

SENATE BILL NO. 333—SENATORS ROBERSON, KIECKHEFER, BROWER, GOICOECHEA, HARDY; GUSTAVSON, LIPPARELLI AND SETTELMAYER

MARCH 16, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the homestead exemption. (BDR 10-971)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to property; changing the homestead exemption from an exemption based on equity to an exemption based on acreage; making various other changes concerning certain property that is exempt from execution; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, the Legislature is required to provide for a homestead that
2 is exempt from forced sale under any process of law to satisfy the demands of
3 certain creditors. (Nev. Const., Art. 4, § 30) Existing law allows an owner to claim
4 as homestead: (1) a dwelling house and its appurtenances, together with the land on
5 which they are located; (2) a mobile home, whether or not the underlying land is
6 owned by the claimant; and (3) a condominium or other unit in a common interest
7 community. (NRS 115.005) Existing law imposes certain limits on the homestead
8 exemption. In particular, the exemption cannot exceed the amount of equity that the
9 owner has in the homestead property that is in excess of \$550,000, unless the owner
10 holds allodial title to the homestead property. (NRS 115.010) Existing law also
11 provides a comparable \$550,000 exemption from execution for the equity that a
12 judgment debtor has in a dwelling that he or she owns and occupies as a home, but
13 who does not own the land on which the dwelling is situated. (NRS 21.090)

14 At least five states – Florida, Iowa, Kansas, Oklahoma and Texas – do not base
15 their homestead exemptions on the value of the person’s equity in the property.
16 Instead, those states base their homestead exemptions on the size and type of land
17 on which the homestead residence is located. For example, Texas’s homestead
18 allowance exempts from creditors’ claims the dwelling and other improvements
19 located on up to 5 acres of land used for an urban home or up to 200 acres of land
20 used for a rural home. (Texas. Const. Art. XVI, § 51; Tex. Prop. Code § 41.002)

21 This bill replaces the existing equity-based homestead exemption with one that
22 provides an unlimited exemption for the dwelling, mobile home, condominium or



23 other common-interest unit claimed as homestead, but limits the exemption
24 available for any land that is included in the homestead property to not more than 5
25 acres of any land that is urban in character or 100 acres of land in total. This bill
26 also eliminates the \$550,000 limitation on the exemption from execution of a
27 judgment debtor for a dwelling that he or she owns and occupies as a home but
28 does not own the land on which the dwelling is situated.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 115 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *For the purposes of this chapter, land is urban in character if it*
4 *is identified or treated as such in the master plan and zoning*
5 *ordinances and regulations adopted by the governmental entity*
6 *with jurisdiction over the land.*

7 **Sec. 2.** NRS 115.005 is hereby amended to read as follows:

8 115.005 As used in this chapter, unless the context otherwise
9 requires ‡:

10 ~~1. "Equity" means the amount that is determined by subtracting~~
11 ~~from the fair market value of the property the value of any liens~~
12 ~~excepted from the homestead exemption pursuant to subsection 3 of~~
13 ~~NRS 115.010 or NRS 115.090.~~

14 ~~2. "Homestead" , "homestead" means the property consisting~~
15 ~~of:~~

16 ~~(a) 1.~~ A quantity of land, together with the dwelling house
17 thereon and its appurtenances;

18 ~~(b) 2.~~ A mobile home whether or not the underlying land is
19 owned by the claimant; or

20 ~~(c) 3.~~ A unit, whether real or personal property, existing
21 pursuant to chapter 116 or 117 of NRS, with any appurtenant
22 limited common elements and its interest in the common elements
23 of the common-interest community,

24 ~~↳ to be selected by the husband and wife, or either of them, or a~~
25 ~~single person claiming the homestead.~~

26 **Sec. 3.** NRS 115.010 is hereby amended to read as follows:

27 115.010 1. The homestead is not subject to forced sale on
28 execution or any final process from any court, except as otherwise
29 provided by subsections 2, 3 and 5, and NRS 115.090 and except as
30 otherwise required by federal law.

31 2. The exemption provided in subsection 1 extends only to
32 ~~[that amount of equity in]~~ the property held by the claimant which
33 ~~[does not exceed \$550,000 in value.]~~ *consists of:*



* S B 3 3 3 *

1 (a) *A dwelling house and its appurtenances together with the*
2 *land on which they are located which may not exceed 5 acres of*
3 *any land that is urban in character or 100 acres of land in total;*

4 (b) *A mobile home and, if the mobile home is located on land*
5 *owned by the claimant, not more than 5 acres of any land that is*
6 *urban in character or 100 acres of land in total; or*

7 (c) *A unit, whether real or personal property, existing*
8 *pursuant to chapter 116 or 117 of NRS, with any appurtenant*
9 *limited common elements and its interest in the common elements*
10 *of the common-interest community, except that the quantity of*
11 *land represented by the unit's interest in the common elements*
12 *may not exceed 5 acres of any land that is urban in character or*
13 *100 acres of land in total,*

14 ↪ unless allodial title has been established and not relinquished, in
15 which case the exemption provided in subsection 1 extends to ~~all~~
16 ~~equity in~~ the dwelling, its appurtenances and the land on which it is
17 located ~~+~~ *as described in the certificate of allodial title issued by*
18 *the State Treasurer pursuant to NRS 361.900.*

19 3. Except as otherwise provided in subsection 4, the exemption
20 provided in subsection 1 does not extend to process to enforce the
21 payment of obligations contracted for the purchase of the property,
22 or for improvements made thereon, including any mechanic's lien
23 lawfully obtained, or for legal taxes, or for:

24 (a) Any mortgage or deed of trust thereon executed and given,
25 including, without limitation, any second or subsequent mortgage,
26 mortgage obtained through refinancing, line of credit taken against
27 the property and a home equity loan; or

28 (b) Any lien to which prior consent has been given through the
29 acceptance of property subject to any recorded declaration of
30 restrictions, deed restriction, restrictive covenant or equitable
31 servitude, specifically including any lien in favor of an association
32 pursuant to NRS 116.3116 or 117.070,

33 ↪ by both husband and wife, when that relation exists.

