

ASK THE ADVISERS

The views and opinions expressed in "Ask the Advisers" are solely those of Keith Singer.



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Protecting Your Assets

Florida has some of the most favorable laws for insulating one's assets from the claims of creditors. In most states to protect assets from lawsuits, you need to create an irrevocable trust and move the assets out of your name. Since you no longer own the assets, the assets can't be seized to satisfy a judgment against you.

The downside, besides the legal fees involved in setting up the trust, is that you lose a lot of control over those assets. There are some workarounds like naming your spouse as a beneficiary which allows them to get income from the trust and potentially share that income with you. Also, some states like Delaware and Nevada allow you to set up an irrevocable trust and also be an income beneficiary.

In Florida, it may not be necessary to jump through these hoops because there are several assets any Florida resident can own that are fully protected. Primary residences and retirement accounts are protected from

creditors. Additionally, F.S. 222.14 provides that all cash values of life insurance policies and annuities are completely protected as well.

Unlike retirement accounts which have cumbersome funding limitations, there is no limit to how much money anyone can put into an annuity or life insurance contract. There are even several annuities and life insurance contracts that are completely liquid. You can put unlimited amounts of money into these liquid contracts and take the money out the next day without any cost or legal fees.

Not only can you create a minimum level of wealth that no one can take away, these insurance contracts have some very attractive tax advantages as well. Also, Florida is one of the states that allows married people to own assets as Tenants by Entireties. When assets are held this way, the law treats the asset as owned by the marriage, so a creditor of just one of the spouses can't take this property to satisfy a judgment. Married couples should be sure to title all property this way and not as joint tenants with the right of survivorship.