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# Preserve wealth from calamity

## Special plans can assist more affluent

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Sure, you carry auto and home insurance to protect against fender benders, burglaries and other fairly minor mishaps.

But what sort of protection do you have against major calamities, including lawsuits?

Standard insurance doesn't cover all the bases for affluent individuals who might suddenly find themselves defendants in a courtroom.

Would you be protected if your spouse caused a 10-car pileup on the freeway? Or your teenage son slammed a powerboat into a dock?

What if a meth-using tenant set your rental home ablaze, along with two neighboring properties? If a child wandered into your yard, would your dog maul the youngster?

All sorts of tripwires can trigger lawsuits that could shatter your net worth. That's why many affluent people rely on strategies beyond standard insurance to cover their assets.

"There are a plethora of things out there that could put you into litigation," said Jim Van Weelden, a senior vice president at Phoenix-based Allied Waste, who with his wife, Joyce, decided to take action to plug the gap.

"People litigate at the drop of a hat these days," he said. "You work your whole career to get to a certain point, so it makes sense to try to protect it."

As part of a financial and estate-planning review, the Van Weeldens consulted with estate-planning specialist Susan Brousseau and private banker Susan Pollick, both senior vice presidents at Legacy Bank in Scottsdale, to devise a personal asset-protection plan.

They use several of the following tools:

- **Umbrella insurance**

These policies kick in after a big accident or judgment in which your liability exceeds the limits on standard home and auto policies. Umbrella coverage usually starts at \$1 million and can go much higher. Annual premiums run a few hundred dollars or so for each \$1 million in coverage, though prices vary. If you buy from the same firm that provides your standard insurance, you might get a discount.

Umbrella protection is broad and covers risks that might not be specified in standard policies, including jury awards.

"These policies are good for dog owners," Brousseau said.

#### • **Limited liability companies**

LLCs are liability-deflecting entities that also can be used for estate-planning control issues. They're commonly used for business property, rental properties and other assets. They're cheaper to set up and operate than corporations, with fewer formalities and greater tax flexibility, said attorney Richard Keyt of Keyt Law in Phoenix.

Creditors who win a legal battle can claim assets held by an LLC, but they don't have the power to force a payout. Conversely, that also can cause problems for cash-strapped owners of LLC assets.

"While creditors can't force the sale of property, an owner will suffer if he needs money (from LLC assets) to live on," Keyt said. "But at least an LLC gives the owner leverage to negotiate a settlement."

That is, once a creditor realizes an LLC owner can delay paying, he might be more willing to compromise.

LLCs aren't suitable for all situations or everyone. Attorneys charge several hundred dollars and up to prepare the paperwork, and owners also will face modest filing fees and ongoing oversight duties.

Nor, for various reasons, are they practical for primary homes as they require extra paperwork and fees and can nullify some of the tax benefits associated with residential ownership, said Keyt, who offers a helpful discussion of LLCs at his Web site, [keytlaw.com](http://keytlaw.com).

#### • **Home mortgages**

If you're saddled with heavy debts relative to assets, you don't make an attractive target for a lawsuit. That's the rationale behind maintaining a mortgage on your home, especially a line of credit that you don't need to tap right away.

A line of credit will show up on public real estate records, which could discourage an adversary from suing you.

"You'll have a lien recorded against the property," said Pollick, yet potential litigants won't know how much debt you have incurred.

Other advantages of home-equity lines of credit is they're flexible, easy to obtain and often don't require much in the way of front-end costs.

One problem, of course, is that lines of credit can be a temptation for people with spend-now mentalities.

#### • **Automatic protection**

In contrast to the strategies listed above, two asset-protection tools don't require any action on your part.

One involves the homestead exemption on primary residences that protects \$150,000 in housing equity from creditors in Arizona.

"While some scammers say you have to file a form (and pay a fee) to get the protection, that's not the case," Keyt said.

The homestead feature is helpful for all homeowners, although the \$150,000 limit obviously won't provide complete protection for people with more-expensive dwellings. Nor does it protect against mortgage defaults on a property.

Another type of automatic protection comes with retirement plans. The values of stocks, mutual funds and other assets held within 401(k)-style plans, IRAs, pensions and related accounts are protected against creditors, including those in bankruptcy actions.

Most people don't have the bulk of their net worth tied up in retirement accounts, but this protection comes in handy and provides another reason to invest for retirement.

#### • **Family LPs**

If you decide you need more protection, you might look at family limited partnerships.

These entities rely on a similar trait as LLCs - creditors can't require the owners to distribute payments.

Family LPs are particularly helpful in allowing parents to retain control over family assets that might be endangered by the actions of adult children. Yet family limited partnerships are more costly and complicated to set up and administer compared with LLCs, making them impractical for most.

"They're for people with several million dollars or more to protect," said Creg Ostler of Stoker Ostler Wealth Advisors in Scottsdale.

Because of costs, limitations and other factors, no asset-protection strategies are perfect. But when used in the right combination and circumstances, they can erect formidable lines of defense.

The goal isn't to defraud creditors of reasonable claims but to discourage lawsuits and encourage negotiation.

"All this is designed to make creditors more apt to settle," Brousseau said.

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