34 4. If allodial title has been established and not relinquished, the
35 exemption provided in subsection 1 extends to process to enforce
36 the payment of obligations contracted for the purchase of the
37 property, and for improvements made thereon, including any
38 mechanic's lien lawfully obtained, and for legal taxes levied by a
39 state or local government, and for:

40 (a) Any mortgage or deed of trust thereon; and

41 (b) Any lien even if prior consent has been given through the
42 acceptance of property subject to any recorded declaration of
43 restrictions, deed restriction, restrictive covenant or equitable
44 servitude, specifically including any lien in favor of an association
45 pursuant to NRS 116.3116 or 117.070,



1 ↪ unless a waiver for the specific obligation to which the judgment
2 relates has been executed by all allodial titleholders of the property.

3 5. Establishment of allodial title does not exempt the property
4 from forfeiture pursuant to NRS 179.1156 to 179.121, inclusive,
5 179.1211 to 179.1235, inclusive, or 207.350 to 207.520, inclusive.

6 6. Any declaration of homestead which has been filed before
7 ~~July 1, 2007,~~ **October 1, 2015**, shall be deemed to have been
8 amended on that date by extending the homestead exemption
9 commensurate with any increase in the ~~amount of equity~~ **interest**
10 held by the claimant in the property selected and claimed for the
11 exemption ~~up to the amount~~ **as** permitted by law on that date, but
12 the increase does not impair the right of any creditor to execute
13 upon the property when that right existed before ~~July 1, 2007,~~
14 **October 1, 2015**.

15 **Sec. 4.** NRS 115.020 is hereby amended to read as follows:

16 115.020 1. The selection must be made by either the husband
17 or wife, or both of them, or the single person, declaring an intention
18 in writing to claim the property as a homestead. The selection may
19 be made on the form prescribed by the Real Estate Division of the
20 Department of Business and Industry pursuant to NRS 115.025.

21 2. The declaration must state:

22 (a) When made by a married person or persons, that they or
23 either of them are married, or if not married, that he or she is a
24 householder.

25 (b) When made by a married person or persons, that they or
26 either of them, as the case may be, are, at the time of making the
27 declaration, residing with their family, or with the person or persons
28 under their care and maintenance, on the premises, particularly
29 describing the premises.

30 (c) When made by any claimant under this section, that it is their
31 or his or her intention to use and claim the property as a homestead.

32 ***(d) A description of any land that is included in the property***
33 ***claimed as homestead. The description must include, without***
34 ***limitation, the acreage of any land that is urban in character and***
35 ***the total acreage of all land claimed.***

36 3. The declaration must be signed by the person or persons
37 making it and acknowledged and recorded as conveyances affecting
38 real property are required to be acknowledged and recorded. If the
39 property declared upon as a homestead is the separate property of
40 either spouse, both must join in the execution and acknowledgment
41 of the declaration.

42 4. If a person solicits another person to allow the soliciting
43 person to file a declaration of homestead on behalf of the other
44 person and charges or accepts a fee or other valuable consideration
45 for recording the declaration of homestead for the other person, the



1 soliciting person shall, before the declaration is recorded or before
2 the fee or other valuable consideration is charged to or accepted
3 from the other person, provide that person with a notice written in
4 bold type which states that:

5 (a) Except for the fee which may be charged by the county
6 recorder for recording a declaration of homestead, a declaration of
7 homestead may be recorded in the county in which the property is
8 located without the payment of a fee; and

9 (b) The person may record the declaration of homestead on his
10 or her own behalf.

11 ➔ The notice must clearly indicate the amount of the fee which may
12 be charged by the county recorder for recording a declaration of
13 homestead.

14 5. The rights acquired by declaring a homestead are not
15 extinguished by the conveyance of the underlying property in trust
16 for the benefit of the person or persons who declared it. A trustee
17 may by similar declaration claim property, held by the trustee, as a
18 homestead for the settlor or for one or more beneficiaries of the
19 trust, or both, if the person or persons for whom the claim is made
20 reside on or in the property.

21 6. A person who violates the provisions of subsection 4 is
22 guilty of a misdemeanor.

23 **Sec. 5.** NRS 115.050 is hereby amended to read as follows:

24 115.050 1. Whenever execution has been issued against the
25 property of a party claiming the property as a homestead, and
26 the creditor in the judgment makes an oath before the judge of the
27 district court of the county in which the property is situated that the
28 ~~amount of equity~~ **quantity of land included in the property** held
29 by the claimant ~~in the property~~ exceeds, to the best of the
30 creditor's information and belief, the ~~sum of \$550,000,~~ **quantity**
31 **allowed by NRS 115.010**, the judge shall, upon notice to the debtor,
32 appoint three disinterested and competent persons as appraisers to
33 estimate and report as to the ~~amount of equity~~ **quantity of land**
34 held by the claimant in the property and, if the ~~amount of equity~~
35 **quantity of land** exceeds ~~the sum of \$550,000,~~ **the quantity**
36 **allowed by NRS 115.010**, determine whether the property can be
37 divided so as to leave the property subject to the homestead
38 exemption without material injury.

