IDEAL Realty & Management
210 N Central Ave. Suite #100 Glendale, Ca 91203
Phone 818 247-7788 **Fax** 213 984-2653 **Email** nbsandco@aol.com **Cell** 818 645-1872
Your 1 Stop Real Estate Services To Buy, Sell, Manage and Lease your Real Estate

PROTECTING YOUR HOME

Since your home has some of your investment money tied up in it, make sure you are protecting that equity.

There are three primary ways that you can protect the equity in your home, in addition to insurance:

1. Homestead exemption.
2. Single-member limited liability company.
3. Debt.

Is insurance enough? In today's world pf outrageous lawsuits and high jury awards, I'm not sure you can be comfortable that the insurance you have is enough. This is especially true if you are a high-lawsuit-risk professional such as doctor or business owner. The problem is that if you have a high profile and people think you're rich, then you've at risk for frivolous lawsuit.

HOMESTEAD EXEMPTION

The homestead exemption protects the equity in your home. The amount of the exemption (or protection) varies by state. If you're in a state that has an unlimited homestead exemption such as Florida or Texas, you're in good shape. Check the amount of your homestead exemption with the local county record's office or assessor's office. If you have more equity in your homestead exemption covers, read on for more ideas on how to protect your equity.

SINGLE-MEMBER LIMITED LIABILITY COMPANY

The LLC is becoming a familiar business structure for holding real estate investments. The LLC is not an entity with a specific taxing structure. It can actually elect how it wants to be taxed. That's the benefit for real estate with no self-employment tax issues and provides good asset protection for the owner.

The IRS issued a new Treasury Regulation in 2002 that stated that a personal residence could now be held within a certain type of LLC and not jeopardize if the home loopholes. Prior to that, the home loopholes were in jeopardy of the home was put in an LLC for asset protection purpose.

The IRS stats that the LLC must be a single-member LLC and "disregarded for income tax purposes".

It is possible for married couple to own a single-member LLC by holding the single-member unit together. In other words, "John and Sally" own one of the membership units instead of John owning one and Sally owning one.

The second requirement for the LLC, that it is "disregarded for income tax purposes", means that you would not apply for an employer identification number (EIN) with the IRS and you would not file a tax return for the entity. What could be easier?

There are two potential issues with the single-member LLC plan, though. First, in states where there is a high cost to maintaining an LLC without triggering a due on sale clause on your mortgage.

The land trust strategy would work in this case. The title for your home is transferred into a land trust. This can be done without triggering a due on sale clause. You then change the beneficial interest from your own name to that of the single-member LLC.

DEBT

Debt is asset protection. Many people are under the mistaken belief that their assets are protected by having more equity. That's why they pay extra every month to pay off their mortgage. Equity actually protects the bank. Consider what happens if you pay extra money each month toward paying down your mortgage. In this example, let's assume that at the end of 10 years, you've paid your loan down by another $50,000.

Now you lose your job and can't pay the mortgage. Worse still, the real estate market has gone soft, meaning that it's hard to sell the property. The bank soon forecloses on your property. The extra money you put down on the property just gave them more equity when they foreclosed on you. What if instead you had taken that extra money and put it into another investment or even just in a savings account? You would have had the money available now to make the payments while you're searched for another job, got your business going, or sold your house. The extra equity in your property was illiquid and so did you no good. Equity protected the bank.

On the other hand, let's assume that you instead keep debt as high as you can on your property by refinancing whenever equity builds up due to debt pay-down and/or appreciation. You take the extra cash you are able to pull out with the refinance and use it to build your business or invest in real estate. Or, under the Jump Start! plan, use the money for living expenses so that the business income can be invested in real estate with the best tax advantages.

Besides putting into play the concepts of leverage and velocity, using debt will protect your house. If you can keep enough debt on your home to reduce the equity to the homestead exemption limitation in your area, you have created great asset protection. Anyone looking to sue you would be dissuaded because of the debt and the homestead exemption.