

ASSEMBLY BILL NO. 223—ASSEMBLYMEN SEGERBLOM, SMITH,
DONDERO LOOP; AIZLEY, ANDERSON, BENITEZ-THOMPSON,
BOBZIEN, CARRILLO, DALY, FRIERSON, KIRKPATRICK,
NEAL AND PIERCE

MARCH 2, 2011

JOINT SPONSORS: SENATORS BREEDEN, PARKS;
KIHUEN, LESLIE AND MANENDO

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning the execution on
property of a judgment debtor or defendant.
(BDR 2-989)

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; providing that a certain amount of
money held in a personal bank account that is likely to be
exempt from execution is not subject to a writ of
execution or garnishment; providing a procedure to
execute on property held in a safe-deposit box; revising
the procedure for claiming an exemption from execution
on certain property; making various other changes to
provisions governing writs of execution, attachment and
garnishment; and providing other matters properly
relating thereto.

Legislative Counsel's Digest:

- 1 Existing law allows a judgment creditor to obtain a writ of execution,
- 2 attachment or garnishment to levy on the property of a judgment debtor or
- 3 defendant in certain circumstances. (Chapters 21 and 31 of NRS) Certain property,
- 4 however, is exempt from execution and therefore cannot be the subject of such a
- 5 writ. (NRS 21.090) **Section 3** of this bill provides that a certain amount of money
- 6 held in the personal bank account of a judgment debtor which is likely to be exempt
- 7 from execution is not subject to a writ of execution or garnishment and must remain
- 8 accessible to the judgment debtor. **Section 3** further provides immunity from



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liability to a financial institution which makes an incorrect determination concerning whether money is subject to execution. **Section 4** of this bill provides that notwithstanding the provisions of **section 3**, if a judgment debtor has personal bank accounts in more than one financial institution, the writ may attach to all money in those accounts. The judgment debtor then may claim any exemption that may apply.

Section 5 of this bill provides that a separate writ must be issued to levy on property in a safe-deposit box and provides a procedure for executing on such a writ.

Section 7 of this bill provides additional exemptions from execution which are provided by Nevada law.

Section 8 of this bill revises the procedures for claiming an exemption from execution, and for objecting to such a claim of exemption. **Sections 6 and 10** of this bill revise the notice that is provided to a judgment debtor or defendant when a writ of execution, attachment or garnishment is levied on the property of the judgment debtor or defendant so that the procedures listed in the notice reflect the changes made in **section 8**. **Sections 6 and 10** further revise the notice to provide additional information concerning the claiming of exemptions.

Sections 2 and 9 of this bill clarify that a constable has authority to perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff with respect to a writ of execution, garnishment or attachment.

Section 11 of this bill revises the interrogatories that are used with a writ of execution, attachment or garnishment to clarify the manner of determining the earnings which must be identified as subject to execution and to provide specific questions for a bank to conform to the new provisions in **section 3**.

Section 12 of this bill requires the judgment creditor who caused a writ of attachment to issue to prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days providing information about the debt and the rights of the debtor. The accounting must also be submitted with each subsequent application for a writ filed by the judgment creditor concerning the same judgment.

Section 13 of this bill provides that the fee for receiving, removing and taking care of property on execution, attachment or court order collected by a constable is not payable in advance.

Section 14 of this bill provides that certain unemployment benefits are exempt from execution regardless of whether they are mingled with other money.

Section 15 of this bill repeals NRS 21.114 concerning the submission of sureties to the jurisdiction of the court because the requirement for an undertaking requiring a surety is removed in **section 8**.

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

Section 1. Chapter 21 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of execution or garnishment.*

Sec. 3. 1. *If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and money has*



1 *been deposited into the account electronically within the*
2 *immediately preceding 45 days from the date on which the writ*
3 *was served which is reasonably identifiable as exempt from*
4 *execution, notwithstanding any other deposits of money into the*
5 *account, \$2,000 or the entire amount in the account, whichever is*
6 *less, is not subject to execution and must remain accessible to the*
7 *judgment debtor. For the purposes of this section, money is*
8 *reasonably identifiable as exempt from execution if the money is*
9 *deposited in the bank account by the United States Department of*
10 *the Treasury, including, without limitation, money deposited as:*

