Owner(s) listed above, or such person(s) spouse, resides in the Declared Homestead on the date this Homestead Declaration is recorded.

4. The facts stated in this Homestead Declaration are known to be true as of the personal knowledge of the person(s) below executing and acknowledging this Homestead Declaration.

Dated: _____

(Signature of Declared Homestead Owner or Spouse)

(Signature of Declared Homestead Owner or Spouse)

(Printed Name of Declared Homestead Owner or Spouse)

(Printed Name of Declared Homestead Owner or Spouse)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, a Notary
(Date) (Notary Name)

Public in and for said State, personally appeared _____,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s)
whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they
executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the
instrument).

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing is
true and correct.

WITNESS MY HAND AND OFFICIAL SEAL

Notary Public

OPTIONAL: DESCRIPTION OF ATTACHED DOCUMENT

Title of Document: Homestead Declaration
Date of Document: _____
Number of Pages: _____
Capacities Claimed by Signers: Individual