

**County of San Diego, Health and Human Services Agency (HHS) (HSA)
CalWORKs Program Guide**

Real Property Temporary Exemption

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Revision Date:

January 1, 2023

Background:

An Assistance Unit (AU) may retain countable resources in accordance to the established limits. The property listed below is exempt for CalWORKs customers unless otherwise noted.

Purpose:

This section addresses regulations on real property temporary exemption. The purpose of this material revision is to reformat this section and to renumber this section from CalWORKs Program Guide (CPG) 42-200.G to 42-200.E. There is no policy change.

Policy:

Temporary Exemption

Real property that is not otherwise excluded is eligible to a one-time only, nine-month exemption from consideration in the resource limit provided the AU signs a lien and agrees to make a good faith effort to sell the property. The exemption is for nine consecutive months regardless of whether the customer remains on aid for the full nine months.

Unless the property becomes unavailable (that is, property is tied up in litigation), the exemption period is interrupted. Once the property becomes available again, the remainder of the exemption period would resume.

- Example 1: Month 1, the AU agrees to the conditions of the exemption. The customer goes off aid in the third month of the exemption. The customer reapplies in month five. The exemption expires at the end of the original nine-month period. A new exemption period is not granted. The customer is not eligible after the original nine months
- Example 2: Month 1, the AU agrees to the conditions of the exemption. In the third month the property becomes unavailable. In the eighth month the property becomes available, the exemption period is to continue for six more months

Requirements for Eligibility

As a condition of receiving aid during the exempt period and prior to the granting of aid, the customer will:

- Grant the County a lien against the property, using a CW 81 *Lien Agreement* form, which will be payable to the County when the property is sold
- Agree in writing to immediately begin making a good faith effort to sell the property by completing the CW 82 *Agreement to Sell Property* form. If the customer elects not to sell the property at any time prior to the expiration of the nine months, the property will no longer be exempt from consideration in the resource limits

Documents in a foreign language cannot be recorded. The non-English CW 81 is provided for translation purposes only. The English CW 81 must be the one that is signed and notarized.

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Completing The Lien

- The CW 81 will be completed by the customer. However, the Human Services specialist (HSS) will assist if requested. Note: The customer must be reminded that liens are legal documents. The document must be completed in black ink. There must be no strikeouts or whiteout
- The customer will grant the lien against the property which will be payable to the County of San Diego when the property is sold
- The lien will clearly show that the purpose of the lien is to repay the county the amount of repayable aid received during the exempt period. The lien, in itself, will not require the sale of the property
- The lien must clearly contain the legal description of the property against which the lien is placed. This description can be obtained from the Tax Assessor's roll of the County where the property is located, current tax bill or Grant Deed
- State the name(s) of the owner(s) of the property as it appears on the County Assessor's roll or the current tax bill. The lien will be binding on the customers and their heirs, executors, administrators, and assignees
- It is the customer's responsibility to have the CW 81 lien notarized. The customer must appear before a notary public, obtain the notary's signature and seal on the CW 81 and return the form to the HSS within ten days
- The original CW 81 is to be sent to Revenue and Recovery (Mail Stop D-60). A copy will be imaged and a copy is given to the customer
- No lien will be attached to the property if the encumbrance on the property is more than the assessed value. The net value of the property must be over the property limit before a lien can be attached or start a nine-month period

Agreement To Sell Property

Each customer completing a CW81 must also complete the CW82. A copy of the CW 82 will be imaged and a copy given to the customer. Under the terms of the agreement, the customer agrees to make a good faith effort to sell the property. The coversheet of the CW 82 explains this agreement. The customer also agrees to try to sell the property at no more than the approximate fair market value.

The CW 82 Coversheet includes a checkbox element that must be checked and completed by the HSS, if appropriate. This checkbox element must be checked and completed if the resource total of the AU falls below the property/resource limit in any one month of the nine-month period of exemption.

After the customer has agreed to sell the property and has signed the lien agreement, the HSS will notify the customer, via the approval Notice of Action (NOA), that their request for cash aid has been approved for nine months as long as otherwise eligible.

The approval NOA will also state that at the end of nine months the AU will be ineligible if the property has not been sold and the combined value of real and personal property continues to exceed the property limit.

Liens As Allowable Encumbrance

Property liens filed to repay CalWORKs grants will be counted as allowable encumbrances when determining the net equity value of the property during eligibility determinations.