11 *(a) Benefits provided pursuant to the Social Security Act*
12 *which are exempt from execution pursuant to 42 U.S.C. §§ 407*
13 *and 1383, including, without limitation, retirement and survivors'*
14 *benefits, supplemental security income benefits, disability*
15 *insurance benefits and child support payments that are processed*
16 *pursuant to Part D of Title IV of the Social Security Act;*

17 *(b) Veterans' benefits which are exempt from execution*
18 *pursuant to 38 U.S.C. § 5301;*

19 *(c) Annuities payable to retired railroad employees which are*
20 *exempt from execution pursuant to 45 U.S.C. § 231m;*

21 *(d) Benefits provided for retirement or disability of federal*
22 *employees which are exempt from execution pursuant to 5 U.S.C.*
23 *§§ 8346 and 8470;*

24 *(e) Annuities payable to retired members of the Armed Forces*
25 *of the United States and to any surviving spouse or children of*
26 *such members which are exempt from execution pursuant to 10*
27 *U.S.C. §§ 1440 and 1450;*

28 *(f) Payments and allowances to members of the Armed Forces*
29 *of the United States which are exempt from execution pursuant to*
30 *37 U.S.C. § 701;*

31 *(g) Federal student loan payments which are exempt from*
32 *execution pursuant to 20 U.S.C. § 1095a;*

33 *(h) Wages due or accruing to merchant seamen which are*
34 *exempt from execution pursuant to 46 U.S.C. § 11109;*

35 *(i) Compensation or benefits due or payable to longshore and*
36 *harbor workers which are exempt from execution pursuant to 33*
37 *U.S.C. § 916;*

38 *(j) Annuities and benefits for retirement and disability of*
39 *members of the foreign service which are exempt from execution*
40 *pursuant to 22 U.S.C. § 4060;*

41 *(k) Compensation for injury, death or detention of employees*
42 *of contractors with the United States outside the United States*
43 *which is exempt from execution pursuant to 42 U.S.C. § 1717;*



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1 (l) Assistance for a disaster from the Federal Emergency
2 Management Agency which is exempt from execution pursuant to
3 44 C.F.R. § 206.110;

4 (m) Black lung benefits paid to a miner or a miner's surviving
5 spouse or children pursuant to 30 U.S.C. § 922 or 931 which are
6 exempt from execution; and

7 (n) Benefits provided pursuant to any other federal law.

8 2. If a writ of execution or garnishment is levied on the
9 personal bank account of the judgment debtor and the provisions
10 of subsection 1 do not apply, \$1,000 or the entire amount in the
11 account, whichever is less, is not subject to execution and must
12 remain accessible to the judgment debtor.

13 3. If a judgment debtor has more than one personal bank
14 account with the bank to which a writ is issued, the amount that is
15 not subject to execution must not in the aggregate exceed the
16 amount specified in subsection 1 or 2, as applicable.

17 4. A judgment debtor may apply to a court to claim an
18 exemption for any amount subject to a writ levied on a personal
19 bank account which exceeds the amount that is not subject to
20 execution pursuant to subsection 1 or 2.

21 5. If money in the personal account of the judgment debtor
22 which exceeds the amount that is not subject to execution
23 pursuant to subsection 1 or 2 includes exempt and nonexempt
24 money, the judgment debtor may claim an exemption for the
25 exempt money in the manner set forth in NRS 21.112. To
26 determine whether such money in the account is exempt, the
27 judgment creditor must use the method of accounting which
28 applies the standard that the first money deposited in the account
29 is the first money withdrawn from the account. The court may
30 require a judgment debtor to provide statements from the bank
31 which include all deposits into and withdrawals from the account
32 for the immediately preceding 90 days.