39 2. If it appears, upon the report, to the satisfaction of the judge
40 that the property can be thus divided, the judge shall order the
41 excess to be sold under execution. If it appears that the property
42 cannot be thus divided, and the ~~amount of equity~~ **quantity of land**
43 held by the claimant in the property exceeds the ~~exemption~~
44 **quantity** allowed by ~~this chapter,~~ **NRS 115.010**, the judge shall
45 order the entire property to be sold, and ~~out~~ **allocate the share** of



1 the proceeds ~~{the sum of \$550,000}~~ *that represents the reasonable*
2 *value of the property allowable as homestead pursuant to NRS*
3 *115.010, as determined by the appraisers appointed pursuant to*
4 *subsection 1*, to be paid to the defendant in execution, and the
5 excess to be applied to the satisfaction on the execution. ~~{No bid~~
6 ~~under \$550,000 may be received by the officer making the sale.}~~

7 3. When the execution is against a husband or wife, the judge
8 may direct the ~~[\$550,000}~~ *share of proceeds allocated to the*
9 *husband and wife pursuant to subsection 2* to be deposited in
10 court, to be paid out only upon the joint receipt of the husband and
11 wife, and the deposit possesses all the protection against legal
12 process and voluntary disposition by either spouse as did the
13 original homestead.

14 **Sec. 6.** NRS 21.075 is hereby amended to read as follows:

15 21.075 1. Execution on the writ of execution by levying on
16 the property of the judgment debtor may occur only if the sheriff
17 serves the judgment debtor with a notice of the writ of execution
18 pursuant to NRS 21.076 and a copy of the writ. The notice must
19 describe the types of property exempt from execution and explain
20 the procedure for claiming those exemptions in the manner required
21 in subsection 2. The clerk of the court shall attach the notice to the
22 writ of execution at the time the writ is issued.

23 2. The notice required pursuant to subsection 1 must be
24 substantially in the following form:

25
26 NOTICE OF EXECUTION

27
28 YOUR PROPERTY IS BEING ATTACHED OR
29 YOUR WAGES ARE BEING GARNISHED

30
31 A court has determined that you owe money to
32 (name of person), the judgment creditor. The
33 judgment creditor has begun the procedure to collect that
34 money by garnishing your wages, bank account and other
35 personal property held by third persons or by taking money or
36 other property in your possession.

37 Certain benefits and property owned by you may be
38 exempt from execution and may not be taken from you. The
39 following is a partial list of exemptions:

40 1. Payments received pursuant to the federal Social
41 Security Act, including, without limitation, retirement and
42 survivors' benefits, supplemental security income benefits
43 and disability insurance benefits.

44 2. Payments for benefits or the return of contributions
45 under the Public Employees' Retirement System.



1 3. Payments for public assistance granted through the
2 Division of Welfare and Supportive Services of the
3 Department of Health and Human Services or a local
4 governmental entity.

5 4. Proceeds from a policy of life insurance.

6 5. Payments of benefits under a program of industrial
7 insurance.

8 6. Payments received as disability, illness or
9 unemployment benefits.

10 7. Payments received as unemployment compensation.

11 8. Veteran's benefits.

12 9. A homestead in a dwelling or a mobile home, ~~not to~~
13 ~~exceed \$550,000,~~ *as determined pursuant to NRS 115.010,*
14 unless:

15 (a) The judgment is for a medical bill, in which case all of
16 the primary dwelling, including a mobile or manufactured
17 home, may be exempt.

18 (b) Allodial title has been established and not relinquished
19 for the dwelling or mobile home, in which case all of the
20 dwelling or mobile home and its appurtenances are exempt,
21 including the land on which they are located, unless a valid
22 waiver executed pursuant to NRS 115.010 is applicable to the
23 judgment.

24 10. All money reasonably deposited with a landlord by
25 you to secure an agreement to rent or lease a dwelling that is
26 used by you as your primary residence, except that such
27 money is not exempt with respect to a landlord or landlord's
28 successor in interest who seeks to enforce the terms of the
29 agreement to rent or lease the dwelling.

30 11. A vehicle, if your equity in the vehicle is less than
31 \$15,000.

32 12. Seventy-five percent of the take-home pay for any
33 workweek, unless the weekly take-home pay is less than 50
34 times the federal minimum hourly wage, in which case the
35 entire amount may be exempt.

36 13. Money, not to exceed \$500,000 in present value,
37 held in:

38 (a) An individual retirement arrangement which conforms
39 with the applicable limitations and requirements of section
40 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408
41 and 408A;

42 (b) A written simplified employee pension plan which
43 conforms with the applicable limitations and requirements of
44 section 408 of the Internal Revenue Code, 26 U.S.C. § 408;



1 (c) A cash or deferred arrangement that is a qualified plan
2 pursuant to the Internal Revenue Code;

3 (d) A trust forming part of a stock bonus, pension or
4 profit-sharing plan that is a qualified plan pursuant to sections
5 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et
6 seq.; and

7 (e) A trust forming part of a qualified tuition program
8 pursuant to chapter 353B of NRS, any applicable regulations
9 adopted pursuant to chapter 353B of NRS and section 529 of
10 the Internal Revenue Code, 26 U.S.C. § 529, unless the
11 money is deposited after the entry of a judgment against the
12 purchaser or account owner or the money will not be used by
13 any beneficiary to attend a college or university.

