

ASSEMBLY BILL NO. 344—ASSEMBLYMEN ATKINSON,
HORNE, CONKLIN AND HOGAN

MARCH 21, 2005

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to homestead exemption. (BDR 10-1267)

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

~

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

AN ACT relating to homesteads; providing that a homestead exemption exists by operation of law; increasing the amount of the exemption; 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.** NRS 111.312 is hereby amended to read as follows:
2 111.312 1. The county recorder shall not record with respect
3 to real property, a notice of completion, ~~[a declaration of~~
4 ~~homestead.]~~ a lien or notice of lien, an affidavit of death, a mortgage
5 or deed of trust, or any conveyance of real property or instrument in
6 writing setting forth an agreement to convey real property unless the
7 document being recorded contains:
8 (a) The mailing address of the grantee or, if there is no grantee,
9 the mailing address of the person who is requesting the recording of
10 the document; and
11 (b) Except as otherwise provided in subsection 2, the assessor's
12 parcel number of the property at the top left corner of the first page
13 of the document, if the county assessor has assigned a parcel
14 number to the property. The parcel number must comply with the
15 current system for numbering parcels used by the county assessor's
16 office. The county recorder is not required to verify that the
17 assessor's parcel number is correct.



2. Any document relating exclusively to the transfer of water rights may be recorded without containing the assessor's parcel number of the property.

3. The county recorder shall not record with respect to real property any deed, including, without limitation:

(a) A grant, bargain or deed of sale;

(b) Quitclaim deed;

(c) Warranty deed; or

(d) Trustee's deed upon sale,

↪ unless the document being recorded contains the name and address of the person to whom a statement of the taxes assessed on the real property is to be mailed.

4. The assessor's parcel number shall not be deemed to be a complete legal description of the real property conveyed.

5. Except as otherwise provided in subsection 6, if a document that is being recorded includes a legal description of real property that is provided in metes and bounds, the document must include the name and mailing address of the person who prepared the legal description. The county recorder is not required to verify the accuracy of the name and mailing address of such a person.

6. If a document including the same legal description described in subsection 5 previously has been recorded, the document must include all information necessary to identify and locate the previous recording, but the name and mailing address of the person who prepared the legal description is not required for the document to be recorded. The county recorder is not required to verify the accuracy of the information concerning the previous recording.

Sec. 2. NRS 115.010 is hereby amended to read as follows:

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

2. The exemption provided in subsection 1 extends only to that amount of equity in the property held by the claimant which does not exceed ~~[\$200,000]~~ **\$250,000** in value, unless allodial title has been established and not relinquished, in which case the exemption provided in subsection 1 extends to all equity in the dwelling, its appurtenances and the land on which it is located.

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

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

or



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

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

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

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

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

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

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

6. Any declaration of homestead which has been filed before ~~October 1, 2003,~~ **July 1, 2005**, shall be deemed to have been amended on that date by extending the homestead exemption commensurate with any increase in the amount of equity held by the claimant in the property selected and claimed for the exemption up to the amount permitted by law on that date, but the increase does not impair the right of any creditor to execute upon the property when that right existed before ~~October 1, 2003,~~ **July 1, 2005**.

Sec. 3. NRS 115.020 is hereby amended to read as follows:

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

~~— 2. The declaration must state:~~

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

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



~~—(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.~~

~~—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.] A person who is entitled to claim a homestead holds that exemption by operation of law and no written claim or recording is required.~~

2. If a person holds more than one property interest to which a homestead exemption may reasonably apply, a creditor may require the person to designate which property, if any, is protected by the homestead exemption. The creditor shall demand the designation by sending a letter by certified mail, return receipt requested, to each address of the person which may reasonably be protected by the homestead exemption.

3. A person who receives a letter pursuant to subsection 2 shall designate the property by sending the creditor a certified



1 *letter, return receipt requested, within 30 days after receiving*
2 *the creditor's demand letter. If the person fails to respond to the*
3 *creditor's letter within the time required, he may not claim the*
4 *homestead exemption.*

5 **Sec. 4.** NRS 115.040 is hereby amended to read as follows:

6 115.040 1. A mortgage or alienation of any kind, made for
7 the purpose of securing a loan or indebtedness upon the homestead
8 property, is not valid for any purpose, unless the signature of the
9 husband and wife, when that relationship exists, is obtained to the
10 mortgage or alienation and their signatures are properly
11 acknowledged.