33 6. A financial institution which makes a reasonable effort to
34 determine whether money in the account of a judgment debtor is
35 subject to execution for the purposes of this section is immune
36 from civil liability for any act or omission with respect to that
37 determination, including, without limitation, when the financial
38 institution makes an incorrect determination after applying
39 commercially reasonable methods for determining whether money
40 in an account is exempt because the source of the money was not
41 clearly identifiable or because the financial institution
42 inadvertently misidentified the source of the money. If a court
43 determines that a financial institution failed to identify that money
44 in an account was not subject to execution pursuant to this
45 section, the financial institution must adjust its actions with



1 *respect to a writ of execution as soon as possible but may not be*
2 *held liable for damages.*

3 7. *Nothing in this section requires a financial institution to*
4 *revise its determination about whether money is exempt, except by*
5 *an order of a court.*

6 **Sec. 4.** 1. *Notwithstanding the provisions of section 3 of*
7 *this act, if a judgment debtor has a personal bank account in more*
8 *than one financial institution, the judgment creditor is entitled to*
9 *an order from the court to be issued with the writ of execution or*
10 *garnishment which states that all money held in all such accounts*
11 *of the judgment debtor that are identified in the application for the*
12 *order are subject to the writ.*

13 2. *A judgment creditor may apply to the court for an order*
14 *pursuant to subsection 1 by submitting a signed affidavit which*
15 *identifies each financial institution in which the judgment debtor*
16 *has a personal account.*

17 3. *A judgment debtor may claim an exemption for any exempt*
18 *money in the account to which the writ attaches in the manner set*
19 *forth in NRS 21.112.*

20 **Sec. 5.** 1. *If a writ of execution or garnishment is levied on*
21 *property in a safe-deposit box maintained at a financial*
22 *institution, a separate writ must be issued from any writ that is*
23 *issued to levy on an account of the judgment debtor with the*
24 *financial institution. Notice of the writ must be served personally*
25 *on the financial institution and promptly thereafter on any third*
26 *person who is named on the safe-deposit box.*

27 2. *During the period in which the writ of execution or*
28 *garnishment is in effect, the financial institution must not allow*
29 *the contents of the safe-deposit box to be removed other than as*
30 *directed by the sheriff or by court order.*

31 3. *The sheriff may allow the person in whose name the safe-*
32 *deposit box is held to open the safe-deposit box so that the contents*
33 *may be removed pursuant to the levy. The financial institution*
34 *may refuse to allow the forcible opening of the safe-deposit box to*
35 *allow the removal of the property levied upon unless the judgment*
36 *creditor pays in advance the cost of forcibly opening the safe-*
37 *deposit box and of repairing any damage caused thereby.*

38 **Sec. 6.** NRS 21.075 is hereby amended to read as follows:

39 21.075 1. *Execution on the writ of execution by levying on*
40 *the property of the judgment debtor may occur only if the sheriff*
41 *serves the judgment debtor with a notice of the writ of execution*
42 *pursuant to NRS 21.076 and a copy of the writ. The notice must*
43 *describe the types of property exempt from execution and explain*
44 *the procedure for claiming those exemptions in the manner required*



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1 in subsection 2. The clerk of the court shall attach the notice to the
2 writ of execution at the time the writ is issued.

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

5
6 NOTICE OF EXECUTION

7
8 YOUR PROPERTY IS BEING ATTACHED OR
9 YOUR WAGES ARE BEING GARNISHED

10
11 A court has determined that you owe money to
12 (name of person), the judgment creditor. The
13 judgment creditor has begun the procedure to collect that
14 money by garnishing your wages, bank account and other
15 personal property held by third persons or by taking money or
16 other property in your possession.

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

20 1. Payments received pursuant to the federal Social
21 Security Act, including, without limitation, retirement and
22 survivors' benefits, supplemental security income benefits
23 and disability insurance benefits.

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

26 3. Payments for public assistance granted through the
27 Division of Welfare and Supportive Services of the
28 Department of Health and Human Services or a local
29 governmental entity.

30 4. Proceeds from a policy of life insurance.

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

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

35 7. Payments received as unemployment compensation.

36 8. Veteran's benefits.

37 9. A homestead in a dwelling or a mobile home, not to
38 exceed \$550,000, unless:

39 (a) The judgment is for a medical bill, in which case all of
40 the primary dwelling, including a mobile or manufactured
41 home, may be exempt.

42 (b) Allodial title has been established and not relinquished
43 for the dwelling or mobile home, in which case all of the
44 dwelling or mobile home and its appurtenances are exempt,
45 including the land on which they are located, unless a valid



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1 waiver executed pursuant to NRS 115.010 is applicable to the
2 judgment.

3 10. All money reasonably deposited with a landlord by
4 you to secure an agreement to rent or lease a dwelling that is
5 used by you as your primary residence, except that such
6 money is not exempt with respect to a landlord or landlord's
7 successor in interest who seeks to enforce the terms of the
8 agreement to rent or lease the dwelling.