14 14. All money and other benefits paid pursuant to the
15 order of a court of competent jurisdiction for the support,
16 education and maintenance of a child, whether collected by
17 the judgment debtor or the State.

18 15. All money and other benefits paid pursuant to the
19 order of a court of competent jurisdiction for the support and
20 maintenance of a former spouse, including the amount of any
21 arrearages in the payment of such support and maintenance to
22 which the former spouse may be entitled.

23 16. Regardless of whether a trust contains a spendthrift
24 provision:

25 (a) A present or future interest in the income or principal
26 of a trust that is a contingent interest, if the contingency has
27 not been satisfied or removed;

28 (b) A present or future interest in the income or principal
29 of a trust for which discretionary power is held by a trustee to
30 determine whether to make a distribution from the trust, if the
31 interest has not been distributed from the trust;

32 (c) The power to direct dispositions of property in the
33 trust, other than such a power held by a trustee to distribute
34 property to a beneficiary of the trust;

35 (d) Certain powers held by a trust protector or certain
36 other persons; and

37 (e) Any power held by the person who created the trust.

38 17. If a trust contains a spendthrift provision:

39 (a) A present or future interest in the income or principal
40 of a trust that is a mandatory interest in which the trustee does
41 not have discretion concerning whether to make the
42 distribution from the trust, if the interest has not been
43 distributed from the trust; and

44 (b) A present or future interest in the income or principal
45 of a trust that is a support interest in which the standard for



1 distribution may be interpreted by the trustee or a court, if the
2 interest has not been distributed from the trust.

3 18. A vehicle for use by you or your dependent which is
4 specially equipped or modified to provide mobility for a
5 person with a permanent disability.

6 19. A prosthesis or any equipment prescribed by a
7 physician or dentist for you or your dependent.

8 20. Payments, in an amount not to exceed \$16,150,
9 received as compensation for personal injury, not including
10 compensation for pain and suffering or actual pecuniary loss,
11 by the judgment debtor or by a person upon whom the
12 judgment debtor is dependent at the time the payment is
13 received.

14 21. Payments received as compensation for the wrongful
15 death of a person upon whom the judgment debtor was
16 dependent at the time of the wrongful death, to the extent
17 reasonably necessary for the support of the judgment debtor
18 and any dependent of the judgment debtor.

19 22. Payments received as compensation for the loss of
20 future earnings of the judgment debtor or of a person upon
21 whom the judgment debtor is dependent at the time the
22 payment is received, to the extent reasonably necessary for
23 the support of the judgment debtor and any dependent of the
24 judgment debtor.

25 23. Payments received as restitution for a criminal act.

26 24. Personal property, not to exceed \$1,000 in total
27 value, if the property is not otherwise exempt from execution.

28 25. A tax refund received from the earned income credit
29 provided by federal law or a similar state law.

30 26. Stock of a corporation described in subsection 2 of
31 NRS 78.746 except as set forth in that section.

32 ↪ These exemptions may not apply in certain cases such as a
33 proceeding to enforce a judgment for support of a person or a
34 judgment of foreclosure on a mechanic's lien. You should
35 consult an attorney immediately to assist you in determining
36 whether your property or money is exempt from execution. If
37 you cannot afford an attorney, you may be eligible for
38 assistance through (name of organization in
39 county providing legal services to indigent or elderly
40 persons). If you do not wish to consult an attorney or receive
41 legal services from an organization that provides assistance to
42 persons who qualify, you may obtain the form to be used to
43 claim an exemption from the clerk of the court.



1 PROCEDURE FOR CLAIMING EXEMPT PROPERTY
2

3 If you believe that the money or property taken from you
4 is exempt, you must complete and file with the clerk of the
5 court an executed claim of exemption. A copy of the claim of
6 exemption must be served upon the sheriff, the garnishee and
7 the judgment creditor within 10 days after the notice of
8 execution or garnishment is served on you by mail pursuant
9 to NRS 21.076 which identifies the specific property that is
10 being levied on. The property must be released by the
11 garnishee or the sheriff within 9 judicial days after you serve
12 the claim of exemption upon the sheriff, garnishee and
13 judgment creditor, unless the sheriff or garnishee receives a
14 copy of an objection to the claim of exemption and a notice
15 for a hearing to determine the issue of exemption. If this
16 happens, a hearing will be held to determine whether the
17 property or money is exempt. The objection to the claim of
18 exemption and notice for the hearing to determine the issue of
19 exemption must be filed within 8 judicial days after the claim
20 of exemption is served on the judgment creditor by mail or in
21 person and served on the judgment debtor, the sheriff and any
22 garnishee not less than 5 judicial days before the date set for
23 the hearing. The hearing to determine whether the property or
24 money is exempt must be held within 7 judicial days after the
25 objection to the claim of exemption and notice for the hearing
26 is filed. You may be able to have your property released more
27 quickly if you mail to the judgment creditor or the attorney of
28 the judgment creditor written proof that the property is
29 exempt. Such proof may include, without limitation, a letter
30 from the government, an annual statement from a pension
31 fund, receipts for payment, copies of checks, records from
32 financial institutions or any other document which
33 demonstrates that the money in your account is exempt.
34

