

## FAQ

### Why is this a better option than bankruptcy?

Bankruptcy can be a long process and during it you may still have to make some payments on some debts. If you are judgment proof and do not have a lot of debts, it could be easier and better for you to allow the creditors to take you to court and obtain a judgment against you instead of filing bankruptcy.

This way you no longer have to make any payments.

### Can I go to jail for not paying a judgment?

No, you cannot go to jail for not paying a judgment on a consumer debt. A judgment means the company can try to collect from you, it does not mean you have to pay them if you are unable to. If you get an order to appear in court, be sure to go.

### Will the creditors keep calling?

It is likely that the creditors will still contact you to try and collect on the judgment. How often they call will depend on the creditor.

### What if I start to earn more money?

If you start earning more money your wages are still protected from being garnished to pay a judgment on a consumer debt. But if you use the additional money to buy property or pay off a loan, you may no longer meet the exemptions.

For example, if you start making more money and you buy a new car and have over \$5,900 in equity in the car, the court could require it to be sold to pay on the judgment. It is up to the creditor who has the judgment to ask the court to have your car or property sold to satisfy the judgment. This requires a court order.

### What are the down sides of having a judgment against me?

- 1) The judgment holder can continue to demand that you pay the judgment for up to 10 years.
- 2) Any property you accumulate or property you have paid off is at risk if the exemption amounts are exceeded.
- 3) A judgment against you could affect your credit score in a different way than just being behind on payments.

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**South Carolina  
Legal Services**

Balancing the Scales of Justice

## Being Judgment Proof on Consumer Debt: Do You Need to File Bankruptcy?



### Our Mission

South Carolina Legal Services is a statewide law firm that provides civil legal services to protect the rights and represent the interests of low-income South Carolinians.

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## What does it mean to be Judgment Proof?

In South Carolina there are certain kinds of property that cannot be taken from you to satisfy a judgment. These are covered by "exemptions". If the exemptions apply to you and your personal property, there is nothing the judgment creditor can legally take from you. If there is nothing they can legally take from you then you are "Judgment Proof".

If you are judgment proof and have a money judgment entered against you, the creditor cannot collect the judgment from you. This can be a better option than bankruptcy because;

- 1) You will no longer have to make payments on the debt unless you get new property or the property you have increases in value beyond the exemption amount.
- 2) The judgment expires after 10 years and can no longer be collected.
- 3) You don't have to submit your debts, assets, and income to the Bankruptcy Court.

This is sometimes called . . .  
**"Bankruptcy Bypass"**



## Common Exemptions that could make you Judgment Proof.

**Note:** The exemption amounts change every two years and can be doubled if jointly owned with a spouse.

**Wages** – There is no wage garnishment in South Carolina for judgments on consumer debt. This means they cannot garnish your wages to pay a judgment on a consumer debt.

**Real Property (your house or land)** – If you have less than \$59,100 in equity in your home then it is exempt from attachment, levy or sale. This means if you have a mortgage on your \$100,000 house and you still owe \$85,000 on your mortgage then you only have \$15,000 in equity. Your home would be exempt.

**Vehicle** – If you have less than \$5,900 in equity in one vehicle (subtracting what is owed from the value of the vehicle) that vehicle is exempt.

**Household Items** – If all of the items in your home such as household furnishings, household goods, clothing, appliances, books, animals, crops, or musical instruments are worth less than \$4,725 when the garage-sale-value of each item is added together then they are all protected from being sold to satisfy the judgment.

**Jewelry** – If the total value of all of your jewelry added together is less than \$1,175 it is protected from being sold to satisfy a judgment on a consumer debt. Wedding rings are always exempt.

**Liquid Assets** – If you have less than \$5,900 in things like cash, deposits, unpaid earnings, accrued vacation pay, refunds, prepayments, and other receivables, these are exempt where the real property exemption is not used.

**Tools of the Trade** – Up to \$1,775 worth of implements, professional books, or tools and equipment that you need for work.

**Other Property** – Your interest in any property is called the "Wild Card" exemption, not to exceed \$5,900 in value of any unused exemption amount. This means that if you did not use up all of your exemptions that are listed above, then you can use up to \$5,900 worth of the above listed exemptions to count towards other property.

**Life Insurance** – Any life insurance contract you own that has not yet matured, other than a credit life insurance contract, but any cash value is limited to \$4,725.

**Health Aids** – Professionally prescribed health aids such as a CPAP machine, oxygen tanks, or other medical equipment required by a doctor are always exempt.

**Other Income** – Income such as:

- 1) Social security benefit, unemployment compensation, or a local public assistance benefit;
  - 2) A veteran's benefit
  - 3) A disability benefit or an illness or unemployment benefit;
  - 4) Alimony, support, or separate maintenance; or
  - 5) A payment from stock bonus, pension, profit sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service.
- THERE ARE SOME EXCEPTIONS to this list.

There are some other forms of assets that may be protected from a judgment but this list includes the most common exemptions.