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

11 12. Seventy-five percent of the take-home pay for any
12 workweek, unless the weekly take-home pay is less than 50
13 times the federal minimum hourly wage, in which case the
14 entire amount may be exempt.

15 13. Money, not to exceed \$500,000 in present value,
16 held in:

17 (a) An individual retirement arrangement which conforms
18 with the applicable limitations and requirements of section
19 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408
20 and 408A;

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

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

26 (d) A trust forming part of a stock bonus, pension or
27 profit-sharing plan that is a qualified plan pursuant to sections
28 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et
29 seq.; and

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

37 14. All money and other benefits paid pursuant to the
38 order of a court of competent jurisdiction for the support,
39 education and maintenance of a child, whether collected by
40 the judgment debtor or the State.

41 15. All money and other benefits paid pursuant to the
42 order of a court of competent jurisdiction for the support and
43 maintenance of a former spouse, including the amount of any
44 arrearages in the payment of such support and maintenance to
45 which the former spouse may be entitled.



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16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;

(b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;

(c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(e) Certain powers held by a trust protector or certain other persons;

(f) Any power held by the person who created the trust; and

(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:

(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;

(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and

(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

18. 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.

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

20. 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.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was



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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.

22. 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.

23. Payments received as restitution for a criminal act.

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

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

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➡ 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). *If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.*

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}~~ *an executed claim of exemption*. A copy of the ~~{affidavit}~~ *claim of exemption* must be served upon the sheriff, *the garnishee* and the judgment creditor within ~~{8}~~ *20 calendar* days after the notice of execution *or garnishment* is ~~{mailed}~~ *served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on*. The property must be ~~{returned to you}~~ *released by the garnishee or the sheriff* within ~~{5}~~ *9 judicial* days after you ~~{file}~~ *serve the {affidavit} claim of exemption upon the sheriff, garnishee and judgment creditor*, unless ~~{you or the judgment creditor files a motion}~~ *the sheriff or garnishee receives a copy of an*



objection to the claim of exemption and a notice 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}~~ *objection to the claim of exemption and notice* for the hearing to determine the issue of exemption must be filed within ~~{10}~~ *8 judicial* days after the ~~{affidavit claiming}~~ *claim of* exemption is ~~{filed}~~ *served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.* The hearing to determine whether the property or money is exempt must be held within ~~{10}~~ *7 judicial* days after the ~~{motion}~~ *objection to the claim of exemption and notice* for the hearing is filed. *You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.*

IF YOU DO NOT FILE THE ~~{AFFIDAVIT}~~ *EXECUTED CLAIM OF EXEMPTION* 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. 7. 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 the judgment debtor.



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(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 the judgment debtor and his or her family not to exceed \$10,000 in value.

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

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

(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 (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



1 halls, markets, buildings for the use of fire departments and military
2 organizations, and the lots and grounds thereto belonging and
3 appertaining, owned or held by any town or incorporated city, or
4 dedicated by the town or city to health, ornament or public use, or
5 for the use of any fire or military company organized under the laws
6 of this State and all lots, buildings and other school property owned
7 by a school district and devoted to public school purposes.

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

15 (l) The homestead as provided for by law, including a
16 homestead for which allodial title has been established and not
17 relinquished and for which a waiver executed pursuant to NRS
18 115.010 is not applicable.

19 (m) The dwelling of the judgment debtor occupied as a home for
20 himself or herself and family, where the amount of equity held by
21 the judgment debtor in the home does not exceed \$550,000 in value
22 and the dwelling is situated upon lands not owned by the judgment
23 debtor.

24 (n) All money reasonably deposited with a landlord by the
25 judgment debtor to secure an agreement to rent or lease a dwelling
26 that is used by the judgment debtor as his or her primary residence,
27 except that such money is not exempt with respect to a landlord or
28 the landlord's successor in interest who seeks to enforce the terms of
29 the agreement to rent or lease the dwelling.

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

34 (p) Any vehicle owned by the judgment debtor for use by the
35 judgment debtor or the judgment debtor's dependent that is
36 equipped or modified to provide mobility for a person with a
37 permanent disability.

