

(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT

S.B. 83

SENATE BILL NO. 83—SENATOR O'CONNELL

FEBRUARY 6, 2001

Referred to Committee on Judiciary

SUMMARY—Changes homestead exemption from exemption based on equity to exemption based on acreage. (BDR 10-4)

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; and providing other matters properly relating thereto.

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 thereto
2 the provisions set forth as sections 2, 3 and 4 of this act.
3 **Sec. 2.** *“Agricultural real property” has the meaning ascribed to it*
4 *in NRS 361A.020.*
5 **Sec. 3.** *“Homestead” means the property consisting of:*
6 1. *A quantity of land, together with the dwelling house thereon and*
7 *its appurtenances;*
8 2. *A mobile home whether or not the underlying land is owned by the*
9 *claimant; or*
10 3. *A unit, whether real or personal property, existing pursuant to*
11 *chapter 116 or 117 of NRS, with any appurtenant limited common*
12 *elements and its interest in the common elements of the common-interest*
13 *community,*
14 *to be selected by the husband and wife, or either of them, or a single*
15 *person claiming the homestead.*
16 **Sec. 4.** *For the purposes of this chapter, the county assessor of the*
17 *county in which a homestead is wholly or predominantly located has the*
18 *final authority in determining whether real property upon which a*
19 *dwelling and its appurtenances are located is agricultural real property*
20 *that qualifies for agricultural use assessment pursuant to chapter 361A*
21 *of NRS. The determination of the county assessor with respect to the*
22 *matters described in this section is not appealable.*



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1 **Sec. 5.** NRS 115.005 is hereby amended to read as follows:
2 115.005 As used in this chapter, unless the context otherwise
3 requires ~~it~~:

4 ~~1. "Equity" means the amount that is determined by subtracting from~~
5 ~~the fair market value of the property, the value of any liens excepted from~~
6 ~~the homestead exemption pursuant to subsection 3 of NRS 115.010.~~
7 ~~2. "Homestead" means the property consisting of:~~
8 ~~— (a) A quantity of land, together with the dwelling house thereon and its~~
9 ~~appurtenances;~~
10 ~~— (b) A mobile home whether or not the underlying land is owned by the~~
11 ~~claimant; or~~
12 ~~— (c) A unit, whether real or personal property, existing pursuant to~~
13 ~~chapter 116 or 117 of NRS, with any appurtenant limited common~~
14 ~~elements and its interest in the common elements of the common interest~~
15 ~~community;~~
16 ~~to be selected by the husband and wife, or either of them, or a single person~~
17 ~~claiming the homestead.], the words and terms defined in sections 2 and~~
18 ~~3 of this act have the meanings ascribed to them in those sections.~~

19 **Sec. 6.** NRS 115.010 is hereby amended to read as follows:
20 115.010 1. The homestead is not subject to forced sale on execution
21 or any final process from any court, except as otherwise provided by
22 subsections 2, 3 and 5.

23 2. The exemption provided in subsection 1 ~~extends~~ :
24 ~~(a) Extends only to that amount of equity in the property held by the~~
25 ~~claimant which does not exceed \$125,000 in value.];~~

26 *(1) If the land on which the dwelling and its appurtenances are*
27 *located does not include any agricultural real property that qualifies for*
28 *agricultural use assessment pursuant to chapter 361A of NRS:*

29 *(I) The dwelling;*
30 *(II) The appurtenances of the dwelling; and*
31 *(III) A quantity of appurtenant land not to exceed 1 acre in*
32 *size; or*

33 *(2) If the land on which the dwelling and its appurtenances are*
34 *located includes agricultural real property that qualifies for agricultural*
35 *use assessment pursuant to chapter 361A of NRS:*

36 *(I) The dwelling;*
37 *(II) The appurtenances of the dwelling;*
38 *(III) A quantity of appurtenant land not to exceed 1 acre in size,*
39 *regardless of whether that acre is agricultural real property that qualifies*
40 *for agricultural use assessment pursuant to chapter 361A of NRS; and*
41 *(IV) An additional quantity of appurtenant land which is*
42 *agricultural real property that qualifies for agricultural use assessment*
43 *pursuant to chapter 361A of NRS, but in no event to exceed an additional*
44 *159 acres,*

45 unless allodial title has been established and not relinquished, in which
46 case the exemption provided in subsection 1 extends to ~~all equity in~~ the
47 dwelling, its appurtenances and ~~the~~ *any quantity of* land on which ~~it is~~
48 *the dwelling and its appurtenances are* located.



