

**Jeff Kaplan**  
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### **Covering Your Assets**

We love our stuff. It's one big reason we all work so hard! But if you are a business owner, your stuff may become someone else's property. Especially, in the highly litigious world in which we live.

There are three approaches to protecting your assets: (1) know what assets are exempt from creditors in Texas; (2) convert desirable assets into undesirable assets; and (3) give property away.

Compared to most states, Texas is very generous to its residents when exempting assets from creditors. The equity in your homestead is exempt up to certain acreage limit. In addition, Texas exempts qualified retirement plans, including 401(k), 403(b), profit sharing plans, pension plans, Roth and traditional IRAs, and the cash values and death benefits of life insurance and annuities, and a limited amount of personal property. The exemption on these assets may be limited by the new Bankruptcy laws.

The second way is to convert a desirable asset into an undesirable asset. Instead of owning certain property in your own name, you might transfer ownership of the asset into an entity (i.e. corporation, limited liability company, or partnership). The creditor would then view these assets as less desirable to go after than if you owned the asset individually.

The last way is to give property away either outright or in trust, presumably to children or grandchildren. Depending on the type and value of property to be given away, an irrevocable trust might be used to receive these gifts to further protect these assets from any potential creditors (including a divorce proceeding) of the children and grandchildren. Just remember, when you make a gift, you may not get that property back or else the courts (and IRS) view this as if you never gave the property away. You may also give property to your spouse in such a way that it will be treated as your spouse's separate property and unreachable by your own creditors. This only works for obvious reasons – your marriage must be rock solid!

The timing for protecting your assets is critical for the success of the plan. Don't wait until you are faced with a lawsuit, or you might just have to kiss all your stuff goodbye!

**Jeffery H. Kaplan, JD, CPA is Board Certified in Estate Planning and Probate Law by the Texas Board of Legal Specialization. His Intown area practice focuses on advising individuals and small businesses with tax and legal matters. Contact Jeff at [jhk@jhkaplan.com](mailto:jhk@jhkaplan.com).**

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