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

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

41 (1) An individual retirement arrangement which conforms
42 with the applicable limitations and requirements of section 408 or
43 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;



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(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.

(s) 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.

(t) 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.

(u) 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.

(v) 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.

(w) 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.

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

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



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

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

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A beneficial interest in the trust as defined in NRS 163.4145 if the interest has not been distributed;

(2) A remainder interest in the trust as defined in NRS 163.416 if the trust does not indicate that the remainder interest is certain to be distributed within 1 year after the date on which the instrument that creates the remainder interest becomes irrevocable;

(3) A discretionary interest in the trust as described in NRS 163.4185 if the interest has not been distributed;

(4) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been distributed or transferred;

(5) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been distributed or transferred;

(6) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been distributed or transferred; and

(7) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

(dd) If a trust contains a spendthrift provision:

(1) A mandatory interest in the trust as described in NRS 163.4185 if the interest has not been distributed;

(2) Notwithstanding a beneficiary's right to enforce a support interest, a support interest in the trust as described in NRS 163.4185 if the interest has not been distributed; and

(3) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

(ee) Proceeds received from a private disability insurance plan.



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(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

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. 8. NRS 21.112 is hereby amended to read as follows:

21.112 1. In order to claim exemption of any property levied on ~~it~~ pursuant to this section, the judgment debtor must, within ~~18~~ 20 calendar days after the notice ~~prescribed in NRS 21.075 is mailed,~~ of a writ of execution or garnishment is served on the judgment debtor by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on, serve on the sheriff, the garnishee and the judgment creditor and file with the clerk of the court issuing the writ of execution ~~an affidavit setting out~~ the judgment debtor's claim of exemption ~~it~~ which is executed in the manner set forth in NRS 53.045. If the property that is levied on is the earnings of the judgment debtor, the judgment debtor must file the claim of exemption pursuant to this subsection within 20 calendar days after the date of each withholding of the judgment debtor's earnings.

2. The clerk of the court shall provide the form for the ~~affidavit.~~

~~2. When the affidavit is served, the sheriff shall release the property if the judgment creditor, within 5 days after written demand by the sheriff:~~

~~(a) Fails to give the sheriff an undertaking executed by two good and sufficient sureties which:~~



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~~—— (1) Is in a sum equal to double the value of the property levied on; and~~

~~—— (2) Indemnifies the judgment debtor against loss, liability, damages, costs and attorney's fees by reason of the taking, withholding or sale of the property by the sheriff; or~~

~~—— (b) Fails to file a motion for a hearing to determine whether the property or money is exempt.~~

~~→ The clerk of the court shall provide the form for the motion.~~

~~—— 3. At the time of giving the sheriff the undertaking provided for in subsection 2, the judgment creditor shall give notice of the undertaking to the judgment debtor.~~

—— 4.1 claim of exemption and shall further provide with the form instructions concerning the manner in which to claim an exemption, a checklist and description of the most commonly claimed exemptions, instructions concerning the manner in which the property must be released to the judgment debtor if no objection to the claim of exemption is filed and an order to be used by the court to grant or deny an exemption. No fee may be charged for providing such a form or for filing the form with the court.

3. An objection to the claim of exemption and notice for a hearing must be filed with the court within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee. The judgment creditor shall also serve notice of the date of the hearing on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.

4. If an objection to the claim of exemption and notice for a hearing are not filed within 8 judicial days after the claim of exemption has been served, the property of the judgment debtor must be released by the person who has control or possession over the property in accordance with the instructions set forth on the form for the claim of exemption provided pursuant to subsection 2 within 9 judicial days after the claim of exemption has been served.

5. The sheriff is not liable to the judgment debtor for damages by reason of the taking, withholding or sale of any property ~~if~~ where ~~if~~:

~~—— (a) No affidavit claiming] a claim of exemption is not served on the sheriff. ~~if~~ or~~

~~—— (b) An affidavit claiming exemption is served on the sheriff, but the sheriff fails to release the property in accordance with this section.~~

~~—— 5.1 6. Unless the court continues the hearing for good cause shown, the hearing *on an objection to a claim of exemption* to~~



determine whether the property or money is exempt must be held within ~~10~~ **7 judicial** days after the ~~motion~~ **objection to the claim and notice** for ~~the~~ **a** hearing is filed.