1 *(b) Does not extend to any buildings, structures or other*
2 *improvements other than the dwelling and its appurtenances.*

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

8 (a) Any mortgage or deed of trust thereon executed and given; or

9 (b) Any lien to which prior consent has been given through the
10 acceptance of property subject to any recorded declaration of restrictions,
11 deed restriction, restrictive covenant or equitable servitude, specifically
12 including any lien in favor of an association pursuant to NRS 116.3116
13 or 117.070,
14 by both husband and wife, when that relation exists.

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

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

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

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

28 5. Establishment of allodial title does not exempt the property from
29 forfeiture pursuant to NRS 179.1156 to 179.119, inclusive, or 207.350 to
30 207.520, inclusive.

31 6. Any declaration of homestead which has been filed before
32 October 1, ~~1995,~~ **2001**, shall be deemed to have been amended on that
33 date by extending the homestead exemption ~~{commensurate with any~~
34 ~~increase in the amount of equity held by the claimant in the property~~
35 ~~selected and claimed for the exemption up to the amount permitted by law}~~
36 **to the fullest extent authorized pursuant to subsection 2** on that date, but
37 the ~~increase~~ **change** does not impair the right of any creditor to execute
38 upon the property when that right existed before October 1, ~~1995,~~ **2001**.

39 **Sec. 7.** NRS 115.020 is hereby amended to read as follows:

40 115.020 1. The selection must be made by either the husband or
41 wife, or both of them, or the single person, declaring an intention in writing
42 to claim the property as a homestead.

43 2. The declaration must state:

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

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



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

(d) Whether the homestead includes agricultural real property that qualifies for agricultural use assessment pursuant to chapter 361A of NRS and, if so, the quantity of acreage that qualifies for agricultural use assessment pursuant to chapter 361A of NRS.

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

4. If a person solicits another person to allow the soliciting person to file a declaration of homestead on behalf of the other person and charges or accepts a fee or other valuable consideration for recording the declaration of homestead for the other person, the soliciting person shall, before the declaration is recorded or before the fee or other valuable consideration is charged to or accepted from the other person, provide that person with a notice written in bold type which states that:

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

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

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

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

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

Sec. 8. NRS 115.050 is hereby amended to read as follows:

115.050 1. Whenever execution has been issued against the property of a party claiming the property as a homestead, and the creditor in the judgment makes an oath before the judge of the district court of the county in which the property is situated, that the amount of ~~equity~~ *property* held by the claimant ~~in the property~~ exceeds, to the best of the creditor's information and belief, the ~~sum of \$125,000,~~ *amount allowed pursuant to subsection 2 of NRS 115.010,* the judge shall, upon notice to the debtor, appoint three disinterested and competent persons ~~as appraisers~~ to estimate and report as to the amount of ~~equity~~ *property* held by the claimant, ~~in the property,~~ and if the amount of ~~equity~~ *property* exceeds the ~~sum of \$125,000,~~ *amount allowed pursuant to subsection 2 of NRS 115.010,* determine whether the property can be divided so as to leave the property subject to the homestead exemption without material injury.



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1 2. If it appears, upon the report, to the satisfaction of the judge that the
2 property can be thus divided, he shall order the excess to be sold under
3 execution. If it appears that the property cannot be thus divided, and the
4 amount of ~~equity~~ *property* held by the claimant ~~in the property~~ exceeds
5 the ~~exemption allowed by this chapter,~~ *amount allowed pursuant to*
6 *subsection 2 of NRS 115.010*, he shall order the entire property to be sold,
7 and out of the proceeds the ~~sum of \$125,000~~ *following sums* to be paid
8 ~~to~~ :

9 (a) *To the defendant in execution, that portion of the proceeds*
10 *allocable to the sale of the amount of property allowed pursuant to*
11 *subsection 2 of NRS 115.010; and the*

12 (b) *The excess to be applied to the satisfaction on the execution. No*
13 *bid under \$125,000 may be received by the officer making the sale.*

14 3. When the execution is against a husband or wife, the judge may
15 direct ~~the \$125,000~~ *that portion of the proceeds described in paragraph*
16 *(a) of subsection 2* to be deposited in court, to be paid out only upon the
17 joint receipt of the husband and wife, and the deposit possesses all the
18 protection against legal process and voluntary disposition by either spouse
19 as did the original homestead.

