	SSA Intranet
Real Property	100-C6
Approved: ***Signature On File***	Revised 01/06
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PURPOSE

This policy provides interpretation and guidelines for determining the ownership, availability, and exemptions of real property.
Reference: EAS Manual Section 42-200.

DEFINITIONS

Real Property	Real property is land and improvements. Real property includes immovable property attached to the land.
Fair Market Value	Fair Market Value is the applicant/recipient's choice of: • Assessed value, **or** • Valuation from a licensed Real Estate Broker, **or** • In rare circumstances when unable to obtain a valuation, the county and the applicant/recipient may agree on a value based upon available information.
Net Market Value	Net Market Value is a value determined by subtracting any allowable encumbrance against the real property from its fair market value.
Allowable Encumbrance	An allowable encumbrance is money owed against the property such as mortgages, notes and deed of trust, liens, and unpaid balances on property. Evidence of an allowable encumbrance is a written document, which supports it. An affidavit under penalty of perjury by all parties is required for an unwritten encumbrance.

OWNERSHIP

Ownership of Property	The owner of property is the person who has: • Legal title to, or • Right to, or • Possession of the property It is presumed for eligibility purposes that the person who owns the property has the right to possess, use, control, and dispose of the property unless there is evidence to the contrary.
Proof of Ownership	The applicant's declaration that they own the property listed on the Statement of Facts is considered sufficient proof of property ownership. As part of the eligibility determination a worker must assess the availability of property and the share of ownership.
Share of Ownership	Guidelines: 1. The ownership of property may be vested in one individual or shared with others. 2. When property is jointly owned, it must be evaluated to determine each person's share. 3. Only the applicant/recipient's share is considered when the property is jointly owned.

AVAILABILITY

Availability of Real Property	Real property is considered when it is actually available. Property is considered available when the applicant/recipient has a legal interest in a liquidated sum and has the legal ability to make that sum available for support and maintenance. Real property that is not specifically exempted by regulation is considered available unless the applicant/recipient can obtain and provide evidence that the property is currently unavailable. If the applicant/recipient is unwilling to obtain evidence that the property in question is unavailable, the property shall be included in the resource evaluation. **Note:** Availability of property is an issue only if the value of the property affects resource limits.

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Documenting Availability	The method of documenting availability of property is through: • Legal documents. • An affidavit under penalty of perjury may be accepted pending follow-up by the applicant/recipient when legal documents are not immediately available to the applicant/recipient. The case record must clearly document decisions regarding availability/unavailability of property and client's steps to secure availability as required. Copies of supporting documents such as court orders must be on file. Court orders preventing liquidation of property should be reviewed and controls established for follow-up for time expiration of court orders or at next re-determination, whichever comes first.

EXEMPTIONS

Home	A house that is occupied by the Assistance Unit (AU) as their usual home (place of residence) is excluded from the resource limits.
3-month Home Exemption *New Effective 2/06*	If the applicant/recipient enters into a marital separation and moves out of the usual home, then: • The usual home is exempt in determining an applicant's eligibility for CalWORKs and for three months following the end of the month in which aid begins. • The usual home is exempt in evaluating a recipient's retained property during the month of separation and for three months following the end of the month in which the separation occurs. When the above exemption is granted, the applicant/recipient must be informed that the exemption is time limited and that the expiration of the 3-month period may result in ineligibility. If the exemption period ends mid-quarter, determine continued eligibility for the QR payment quarter following the payment quarter in which the exemption period ended. If no other exemption applies, discontinue the case at the end of the QR payment quarter if the total value of property is over the allowable property limit.
Evaluation for Home Exemption Beyond the 3-Month Exemption	At the end of the exempt 3-month period re-evaluate the home for situations that may require the home to remain excluded from property evaluation. To remain exempt following the 3-month exemption period, the home must be either: • Occupied by the recipient or • Unavailable due to legal proceedings affecting a property settlement or sale of this property.
Unavailability of Home	Situations which may require the home to remain excluded from property evaluation due to unavailability may include: • Sale of the home is prohibited by court order. Eligibility continues and no attempt to liquidate is required. The home is considered unavailable.
3-month Home Exemption Correspondence and Notices *New Effective2/06*	CalWIN allows for the manual selection and printing of correspondence at any time. Create a Freeform NOA in CalWIN using the suggested language below. **Note:** Copy and paste text into CalWIN. Then insert property address and exemption end date.
CalWIN Freeform NOA Language *New Effective 2/06*	Regulations allow the value of the home, which was the usual home of a client who has entered into a marital separation, to be exempt in determining eligibility for CalWORKs for a three-month period. Your property at _____ is exempt until _____. At the end of the three-month exemption period, the current availability and value of the property will be determined. This determination could affect your eligibility to assistance. Please notify me at the telephone number listed above if there is a change in your circumstance.