~~[6. The judgment creditor shall give the judgment debtor at least 5 days' notice of the hearing.] The judgment debtor has the burden to prove that he or she is entitled to the claimed exemption at such a hearing. After determining whether the judgment debtor is entitled to an exemption, the court shall mail a copy of the order to the judgment debtor, the judgment creditor, any other named party, the sheriff and any garnishee.~~

7. If the sheriff or garnishee does not receive a copy of a claim of exemption from the judgment debtor within 25 calendar days after the property is levied on, the garnishee must release the property to the sheriff or, if the property is held by the sheriff, the sheriff must release the property to the judgment creditor.

8. At any time after:

(a) An exemption is claimed pursuant to this section, the judgment debtor may withdraw the claim of exemption and direct that the property be released to the judgment creditor.

(b) An objection to a claim of exemption is filed pursuant to this section, the judgment creditor may withdraw the objection and direct that the property be released to the judgment debtor.

9. The provisions of this section do not limit or prohibit any other remedy provided by law.

10. In addition to any other procedure or remedy authorized by law, a person other than the judgment debtor whose property is the subject of a writ of execution or garnishment may follow the procedures set forth in this section for claiming an exemption to have the property released.

11. A judgment creditor shall not require a judgment debtor to waive any exemption which the judgment debtor is entitled to claim.

Sec. 9. Chapter 31 of NRS is hereby amended by adding thereto a new section to read as follows:

A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of attachment.

Sec. 10. 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



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(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 the plaintiff money. The plaintiff 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 \$550,000, unless:



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1 (a) The judgment is for a medical bill, in which case all of
2 the primary dwelling, including a mobile or manufactured
3 home, may be exempt.

4 (b) Allodial title has been established and not relinquished
5 for the dwelling or mobile home, in which case all of the
6 dwelling or mobile home and its appurtenances are exempt,
7 including the land on which they are located, unless a valid
8 waiver executed pursuant to NRS 115.010 is applicable to the
9 judgment.

10 10. All money reasonably deposited with a landlord by
11 you to secure an agreement to rent or lease a dwelling that is
12 used by you as your primary residence, except that such
13 money is not exempt with respect to a landlord or the
14 landlord's successor in interest who seeks to enforce the
15 terms of the agreement to rent or lease the dwelling.

16 11. A vehicle, if your equity in the vehicle is less than
17 \$15,000.

18 12. Seventy-five percent of the take-home pay for any
19 workweek, unless the weekly take-home pay is less than 50
20 times the federal minimum hourly wage, in which case the
21 entire amount may be exempt.

22 13. Money, not to exceed \$500,000 in present value,
23 held in:

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

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

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

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

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

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



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

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

8 16. Regardless of whether a trust contains a spendthrift
9 provision:

10 (a) A present or future interest in the income or principal
11 of a trust, if the interest has not been distributed from the
12 trust;

13 (b) A remainder interest in the trust whereby a beneficiary
14 of the trust will receive property from the trust outright at
15 some time in the future under certain circumstances;

16 (c) A discretionary power held by a trustee to determine
17 whether to make a distribution from the trust, if the interest
18 has not been distributed from the trust;

19 (d) The power to direct dispositions of property in the
20 trust, other than such a power held by a trustee to distribute
21 property to a beneficiary of the trust;

22 (e) Certain powers held by a trust protector or certain
23 other persons;

24 (f) Any power held by the person who created the trust;
25 and

26 (g) Any other property of the trust that has not been
27 distributed from the trust. Once the property is distributed
28 from the trust, the property is subject to execution.

29 17. If a trust contains a spendthrift provision:

30 (a) A mandatory interest in the trust in which the trustee
31 does not have discretion concerning whether to make the
32 distribution from the trust, if the interest has not been
33 distributed from the trust;

34 (b) A support interest in the trust in which the standard
35 for distribution may be interpreted by the trustee or a court, if
36 the interest has not been distributed from the trust; and

37 (c) Any other property of the trust that has not been
38 distributed from the trust. Once the property is distributed
39 from the trust, the property is subject to execution.

40 18. A vehicle for use by you or your dependent which is
41 specially equipped or modified to provide mobility for a
42 person with a permanent disability.

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



20. 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.

21. 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.