35 IF YOU DO NOT FILE THE EXECUTED CLAIM OF
36 EXEMPTION WITHIN THE TIME SPECIFIED, YOUR
37 PROPERTY MAY BE SOLD AND THE MONEY GIVEN
38 TO THE JUDGMENT CREDITOR, EVEN IF THE
39 PROPERTY OR MONEY IS EXEMPT.
40

41 **Sec. 7.** NRS 21.090 is hereby amended to read as follows:
42 21.090 1. The following property is exempt from execution,
43 except as otherwise specifically provided in this section or required
44 by federal law:



1 (a) Private libraries, works of art, musical instruments and
2 jewelry not to exceed \$5,000 in value, belonging to the judgment
3 debtor or a dependent of the judgment debtor, to be selected by the
4 judgment debtor, and all family pictures and keepsakes.

5 (b) Necessary household goods, furnishings, electronics,
6 wearing apparel, other personal effects and yard equipment, not to
7 exceed \$12,000 in value, belonging to the judgment debtor or a
8 dependent of the judgment debtor, to be selected by the judgment
9 debtor.

10 (c) Farm trucks, farm stock, farm tools, farm equipment,
11 supplies and seed not to exceed \$4,500 in value, belonging to the
12 judgment debtor to be selected by the judgment debtor.

13 (d) Professional libraries, equipment, supplies, and the tools,
14 inventory, instruments and materials used to carry on the trade or
15 business of the judgment debtor for the support of the judgment
16 debtor and his or her family not to exceed \$10,000 in value.

17 (e) The cabin or dwelling of a miner or prospector, the miner's
18 or prospector's cars, implements and appliances necessary for
19 carrying on any mining operations and the mining claim actually
20 worked by the miner or prospector, not exceeding \$4,500 in total
21 value.

22 (f) Except as otherwise provided in paragraph (p), one vehicle if
23 the judgment debtor's equity does not exceed \$15,000 or the
24 creditor is paid an amount equal to any excess above that equity.

25 (g) For any workweek, 75 percent of the disposable earnings of
26 a judgment debtor during that week, or 50 times the minimum
27 hourly wage prescribed by section 6(a)(1) of the federal Fair Labor
28 Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the
29 time the earnings are payable, whichever is greater. Except as
30 otherwise provided in paragraphs (o), (s) and (t), the exemption
31 provided in this paragraph does not apply in the case of any order of
32 a court of competent jurisdiction for the support of any person, any
33 order of a court of bankruptcy or of any debt due for any state or
34 federal tax. As used in this paragraph:

35 (1) "Disposable earnings" means that part of the earnings of
36 a judgment debtor remaining after the deduction from those earnings
37 of any amounts required by law to be withheld.

38 (2) "Earnings" means compensation paid or payable for
39 personal services performed by a judgment debtor in the regular
40 course of business, including, without limitation, compensation
41 designated as income, wages, tips, a salary, a commission or a
42 bonus. The term includes compensation received by a judgment
43 debtor that is in the possession of the judgment debtor,
44 compensation held in accounts maintained in a bank or any other



1 financial institution or, in the case of a receivable, compensation
2 that is due the judgment debtor.

3 (h) All fire engines, hooks and ladders, with the carts, trucks and
4 carriages, hose, buckets, implements and apparatus thereunto
5 appertaining, and all furniture and uniforms of any fire company or
6 department organized under the laws of this State.

7 (i) All arms, uniforms and accouterments required by law to be
8 kept by any person, and also one gun, to be selected by the debtor.

9 (j) All courthouses, jails, public offices and buildings, lots,
10 grounds and personal property, the fixtures, furniture, books, papers
11 and appurtenances belonging and pertaining to the courthouse, jail
12 and public offices belonging to any county of this State, all
13 cemeteries, public squares, parks and places, public buildings, town
14 halls, markets, buildings for the use of fire departments and military
15 organizations, and the lots and grounds thereto belonging and
16 appertaining, owned or held by any town or incorporated city, or
17 dedicated by the town or city to health, ornament or public use, or
18 for the use of any fire or military company organized under the laws
19 of this State and all lots, buildings and other school property owned
20 by a school district and devoted to public school purposes.

21 (k) All money, benefits, privileges or immunities accruing or in
22 any manner growing out of any life insurance.

23 (l) The homestead as provided for by law, including a
24 homestead for which allodial title has been established and not
25 relinquished and for which a waiver executed pursuant to NRS
26 115.010 is not applicable.

27 (m) The dwelling of the judgment debtor occupied as a home for
28 himself or herself and family, where the ~~amount of equity held by~~
29 ~~the judgment debtor in the home does not exceed \$550,000 in value~~
30 ~~and the~~ dwelling is situated upon lands not owned by the judgment
31 debtor.

32 (n) All money reasonably deposited with a landlord by the
33 judgment debtor to secure an agreement to rent or lease a dwelling
34 that is used by the judgment debtor as his or her primary residence,
35 except that such money is not exempt with respect to a landlord or
36 the landlord's successor in interest who seeks to enforce the terms of
37 the agreement to rent or lease the dwelling.

38 (o) All property in this State of the judgment debtor where the
39 judgment is in favor of any state for failure to pay that state's
40 income tax on benefits received from a pension or other retirement
41 plan.

42 (p) Any vehicle owned by the judgment debtor for use by the
43 judgment debtor or the judgment debtor's dependent that is
44 equipped or modified to provide mobility for a person with a
45 permanent disability.



