



Creditor Protection and Life Insurance

In addition to the income tax benefits of life insurance, life insurance also receives creditor protection under state laws and the federal bankruptcy code.

Federal Bankruptcy Code: For policyholders who file for protection under the federal bankruptcy laws, the federal Bankruptcy Code protects the actual insurance element of unexpired life insurance policies owned by a debtor and up to a specified amount (currently \$12,250 – adjusted every three years) of the debtor’s aggregate interest in any accrued dividend, interest, or loan value of an unexpired life insurance policy, provided that the insured is either the debtor, debtor’s spouse, or an individual of whom the debtor is a dependent. The federal Bankruptcy Code provides that debtors in bankruptcy may choose between either the federal exemptions provided in the Bankruptcy Code or the available state law exemptions for bankruptcy (plus exemptions provided by federal law other than the Bankruptcy Code, such as ERISA). However, some states do not allow the federal bankruptcy exemptions, in which case only the state law exemptions would be available in bankruptcy. The Bankruptcy Act passed in 2005 makes no changes to the state law exemptions for life insurance.

State Law: Many states provide more extensive exemptions of life insurance than federal law. In addition to the bankruptcy exemptions, many states provide protection for the cash value and death benefit of life insurance in a non-bankruptcy context. However, in most cases, state law exempts only the beneficiary(ies) of the life insurance contract from claims by

the creditors of the owner or insured of the contract in a non-bankruptcy context. In some states, the exemption for life insurance only covers the family members of the insured. Other states provide exemption from creditors’ claims for the insured and/or owner of the contract, in addition to the beneficiary of the contract. For additional creditor protection, a trust, partnership or limited liability company (LLC) may be an appropriate vehicle to own a life insurance contract.

The summary below reviews the provisions of every state for exemptions of life insurance from attachment by creditors, beginning with the non-bankruptcy context and then exemptions available in bankruptcy under federal and state law. This summary does not consider state specific case law and/or different interpretations of state statutes (except as noted). The exemptions afforded life insurance generally do not apply (i) to the extent premiums were paid to defraud creditors or (ii) when policy is pledged/assigned to secure a debt. These statutes are subject to change, and the listing below is current through January 2016 based on the information available. For your reference, citations for the relevant provisions have been included.

STATE

Alabama**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of owner and/or insured if payable to someone other than owner or insured. *Ala. Code § 6-10-8, 27-14-29*

Cash Value: Insured-owner's interest in the "proceeds and avails" (including loan value, dividends, death benefit) wholly protected from insured creditors if spouse and/or children are named as beneficiaries. *Ala. Code § 6-10-8*. If owner of the policy is the "wife of the insured," proceeds and avails also protected from wife's creditors. *Ala. Code § 27-14-29(b)*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions not available. *Ala. Code § 6-10-11*.

State: State exemptions same as in non-bankruptcy context

Alaska**NON-BANKRUPTCY CONTEXT**

Death Benefit: Death benefit considered "earnings, income, cash, or other liquid asset" and are exempt from debts of beneficiaries up to a certain amount (\$473 per week) if the beneficiary was a spouse or dependent of insured. Exemption amount indexed annually. *Alaska Stat §§ 09.38.030(e) and 09.38.115, 8 AAC § 95.030(c)*

Cash value: Owner's interest in up to \$500,000 of value of unmatured policy is exempt. *Alaska Stat § 09.38.025*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions limited to certain state law exemptions. *Alaska Code § 09.38.055*

State: State exemptions same as in non-bankruptcy context *Alaska Code § 09.38.055*

Arizona**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from the debts of the owner if payable to a person other than the owner or his/her legal representatives. *Ariz. Rev. Stat. § 20-1131*. Proceeds received by a surviving spouse or child of the insured are exempt from creditors of such beneficiaries up to \$20,000. *Ariz. Rev. Stat. § 33-1126.A.1*.

Cash Value: Exempt in the case of a debtor who, for a continuous unexpired period of two years, has named the insured's surviving spouse, child, parent, brother, sister or other dependent as beneficiary (CSV exempt in proportion to how such beneficiaries are named). *Ariz. Rev. Stat. § 20-1131 and § 33-1126.A.6*.

BANKRUPTCY

Federal: Federal exemptions are not available. *Ariz. Rev. Stat. § 33-1133*.

