

(REPRINTED WITH ADOPTED AMENDMENTS)  
SECOND 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 and provides that homestead exemption extends to certain liens pertaining to common-interest communities and condominiums. (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; providing that the homestead exemption extends to certain liens pertaining to common-interest communities and condominiums; 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*



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1 *of NRS. The determination of the county assessor with respect to the*  
2 *matters described in this section is not appealable.*

3 **Sec. 5.** NRS 115.005 is hereby amended to read as follows:

4 115.005 As used in this chapter, unless the context otherwise  
5 requires ~~it~~:

6 ~~1. "Equity" means the amount that is determined by subtracting from~~  
7 ~~the fair market value of the property, the value of any liens excepted from~~  
8 ~~the homestead exemption pursuant to subsection 3 of NRS 115.010.~~

9 ~~2. "Homestead" means the property consisting of:~~

10 ~~— (a) A quantity of land, together with the dwelling house thereon and its~~  
11 ~~appurtenances;~~

12 ~~— (b) A mobile home whether or not the underlying land is owned by the~~  
13 ~~claimant; or~~

14 ~~— (c) A unit, whether real or personal property, existing pursuant to~~  
15 ~~chapter 116 or 117 of NRS, with any appurtenant limited common~~  
16 ~~elements and its interest in the common elements of the common interest~~  
17 ~~community;~~

18 ~~to be selected by the husband and wife, or either of them, or a single person~~  
19 ~~claiming the homestead.], the words and terms defined in sections 2 and~~  
20 ~~3 of this act have the meanings ascribed to them in those sections.~~

21 **Sec. 6.** NRS 115.010 is hereby amended to read as follows:

22 115.010 1. The homestead is not subject to forced sale on execution  
23 or any final process from any court, except as otherwise provided by  
24 subsections 2, 3 and 5.

25 2. The exemption provided in subsection 1 ~~extends~~ :

26 (a) *Extends* only to ~~that amount of equity in the property held by the~~  
27 ~~claimant which does not exceed \$125,000 in value.],~~

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

31 (I) *The dwelling;*

32 (II) *The appurtenances of the dwelling; and*

33 (III) *A quantity of appurtenant land not to exceed 1 acre in*  
34 *size; or*

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

38 (I) *The dwelling;*

39 (II) *The appurtenances of the dwelling;*

40 (III) *A quantity of appurtenant land not to exceed 1 acre in size,*  
41 *regardless of whether that acre is agricultural real property that qualifies*  
42 *for agricultural use assessment pursuant to chapter 361A of NRS; and*

43 (IV) *An additional quantity of appurtenant land which is*  
44 *agricultural real property that qualifies for agricultural use assessment*  
45 *pursuant to chapter 361A of NRS, but in no event to exceed an additional*  
46 *159 acres,*

47 unless allodial title has been established and not relinquished, in which  
48 case the exemption provided in subsection 1 extends to ~~all equity in~~ the



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1 dwelling, its appurtenances and ~~the~~ *any quantity of* land on which ~~it is~~  
2 *the dwelling and its appurtenances are* located.

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

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

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

11 (b) Any lien to which prior consent has been given through the  
12 acceptance of property subject to any recorded declaration of restrictions,  
13 deed restriction, restrictive covenant or equitable servitude, ~~specifically~~  
14 ~~including any lien in favor of an association pursuant to NRS 116.3116 or~~  
15 ~~117.070,~~

16 by both husband and wife, when that relation exists.

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

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

23 (b) Any lien even if prior consent has been given through the  
24 acceptance of property subject to any recorded declaration of restrictions,  
25 deed restriction, restrictive covenant or equitable servitude, ~~specifically~~  
26 ~~including any lien in favor of an association pursuant to NRS 116.3116 or~~  
27 ~~117.070,~~

28 unless a waiver for the specific obligation to which the judgment relates  
29 has been executed by all allodial title holders of the property.

30 5. *The exemption provided in subsection 1 extends to process to*  
31 *enforce the payment of any obligation secured by a lien in favor of an*  
32 *association pursuant to NRS 116.3116 or 117.070, regardless of whether*  
33 *allodial title has been established and not relinquished.*

34 6. Establishment of allodial title does not exempt the property from  
35 forfeiture pursuant to NRS 179.1156 to 179.119, inclusive, or 207.350 to  
36 207.520, inclusive.