REAL PROPERTY NOT OTHERWISE EXCLUDED

9 Month Exemption	Real property, not otherwise excluded, that the assistance unit is making a good faith effort to sell may be exempt from consideration in the resource limit for a period of no more than 9 consecutive months provided certain conditions are met.

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Client Acknowledgment	As a condition of receiving aid during the exemption period and before granting aid, the applicant/recipient must: 1. Sign a lien which will repay the county any cash aid payments advanced when the property is sold, **and** 2. Agree in writing to make an immediate good faith effort to sell the property.
Written Informing Requirement	When aid is granted under this section, the recipient must be informed in writing that: • The exemption of the property is time-limited. • The exemption of the property is contingent upon good faith efforts to sell the property. • At the end of the 9 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. The *CW82 Coversheet, Important Information About This Agreement*, may be utilized to meet the 9-month exemption period informing requirement.
Resource Eligibility	Resource eligibility is based on value of property at the time of approval of aid. • During the exempt period, if other available resources change, resource eligibility is evaluated without inclusion of exempt property. • When the exempt property is sold and the proceeds become available to the recipient, the total resources are evaluated to determine whether they are within the property limit. • The 9-month period of eligibility is a maximum and is a one-time exemption. If the person withdraws the property from the market before expiration of the exemption period, there is no further exemption. • If the person is discontinued from aid prior to the end of the exemption period, the exemption continues to be effective until the end of the 9-month period. If the person reapplies for aid within the exemption period, the balance of the original exemption is reinstated.
9-Month Exemption Correspondence and Notices *New Effective 2/06*	CalWIN identifies circumstances that require the generation of correspondence and automatically generates the appropriate NOA based on case action. CalWIN also allows for the manual selection and printing of correspondence at any time.
M42-213F	CW Disc-Property Not Sold, Now Counted in Property Reserve

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CONDITIONS OF RECEIVING AID

Lien Against Property	Persons who own real property, which is not otherwise exempted, must as a condition of eligibility, sign the CW82, Agreement To Sell Property and the CW81, Lien, for repayment of aid to be paid from the proceeds of the sale. The lien must be signed before approving aid. The agreement to sell and the lien are only necessary if the net market value of the property, combined with other resources, exceeds the CalWORKs property limits. The lien must be notarized and sent to **Financial Resources Building 151**. Financial Resources will record and keep the lien. Contact CalWORKs Program for County Notary resources. If the full legal description of the property is not available, complete the lien with the information available, and send the Property Summary Request **F063-05-39 (R8/97)** to **Financial Resources** to request the full legal description of the property.
Good Faith Effort to Sell	The recipient must begin a good faith effort to sell the property immediately upon granting of aid. Good faith effort is defined as: 1. List the property for sale at fair market value with a licensed real estate broker and be willing to negotiate terms of the sale with potential buyer, **or** 2. Make an individual effort to sell which includes: • Advertising at least once a week in at least one publication of general circulation. • Placing a sign on the property offering the property for sale. The sign should be placed in a position visible from the street. • Offering the property for sale at its approximate fair market value. • Negotiating the terms of the sale with potential buyers and responding to all reasonable inquiries.

Repayment of Aid	Aid paid during the 9-month exemption period, or until the property is sold, which ever comes first, is collectable from the sale of the property. If the net proceeds from the sale, combined with the value of other nonexempt real and personal property at the beginning of the exempt period, is less than the permitted maximum for resources, no repayment of aid is required. Net proceeds are computed by deducting from the gross sale amount all liens and all costs directly related to selling the property. If the amount of aid paid during the exempt period exceeds the net proceeds, the amount repayable is the amount of the net proceeds. The recipient is not allowed to retain any amount from the sale even though he/she has no other resources. **Note:** Case record must have sufficient documentation of collectable aid given to the recipient at the time the property is sold.

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