



## Legal Note – Protecting Life Insurance Assets

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Several clients have recently inquired regarding available creditor protection for life insurance cash values and proceeds. We first discuss the federal protections.

The federal bankruptcy code contains a creditor exemption for the cash value of life insurance policies owned by the debtor. The insured, must also be either the debtor or a dependent of the debtor. The protection, however, generally exempts only up to about \$10,000 of the cash value.

The Bankruptcy Code also exempts the debtor's entitlement to life insurance proceeds, but without a dollar limitation. The proceeds must, however, be "reasonably necessary" for the support of the debtor and any dependent of the debtor. Moreover, the debtor must have been a dependent of the insured at the time of the insured's death.

The focus of the federal protection is therefore apparently to protect the income replacement and liquidity benefits to the insured's family (not to protect the cash value of an active policy). The exemption therefore fails to sufficiently protect current value to allow for substantial lifetime asset protection planning.

Next month we explain the contrasting creditor protection afforded by the Florida legislature.