

SENATE BILL NO. 542—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE GOVERNOR)

MARCH 26, 2007

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing exemptions from execution by creditors. (BDR 2-1364)

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; providing an exemption from execution for certain security deposits made to rent or lease a dwelling; increasing the amount of the homestead exemption; 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 and 4** of this bill increase the amount of equity protected in homestead property from \$350,000 to \$450,000. **Section 2** also provides an additional exemption from execution for all money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used as the judgment debtor's primary residence.

Sections 1 and 3 of this bill revise the contents of a notice of writ of execution and a notice of writ of attachment to reflect the changes authorized by this bill. (NRS 21.075, 31.045)



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. *All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used as your primary residence.*

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

~~11.1~~ 12. 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.

~~12.2~~ 13. 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.

~~13.3~~ 14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support,



* S B 5 4 2 R 1 *

education and maintenance of a child, whether collected by the judgment debtor or the State.

~~[14.]~~ **15.** 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.]~~ **16.** 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.]~~ **17.** A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

~~[17.]~~ **18.** 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.]~~ **19.** 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.]~~ **20.** 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.]~~ **21.** 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



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

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

19 **Sec. 2.** 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 or required
22 by federal law:

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

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

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

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

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

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



* S B 5 4 2 R 1 *

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

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

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

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

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

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned 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



* S B 5 4 2 R 1 *

1 growing out of the insurance that the \$15,000 bears to the whole
2 annual premium paid.

3 (l) The homestead as provided for by law, including a
4 homestead for which allodial title has been established and not
5 relinquished and for which a waiver executed pursuant to NRS
6 115.010 is not applicable.

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

11 (n) *All money reasonably deposited with a landlord by the*
12 *judgment debtor to secure an agreement to rent or lease a dwelling*
13 *that is used by the judgment debtor as his primary residence.*

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

18 ~~[(p)]~~ (p) Any vehicle owned by the judgment debtor for use by
19 him or his dependent that is equipped or modified to provide
20 mobility for a person with a permanent disability.

21 ~~[(q)]~~ (q) Any prosthesis or equipment prescribed by a physician
22 or dentist for the judgment debtor or a dependent of the debtor.

23 ~~[(r)]~~ (r) Money, not to exceed \$500,000 in present value, held
24 in:

25 (1) An individual retirement arrangement which conforms
26 with the applicable limitations and requirements of section 408 or
27 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

28 (2) A written simplified employee pension plan which
29 conforms with the applicable limitations and requirements of section
30 408 of the Internal Revenue Code, 26 U.S.C. § 408;

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

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

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

43 ~~[(s)]~~ (s) All money and other benefits paid pursuant to the order
44 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)]~~ (t) All money and other benefits paid pursuant to the order
4 of a court of competent jurisdiction for the support and maintenance
5 of a 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 ~~[(+)]~~ (u) Payments, in an amount not to exceed \$16,150, received
9 as 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 ~~[(+)]~~ (v) Payments received as compensation for the wrongful
14 death of a person upon whom the judgment debtor was dependent at
15 the time of the wrongful death, to the extent reasonably necessary
16 for the support of the judgment debtor and any dependent of the
17 judgment debtor.

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

23 ~~[(w)]~~ (x) Payments received as restitution for a criminal act.

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

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

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

36 **Sec. 3.** NRS 31.045 is hereby amended to read as follows:

37 31.045 1. Execution on the writ of attachment by attaching
38 property of the defendant may occur only if:

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

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



including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. *All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used as your primary residence.*

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

~~11.1~~ 12. 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.

~~11.2~~ 13. 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.

~~11.3~~ 14. 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.

~~11.4~~ 15. 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.



* S B 5 4 2 R 1 *

~~[45.]~~ 16. 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.

~~[46.]~~ 17. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

~~[47.]~~ 18. 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.

~~[48.]~~ 19. 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.

~~[49.]~~ 20. 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.]~~ 21. Payments received as restitution for a criminal act.

↳ 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



* S B 5 4 2 R 1 *

1 this happens, a hearing will be held to determine whether the
2 property or money is exempt. The hearing must be held
3 within 10 days after the motion for a hearing is filed.
4

5 IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE
6 TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD
7 AND THE MONEY GIVEN TO THE JUDGMENT
8 CREDITOR, EVEN IF THE PROPERTY OR MONEY IS
9 EXEMPT.
10

11 If you received this notice with a notice of a hearing for
12 attachment and you believe that the money or property which
13 would be taken from you by a writ of attachment is exempt or
14 necessary for the support of you or your family, you are
15 entitled to describe to the court at the hearing why you
16 believe your property is exempt. You may also file a motion
17 with the court for a discharge of the writ of attachment. You
18 may make that motion any time before trial. A hearing will be
19 held on that motion.
20

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

26 **Sec. 4.** NRS 115.010 is hereby amended to read as follows:

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

31 2. The exemption provided in subsection 1 extends only to that
32 amount of equity in the property held by the claimant which does
33 not exceed ~~[\$350,000]~~ \$450,000 in value, unless allodial title has
34 been established and not relinquished, in which case the exemption
35 provided in subsection 1 extends to all equity in the dwelling, its
36 appurtenances and the land on which it is located.

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

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



* S B 5 4 2 R 1 *

(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 July 1, ~~2005,~~ 2007, 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 July 1, ~~2005,~~ 2007.

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

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



2. If it appears, upon the report, to the satisfaction of the judge that the property can be thus divided, he shall order the excess to be sold under execution. If it appears that the property cannot be thus divided, and the amount of equity held by the claimant in the property exceeds the exemption allowed by this chapter, he shall order the entire property to be sold, and out of the proceeds the sum of ~~[\$350,000]~~ \$450,000 to be paid to the defendant in execution, and the excess to be applied to the satisfaction on the execution. No bid under ~~[\$350,000]~~ \$450,000 may be received by the officer making the sale.

3. When the execution is against a husband or wife, the judge may direct the ~~[\$350,000]~~ \$450,000 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. 5.5. NRS 657.140 is hereby amended to read as follows:

657.140 1. Except as otherwise provided in subsection 2, a financial institution shall not include in any loan agreement a provision that allows the financial institution to recover, take, appropriate or otherwise apply as a setoff against any debt or liability owing to the financial institution under the loan agreement money from an account unrelated to the loan agreement to the extent the money is exempt from execution pursuant to paragraph ~~[(*)]~~ (y) of subsection 1 of NRS 21.090.

2. The provisions of subsection 1 do not apply to a provision in a loan agreement that specifically authorizes automatic withdrawals from an account.

3. The provisions of this section may not be varied by agreement and the rights conferred by this section may not be waived. Any provision included in an agreement that conflicts with this section is void.

4. As used in this section:

(a) "An account unrelated to the loan agreement" includes, without limitation, an account pledged as security under the loan agreement, unless the specific account pledged as security is conspicuously described in the loan agreement.

(b) "Financial institution" means an institution licensed pursuant to the provisions of this title or title 56 or chapter 645B, 645E or 649 of NRS, or a similar institution chartered or licensed pursuant to federal law.

Sec. 6. This act becomes effective on July 1, 2007.