12 2. The homestead property shall not be deemed to be
13 abandoned without a declaration thereof in writing, signed and
14 acknowledged by both husband and wife, or the single person
15 claiming the homestead . ~~[, and recorded in the same office and in~~
16 ~~the same manner as the declaration of claim to the homestead is~~
17 ~~required to be recorded.]~~

18 3. If either spouse is not a resident of this State, his signature
19 and the acknowledgment thereof is not necessary to the validity of
20 any mortgage or alienation of the homestead before it becomes the
21 homestead of the debtor.

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

23 115.050 1. Whenever execution has been issued against the
24 property of a party claiming the property as a homestead, and
25 the creditor in the judgment makes an oath before the judge of the
26 district court of the county in which the property is situated, that
27 the amount of equity held by the claimant in the property exceeds, to
28 the best of the creditor's information and belief, the sum of
29 ~~[\$200,000,]~~ **\$250,000**, the judge shall, upon notice to the debtor,
30 appoint three disinterested and competent persons as appraisers to
31 estimate and report as to the amount of equity held by the claimant
32 in the property, and if the amount of equity exceeds the sum of
33 ~~[\$200,000,]~~ **\$250,000**, determine whether the property can be
34 divided so as to leave the property subject to the homestead
35 exemption without material injury.

36 2. If it appears, upon the report, to the satisfaction of the judge
37 that the property can be thus divided, he shall order the excess to be
38 sold under execution. If it appears that the property cannot be thus
39 divided, and the amount of equity held by the claimant in the
40 property exceeds the exemption allowed by this chapter, he shall
41 order the entire property to be sold, and out of the proceeds the sum
42 of ~~[\$200,000]~~ **\$250,000** to be paid to the defendant in execution, and
43 the excess to be applied to the satisfaction on the execution. No bid
44 under ~~[\$200,000]~~ **\$250,000** may be received by the officer making
45 the sale.



3. When the execution is against a husband or wife, the judge may direct the ~~[\$200,000]~~ **\$250,000** to be deposited in court, to be paid out only upon the joint receipt of the husband and wife, and the deposit possesses all the protection against legal process and voluntary disposition by either spouse as did the original homestead.

Sec. 6. NRS 115.060 is hereby amended to read as follows:

115.060 Except as otherwise provided in a premarital agreement between the husband and wife which is enforceable pursuant to chapter 123A of NRS:

1. If the property declared upon as a homestead is community property, the husband and wife shall be deemed to hold the homestead as community property with a right of survivorship. Upon the death of either spouse:

(a) The exemption of the homestead from execution continues, without further filing, as to any debt or liability existing against the spouses, or either of them, until the death of the survivor and thereafter as to any debt or liability existing against the survivor at the time of his death.

(b) The property vests absolutely in the survivor.

2. If the property declared upon as a homestead is the separate property of either spouse, the husband and wife shall be deemed to hold the right to exemption of the homestead from execution jointly while both spouses are living. If the property retains its character as separate property until the death of one or the other of the spouses:

(a) If it is the separate property of the survivor, the exemption of the homestead continues.

(b) If it was the separate property of the decedent, the exemption of the homestead from execution continues as to any debt or liability existing against the spouses, or either of them, at the time of death of the decedent but ceases as to any subsequent debt or liability of the survivor.

(c) The property belongs to the person, or his heirs, to whom it belonged when filed upon as a homestead.

3. If the property declared upon as a homestead is the property of a single person, upon his death:

(a) The exemption of the homestead from execution continues ~~without further filing.~~ as to any debt or liability existing against him at the time of his death and as to any subsequent debt or liability against a person who was living in his house at the time of his death, if that person continues to reside on the homestead property and is related to him by consanguinity or affinity, even if the person through whom the relation by affinity was created predeceased the declarant.



(b) The right of enjoyment of the property belongs to each person described in paragraph (a) until that person no longer qualifies under that paragraph.

4. If two or more persons who are not related by consanguinity or affinity have claimed as a homestead their respective undivided interests in a single parcel of land or a mobile home, upon the death of one the exemption of the entire property from execution continues as to any debt or liability of the decedent and the other declarants until the death of the last declarant to die, but only for the benefit of a declarant who continues to reside on or in the property.