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- When establishing the lien, a calculation must be made when the AU is likely to become resource eligible
- The calculation as to when the AU is likely to become resource eligible is made by subtracting the amount of the Maximum Aid Payment (MAP), for each month during the nine-month exemption period, from the AU's net non-exempt resource total
- If the resource total falls below the property limit in any month of the nine-month period, the HSS must set a reminder to determine resource eligibility for that month
- If the net value of the customer's total property and resources fall below the property limit at any point during the lien period, the AU becomes resource eligible and is no longer required to sell the property
- The nine-month exemption period will be rescinded when a customer's total property value falls below the property limit. A NOA is to be mailed notifying the customer that there is no longer a nine-month time limit on their cash aid and the AU is no longer required to sell the property

Good Faith Effort to Sell

In order to make a good faith effort to sell the property, as a condition of receiving aid during the exempt period, the customer will at a minimum, either:

- List the property for sale with a licensed real estate broker at the property's approximate fair market value and be willing to negotiate the terms of the sale with potential buyers
- Make an individual effort to sell the property which will include the following:
 - Advertising once a week in at least one publication of general circulation that the property is for sale
 - Place a sign on the property indicating that the property is for sale. Whenever possible the sign should be visible from the street
 - Offer the property for sale at its approximate fair market value
 - Be willing to negotiate the terms of the sale with potential buyers and respond to all reasonable inquiries about the property

In order to monitor and ensure the customer is meeting the above criteria, the HSS may require the customer provide dated copies of the publication the property is listed in, verify that the sale price of the property is at fair market value by viewing tax statements, contacting real estate agents in the area of the property, and obtain sworn statements that the customer has not/will not refuse reasonable offers.

For purposes of this section, the fair market value of real property is the customer's choice of:

- The assessed value of the property determined by obtaining the current property tax statement identifying the market value (land value plus improvements value) and subtracting allowable encumbrances
- A valuation of the market value of the property obtained by the customer from a licensed real estate broker
- In exceptional circumstances, such as when the property is located in a remote area and it is impossible or impractical to obtain a valuation, and the customer believes that the assessed value is too high or too low, the HSS and the customer may agree on the market value based upon other available information

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Determining Repayable Aid

Any aid paid during the nine-month period or until the property is sold, whichever comes first, will be considered repayable of the sale of the property and will be collectible from the net proceeds of the sale of the property. The amount of repayable aid will be determined as follows:

- If the net proceeds from the sale of property plus the value of other countable real and personal property at the beginning of the exempt period are less than the property/resource limit, there is no repayable aid
 - Property liens established to repay CalWORKs grants will be counted as allowable encumbrances when determining the equity value of real property for eligibility purposes
- If the amount of aid paid during the exempt period exceeds the net proceeds of the sale of the property, the amount of repayable aid is the amount of the net proceeds
 - Example: The AU owns but does not occupy a house and lot. The County exempts the value of this property from the resource limit as allowed under this section. At the end of nine months, the property is sold for \$29,000 and the AU had received \$3,960 in aid payments. The net proceeds of the sale were determined to be \$3,000. The amount of repayable aid is \$3,000 because the net proceeds were less than the amount of aid paid during the exempt period

The net proceeds of the sale are determined by subtracting from the gross amount of the sale the costs verified by the County to be directly related to the sale of the property, such as:

- Loans and liens of the seller, including the lien granted to the County under this section, that are secured by the property
- Title insurance fees paid by the seller
- Brokers fees paid by the seller
- Prepaid interest or loan processing fees (points) paid by the seller
- Appraisal fees paid by the seller
- Fees paid by the seller to advertise the property (that is, ads and for sale signs)

The customer will be informed at the time this exemption is granted, that it is a time-limited exemption, and at the end of nine months, the AU will be ineligible if the property has not been sold and the combined value of real and personal property continues to exceed the property/resource limit.

Documentation will be retained to determine the amount of repayable aid that will be collectible when the property is sold.

Out-of-County Property

Real property located outside of San Diego County may be exempted under this section, if the AU agrees to all the terms outlined in this section. Revenue and Recovery maintains reciprocal filing agreements with all California counties and will take appropriate action to file the lien.

Out-of-Country Property

Real property held by an customer outside of the United States, will continue to be evaluated under availability regulations. If available, the nine-month exemption will be allowed under current regulations. Procedures in this section will be followed for out of country property. However, the lien should not be submitted to Revenue and Recovery, the lien will be imaged. There are no current procedures or

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guidelines for filing liens for property located out of the country. Eligibility exists under this section, for nine months if all other eligibility criteria is met.

Procedure:

None

Impacts:

Refer to CalFresh Program Guide (CFPG) 63-200 for CalFresh regulations related to resource evaluation.

References:

Eligibility and Assistance Standards (EAS) 42-213.12

Sunset Date:

This policy will be reviewed for continuance by January 31, 2026.

Approval for Release:



Rick Wanne, Director
Self-Sufficiency Services