1 (q) Any prosthesis or equipment prescribed by a physician or
2 dentist for the judgment debtor or a dependent of the debtor.

3 (r) Money, not to exceed \$500,000 in present value, held in:

4 (1) An individual retirement arrangement which conforms
5 with the applicable limitations and requirements of section 408 or
6 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

7 (2) A written simplified employee pension plan which
8 conforms with the applicable limitations and requirements of section
9 408 of the Internal Revenue Code, 26 U.S.C. § 408;

10 (3) A cash or deferred arrangement which is a qualified plan
11 pursuant to the Internal Revenue Code;

12 (4) A trust forming part of a stock bonus, pension or profit-
13 sharing plan which is a qualified plan pursuant to sections 401 et
14 seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

15 (5) A trust forming part of a qualified tuition program
16 pursuant to chapter 353B of NRS, any applicable regulations
17 adopted pursuant to chapter 353B of NRS and section 529 of the
18 Internal Revenue Code, 26 U.S.C. § 529, unless the money is
19 deposited after the entry of a judgment against the purchaser or
20 account owner or the money will not be used by any beneficiary to
21 attend a college or university.

22 (s) All money and other benefits paid pursuant to the order of a
23 court of competent jurisdiction for the support, education and
24 maintenance of a child, whether collected by the judgment debtor or
25 the State.

26 (t) All money and other benefits paid pursuant to the order of a
27 court of competent jurisdiction for the support and maintenance of a
28 former spouse, including the amount of any arrearages in the
29 payment of such support and maintenance to which the former
30 spouse may be entitled.

31 (u) Payments, in an amount not to exceed \$16,150, received as
32 compensation for personal injury, not including compensation for
33 pain and suffering or actual pecuniary loss, by the judgment debtor
34 or by a person upon whom the judgment debtor is dependent at the
35 time the payment is received.

36 (v) Payments received as compensation for the wrongful death
37 of a person upon whom the judgment debtor was dependent at the
38 time of the wrongful death, to the extent reasonably necessary for
39 the support of the judgment debtor and any dependent of the
40 judgment debtor.

41 (w) Payments received as compensation for the loss of future
42 earnings of the judgment debtor or of a person upon whom the
43 judgment debtor is dependent at the time the payment is received, to
44 the extent reasonably necessary for the support of the judgment
45 debtor and any dependent of the judgment debtor.



- 1 (x) Payments received as restitution for a criminal act.
- 2 (y) Payments received pursuant to the federal Social Security
3 Act, including, without limitation, retirement and survivors'
4 benefits, supplemental security income benefits and disability
5 insurance benefits.
- 6 (z) Any personal property not otherwise exempt from execution
7 pursuant to this subsection belonging to the judgment debtor,
8 including, without limitation, the judgment debtor's equity in any
9 property, money, stocks, bonds or other funds on deposit with a
10 financial institution, not to exceed \$1,000 in total value, to be
11 selected by the judgment debtor.
- 12 (aa) Any tax refund received by the judgment debtor that is
13 derived from the earned income credit described in section 32 of the
14 Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided
15 pursuant to a state law.
- 16 (bb) Stock of a corporation described in subsection 2 of NRS
17 78.746 except as set forth in that section.
- 18 (cc) Regardless of whether a trust contains a spendthrift
19 provision:
- 20 (1) A distribution interest in the trust as defined in NRS
21 163.4155 that is a contingent interest, if the contingency has not
22 been satisfied or removed;
- 23 (2) A distribution interest in the trust as defined in NRS
24 163.4155 that is a discretionary interest as described in NRS
25 163.4185, if the interest has not been distributed;
- 26 (3) A power of appointment in the trust as defined in NRS
27 163.4157 regardless of whether the power has been exercised;
- 28 (4) A power listed in NRS 163.5553 that is held by a trust
29 protector as defined in NRS 163.5547 or any other person regardless
30 of whether the power has been exercised; and
- 31 (5) A reserved power in the trust as defined in NRS 163.4165
32 regardless of whether the power has been exercised.
- 33 (dd) If a trust contains a spendthrift provision:
- 34 (1) A distribution interest in the trust as defined in NRS
35 163.4155 that is a mandatory interest as described in NRS 163.4185,
36 if the interest has not been distributed; and
- 37 (2) Notwithstanding a beneficiary's right to enforce a support
38 interest, a distribution interest in the trust as defined in NRS
39 163.4155 that is a support interest as described in NRS 163.4185, if
40 the interest has not been distributed.
- 41 (ee) Proceeds received from a private disability insurance plan.
- 42 (ff) Money in a trust fund for funeral or burial services pursuant
43 to NRS 689.700.



1 (gg) Compensation that was payable or paid pursuant to
2 chapters 616A to 616D, inclusive, or chapter 617 of NRS as
3 provided in NRS 616C.205.

4 (hh) Unemployment compensation benefits received pursuant to
5 NRS 612.710.

6 (ii) Benefits or refunds payable or paid from the Public
7 Employees' Retirement System pursuant to NRS 286.670.

8 (jj) Money paid or rights existing for vocational rehabilitation
9 pursuant to NRS 615.270.

10 (kk) Public assistance provided through the Department of
11 Health and Human Services pursuant to NRS 422.291 and
12 422A.325.

13 (ll) Child welfare assistance provided pursuant to NRS 432.036.