State: State exemptions same as in non-bankruptcy context. *Ariz. Rev. Stat. § 33-1133*.

STATE

Arkansas**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from the debts of the owner if payable to a person other than the owner or his/her legal representatives. A.C.A. §23-79-131. Proceeds received by beneficiary are fully exempt from debts of beneficiary, to the extent permitted by Arkansas Constitution. A.C.A. §16-66-209.

Cash Value: Exempt from debts of the owner, to the extent permitted by Arkansas Constitution. A.C.A. §16-66-209.

Note, however, in *In re Hudspeth*, 92 Bankr. 827 (1988), court held that the state exemption afforded to insurance benefits in A.C.A. §16-66-209 was unconstitutional because Article 9, Section 2 of Arkansas's Constitution imposes a \$500 limited exemption from creditor claims arising out of a contract debt. In *Federal Sav. & Loan Ins. Co. v. Holt*, 894 F.2d 1005 (8th Cir. 1990), the Court imposed a \$500 exemption ceiling on life insurance benefits and policies' cash surrender value.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are available. A.C.A. §16-66-217.

State: State exemptions same as in non-bankruptcy context. A.C.A. §§16-66-217 and 16-66-218(b)(7). As discussed in the non-bankruptcy context, these exemptions may be capped by the Arkansas Constitution Article 9, Sections 1 and 2.

California**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt to the extent necessary for support of judgment debtor and spouse/dependents of debtor. Cal. Code of Civ. Proc. §704.100(c).

Cash Value: Loan value of unmaturing policy exempt from debts of owner to the extent of \$12,200 (\$24,400 if married) (amount adjusted every 3 years). Cal. Code of Civ. Proc. §§704.100(b) and §703.150.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. Cal. Code of Civ. Proc. §703.130.

State: For state bankruptcy exemptions, one of two options (but not a combination) can be chosen as described below:

Option 1: Same state exemptions as in non-bankruptcy context.

Option 2: Unmaturing life insurance policy owned by debtor may be exempted up to \$13,675 (amount adjusted every 3 years) of debtor's aggregate interest in any accrued dividend or interest under, or loan value of, the policy if the debtor is the insured or a dependent of the insured. Cal. Code of Civ. Proc. §703.140(b)(8); see also Cal. Code of Civ. Proc. §703.150.

Colorado**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from the debts of the insured when paid to a beneficiary other than the insured's estate. C.R.S. §§13-54-102.

Cash Value: Exempt up to \$100,000 from the debts of the insured; except there is no exemption for increases in cash value associated with money contributed to the policy during the 48 months prior to the issuance of a writ of attachment, execution or garnishment. C.R.S. §§13-54-102, 13-54-106.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. C.R.S. § 13-54-107.

State: State exemptions same as in non-bankruptcy context. C.R.S. § 13-54-107.

STATE

Connecticut**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from the debts of the insured when paid to a beneficiary other than the insured's estate. *C.G.S.A. §38a-453.*

Cash Value: Accrued dividend, interest, or loan value of unmatured policy exempt to the extent of \$4,000 if debtor is the insured or dependent of the insured. *C.G.S.A. §52-352b.*

BANKRUPTCY

Federal: Federal exemptions are available.

State: State exemptions same as in non-bankruptcy context. *C.G.S.A. §38a-453.*

Delaware**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from the debts of the owner or insured if payable to someone other than the insured, owner or their executors, and from the debts of the beneficiary. *Del Code Ann. Titl 18 §2725.*

Cash Value: Statute unclear (beneficiary entitled to "avails" against creditors of the owner). *See Del Code Ann. Titl 18 §2725.*

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *Del Code Ann. Titl 10 §4914.*

State: State exemptions same as in non-bankruptcy context.

District of Columbia**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of owner and/or insured if payable to someone other than owner or insured who has insurable interest. *D.C.A. §31-4716.* Death benefit exempt from debts of beneficiary, if debtor was a dependent of the insured and is head of household/family, to the extent necessary for support of debtor-beneficiary and any dependent of debtor. *D.C.A. §15-501(11)(C).* In other cases, death benefit is exempt from debts of beneficiary up to \$400 (if beneficiary is providing principal support for family) or \$120 (if not providing principal support). *D.C.A. §15-503.*

Cash Value: Unmatured policy is exempt from debts of owner other than a credit insurance contract. *D.C.A. §15-501(5).*

BANKRUPTCY CONTEXT

Federal: Federal exemptions are available.

