

SENATE BILL NO. 67—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE GOVERNOR)

PREFILED DECEMBER 10, 2008

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing declarations of homestead. (BDR 10-440)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 declarations of homestead; requiring the Real Estate Division of the Department of Business and Industry to prescribe a form for such declarations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, the owner of property used as a homestead is authorized to
2 file a written declaration of homestead for that property, which protects up to
3 \$550,000 of equity in the property from forced sale, except in certain
4 circumstances. (Nev. Const. Art. 4, § 30; NRS 115.010, 115.020) The contents of
5 such a declaration are prescribed by law. (NRS 111.312, 115.020) **Section 1** of this
6 bill requires the Real Estate Division of the Department of Business and Industry,
7 after soliciting and considering recommendations from the county recorders, to
8 prescribe a form that may be used for filing a declaration of homestead. **Section 1**
9 also requires the Division and each county recorder to make the form available to
10 the public, free of charge.

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

1 **Section 1.** Chapter 115 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 ***1. The Real Estate Division of the Department of Business***
4 ***and Industry shall:***



(a) Solicit recommendations from each county recorder concerning the design and contents of a form that may be used to make a declaration of homestead pursuant to NRS 115.020; and

(b) Prescribe such a form after considering all recommendations solicited pursuant to paragraph (a).

2. The form must provide for the inclusion of all information, statements and signatures required for a declaration pursuant to NRS 111.312 and 115.020.

3. The form must be made available, free of charge:

(a) By the Real Estate Division at its principal office designated pursuant to NRS 645.170 and at each branch office established pursuant to NRS 645.170 and on any website that it maintains on the Internet or its successor; and

(b) By each county recorder at his office and on any website maintained by him in his official capacity on the Internet or its successor.

Sec. 2. 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. *The selection may be made on the form prescribed by the Real Estate Division of the Department of Business and Industry pursuant to section 1 of this act.*

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



1 the fee or other valuable consideration is charged to or accepted
2 from the other person, provide that person with a notice written in
3 bold type which states that:

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

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

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

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

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

22 **Sec. 3.** (Deleted by amendment.)