Sec. 7. NRS 21.075 is hereby amended to read as follows:

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

A court has determined that you owe money to(name of person), the judgment creditor. He has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking 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.
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 or a local governmental entity.
4. Proceeds from a policy of life insurance.
5. Payments of benefits under a program of industrial insurance.



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

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed ~~[\$200,000,]~~ \$250,000 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, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

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

11. 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.

12. Money, not to exceed \$500,000 in present value, held in:

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

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

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

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

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

13. 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.

14. 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.

15. 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.

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

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

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

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

20. Payments received as restitution for a criminal act.

➡ 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



1 the affidavit must be served upon the sheriff and the judgment
2 creditor within 8 days after the notice of execution is mailed.
3 The property must be returned to you within 5 days after you
4 file the affidavit unless you or the judgment creditor files a
5 motion for a hearing to determine the issue of exemption. If
6 this happens, a hearing will be held to determine whether the
7 property or money is exempt. The motion for the hearing to
8 determine the issue of exemption must be filed within 10 days
9 after the affidavit claiming exemption is filed. The hearing to
10 determine whether the property or money is exempt must be
11 held within 10 days after the motion for the hearing is filed.
12

13 IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE
14 TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD
15 AND THE MONEY GIVEN TO THE JUDGMENT
16 CREDITOR, EVEN IF THE PROPERTY OR MONEY IS
17 EXEMPT.
18

19 **Sec. 8.** NRS 21.090 is hereby amended to read as follows:

20 21.090 1. The following property is exempt from execution,
21 except as otherwise specifically provided in this section:

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

24 (b) Necessary household goods, as defined in 16 C.F.R. §
25 444.1(i) as that section existed on January 1, 1987, and yard
26 equipment, not to exceed \$10,000 in value, belonging to the
27 judgment debtor to be selected by him.

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

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

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

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

42 (g) For any pay period, 75 percent of the disposable earnings of
43 a judgment debtor during that period, or for each week of the period
44 30 times the minimum hourly wage prescribed by section 6(a)(1) of
45 the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1),



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

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

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

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

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

35 (l) The homestead as provided for by law, including a
36 homestead for which allodial title has been established and not
37 relinquished and for which a waiver executed pursuant to NRS
38 115.010 is not applicable.

39 (m) The dwelling of the judgment debtor occupied as a home for
40 himself and family, where the amount of equity held by the
41 judgment debtor in the home does not exceed ~~[\$200,000]~~ \$250,000
42 in value and the dwelling is situated upon lands not owned by him.

43 (n) All property in this State of the judgment debtor where the
44 judgment is in favor of any state for failure to pay that state's



1 income tax on benefits received from a pension or other retirement
2 plan.

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

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

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

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

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

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

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

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

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

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

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

40 (u) Payments received as compensation for the wrongful death
41 of a person upon whom the judgment debtor was dependent at the
42 time of the wrongful death, to the extent reasonably necessary for
43 the support of the judgment debtor and any dependent of the
44 judgment debtor.



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

(w) Payments received as restitution for a criminal act.

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, 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.

Sec. 9. 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.



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 or a local governmental entity.

4. Proceeds from a policy of life insurance.

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

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

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed ~~[\$200,000.]~~ **\$250,000**, 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, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

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

11. 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.

12. Money, not to exceed \$500,000 in present value, held in:

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

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

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

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

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations



1 adopted pursuant to chapter 353B of NRS and section 529 of
2 the Internal Revenue Code, 26 U.S.C. § 529, unless the
3 money is deposited after the entry of a judgment against the
4 purchaser or account owner or the money will not be used by
5 any beneficiary to attend a college or university.

6 13. All money and other benefits paid pursuant to the
7 order of a court of competent jurisdiction for the support,
8 education and maintenance of a child, whether collected by
9 the judgment debtor or the State.

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

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

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

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

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

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

37 20. Payments received as restitution for a criminal act.

38 ↪ These exemptions may not apply in certain cases such as
39 proceedings to enforce a judgment for support of a child or a
40 judgment of foreclosure on a mechanic's lien. You should
41 consult an attorney immediately to assist you in determining
42 whether your property or money is exempt from execution. If
43 you cannot afford an attorney, you may be eligible for
44 assistance through (name of organization in



1 county providing legal services to the indigent or elderly
2 persons).