State: State exemptions same as in non-bankruptcy context.

Florida**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of insured if payable to someone other than insured or his estate. *Fla. Stat. §222.13.*

Cash Value: Wholly exempt from debts of owner-insured. *Fla. Stat. §222.14.*

BANKRUPTCY CONTEXT

Federal: Federal exemptions generally not available, except exemptions listed in 11 U.S.C. §522(d)(10). *Fla. Stat. §§222.20 and 222.201.*

State: State exemptions same as in non-bankruptcy context. *Fla. Stat. §222.20.*

STATE

Georgia**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of insured if payable to someone other than insured or his estate. *O.C.G.A. §§33-25-11, 33-27-7.*

Cash Value: Wholly exempt from debts of owner-insured. *O.C.G.A. §§33-25-11.*

BANKRUPTCY CONTEXT

Federal: Federal bankruptcy exemptions are generally not available. *O.C.G.A. §44-13-100(b).*

State: State exemptions same as in non-bankruptcy context except only up to \$2,000 of cash surrender value is exempt. *O.C.G.A. §§44-13-100(a)(8) and(a)(9).* Debtor can also exempt proceeds of insurance policy received on an insured of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependents of debtor. *O.C.G.A. §44-13-100(a)(11)(C).*

Hawaii**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from (i) debts of owner and/or insured if payable to insured's spouse, child, parent or other dependent, and (ii) from debts of aforementioned beneficiary(ies) under a settlement plan. *Haw. Rev. Stat. §431:10-232.*

Cash Value: Exempt when policy is payable to insured's spouse, child, parent or other dependent. *Haw. Rev. Stat. §431:10-232.*

BANKRUPTCY CONTEXT

Federal: Federal exemptions are available.

State: State exemptions are same as in non-bankruptcy context. *Haw. Rev. Stat. §431:10-232.*

Idaho**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from (i) debts of owner and/or insured if payable to someone other than owner and/or insured, and (ii) from debts of Beneficiary. *I.C. §41-1833; see also I.C. §11-604.*

Cash Value: Exempt when owner is the insured or a dependent of the insured, except for premiums paid into the life insurance contract within six months of the filing of a bankruptcy petition. *I.C. §§11-605(9).*

BANKRUPTCY

Federal: Federal exemptions are not available. *I.C. §11-609.*

State: State exemptions same as in non-bankruptcy context. *I.C. §11-609.*

Illinois**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of insured if payable to insured's spouse, child, parent, or other dependent. *215 I.L.C.S. §5/238(a), 735 I.L.C.S. §5/12-1001(f).* Death benefit exempt from debts of Beneficiary, to the extent reasonably necessary for the support of Beneficiary and/or dependents, if Beneficiary was a dependent of insured. *735 I.L.C.S. §5/12-1001(h).*

Cash Value: Exempt when policy is payable to insured's spouse, child, parent or other dependent. *735 I.L.C.S. §5/12-1001(f).*

BANKRUPTCY

Federal: Federal exemptions are not available. *735 I.L.C.S. §5/12-1201.*

State: State exemptions same as in non-bankruptcy context.

STATE

Indiana**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of insured and his/her spouse if payable to the spouse, child or any relative dependent of the insured. *Ind. Code §27-1-12-14*. If contract includes restrictions on alienation/encumbrance, benefits payable to a person, other than the person providing consideration for the insurance contract, are wholly exempt from such beneficiary's creditors. *Ind. Code §27-2-5-1*.

Cash Value: Exempt from creditors of the insured and insured's spouse when policy is payable to insured's spouse, child, parent or other dependent. *Ind. Code §27-1-12-14*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *Ind. Code §34-55-10-1*.

State: State exemptions same as in non-bankruptcy context.

Iowa**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of the insured if payable to spouse, children or other dependent of the insured. *Iowa Code Ann. §627.6(6)*. Death benefit also exempt up to \$15,000 from the debts of a beneficiary (incurred prior to death of insured), if beneficiary is the surviving spouse, child or dependent of the insured. *Iowa Code Ann. §627.6(6)*.

Cash Value: Exempt if beneficiary is spouse, child, or dependent of policy owner, provided that increases in cash value attributable to prior two years are limited to \$10,000. *Iowa Code Ann. §627.6(6)*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *Iowa Code Ann. §627.10*.

