

ASSEMBLY BILL NO. 483—COMMITTEE ON JUDICIARY

MARCH 20, 2007

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions pertaining to civil actions. (BDR 2-1408)

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 civil actions; increasing the amount of the homestead exemption; providing that certain property of a judgment debtor is exempt from execution; increasing the amount of damages that may be awarded in certain tort actions brought against a governmental entity or its officers or employees; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides that, with certain exceptions, in a civil action in which damages were awarded, the prevailing party in the action may obtain a writ of execution to enforce the judgment at any time before the judgment expires. (NRS 21.010) Existing law exempts certain property from such a writ of execution up to a specified monetary value. (NRS 21.090) In addition, existing law protects from a forced sale up to \$350,000 in equity of certain property which is designated as a homestead by a person, except in certain circumstances. (NRS 115.005, 115.010)

**Sections 2, 4 and 5** of this bill increase the amount of equity protected in homestead property from \$350,000 to \$450,000. **Section 2** also expands the list of the property of a judgment debtor that is exempt from execution to include: (1) certain personal property not to exceed \$1,000 in total value; and (2) any tax refund the judgment debtor receives because of the federal earned income credit or any similar credit under a state law. (NRS 21.090) **Sections 1 and 3** of this bill add those new exemptions to the list of exemptions provided in certain notices of execution. (NRS 21.075, 31.045) **Sections 1 and 3** also revise the contents of a notice of writ of execution and a notice of writ of attachment to reflect the changes in the homestead exemption included in this bill.

**Section 3.5** of this bill increases the limitation on the amount of damages that may be awarded in a tort action brought against a governmental entity or its officers or employees from \$50,000 to \$100,000. (NRS 41.035)



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

**Section 1.** 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 pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

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

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services 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 ~~[\$350,000,] \$450,000~~, 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 workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly 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 section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 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.



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

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

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

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

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

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

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

29           21. *Personal property, not to exceed \$1,000 in total*  
30 *value, if the property is not otherwise exempt from*  
31 *execution.*

32           22. *A tax refund received from the earned income*  
33 *credit provided by federal law or a similar state law.*

34           ➔ These exemptions may not apply in certain cases such as a  
35 proceeding to enforce a judgment for support of a person or a  
36 judgment of foreclosure on a mechanic's lien. You should  
37 consult an attorney immediately to assist you in determining  
38 whether your property or money is exempt from execution. If  
39 you cannot afford an attorney, you may be eligible for  
40 assistance through ..... (name of organization in  
41 county providing legal services to indigent or elderly  
42 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. 2.** 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 or required by federal law:

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

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

(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, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of himself and his family not to exceed \$10,000 in value.

(e) The cabin or dwelling of a miner or prospector, his cars, implements and appliances necessary for carrying on any mining



1 operations and his mining claim actually worked by him, not  
2 exceeding \$4,500 in total value.

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

6 (g) For any workweek, 75 percent of the disposable earnings of  
7 a judgment debtor during that week, or 50 times the minimum  
8 hourly wage prescribed by section 6(a)(1) of the federal Fair Labor  
9 Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the  
10 time the earnings are payable, whichever is greater. Except as  
11 otherwise provided in paragraphs (n), (r) and (s), the exemption  
12 provided in this paragraph does not apply in the case of any order of  
13 a court of competent jurisdiction for the support of any person, any  
14 order of a court of bankruptcy or of any debt due for any state or  
15 federal tax. As used in this paragraph:

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

19 (2) "Earnings" means compensation paid or payable for  
20 personal services performed by a judgment debtor in the regular  
21 course of business, including, without limitation, compensation  
22 designated as income, wages, tips, a salary, a commission or a  
23 bonus. The term includes compensation received by a judgment  
24 debtor that is in the possession of the judgment debtor,  
25 compensation held in accounts maintained in a bank or any other  
26 financial institution or, in the case of a receivable, compensation  
27 that is due the judgment debtor.

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

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

34 (j) All courthouses, jails, public offices and buildings, lots,  
35 grounds and personal property, the fixtures, furniture, books, papers  
36 and appurtenances belonging and pertaining to the courthouse, jail  
37 and public offices belonging to any county of this State, all  
38 cemeteries, public squares, parks and places, public buildings, town  
39 halls, markets, buildings for the use of fire departments and military  
40 organizations, and the lots and grounds thereto belonging and  
41 appertaining, owned or held by any town or incorporated city, or  
42 dedicated by the town or city to health, ornament or public use, or  
43 for the use of any fire or military company organized under the laws  
44 of this State and all lots, buildings and other school property owned  
45 by a school district and devoted to public school purposes.



(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does not exceed \$15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the \$15,000 bears to the whole annual premium paid.

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

(m) The dwelling of the judgment debtor occupied as a home for himself and family, where the amount of equity held by the judgment debtor in the home does not exceed ~~[\$350,000]~~ \$450,000 in value and the dwelling is situated upon lands not owned by him.

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

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

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

(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 section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

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

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

(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.; and

(5) 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.

(r) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and



1 maintenance of a child, whether collected by the judgment debtor or  
2 the State.

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

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

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

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

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

24 (x) Payments received pursuant to the federal Social Security  
25 Act, including, without limitation, retirement and survivors'  
26 benefits, supplemental security income benefits and disability  
27 insurance benefits.

