

U.T. Law -- CLE
36th Annual Jay L. Westbrook Bankruptcy Conference
November 16 – 17, 2017
Austin Texas

Community Property, Divorce and
Bankruptcy – What could possibly go wrong?

Eduardo V. Rodriguez
United States Bankruptcy Judge,
Southern District of Texas, McAllen Division

§41.001(a)

–A homestead is exempt from seizure
for the claims of creditors except for
encumbrances properly fixed on
homestead property

§41.001(c)

- The homestead claimant’s proceeds of a sale of a homestead are not subject to seizure for a creditor’s claim for six months after the date of sale.

11 U.S.C. § 522(c)

- Unless the case is dismissed, property of the estate exempted under this section is not liable during or after the case for any debt of the debtor that arose, or that is determined under section 502 of this title as if such debt had arisen, before the commencement of the case. . .

11 U.S.C. § 522(l)

- The debtor shall file a list of property that the debtor claims as exempt under subsection (b) of this section
Unless a party in interest objects, the property claimed as exempt on such list is exempt.

White v. Stump, 266 U.S. 310 (1924) Chapter 7 Case

- **Facts:**
 - Debtor attempted to file the homestead declaration after filing bankruptcy.
 - **Holding:**
 - Debtor is not entitled to Idaho exemption. Proceeds are protected only where a declaration that the land is their homestead is filed of record. The point of time which is to separate the old from the new in the bankruptcy's affairs is the date the bankruptcy is filed.
- (Snapshot rule)

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Community Property, Divorce and Bankruptcy—What Could Possibly go Wrong?

First appeared as part of the conference materials for the
36th Annual Jay L. Westbrook Bankruptcy Conference session
"Community Property, Divorce and Bankruptcy—What Could Possibly go Wrong?"