State: State exemptions same as in non-bankruptcy context.

Kansas**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of owner, insured and beneficiary when payable to any person having an insurable interest in insured. *K.S.A. §40-414, §60-2313(a)(7)*.

Cash Value: Exempt from creditors of the owner if policy payable to person having insurable interest in insured, provided policy wasn't issued within the past year. *K.S.A. §40-414*.

BANKRUPTCY CONTEXT

Federal: Only federal exemptions provided by 11 U.S.C. 522(d)(10) are available. *K.S.A. §60-2312*.

State: State exemptions same as in non-bankruptcy context. *K.S.A. §60-2312*.

Kentucky**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from (i) debts of owner and/or insured if payable to someone other than owner and/or insured, and (ii) from debts of Beneficiary. *K.R.S. §304.14-300*.

Cash Value: Wholly exempt from debts of the owner. *K.R.S. §427.110*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are available. *K.R.S. §427.170*.

State: State exemptions same as in non-bankruptcy context.

STATE

Louisiana**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of the insured, owner or their estates, from claims by their heirs, and from debts of the beneficiary. *La. Rev. Stat. Ann. §22:912(A)(1)*.

Cash Value: Wholly exempt from debts of the owner and owner's estate; provided, however, that cash value exempt only up to \$35,000 when judgment/bankruptcy comes within nine months of policy being issued. *La. Rev. Stat. Ann. §22:912(A)(1) and(A)(2)*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *La. Rev. Stat. Ann. §13:3881(B)(1)*.

State: State exemptions same as in non-bankruptcy context. *La. Rev. Stat. Ann. §13:3881(B)(1)*.

Maine**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from (i) debts of owner and/or insured if payable to someone other than owner and/or insured, and (ii) from debts of Beneficiary. *24-A M.S.R.A. §2428*.

Cash Value: Accrued dividend or interest, or loan value, in unexpired policy (except credit life insurance) exempt from debts of owner up to \$4,000, provided insured is the debtor or individual upon whom debtor is dependent. *14 M.S.R.A. §4422(10) and (11)*.

BANKRUPTCY CONTEXT

Federal: Only federal exemptions provided by 11 U.S.C. 522(b)(3)(A) and (B) are available. *14 M.S.R.A. §4426*.

State: State exemptions same as in non-bankruptcy context. *14 M.S.R.A. §4426*.

Maryland**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of insured if payable to spouse, child or dependent relative of the insured. *Md. Code Ann., Ins. Law §16-111, Est. and Trust Law §8-115, Court and Jud. Proc. Law §11-504(b)(2)*. Death benefit wholly exempt from debts of beneficiary. *Md. Code Ann., Court and Jud. Proc. Law §11-504(b)(2)*.

Cash Value: Exempt from debts of owner if beneficiary of policy is spouse, child or dependent relative of the insured. *Md. Code Ann., Ins. Law §16-111*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *Md. Code Ann., Court and Jud. Proc. Law §11-504(g)*.

State: State exemptions same as in non-bankruptcy context.

Massachusetts**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of owner if the policy is payable to a beneficiary, other than the owner, with an insurable interest in insured. *M.G.L. c. 175, §125*. Death benefit exempt from debts of beneficiary if (i) proceeds held by insurer and contract prohibits beneficial interest from being assigned, encumbered or attached by, or in favor of, creditors, or (ii) beneficiary is a "married woman." *M.G.L. c. 175, §§119A and 126*.

Cash Value: Exempt from debts of owner if beneficiary designation is unchanged since issuance. *M.G.L. c. 175, §125; In re Sloss, 279 B.R. 6 (Bankr. D. Mass. 2002)*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are available.

State: State exemptions same as in non-bankruptcy context.

STATE

Michigan**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from the debts of owner and/or insured if payable to someone other than owner and/or insured. Additional exemption of death benefit when owner is a husband or wife. *MCL §500.2207*.

Cash Value: Wholly exempt from debts of the owner. See *MCL §500.2207*. Note, however, that there is precedence in Michigan that could allow creditors to access cash value in a life insurance policy owned by the debtor insured despite *MCL sec 500.2207*. See *Chrysler First Business Credit Corporation v. Rotenberg v. John Hancock Mutual Life Insurance Co.*, 789 F. Supp 870 (1992); and *Schenck Boncher & Prasher v. Vanderlaan*, 2003 Mich. App. Lexis 2082 (2003).