22. 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.

23. Payments received as restitution for a criminal act.

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

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

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

↪ 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). *If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.*

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]~~ *an executed claim of* exemption. A copy of the ~~[affidavit]~~ *claim of exemption* must be served upon the sheriff , *the garnishee*



1 and the judgment creditor within ~~[8]~~ 20 calendar days after
2 the notice of execution *or garnishment* is ~~[mailed.]~~ *served on*
3 *you by mail pursuant to NRS 21.076 which identifies the*
4 *specific property that is being levied on.* The property must
5 be ~~[returned to you]~~ *released by the garnishee or the sheriff*
6 within ~~[5]~~ 9 judicial days after you ~~[file]~~ *serve the [affidavit]*
7 *claim of exemption upon the sheriff, garnishee and*
8 *judgment creditor,* unless the ~~[judgment creditor files a~~
9 ~~motion]~~ *sheriff or garnishee receives a copy of an objection*
10 *to the claim of exemption and a notice* for a hearing to
11 determine the issue of exemption. If this happens, a hearing
12 will be held to determine whether the property or money is
13 exempt. *The objection to the claim of exemption and notice*
14 *for the hearing to determine the issue of exemption must be*
15 *filed within 8 judicial days after the claim of exemption is*
16 *served on the judgment creditor by mail or in person and*
17 *served on the judgment debtor, the sheriff and any*
18 *garnishee not less than 5 judicial days before the date set*
19 *for the hearing.* The hearing must be held within ~~[10]~~ 7
20 judicial days after the ~~[motion]~~ *objection to the claim of*
21 *exemption and notice* for a hearing is filed. *You may be able*
22 *to have your property released more quickly if you mail to*
23 *the judgment creditor or the attorney of the judgment*
24 *creditor written proof that the property is exempt. Such*
25 *proof may include, without limitation, a letter from the*
26 *government, an annual statement from a pension fund,*
27 *receipts for payment, copies of checks, records from*
28 *financial institutions or any other document which*
29 *demonstrates that the money in your account is exempt.*

30
31 IF YOU DO NOT FILE THE ~~[AFFIDAVIT]~~
32 *EXECUTED CLAIM OF EXEMPTION* WITHIN THE
33 TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD
34 AND THE MONEY GIVEN TO THE JUDGMENT
35 CREDITOR, EVEN IF THE PROPERTY OR MONEY IS
36 EXEMPT.

37
38 If you received this notice with a notice of a hearing for
39 attachment and you believe that the money or property which
40 would be taken from you by a writ of attachment is exempt or
41 necessary for the support of you or your family, you are
42 entitled to describe to the court at the hearing why you
43 believe your property is exempt. You may also file a motion
44 with the court for a discharge of the writ of attachment. You



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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. 11. NRS 31.290 is hereby amended to read as follows:

31.290 1. The interrogatories to *be submitted with any writ of execution, attachment or garnishment to* the garnishee may be in substance as follows:

INTERROGATORIES

Are you in any manner indebted to the defendants.....

.....
or either of them, either in property or money, and is the debt now due? If not due, when is the debt to become due? State fully all particulars.

Answer:

Are you an employer of one or all of the defendants? If so, state the length of your pay period and the amount *of disposable earnings, as defined in NRS 31.295, that* each defendant presently earns during a pay period. *State the minimum amount of disposable earnings that is exempt from this garnishment, which is the federal 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), in effect at the time the earnings are payable multiplied by 50 for each week of the pay period, after deducting any amount required by law to be withheld.*

Calculate the attachable amount as follows:

(Check one of the following) The employee is paid:

[A] Weekly: ___ [B] Biweekly: ___ [C] Semimonthly: ___ [D] Monthly: ___

<i>(1) Gross Earnings</i>	<i>\$ _____</i>
<i>(2) Deductions required by law (not including child support)</i>	<i>\$ _____</i>
<i>(3) Disposable Earnings [Subtract line 2 from line 1]</i>	<i>\$ _____</i>
<i>(4) Federal Minimum Wage</i>	<i>\$ _____</i>
<i>(5) Multiply line 4 by 50</i>	<i>\$ _____</i>



(6) Complete the following directions in accordance with the letter selected above:

[A] Multiply line 5 by 1 \$ _____

[B] Multiply line 5 by 2 \$ _____

[C] Multiply line 5 by 52 and then divide by 24 \$ _____

[D] Multiply line 5 by 52 and then divide by 12 \$ _____

(7) Subtract line 6 from line 3 \$ _____

This is the attachable earnings. This amount must not exceed 25% of the disposable earnings from line 3.

