



EQUESTRIAN QUESTION FORUM by Lisa L. Lerch, Esq.

I am not able to pay some of my bills and I now owe a lot of money. Could I lose my horses to my creditors?

Possibly, yes. If your creditor files a lawsuit against you and obtains a money judgment, your creditor may seek to levy on your real and/or personal property (*i.e. your horses*) to satisfy the judgment.

Upon obtaining a money judgment against you, your creditor has the ability to levy your assets. If your horses have any monetary value, your creditor may seek to obtain them by a writ of execution and sell them in an effort to satisfy the judgment.

California Civil Code of Procedure section 700.030 states “. . . to levy upon tangible personal property in the possession or under the control of the judgment debtor, the levying officer shall take the property into custody.” Under section 700.040, the levying officer also has the ability to levy personal property under a third party’s control or possession. Therefore, even if you stable your horses elsewhere and do not keep them on your property and in your possession, they can still be located and levied upon.

As the judgment debtor, you have the right to claim certain exemptions. Any claim of exemption for the property may be made within 10 days after the date the notice of levy was served on the judgment debtor. While there are no specific exemptions for horses, under Civil Code of Procedure section 704.060(a), a judgment debtor is allowed a \$6,750.00 exemption for trade, business, or professional property. The downside is the total amount allowed under this exemption is \$6,750.00 and the horse(s) must be considered reasonably necessary to and actually used by the judgment debtor in the exercise of the trade, business, or profession by which the judgment debtor earns a livelihood. This exemption would only apply if you are a professional in the horse industry and your horse did not have a high monetary value.

The most common mistake people make is to transfer their property to someone else in an effort to avoid the levy. Any transfer of property that is not to a good faith purchaser for value may be considered a fraudulent transfer by the creditor and may expose the debtor, the transferee or the person for whose benefit the transfer was made to additional legal actions by the creditor.

On a final note, while a discharge in bankruptcy can eliminate certain judgments and debts and can cease all collection activities you may still lose your horses. Upon filing for bankruptcy, your assets (horses) become assets of the estate and the bankruptcy trustee may order your horses sold to pay creditors whose debts are not dischargeable.

If you would like more information on this or other topics, please feel free to visit our website or contact our office.

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