14 2. Except as otherwise provided in NRS 115.010, no article or
15 species of property mentioned in this section is exempt from
16 execution issued upon a judgment to recover for its price, or upon a
17 judgment of foreclosure of a mortgage or other lien thereon.

18 3. Any exemptions specified in subsection (d) of section 522 of
19 the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to
20 property owned by a resident of this State unless conferred also by
21 subsection 1, as limited by subsection 2.

22 **Sec. 8.** NRS 31.045 is hereby amended to read as follows:

23 31.045 1. Execution on the writ of attachment by attaching
24 property of the defendant may occur only if:

25 (a) The judgment creditor serves the defendant with notice of
26 the execution when the notice of the hearing is served pursuant to
27 NRS 31.013; or

28 (b) Pursuant to an ex parte hearing, the sheriff serves upon the
29 judgment debtor notice of the execution and a copy of the writ at the
30 same time and in the same manner as set forth in NRS 21.076.

31 ➤ If the attachment occurs pursuant to an ex parte hearing, the clerk
32 of the court shall attach the notice to the writ of attachment at the
33 time the writ is issued.

34 2. The notice required pursuant to subsection 1 must be
35 substantially in the following form:

36
37 NOTICE OF EXECUTION

38
39 YOUR PROPERTY IS BEING ATTACHED OR
40 YOUR WAGES ARE BEING GARNISHED

41
42 Plaintiff, (name of person), alleges that you
43 owe the plaintiff money. The plaintiff has begun the
44 procedure to collect that money. To secure satisfaction of
45 judgment, the court has ordered the garnishment of your



1 wages, bank account or other personal property held by third
2 persons or the taking of money or other property in your
3 possession.

4 Certain benefits and property owned by you may be
5 exempt from execution and may not be taken from you. The
6 following is a partial list of exemptions:

7 1. Payments received pursuant to the federal Social
8 Security Act, including, without limitation, retirement and
9 survivors' benefits, supplemental security income benefits
10 and disability insurance benefits.

11 2. Payments for benefits or the return of contributions
12 under the Public Employees' Retirement System.

13 3. Payments for public assistance granted through the
14 Division of Welfare and Supportive Services of the
15 Department of Health and Human Services or a local
16 governmental entity.

17 4. Proceeds from a policy of life insurance.

18 5. Payments of benefits under a program of industrial
19 insurance.

20 6. Payments received as disability, illness or
21 unemployment benefits.

22 7. Payments received as unemployment compensation.

23 8. Veteran's benefits.

24 9. A homestead in a dwelling or a mobile home, ~~not to~~
25 ~~exceed \$550,000,~~ *as determined pursuant to NRS 115.010,*
26 unless:

27 (a) The judgment is for a medical bill, in which case all of
28 the primary dwelling, including a mobile or manufactured
29 home, may be exempt.

30 (b) Allodial title has been established and not relinquished
31 for the dwelling or mobile home, in which case all of the
32 dwelling or mobile home and its appurtenances are exempt,
33 including the land on which they are located, unless a valid
34 waiver executed pursuant to NRS 115.010 is applicable to the
35 judgment.

36 10. All money reasonably deposited with a landlord by
37 you to secure an agreement to rent or lease a dwelling that is
38 used by you as your primary residence, except that such
39 money is not exempt with respect to a landlord or the
40 landlord's successor in interest who seeks to enforce the
41 terms of the agreement to rent or lease the dwelling.

42 11. A vehicle, if your equity in the vehicle is less than
43 \$15,000.

44 12. Seventy-five percent of the take-home pay for any
45 workweek, unless the weekly take-home pay is less than 50



1 times the federal minimum hourly wage, in which case the
2 entire amount may be exempt.

3 13. Money, not to exceed \$500,000 in present value,
4 held in:

5 (a) An individual retirement arrangement which conforms
6 with the applicable limitations and requirements of section
7 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408
8 and 408A;

9 (b) A written simplified employee pension plan which
10 conforms with the applicable limitations and requirements of
11 section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

12 (c) A cash or deferred arrangement that is a qualified plan
13 pursuant to the Internal Revenue Code;

14 (d) A trust forming part of a stock bonus, pension or
15 profit-sharing plan that is a qualified plan pursuant to sections
16 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et
17 seq.; and

18 (e) A trust forming part of a qualified tuition program
19 pursuant to chapter 353B of NRS, any applicable regulations
20 adopted pursuant to chapter 353B of NRS and section 529 of
21 the Internal Revenue Code, 26 U.S.C. § 529, unless the
22 money is deposited after the entry of a judgment against the
23 purchaser or account owner or the money will not be used by
24 any beneficiary to attend a college or university.

25 14. All money and other benefits paid pursuant to the
26 order of a court of competent jurisdiction for the support,
27 education and maintenance of a child, whether collected by
28 the judgment debtor or the State.

29 15. All money and other benefits paid pursuant to the
30 order of a court of competent jurisdiction for the support and
31 maintenance of a former spouse, including the amount of any
32 arrearages in the payment of such support and maintenance to
33 which the former spouse may be entitled.

34 16. Regardless of whether a trust contains a spendthrift
35 provision:

36 (a) A present or future interest in the income or principal
37 of a trust that is a contingent interest, if the interest has not
38 been satisfied or removed;

39 (b) A present or future interest in the income or principal
40 of a trust for which discretionary power is held by a trustee to
41 determine whether to make a distribution from the trust, if the
42 interest has not been distributed from the trust;

43 (c) The power to direct dispositions of property in the
44 trust, other than such a power held by a trustee to distribute
45 property to a beneficiary of the trust;



1 (d) Certain powers held by a trust protector or certain
2 other persons; and

3 (e) Any power held by the person who created the trust.