28 (y) *Any personal property not otherwise exempt from*  
29 *execution pursuant to this subsection belonging to the judgment*  
30 *debtor, including, without limitation, the judgment debtor's equity*  
31 *in any property, money, stocks, bonds or other funds on deposit*  
32 *with a financial institution, not to exceed \$1,000 in total value, to*  
33 *be selected by the judgment debtor.*

34 (z) *Any tax refund received by the judgment debtor that is*  
35 *derived from the earned income credit described in section 32 of*  
36 *the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit*  
37 *provided pursuant to a state law.*

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

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



**Sec. 3.** 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 pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

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

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services 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 ~~[\$350,000,]~~ \$450,000, 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 workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly 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 section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 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.



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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.

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

***22. A tax refund received from the earned income credit provided by federal law or a similar state law.***

➔ 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.

**Sec. 3.5.** NRS 41.035 is hereby amended to read as follows:

41.035 1. An award for damages in an action sounding in tort brought under NRS 41.031 or against a present or former officer or employee of the State or any political subdivision, immune contractor or State Legislator arising out of an act or omission within the scope of his public duties or employment may not exceed the sum of ~~[\$50,000.]~~ **\$100,000**, exclusive of interest computed from the date of judgment, to or for the benefit of any claimant. An



award may not include any amount as exemplary or punitive damages.

2. The limitations of subsection 1 upon the amount and nature of damages which may be awarded apply also to any action sounding in tort and arising from any recreational activity or recreational use of land or water which is brought against:

(a) Any public or quasi-municipal corporation organized under the laws of this State.

(b) Any person with respect to any land or water leased or otherwise made available by that person to any public agency.

(c) Any Indian tribe, band or community whether or not a fee is charged for such activity or use. The provisions of this paragraph do not impair or modify any immunity from liability or action existing on February 26, 1968, or arising after February 26, 1968, in favor of any Indian tribe, band or community.

➤ The Legislature declares that the purpose of this subsection is to effectuate the public policy of the State of Nevada by encouraging the recreational use of land, lakes, reservoirs and other water owned or controlled by any public or quasi-municipal agency or corporation of this State, wherever such land or water may be situated.

**Sec. 4.** 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 and except as otherwise required by federal law.

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 ~~[\$350,000]~~ \$450,000 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, including, without limitation, any second or subsequent mortgage, mortgage obtained through refinancing, line of credit taken against the property and a home equity loan; 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



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1 servitude, specifically including any lien in favor of an association  
2 pursuant to NRS 116.3116 or 117.070,

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

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

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

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

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

18 5. Establishment of allodial title does not exempt the property  
19 from forfeiture pursuant to NRS 179.1156 to 179.119, inclusive, or  
20 207.350 to 207.520, inclusive.

21 6. Any declaration of homestead which has been filed before  
22 July 1, ~~2005~~, 2007, shall be deemed to have been amended on that  
23 date by extending the homestead exemption commensurate with any  
24 increase in the amount of equity held by the claimant in the property  
25 selected and claimed for the exemption up to the amount permitted  
26 by law on that date, but the increase does not impair the right of any  
27 creditor to execute upon the property when that right existed before  
28 July 1, ~~2005~~, 2007.

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

30 115.050 1. Whenever execution has been issued against the  
31 property of a party claiming the property as a homestead, and  
32 the creditor in the judgment makes an oath before the judge of the  
33 district court of the county in which the property is situated ~~that~~  
34 the amount of equity held by the claimant in the property exceeds, to  
35 the best of the creditor's information and belief, the sum of  
36 ~~[\$350,000]~~ \$450,000, the judge shall, upon notice to the debtor,  
37 appoint three disinterested and competent persons as appraisers to  
38 estimate and report as to the amount of equity held by the claimant  
39 in the property ~~that~~ and, if the amount of equity exceeds the sum of  
40 ~~[\$350,000]~~ \$450,000, determine whether the property can be  
41 divided so as to leave the property subject to the homestead  
42 exemption without material injury.

43 2. If it appears, upon the report, to the satisfaction of the judge  
44 that the property can be thus divided, he shall order the excess to be  
45 sold under execution. If it appears that the property cannot be thus



1 divided, and the amount of equity held by the claimant in the  
2 property exceeds the exemption allowed by this chapter, he shall  
3 order the entire property to be sold, and out of the proceeds the sum  
4 of ~~[\$350,000]~~ \$450,000 to be paid to the defendant in execution, and  
5 the excess to be applied to the satisfaction on the execution. No bid  
6 under ~~[\$350,000]~~ \$450,000 may be received by the officer making  
7 the sale.

8 3. When the execution is against a husband or wife, the judge  
9 may direct the ~~[\$350,000]~~ \$450,000 to be deposited in court, to be  
10 paid out only upon the joint receipt of the husband and wife, and the  
11 deposit possesses all the protection against legal process and  
12 voluntary disposition by either spouse as did the original homestead.

13 **Sec. 5.5.** The amendatory provisions of section 3.5 of this act  
14 apply to a cause of action that accrues on or after October 1, 2007.

15 **Sec. 6.** 1. This section and sections 1, 2, 3, 4 and 5 of this act  
16 become effective on July 1, 2007.

17 2. Section 3.5 of this act becomes effective on October 1, 2007.