20 **Sec. 9.** NRS 21.075 is hereby amended to read as follows:

21 21.075 1. Execution on the writ of execution by levying on the
22 property of the judgment debtor may occur only if the sheriff serves the
23 judgment debtor with a notice of the writ of execution pursuant to NRS
24 21.076 and a copy of the writ. The notice must describe the types of
25 property exempt from execution and explain the procedure for claiming
26 those exemptions in the manner required in subsection 2. The clerk of the
27 court shall attach the notice to the writ of execution at the time the writ is
28 issued.

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

31
32 NOTICE OF EXECUTION

33
34 YOUR PROPERTY IS BEING ATTACHED OR
35 YOUR WAGES ARE BEING GARNISHED

36
37 A court has determined that you owe money to(name
38 of person), the judgment creditor. He has begun the procedure to
39 collect that money by garnishing your wages, bank account and other
40 personal property held by third persons or by taking money or other
41 property in your possession.

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

- 45 1. Payments received under the Social Security Act.
46 2. Payments for benefits or the return of contributions under the
47 public employees' retirement system.
48 3. Payments for public assistance granted through the welfare
49 division of the department of human resources.



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- 1 4. Proceeds from a policy of life insurance.
- 2 5. Payments of benefits under a program of industrial insurance.
- 3 6. Payments received as unemployment compensation.
- 4 7. Veteran's benefits.
- 5 8. A homestead in a dwelling or a mobile home, not to exceed
- 6 ~~[\$125,000, unless:~~
- 7 ~~—(a) The judgment is for a medical bill, in which case all of the~~
- 8 ~~primary dwelling, including a mobile or manufactured home, may be~~
- 9 ~~exempt.~~
- 10 ~~—(b) Allodial title has been established and not relinquished for the~~
- 11 ~~dwelling or mobile home, in which case all of the dwelling or mobile~~
- 12 ~~home and its appurtenances are exempt, including the land on which~~
- 13 ~~they are located.]~~ *the amount allowed pursuant to subsection 2 of*
- 14 *NRS 115.010*, unless a valid waiver executed pursuant to ~~[NRS~~
- 15 ~~115.010]~~ *subsection 4 of that section* is applicable to the judgment.
- 16 9. A vehicle, if your equity in the vehicle is less than \$4,500.
- 17 10. Seventy-five percent of the take-home pay for any pay period,
- 18 unless the weekly take-home pay is less than 30 times the federal
- 19 minimum wage, in which case the entire amount may be exempt.
- 20 11. Money, not to exceed \$500,000 in present value, held for
- 21 retirement pursuant to certain arrangements or plans meeting the
- 22 requirements for qualified arrangements or plans of sections 401 et
- 23 seq. of the Internal Revenue Code, ~~[§ 26 U.S.C. §§ 401 et seq.]~~
- 24 12. All money and other benefits paid pursuant to the order of a
- 25 court of competent jurisdiction for the support, education and
- 26 maintenance of a child, whether collected by the judgment debtor or
- 27 the state.
- 28 13. All money and other benefits paid pursuant to the order of a
- 29 court of competent jurisdiction for the support and maintenance of a
- 30 former spouse, including the amount of any arrearages in the payment
- 31 of such support and maintenance to which the former spouse may be
- 32 entitled.
- 33 14. A vehicle for use by you or your dependent which is specially
- 34 equipped or modified to provide mobility for a person with a
- 35 permanent disability.
- 36 15. A prosthesis or any equipment prescribed by a physician or
- 37 dentist for you or your dependent.
- 38 These exemptions may not apply in certain cases such as a proceeding
- 39 to enforce a judgment for support of a person or a judgment of
- 40 foreclosure on a mechanic's lien. You should consult an attorney
- 41 immediately to assist you in determining whether your property or
- 42 money is exempt from execution. If you cannot afford an attorney,
- 43 you may be eligible for assistance through(name of
- 44 organization in county providing legal services to indigent or elderly
- 45 persons).



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PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless you or the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The motion for the hearing to determine the issue of exemption must be filed within 10 days after the affidavit claiming exemption is filed. The hearing to determine whether the property or money is exempt must be held within 10 days after the motion for the hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 10. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section:

(a) Private libraries not to exceed \$1,500 in value, and all family pictures and keepsakes.

(b) Necessary household goods, as defined in 16 C.F.R. § 444.1(i) as that section existed on January 1, 1987, and yard equipment, not to exceed \$3,000 in value, belonging to the judgment debtor to be selected by him.