3
4 **PROCEDURE FOR CLAIMING EXEMPT PROPERTY**
5

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

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

25 If you received this notice with a notice of a hearing for
26 attachment and you believe that the money or property which
27 would be taken from you by a writ of attachment is exempt or
28 necessary for the support of you or your family, you are
29 entitled to describe to the court at the hearing why you
30 believe your property is exempt. You may also file a motion
31 with the court for a discharge of the writ of attachment. You
32 may make that motion any time before trial. A hearing will be
33 held on that motion.
34

35 **IF YOU DO NOT FILE THE MOTION BEFORE**
36 **THE TRIAL, YOUR PROPERTY MAY BE SOLD AND**
37 **THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE**
38 **PROPERTY OR MONEY IS EXEMPT OR NECESSARY**
39 **FOR THE SUPPORT OF YOU OR YOUR FAMILY.**
40

41 **Sec. 10.** NRS 146.050 is hereby amended to read as follows:
42 146.050 1. If the homestead was selected by the spouses, or
43 either of them, during their marriage, ~~{and recorded while both were~~
44 ~~living,}~~ as provided in chapter 115 of NRS, it vests, on the death of



1 either spouse, absolutely in the survivor, unless vesting is otherwise
2 required pursuant to subsection 2 of NRS 115.060.

3 2. If no homestead was so selected, a homestead may be set
4 apart by the court to the family of the decedent for a limited period
5 if deemed advisable considering the needs and resources of the
6 family and the nature, character and obligations of the estate. The
7 duration of the homestead must be designated in the order setting it
8 apart and may not extend beyond the lifetime of the surviving
9 spouse or the minority of any child of the decedent, whichever is
10 longer. A homestead so set apart then vests, subject to the setting
11 apart:

12 (a) If set apart from the separate property of the decedent, in the
13 heirs or devisees of the decedent.

14 (b) If set apart from community property, one-half in the
15 surviving spouse and one-half in the devisees of the decedent, or if
16 no disposition is made, then entirely in the surviving spouse.

17 3. In either case referred to in subsection 1 or 2, the homestead
18 is not subject to the payment of any debt or liability existing against
19 the spouses, or either of them, at the time of death of either, unless
20 the debt or liability is secured by a mortgage or lien.

21 **Sec. 11.** NRS 247.120 is hereby amended to read as follows:

22 247.120 1. Except as otherwise provided in NRS 247.145,
23 each county recorder shall, upon the payment of the prescribed
24 statutory fees, record separately, in a manner which will allow a
25 legible copy to be made, the following specified documents:

26 (a) Deeds, grants, patents issued by the State of Nevada or by
27 the United States, transfers and mortgages of real estate, releases of
28 mortgages of real estate, powers of attorney to convey real estate,
29 and leases of real estate which have been acknowledged or proved.

30 (b) Certificates of marriage and marriage contracts.

31 (c) Wills admitted to probate.

32 (d) Official bonds.

33 (e) Notice of mechanics' liens.

34 (f) Transcripts of judgments which by law are made liens upon
35 real estate in this State and affidavits of renewal of those judgments.

36 (g) Notices of attachment upon real estate.

37 (h) Notices of the pendency of an action affecting real estate, the
38 title thereto or the possession thereof.

39 (i) Instruments describing or relating to the separate property of
40 married persons.

41 (j) Notice of preemption claims.

42 (k) Notices and certificates of location of mining claims.

43 (l) Affidavits of proof of annual labor on mining claims.

44 (m) Affidavits of intent to hold mining claims recorded pursuant
45 to subsection 3 of NRS 517.230.



- 1 (n) Certificates of sale.
- 2 (o) Judgments or decrees.
- 3 (p) ~~Declarations of homesteads.~~

4 ~~—(q)—~~ Such other writings as are required or permitted by law to
5 be recorded.

6 2. Each of the documents named in paragraph (a) of
7 subsection 1 may be recorded in separate books in the discretion of
8 the county recorder.

9 3. Before accepting for recording any document enumerated in
10 subsection 1, the county recorder shall require a document suitable
11 for recording by a method used by the recorder to preserve his
12 records. If any rights may be adversely affected because of a delay
13 in recording caused by this requirement, the county recorder shall
14 accept the document conditionally subject to submission of a
15 suitable document at a later date. Before accepting a document
16 conditionally, the recorder shall require the person who requests the
17 recording to sign a statement that the person has been advised of the
18 requirements described in this subsection and record the statement
19 with the document.

20 **Sec. 12.** This act becomes effective on July 1, 2006.



