

File bankruptcy having a joint bank account with my mother?

What happens to that joint bank account with your elder relative if you have to file bankruptcy? Let's take a look.

Many times someone will sign onto a bank account with an elder relative so that he or she can use that money to take care of the relative if the relative becomes unable to do so. **If the "child" has to file bankruptcy, does that bank account become available for the trustee to take to give to creditors?** Often that bank account has much more money in it than can be "exempted" (protected from creditors) in a bankruptcy.

In California the answer is clear, a resounding NO. Why? Because the California Probate Code (of all places) says "An account belongs, during the lifetime of all parties, to the parties in proportion to the net contributions by each, unless there is clear and convincing evidence of a different intent." That means, of course, that **if all the money in the account came from Mom, then all that money is hers and not yours.** End of story.

For other states, the answer might be different and you would need to check the laws there.

Back to California, make sure your bankruptcy attorney knows about that Probate Code section (5301).

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