

# Protecting Your Assets in Case You Find Yourself in Court

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article submitted by: Edward Kirkwood  
Farmer's Insurance Agent



What if you're sued -- and lose?

This is one of our big fears. Over 80% of Americans believe there are too many lawsuits, according to a 2006 survey undertaken for the U.S. Chamber Institute for Legal Reform. An

earlier survey, conducted for insurer Fireman's Fund, found that 67% of homeowners were concerned they might personally be sued.

In truth, while certain occupations -- notably doctors and small-business owners -- are frequent legal targets, most of us are unlikely to face a personal lawsuit because of, say, a car accident or because a neighbor tumbles down our stairs.

Still, if it happens, it could be financially devastating. Here's a look at which of your assets would be at risk -- and how you can protect yourself.

- **Losing it.** Let's start with the good news: Under federal law, the value of your 401(k) plan or your traditional "defined benefit" pension should be protected from creditors. And if a hefty legal judgment forces you into bankruptcy, your rollover individual retirement account and up to \$1 million in a regular IRA should also be protected.

Unfortunately, that's pretty much the end of the good news. With most assets, state law comes into play -- and legal protections are all over the map.

For instance, Florida and Texas residents enjoy ample protection for homes, annuities and life insurance. By contrast, residents of California, New Jersey and Pennsylvania are far less protected.

Because state laws vary so much, it's hard to generalize. But as a rule, the simpler the form of ownership, the more vulnerable the asset is.

## FEELING VULNERABLE?

A lawsuit could derail your financial future.

- 86% of Americans say they're concerned about protecting their home and savings.
- But only 13% have an umbrella-liability insurance policy, which could cost \$200 a year for \$1 million of coverage.

Source: Hanover Insurance

Suppose you have a fat portfolio in your name in a regular taxable account. "The creditor is just going to grab it," says Gideon Rothschild, an attorney with Moses & Singer in New York. "There's no leverage there."

By contrast, if you have money in a variable annuity, life insurance, a limited partnership or a limited-liability company, creditors may settle for less, because these assets are harder to get at, says Chris Riser, an Athens, Ga., attorney and co-author of "Asset Protection: Concepts and Strategies for Protecting Your Wealth."

- **Taking precautions.** Getting nervous? Here are five ways to protect yourself.

Get a personal umbrella-liability insurance policy, which might cost \$200 to \$400 a year for \$1 million of coverage. These policies provide extra protection, over and above the liability limits on your home and auto policies.

"That's the first line of defense," says David Handler, an attorney with Kirkland & Ellis in Chicago. "It's the insurance company's attorneys who are going to court. They're the ones with the first dollars on the hook."

- **Max out retirement plans, starting with your 401(k).** This is not only good investment advice, but also a good asset-protection strategy. "That's always the first thing I tell people to do," says Pittsburgh accountant and attorney James Lange.

- **Know your state's laws.** Getting information is surprisingly difficult. A good place to start is [apbook.com](http://apbook.com), the Web site for Mr. Riser's book. You may be able to dig up further information by sticking your state's name and the words "asset protection" into an Internet search engine.

Consider owning assets jointly with your spouse, especially if your state allows you to title your home or other assets as "tenants by the entirety." This latter form of ownership can provide solid protection against creditors.

One warning: Joint ownership can hurt other legal arrangements you've made. "It's easy to mess up estate plans and prenuptial agreements by retitling assets," cautions Holly Isdale, head of the wealth-advisory group at Lehman Brothers. "Check with your attorney before you do that."

The truly wealthy -- those with, say, \$5 million or more in assets -- may want to talk to a lawyer about more sophisticated and more expensive techniques, such as setting up trusts, limited partnerships and limited-liability companies.