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PLAN YOUR ESTATE - DON'T FORGET TO COVER YOUR ASSETS -

Florida is one of the best states for estate planning and asset preservation. You've heard the expression, "a little knowledge goes a long way." This is very true when it comes to protecting your assets from unforeseen creditors in Florida. While Florida has yet to enact legislation that allows self-settled domestic asset protection trusts, it does have several favorable laws that allow you to plan ahead to protect your assets.

Under the Florida Bankruptcy Code, there is a long laundry list of assets that are exempt from the reach of creditors in the case of bankruptcy. However, this does not mean that you must file for bankruptcy to avail yourself of such protections. If you have an unforeseen liability (e.g. damages due from a future automobile accident), you can rest easy knowing that you will not be forced to liquidate exempt assets to pay your creditors. In addition to Florida Bankruptcy Statutes, you also have protections under the Federal Bankruptcy Code, ERISA, the Florida Constitution, and the old English Common Law to name a few. Together these laws provide Floridians with a great opportunity to plan ahead to protect their assets from future creditors.

Below is a brief list of several of the key exemptions and protected assets under the combined state and federal laws. These are general principals and the application of the law to your particular facts should be reviewed with a very knowledgeable and qualified Florida attorney.

- **Florida Homestead**

Subject to certain limitations, your primary residence may be completely protected from unsecured creditors. Understand the limitations prior to purchasing a new home.

- **Qualified Plans and IRAs (Roth and Traditional)**

In general, all of your qualified retirement assets are protected. Your attorney and financial advisor should confirm your assets are in the correct format.

- **Annuities**

The cash value of most life insurance/annuity contracts may be protected in Florida.

- **Cash Value of Life Insurance**

Across the board, life insurance has many benefits. Protection from creditors is one great benefit.

- **Tenants by the Entireties**

Assets held by a married couple in this format cannot be taken by a creditor of a spouse that has sole liability.

- **Multi-member Entities like LLCs to hold investment real property and other investment assets**

While this is not an exemption per se, holding assets in an entity instead of in your sole name provides a greater degree of creditor protection.

This article is designed to open the conversation about planning for a rainy day, but it only scratches the surface. Please seek qualified professionals to help you understand your wonderful alternatives for protecting and preserving your assets.

Go to www.probate-florida.com to read more about this subject.

Learn how you can have your cake and eat it too.

Ed Wollman is a FL Bar board certified wills, trusts and estates attorney with 26 years experience practicing in the state of FL.

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