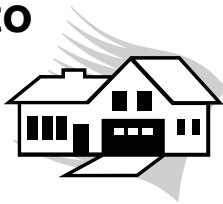


Using a Homestead Declaration to Protect Your Home From Creditors



MontGuide 199815

Revised September 2009

1

Marsha A. Goetting
Ph.D., CFP®, CFCS

Professor & Extension Family Economics Specialist
Dept. of Agricultural Economics & Economics

Keri D. Hayes

Publications Assistant
Dept. of Agricultural Economics & Economics

2

Protection

- Up to \$250,000 in value of a home against most creditor claims



3

What is a Homestead?

- House, condo, townhouse, or mobile home
- Land on which it sits
- Any improvements, fences, etc.



4

Not Eligible

- Doesn't include:
 - Home furnishings
 - Appliances



5

Legal Value

- Amount appearing on the last completed county assessment
- From county treasurer's office



6

Example:

- Joe's house:
 - Assessed value = \$80,000
 - Mortgage Balance = \$50,000
 - Protection = \$30,000



7

Example:

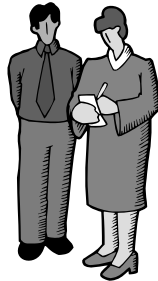
- Doug & Laura's house:
 - Assessed value = \$275,000
 - Mortgage Balance = \$ 10,000
 - Remaining Balance = \$265,000
- ****BUT, Maximum Protection is \$250,000



8

Who Should Sign?

- Both spouses should sign the declaration
- Must be notarized



9

Who Should Sign?

- A spouse may acquire interest in property at marriage unless there is a premarital agreement



10

Standard Form

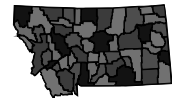
■ State of Montana Law Library:

- www.courts.mt.gov/library/topics/bankrup.asp



11

Record

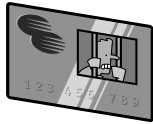


- Clerk and Recorder's office
- In the county where the home is located

11

No Protection

- Creditor obtains judgment against the homeowner before declaration is filed



12

No Protection

- Against liens



13

No Protection

- Failure to pay the mortgage



14

No Protection

- Cases of bankruptcy



15

Medicaid Estate & Recovery Program

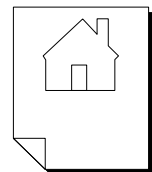
- Lien on home of homeowner in a nursing home whose medical costs were paid by Medicaid



16

Homestead Declaration Form

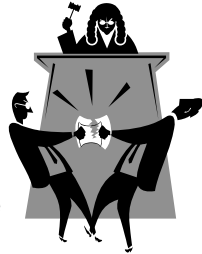
- Montana has no standard form
 - Example p. 3 MontGuide



17

Undo a Declaration

- Declaration of Abandonment form
- Example p. 4 MontGuide



18

MontGuide PowerPoint Presentations on the Web



www.montana.edu/extensionecon/presentations.html

19

MontGuide on the Web



www.montana.edu/wwwpb/pubs/mt9815.pdf

20

Using a Homestead Declaration to Protect Your Home From Creditors



MontGuide 199815

Revised September 2009

1