4 17. If a trust contains a spendthrift provision:

5 (a) A present or future interest in the income or principal
6 of a trust that is a mandatory interest in which the trustee does
7 not have discretion concerning whether to make the
8 distribution from the trust, if the interest has not been
9 distributed from the trust; and

10 (b) A present or future interest in the income or principal
11 of a trust that is a support interest in which the standard for
12 distribution may be interpreted by the trustee or a court, if the
13 interest has not been distributed from the trust.

14 18. A vehicle for use by you or your dependent which is
15 specially equipped or modified to provide mobility for a
16 person with a permanent disability.

17 19. A prosthesis or any equipment prescribed by a
18 physician or dentist for you or your dependent.

19 20. Payments, in an amount not to exceed \$16,150,
20 received as compensation for personal injury, not including
21 compensation for pain and suffering or actual pecuniary loss,
22 by the judgment debtor or by a person upon whom the
23 judgment debtor is dependent at the time the payment is
24 received.

25 21. Payments received as compensation for the wrongful
26 death of a person upon whom the judgment debtor was
27 dependent at the time of the wrongful death, to the extent
28 reasonably necessary for the support of the judgment debtor
29 and any dependent of the judgment debtor.

30 22. Payments received as compensation for the loss of
31 future earnings of the judgment debtor or of a person upon
32 whom the judgment debtor is dependent at the time the
33 payment is received, to the extent reasonably necessary for
34 the support of the judgment debtor and any dependent of the
35 judgment debtor.

36 23. Payments received as restitution for a criminal act.

37 24. Personal property, not to exceed \$1,000 in total
38 value, if the property is not otherwise exempt from execution.

39 25. A tax refund received from the earned income credit
40 provided by federal law or a similar state law.

41 26. Stock of a corporation described in subsection 2 of
42 NRS 78.746 except as set forth in that section.

43 ➤ These exemptions may not apply in certain cases such as
44 proceedings to enforce a judgment for support of a child or a
45 judgment of foreclosure on a mechanic's lien. You should



1 consult an attorney immediately to assist you in determining
2 whether your property or money is exempt from execution. If
3 you cannot afford an attorney, you may be eligible for
4 assistance through (name of organization in
5 county providing legal services to the indigent or elderly
6 persons). If you do not wish to consult an attorney or receive
7 legal services from an organization that provides assistance to
8 persons who qualify, you may obtain the form to be used to
9 claim an exemption from the clerk of the court.

10
11 PROCEDURE FOR CLAIMING EXEMPT PROPERTY

12
13 If you believe that the money or property taken from you
14 is exempt or necessary for the support of you or your family,
15 you must file with the clerk of the court on a form provided
16 by the clerk an executed claim of exemption. A copy of
17 the claim of exemption must be served upon the sheriff, the
18 garnishee and the judgment creditor within 10 days after the
19 notice of execution or garnishment is served on you by mail
20 pursuant to NRS 21.076 which identifies the specific property
21 that is being levied on. The property must be released by the
22 garnishee or the sheriff within 9 judicial days after you serve
23 the claim of exemption upon the sheriff, garnishee and
24 judgment creditor, unless the sheriff or garnishee receives a
25 copy of an objection to the claim of exemption and a notice
26 for a hearing to determine the issue of exemption. If this
27 happens, a hearing will be held to determine whether the
28 property or money is exempt. The objection to the claim of
29 exemption and notice for the hearing to determine the issue of
30 exemption must be filed within 8 judicial days after the claim
31 of exemption is served on the judgment creditor by mail or in
32 person and served on the judgment debtor, the sheriff and any
33 garnishee not less than 5 judicial days before the date set for
34 the hearing. The hearing must be held within 7 judicial days
35 after the objection to the claim of exemption and notice for a
36 hearing is filed. You may be able to have your property
37 released more quickly if you mail to the judgment creditor or
38 the attorney of the judgment creditor written proof that the
39 property is exempt. Such proof may include, without
40 limitation, a letter from the government, an annual statement
41 from a pension fund, receipts for payment, copies of checks,
42 records from financial institutions or any other document
43 which demonstrates that the money in your account is
44 exempt.



1 IF YOU DO NOT FILE THE EXECUTED CLAIM OF
2 EXEMPTION WITHIN THE TIME SPECIFIED, YOUR
3 PROPERTY MAY BE SOLD AND THE MONEY GIVEN
4 TO THE JUDGMENT CREDITOR, EVEN IF THE
5 PROPERTY OR MONEY IS EXEMPT.

6
7 If you received this notice with a notice of a hearing for
8 attachment and you believe that the money or property which
9 would be taken from you by a writ of attachment is exempt or
10 necessary for the support of you or your family, you are
11 entitled to describe to the court at the hearing why you
12 believe your property is exempt. You may also file a motion
13 with the court for a discharge of the writ of attachment. You
14 may make that motion any time before trial. A hearing will be
15 held on that motion.

16
17 IF YOU DO NOT FILE THE MOTION BEFORE THE
18 TRIAL, YOUR PROPERTY MAY BE SOLD AND
19 THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE
20 PROPERTY OR MONEY IS EXEMPT OR NECESSARY
21 FOR THE SUPPORT OF YOU OR YOUR FAMILY.