37 ~~16-~~ 7. Any declaration of homestead which has been filed before  
38 October 1, ~~1995,~~ *2001*, shall be deemed to have been amended on that  
39 date by extending the homestead exemption ~~{commensurate with any~~  
40 ~~increase in the amount of equity held by the claimant in the property~~  
41 ~~selected and claimed for the exemption up to the amount permitted by law}~~  
42 *to the fullest extent authorized pursuant to subsection 2* on that date, but  
43 the ~~increase~~ *change* does not impair the right of any creditor to execute  
44 upon the property when that right existed before October 1, ~~1995,~~ *2001*.

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

46 115.020 1. The selection must be made by either the husband or  
47 wife, or both of them, or the single person, declaring an intention in writing  
48 to claim the property as a homestead.

49 2. The declaration must state:



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

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

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

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

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

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

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

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

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

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

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

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

42 115.050 1. Whenever execution has been issued against the property  
43 of a party claiming the property as a homestead, and the creditor in the  
44 judgment makes an oath before the judge of the district court of the county  
45 in which the property is situated, that the amount of ~~equity~~ **property** held  
46 by the claimant ~~in the property~~ exceeds, to the best of the creditor's  
47 information and belief, the ~~sum of \$125,000,~~ **amount allowed pursuant**  
48 **to subsection 2 of NRS 115.010,** the judge shall, upon notice to the debtor,  
49 appoint three disinterested and competent persons ~~as appraisers~~ to



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1 estimate and report as to the amount of ~~equity~~ *property* held by the  
2 claimant, ~~in the property,~~ and if the amount of ~~equity~~ *property* exceeds  
3 the ~~sum of \$125,000,~~ *amount allowed pursuant to subsection 2 of NRS*  
4 *115.010*, determine whether the property can be divided so as to leave the  
5 property subject to the homestead exemption without material injury.

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

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

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

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

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

26 21.075 1. Execution on the writ of execution by levying on the  
27 property of the judgment debtor may occur only if the sheriff serves the  
28 judgment debtor with a notice of the writ of execution pursuant to NRS  
29 21.076 and a copy of the writ. The notice must describe the types of  
30 property exempt from execution and explain the procedure for claiming  
31 those exemptions in the manner required in subsection 2. The clerk of the  
32 court shall attach the notice to the writ of execution at the time the writ is  
33 issued.

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

36  
37 NOTICE OF EXECUTION

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

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

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



1. Payments received under the Social Security Act.
  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, ~~42~~ 26 U.S.C. §§ 401 et seq. ~~41~~
  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 a proceeding to enforce a judgment for support of a person 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 indigent or elderly persons).

#### 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



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1 time the earnings are payable, whichever is greater. Except as otherwise  
2 provided in paragraphs (n), (r) and (s), the exemption provided in this  
3 paragraph does not apply in the case of any order of a court of competent  
4 jurisdiction for the support of any person, any order of a court of  
5 bankruptcy or of any debt due for any state or federal tax. As used in this  
6 paragraph, “disposable earnings” means that part of the earnings of a  
7 judgment debtor remaining after the deduction from those earnings of any  
8 amounts required by law, to be withheld.

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

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

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

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

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

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

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

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

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

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





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

(2) A written simplified employee pension plan which conforms with 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, ~~§~~ 26 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.



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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.
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



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1 money is exempt from execution. If you cannot afford an attorney,  
2 you may be eligible for assistance through ..... (name of  
3 organization in county providing legal services to the indigent or  
4 elderly persons).  
5

6 PROCEDURE FOR CLAIMING EXEMPT PROPERTY  
7

8 If you believe that the money or property taken from you is exempt  
9 or necessary for the support of you or your family, you must file with  
10 the clerk of the court on a form provided by the clerk a notarized  
11 affidavit claiming the exemption. A copy of the affidavit must be  
12 served upon the sheriff and the judgment creditor within 8 days after  
13 the notice of execution is mailed. The property must be returned to  
14 you within 5 days after you file the affidavit unless the judgment  
15 creditor files a motion for a hearing to determine the issue of  
16 exemption. If this happens, a hearing will be held to determine  
17 whether the property or money is exempt. The hearing must be held  
18 within 10 days after the motion for a hearing is filed.  
19

20 IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME  
21 SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE  
22 MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE  
23 PROPERTY OR MONEY IS EXEMPT.  
24

25 If you received this notice with a notice of a hearing for attachment  
26 and you believe that the money or property which would be taken  
27 from you by a writ of attachment is exempt or necessary for the  
28 support of you or your family, you are entitled to describe to the court  
29 at the hearing why you believe your property is exempt. You may also  
30 file a motion with the court for a discharge of the writ of attachment.  
31 You may make that motion any time before trial. A hearing will be  
32 held on that motion.  
33

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