BANKRUPTCY CONTEXT

Federal: Federal exemptions are available.

State: State exemptions same as in non-bankruptcy context.

Minnesota**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from the debts of the owner if payable to someone other than the owner. *Minn. Stat. §61A.12*. Up to \$46,000 of death benefit exempt from debts of beneficiary-spouse or child (increased by \$11,500 for each dependent of surviving spouse or child). *Minn. Stat. §550.37(10)*.

Cash Value: Up to \$9,600 in cash value exempt from debts of owner if owner is the insured or a dependent of the insured. *Minn. Stat. §550.37(23)*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are available. *Minn. Stat. §550.371*.

State: State exemptions same as in non-bankruptcy context. *Minn. Stat. §550.371*. Note: for married persons, special rules may apply re: exemptions available in bankruptcy. See *Minn. Stat. §550.371*.

Mississippi**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of insured if payable to someone other than insured. *Miss. Code Ann. §85-3-11*.

Cash Value: Exempt from debts of insured if payable to someone other than the insured; provided, however, that only up to \$50,000 of cash value is exempt if premiums paid within 12 months. *Miss. Code Ann. §85-3-11*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *Miss. Code Ann. §85-3-2*.

State: State exemptions same as in non-bankruptcy context. *Miss. Code Ann. §85-3-11*.

Missouri**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of owner or beneficiary. *Mo. Rev. Stat. §§377.330 and 513.430.1*.

Cash Value: Wholly exempt from debts of owner. *Mo. Rev. Stat. §§377.330 and 513.430.1(7) and (8)*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *Mo. Rev. Stat. §513.427*.

State: State exemptions same as in non-bankruptcy context, except that cash value only exempt up to a maximum of \$150,000. Also, no exemption for cash value if policy was purchased by debtor within one year prior to commencement of bankruptcy. *Mo. Rev. Stat. §513.430.1(8)*.

STATE

Montana**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from the debts of owner and/or insured if payable to someone other than owner and/or insured. *Mont. Code Ann. 33-15-11.*

Cash Value: Wholly exempt from debts of owner. *Mont. Code Ann. 25-13-608(k).*

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *Mont. Code Ann. §32-2-106.*

State: State exemptions as provided in *Mont. Code Ann. § 32-2-106(1).*

Nebraska**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of insured if payable to someone other than insured's estate. Death benefit exempt from debts of beneficiary if related to the insured by blood or marriage. *Neb. Rev. Stat. Ann §44-371(1)(a).*

Cash Value: Up to \$100,000 exempt from debts of owner; provided, however, that cash value associated with contributions, premiums or other payments made within three years not exempt. *Neb. Rev. Stat. Ann §44-371(1)(b).*

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *Neb Rev. Stat. Ann §25-15, 105.*

State: State exemptions same as in non-bankruptcy context. *Neb Rev. Stat. Ann §25-15, 105.*

Nevada**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from (i) debts of owner and/or insured if payable to someone other than owner and/or insured, and (ii) from debts of Beneficiary. *NRS §687B.260.*

Cash Value: Wholly exempt from debts of owner. *NRS §21.090.1(k).*

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *NRS §21.090.3.*

State: State exemptions same as in non-bankruptcy context.

New Hampshire**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of person effecting insurance if payable to someone else with insurable interest. *N.H. Rev. Stat. Ann §408.2.* Exempt from debt of beneficiary (and beneficiary's children) if beneficiary is married woman. *N.H. Rev. Stat. Ann §408:1.*

Cash Value: No exemption. *N.H. Rev. Stat. Ann §408.2; In re Monahan, 171 B.R. 710 (Bankr. D.N.H. 1994).*

BANKRUPTCY CONTEXT

Federal: Federal exemptions are available.

State: State exemptions same as in non-bankruptcy context.

STATE

New Jersey**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from (i) debts of owner and/or insured if payable to someone other than owner and/or insured, and (ii) from debts of Beneficiary. *N.J. Stat. Ann. §17B:24-6.*

Cash Value: Statute protects "proceeds and avails" of insurance contract when beneficiary is someone other than the owner and/or insured. Not clear if "proceeds and avails" includes cash value. *N.J. Stat. Ann. §17B:24-6.*

BANKRUPTCY CONTEXT

Federal: Federal exemptions are available.

