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Home Is Where the Tax Exemption Is

By KATE MURPHY

STATE and local governments are cracking down on people for improperly claiming something called the homestead exemption. Take Representative [Charles B. Rangel](#) of New York, who was accused of doing just that on a home he owns in Washington, D.C.

But as the tax authorities look for cheats, they are finding that many people who are eligible for homestead exemptions fail to apply, even though the exemptions can provide valuable breaks on property taxes — the issue in Mr. Rangel's case — as well as protection from creditors.

Although jurisdictions may differ on what qualifies as a homestead, it is generally defined as a home owned and occupied by an individual most of the time. "Your homestead is basically where you live, and because it's where you live, legislators have historically given your homestead special breaks and protections," said Dwight H. Merriam, chairman of the state and local government law section of the [American Bar Association](#) and a partner at the law firm Robinson & Cole in Hartford.

But even though homestead exemptions have been on the books since the late 1800s, many people don't know about them. Tax officials, consumer credit counselors and bankruptcy lawyers said homeowners often don't claim rightful deductions on their property taxes, and are unaware that a homestead, or a significant portion of its value, is often legally protected from creditors unless the house itself is collateral on a debt like a mortgage.

"Homestead exemptions are a right, and it's a shame people who should get them aren't and people who shouldn't get them are," said Jennifer Frastai, city manager administrator for Hallandale Beach, Fla., which two months ago began an intensive effort to stop fraudulent claims. So far, she said, the city has returned \$85 million of taxable property to tax rolls and collected \$1.2 million in back taxes.

Typically, cheaters assert that a home is their primary residence when in fact they live elsewhere much of the time. The claim against Mr. Rangel, for instance, is that he received the exemption on his Washington house while he also got rent benefits in New York City that are conferred only on primary residences.

Tax authorities elsewhere in Florida, as well as in New York, Ohio, South Carolina, Georgia, Texas, Mississippi and the District of Columbia, report similar stepped-up auditing and recouping of funds. And three months ago, LexisNexis, the information services company, began offering the so-called Homestead Exemption Fraud Detection Solution, which allows tax officials to cross-reference homestead registrations with multiple public records databases to find inconsistencies like, for example, a driver's license or voting record in another state that might indicate someone really lives somewhere else.

"We were responding to strong demand from local governments," said Andy Bucholz, director of tax and revenue market for LexisNexis. "The money they are able to reclaim is money they can use to pay teachers or firefighters" who might otherwise be laid off in these difficult economic times.

Homestead benefits vary widely, from a modest percentage reduction in the assessed value of property to its full market value. Taking advantage of them almost always requires registration with the local taxing authority, and many deserving homeowners apparently fail to do so.

Karen McCord, chief appraiser for Ector County in Texas, which includes Odessa, sends out reminders every year to taxpayers about the homestead exemption. But only 60 percent of eligible residents register to receive the benefit. Part of the problem, she said, is that taxes are sometimes folded into mortgage payments, "so people don't realize they could be paying less."

That was the case for William Carter, 67, of Blacklick, Ohio, who registered his homestead with his local tax authorities for the first time this year after living in his house for 11 years. "My property tax bill went to my mortgage company, so I just didn't know anything about a homestead exemption," said Mr. Carter, who is the community development director for a nonprofit organization. "I only learned about it when the tax people brought applications to my church." As a result, he said, he saved \$467 on his 2009 tax bill. "I have a granddaughter in college and she's going to get some of it and I think I'll keep the rest myself," he said.

In Franklin County, Ohio, where Mr. Carter lives, the homestead exemption is available only to people over 65 and to the disabled. But in other parts of the country, all homeowners qualify for homestead exemptions. In New York State, the homestead exemption (known as STAR for School Tax Relief) allows homeowners in some counties to deduct as much as \$1,635 from their property taxes, while those over 65 can deduct up to \$2,940.

The degree to which homesteads are shielded from creditors also varies by location and sometimes by age, marital status and number of children. Homesteads in Florida, for example, are almost entirely protected from seizure by unsecured creditors (those without a lien), which is why [O. J. Simpson's](#) home there remained in his possession even after he had several judgments against him.

Had he declared his homestead in New Jersey, Maryland or Pennsylvania, his creditors could have taken his house because those states have no homestead exemption.

In between these extremes are states like New York, where the homestead protection from creditors is \$50,000. In California, the limit is \$75,000 for those under 65 and \$175,000 for seniors and the disabled. Other states, like Kansas and Iowa, cap homestead protections at a certain amount of acreage rather than a dollar amount.

Here's how these homestead protections work: If a state's exemption is, say, \$50,000, a debtor's equity in his house is protected up to \$50,000. The creditor is entitled to whatever value the home has over that amount that is not already owed on a mortgage or other secured debt like a [home equity loan](#). But the debtor's homestead exemption plus the mortgage obligation is often enough to prevent creditors from forcing a sale — making the protection a valuable one.

Complicating things further is that in some states, such as Kentucky and New Hampshire, the homestead protection from creditors is usually a default right, while in others, such as Idaho and Washington, a legal filing is required in some instances. “The lesson here is that each state is different and anyone concerned about having the homestead exemption available to them should check carefully and perhaps engage a lawyer to advise them as to what they must do,” said Mr. Merriam of the American Bar Association.

Unscrupulous credit collection agencies may add to the confusion by threatening to evict debtors from their houses when that's not legally possible. “It appalls me how many people are scared to death that they are going to be thrown out on the street because they have never heard of the homestead exemption,” said Nina Parker, a consumer bankruptcy lawyer in Winchester, Mass. Whether it's for the tax break or protection from creditors, she said, “Best practice is to register your homestead when you buy your house.”

Many companies advertise online that they will register homesteads for individuals (even in states where it's not required), but an Internet search combining the term “homestead exemption” and the name of your state will usually direct you to the appropriate state or local government site with a form you can download. Although the laws governing homestead exemptions may be varied and complex, the registration process is often easier than applying for a library card.

“It's hard to communicate what people's homestead rights are because the laws are so complicated and there are debt collectors out there spreading misinformation,” said Katherine Porter, a professor at the [University of Iowa](#) College of Law. “Unfortunately, a complex right can be a worthless right to the consumer.”