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

(d) Professional libraries, office equipment, office supplies and the tools, instruments and materials used to carry on the trade of the judgment debtor for the support of himself and his family not to exceed \$4,500 in value.

(e) The cabin or dwelling of a miner or prospector, his cars, implements and appliances necessary for carrying on any mining operations and his mining claim actually worked by him, not exceeding \$4,500 in total value.

(f) Except as otherwise provided in paragraph (o), one vehicle if the judgment debtor's equity does not exceed \$4,500 or the creditor is paid an amount equal to any excess above that equity.

(g) For any pay period, 75 percent of the disposable earnings of a judgment debtor during that period, or for each week of the period 30 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, *29 U.S.C. § 206(a)(1)*, and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (n), (r) and (s), the exemption provided in this paragraph does not apply in the case of any order of a court of competent



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1 jurisdiction for the support of any person, any order of a court of
2 bankruptcy or of any debt due for any state or federal tax. As used in this
3 paragraph, "disposable earnings" means that part of the earnings of a
4 judgment debtor remaining after the deduction from those earnings of any
5 amounts required by law, to be withheld.

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

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

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

23 (k) All money, benefits, privileges or immunities accruing or in any
24 manner growing out of any life insurance, if the annual premium paid does
25 not exceed \$1,000. If the premium exceeds that amount, a similar
26 exemption exists which bears the same proportion to the money, benefits,
27 privileges and immunities so accruing or growing out of the insurance that
28 the \$1,000 bears to the whole annual premium paid.

29 (l) The homestead as provided for by law, including a homestead for
30 which allodial title has been established and not relinquished and for which
31 a waiver executed pursuant to subsection 4 of NRS 115.010 is not
32 applicable.

33 (m) The dwelling of the judgment debtor occupied as a home for
34 himself and family, where the ~~amount of equity held by the judgment~~
35 ~~debtor in the home does not exceed \$125,000 in value and the~~ dwelling is
36 situate upon lands not owned by him.

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

40 (o) Any vehicle owned by the judgment debtor for use by him or his
41 dependent that is equipped or modified to provide mobility for a person
42 with a permanent disability.

43 (p) Any prosthesis or equipment prescribed by a physician or dentist for
44 the judgment debtor or a dependent of the debtor.

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

46 (1) An individual retirement arrangement which conforms with the
47 applicable limitations and requirements of 26 U.S.C. § 408;

48 (2) A written simplified employee pension plan which conforms with
49 the applicable limitations and requirements of 26 U.S.C. § 408;



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

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, ~~42 U.S.C. §§ 401 et seq.~~

(r) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the state.

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

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

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978 ~~(92 Stat. 2586)~~, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this state unless conferred also by subsection 1, as limited by subsection 2, of this section.

Sec. 11. NRS 31.045 is hereby amended to read as follows:

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

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

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

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

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

NOTICE OF EXECUTION

YOUR PROPERTY IS BEING ATTACHED OR YOUR WAGES ARE BEING GARNISHED

Plaintiff, (name of person), alleges that you owe him money. He has begun the procedure to collect that money. To secure satisfaction of judgment the court has ordered the garnishment of your wages, bank account or other personal property held by third persons or the taking of money or other property in your possession.

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

1. Payments received under the Social Security Act.



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2. Payments for benefits or the return of contributions under the public employees' retirement system.

3. Payments for public assistance granted through the welfare division of the department of human resources.

4. Proceeds from a policy of life insurance.

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

6. Payments received as unemployment compensation.

7. Veteran's benefits.

8. A homestead in a dwelling or a mobile home, not to exceed ~~125,000, unless:~~

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

~~—(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located,~~ *the amount allowed pursuant to subsection 2 of NRS 115.010, unless a valid waiver executed pursuant to ~~NRS 115.010~~ subsection 4 of that section* is applicable to the judgment.

9. A vehicle, if your equity in the vehicle is less than \$4,500.

10. Seventy-five percent of the take-home pay for any pay period, unless the weekly take-home pay is less than 30 times the federal minimum wage, in which case the entire amount may be exempt.

11. Money, not to exceed \$500,000 in present value, held for retirement pursuant to certain arrangements or plans meeting the requirements for qualified arrangements or plans of sections 401 et seq. of the Internal Revenue Code, ~~or~~ 26 U.S.C. §§ 401 et seq. ~~or~~

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

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

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

15. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to the indigent or elderly persons).



PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The hearing must be held within 10 days after the motion for a hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

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

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