State: State exemptions same as in non-bankruptcy context.

New Mexico**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of deceased, except by special contract or arrangement in writing. *N.M. Stat. Ann. §42-10-5.*

Cash Value: Wholly Exempt from debts of owner. *N.M. Stat. Ann. §42-10-3.*

BANKRUPTCY CONTEXT

Federal: Federal exemptions are available.

State: State exemptions same as in non-bankruptcy context.

New York**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of insured and/or owner if payable to a third person beneficiary. Exempt from debts of insured if payable to owner who is not the insured. Death benefit also exempt from debts of owner who is the spouse of the insured. *C.L.N.Y., Insurance Law, §3212.*

Cash Value: Wholly exempt from debts of owner. *C.L.N.Y., Insurance Law, §3212(b); In re Mesigner*, 29 F.2d 158 (2nd Cir. 1928). Note, however, that loans taken by a debtor-owner are not protected under the statute because the debtor has full control and disposal of the proceeds". See *Tanges v. Schonbrun*, 196 N.Y.S. 2d 381 (Nassau County Supreme 1959)."

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *C.L.N.Y., Debtor & Creditor Law, §284.*

State: State exemptions same as in non-bankruptcy context. *C.L.N.Y., Debtor & Creditor Law, §282.*

North Carolina**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of insured and/or owner if payable to someone other than the insured or owner. *N.C. Gen. Stat. §§1C-1601(a)(6), 58-58-95, 58-58-115.*

Cash Value: Wholly exempt from debts of owner-insured if payable to insured's spouse and/or children. *N.C. Gen. Stat. § 58-58-95.*

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *N.C. Gen. Stat. §§1C-1601(f).*

State: State exemptions same as in non-bankruptcy context. *N.C. Gen. Stat. §§1C-1601(f).*

STATE

North Dakota**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of the deceased even when payable to the deceased, heirs of the deceased, the deceased's estate, or a trustee of a lifetime or testamentary trust. *N.D. Cent. Code §§26.1-33-40, 26.1-33-42, §28-22-03.1.*

Cash Value: Exempt from debts of owner/insured up to a maximum of \$8,000. *N.D. Cent. Code §26.1-26-33-36; see also, §28-22-03.1.*

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *N.D. Cent. Code §28-22-17.*

State: State exemptions same as in non-bankruptcy context.

Ohio**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of insured if payable to insured's spouse, children, dependent relative, charity, creditor, or trust for benefit of the aforementioned individuals. *Ohio Rev. Code Ann. §3911.10, §2329.66(A)(6)(b).*

Cash Value: Wholly exempt from debts of insured if payable to insured's spouse, children, dependent, relative, charity, creditor, or trust for benefit of aforementioned individuals. *Ohio Rev. Code Ann. §3911.10, §2329.66(A)(6)(b).*

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *Ohio Rev. Code Ann. §2329.662.*

State: State exemptions same as in non-bankruptcy context.

Oklahoma**NON-BANKRUPTCY CONTEXT**

Death Benefit: Wholly exempt from debts of insured and debts of the beneficiary. *Okla. Stat. Ann. tit. §36.3631.1.*

Cash Value: Wholly exempt from debts of insured. *Okla. Stat. Ann. tit. §36.3631.1.*

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *Okla. Stat. Ann. tit. §31-1(B).*

State: State exemptions same as in non-bankruptcy context.

Oregon**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of owner if payable to someone other than owner. *O.R. Rev. Stat. §743.046(1).*

Cash Value: Wholly exempt from debts of insured-owner if payable to someone other than insured's estate. *O.R. Rev. Stat. §743.046(3).*

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *O.R. Rev. Stat. §18.300.*

State: State exemptions same as in non-bankruptcy context. *O.R. Rev. Stat. §18.300.*

STATE

Pennsylvania**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of the insured if payable to spouse, child or dependent relative of insured. *42 Pa. Cons. Stat. §8124(c)*. May be exempt from debts of beneficiary if proceeds are retained by insurer and policy prohibits assigning proceeds/income. See *42 Pa. Cons. Stat. §8124(c)(4)*.

Cash Value: "Net amount payable," which has been interpreted to include cash value, exempt from debts of owner when spouse, child or other relative dependent of the insured is named as beneficiary. *42 Pa. Cons. Stat. §8124(c)(6)*; *Plastipak Packaging, Inc. v. DePasquale*, C.A. 4 (Pa.) 2003, 75 Fed. Appx. 86 (unpublished).

Exempt from debts of insured-owner, when insured is the beneficiary, except amount exceeding an income or return of \$100/month. *42 Pa. Cons. Stat. §8124(c)(3)*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are available.

State: State exemptions same as in non-bankruptcy context.

Rhode Island**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of owner and/or insured if payable to someone other than the owner and insured. *R.I. Gen. Laws §27-4-11*. May be exempt from debts of beneficiary if contract prohibits transfer, anticipation, encumbrance by a beneficiary. *R.I. Gen. Laws §27-4-12*.

Cash Value: Statute protects "proceeds and avails" of insurance contract when beneficiary is someone other than the owner and/or insured. Not clear if "proceeds and avails" includes cash value. See *R.I. Gen. Laws §27-4-11*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are available.

State: State exemptions same as in non-bankruptcy context.

South Carolina**NON-BANKRUPTCY CONTEXT**

Death Benefit: Wholly exempt from debts of insured if payable to a beneficiary (other than insured's estate) where proceeds are for primary benefit of spouse, children or dependents, *S.C. Code §38-63-40(A)*. If bankruptcy filed within two years, maximum of \$4,000 is exempt from debts of insured. *S.C. Code §§ 38-63-40(A), 15-41-30*. Exempt from debts of beneficiary if proceeds are held by insurer, per agreement, to protect from creditors. *S.C. Code §38-63-40(B)*.

Cash Value: Exempt from debts of insured if payable to insured's spouse, children, or dependents; *S.C. Code §38-63-40(A)*; otherwise, up to \$4,000 exempt from debts of the owner if debtor is the insured or a dependent of the insured (\$50,000 cap for group term insurance benefiting spouse and children). *S.C. Code §15-41-30; §38-65-90*. But see, *In re Sims*, 421 B.R. 745, 748 (Bankr. D.S.C. 2010) where court interpreted § 38-63-40 as not protecting debtor's interest in cash surrender value from bankruptcy estate despite the fact that debtor's spouse was named as beneficiary.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *S.C. Code §15-41-35*.

State: State exemptions same as in non-bankruptcy context. *S.C. Code §15-41-35*.

STATE

South Dakota**NON-BANKRUPTCY CONTEXT**

Death Benefit: Up to \$20,000 exempt from debts of insured and beneficiaries if payable to insured's spouse and/or children. *SDCL §58-12-4*. Up to \$10,000 exempt from debts of insured and beneficiary-spouse and/or children if payable to insured's estate. *§SDCL 43-45-6*.

Cash Value: Up to \$20,000 exempt from debts of insured-owner. *§SDCL 58-12-4*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *SDCL §43-31-30*.

State: State exemptions same as in non-bankruptcy context. *SDCL §43-31-30*.

Tennessee**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of insured if (i) insured died intestate to extent proceeds benefit insured's surviving spouse and/or children, (ii) insured died testate leaving proceeds to estate or to revocable trust, unless specifically charged with debts in the will/rev trust, (iii) payable to spouse, children or dependent of the insured. *TCA §§56-7-201, 56-7-203*. Death benefit also exempt from debts of insured if owned by insured's spouse and payable to spouse and children. *TCA §56-7-202*.

Cash Value: "Net amount payable" (which has been determined to include cash value) exempt from debts of owner-insured if payable to insured's spouse, children or dependent. *TCA §56-7-203; In re Billington, 376 B.R. 239 (Bankr. M.D. Tenn 2007)*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *TCA §26-2-112*.

State: State exemptions same as in non-bankruptcy context. *TCA §26-2-112*.

Texas**NON-BANKRUPTCY CONTEXT**

Death Benefit: Wholly exempt from debts of insured and debts of beneficiary. *Tex. Ins. Code §§1108:051, 1108:052, 1108:053*.

Cash Value: Wholly exempt from debts of insured-owner. *Tex. Ins. Code §§1108:051*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are available.

State: Insurance benefits fully exempt for insured and beneficiary in bankruptcy proceedings. *Tex. Ins. Code §§1108:051(b)(2)(C)*.

Utah**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from: (i) debts of insured if payable to or for the benefit of insured's spouse and/or children, provided contract was in existence for at least a year and (ii) debts of beneficiary if insured was spouse or child of the beneficiary, provided debtor-beneficiary owned contract for at least a year. *Utah Code Ann. §78B-5-505(xi), (xii)*.

Cash Value: Wholly exempt from debts of owner, except payments made within one year of creditor's levy or execution. *Utah Code Ann. §78B-5-505(xiii)*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *Utah Code Ann. §78B-5-513*.

State: State exemptions same as in non-bankruptcy context.

STATE

Vermont**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from (i) debts of insured and/or owner if payable to someone other than insured/owner, and (ii) debts of beneficiary existing at time policy is made available for his/her use. *8 V.S.A. §3706*. Death benefit also exempt from debts of beneficiary, to the extent reasonably necessary for support of debtor and dependents, if debtor was dependent of insured. *12 V.S.A. §2740(19)(H)*.

Cash Value: Unmatured policy exempt from debts of owner. *12 V.S.A. § 2740(18)*; *In re Gabelhart*, 138 B.R. 425 (Bankr. D. Vt. 1992).

BANKRUPTCY CONTEXT

Federal: Federal exemptions are available.

State: State exemptions same as in non-bankruptcy context

Virginia**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of insured and/or owner if payable to someone other than insured/owner. *VA Code §38.2-3122*.

Cash Value: Statute only exempts cash value when owner has not retained the ability to change beneficiary. *VA Code §38.2-3123*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *VA Code §34-3.1*.

State: State exemptions same as in non-bankruptcy context.

Washington**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from (i) debts of insured and/or owner if payable to someone other than insured/owner, and (ii) debts of beneficiary existing at time policy is made available for his/her use. Exemptions don't apply if claim is made against proceeds by the insured or person "effecting the insurance." *R.C.W. §48.18.410*. Proceeds from group life insurance policies are exempt from debts of insured and beneficiaries. *R.C.W. §48.18.420*.

Cash Value: Statute protects "proceeds and avails" of insurance contract when beneficiary is someone other than the owner and/or insured. Not clear if "proceeds and avails" includes cash value. See *R.C.W. §48.18.410*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are available.

State: State exemptions same as in non-bankruptcy context.

West Virginia**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of insured and/or owner if payable to someone other than insured/owner. *W. Va. Code §33-6-27*.

Cash Value: Statute protects "proceeds and avails" of insurance contract when beneficiary is someone other than the owner and/or insured. Not clear if "proceeds and avails" includes cash value. *W. Va. Code §33-6-27*. Consumer protection laws exempt policy (except accrued dividends) from debts of owner-insured from rent-to-own creditors if payable to insured's spouse or children. *W. Va. Code §46B-6-6*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *W. Va. Code §38-10-4*.

State: Debtor who files for bankruptcy may exempt up to \$8,000 of cash value on policy owned by debtor if debtor is the insured or dependent of the insured. *W. Va. §38-10-4(h)*.

STATE

Wisconsin**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from debts of beneficiary, to the extent reasonably necessary for the support of debtor and debtor's dependents, if debtor was a dependent of the insured. *Wis. Stat. Ann. §815.18(3)(i)(a)*.

Cash Value: Up to \$150,000 exempt from debts of owner if policy insures debtor, debtor's dependents or individual of whom debtor is dependent; provided exemption limited to \$4,000 if policy was issued within 24 months of action being filed (or money was added to contract within 24 months). *Wis. Stat. Ann. §815.18(3)(f)*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are available.

State: State exemptions same as in non-bankruptcy context.

Wyoming**NON-BANKRUPTCY CONTEXT**

Death Benefit: Exempt from (i) debts of insured and/or owner if payable to someone other than insured/owner and (ii) debts of beneficiary. *Wyo. Stat. Ann. §26-15-129*.

Cash Value: Wholly exempt from debts of owner if someone other than debtor is named as beneficiary. *Wyo. Stat. Ann. §26-15-129; In re Vigil, 74 Fed. Appx. 19 (10th Cir. 2003)*.

BANKRUPTCY CONTEXT

Federal: Federal exemptions are not available. *Wyo. Stat. Ann. §1-20-109*.

State: State exemptions same as in non-bankruptcy context.

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