Answer:

Did you have in your possession, in your charge or under your control, on the date the writ of garnishment was served upon you, any money, property, effects, goods, chattels, rights, credits or choses in action of the defendants, or either of them, or in whichis interested? If so, state its value, and state fully all particulars.

Answer:

Do you know of any debts owing to the defendants, whether due or not due, or any money, property, effects, goods, chattels, rights, credits or choses in action, belonging to or in whichis interested, and now in the possession or under the control of others? If so, state particulars.

Answer:

Are you a financial institution with a personal account held by one or all of the defendants? If so, state the account number and the amount of money in the account which is subject to garnishment. As set forth in section 3 of this act, \$2,000 or the entire amount in the account, whichever is less, is not subject to garnishment if the financial institution reasonably identifies that an electronic deposit of money has been made into the account within the immediately preceding 45 days which is exempt from execution, including, without limitation, payments of money described in section 3 of this act or, if no such deposit has been made, \$1,000 or the entire amount in the account, whichever is less, is not subject to garnishment. The amount which is not subject to garnishment does not apply to each account of the judgment debtor, but rather is an aggregate amount that is not subject to garnishment.

Answer:



1 State your correct name and address, or the name and address
2 of your attorney upon whom written notice of further proceedings in
3 this action may be served.

4 Answer:

5

6

7 Garnishee

8 I (insert the name of the garnishee), ~~I do solemnly swear (or~~
9 ~~affirm)~~ **declare under penalty of perjury** that the answers to the
10 foregoing interrogatories by me subscribed are true ~~I~~ **and correct.**

11

12 (Signature of garnishee)

13 ~~[SUBSCRIBED and SWORN to before me this day of~~
14 ~~the month of of the year]~~

15
16 2. The garnishee shall answer the interrogatories in writing
17 upon oath or affirmation and submit the answers to the sheriff
18 within the time required by the writ. **The garnishee shall submit his**
19 **or her answers to the judgment debtor within the same time.** If the
20 garnishee fails to do so, the garnishee shall be deemed in default.

21 **Sec. 12.** NRS 31.296 is hereby amended to read as follows:

22 31.296 1. Except as otherwise provided in subsection 3, if the
23 garnishee indicates in the garnishee's answer to garnishee
24 interrogatories that the garnishee is the employer of the defendant,
25 the writ of garnishment served on the garnishee shall be deemed to
26 continue for 120 days or until the amount demanded in the writ is
27 satisfied, whichever occurs earlier.

28 2. In addition to the fee set forth in NRS 31.270, a garnishee is
29 entitled to a fee from the plaintiff of \$3 per pay period, not to exceed
30 \$12 per month, for each withholding made of the defendant's
31 earnings. This subsection does not apply to the first pay period in
32 which the defendant's earnings are garnished.

33 3. If the defendant's employment by the garnishee is
34 terminated before the writ of garnishment is satisfied, the garnishee:

35 (a) Is liable only for the amount of earned but unpaid, disposable
36 earnings that are subject to garnishment.

37 (b) Shall provide the plaintiff or the plaintiff's attorney with the
38 last known address of the defendant and the name of any new
39 employer of the defendant, if known by the garnishee.

40 **4. The judgment creditor who caused the writ of attachment**
41 **to issue pursuant to NRS 31.013 shall prepare an accounting and**
42 **provide a report to the judgment debtor, the sheriff and each**
43 **garnishee every 120 days which sets forth, without limitation, the**
44 **amount owed by the judgment debtor, the costs and fees allowed**
45 **pursuant to NRS 18.160 and any accrued interest and costs on the**



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judgment. The report must advise the judgment debtor of the judgment debtor's right to request a hearing pursuant to NRS 18.110 to dispute any accrued interest, fee or other charge. The judgment creditor must submit this accounting with each subsequent application for writ made by the judgment creditor concerning the same debt.

Sec. 13. NRS 258.230 is hereby amended to read as follows:

258.230 Except with respect to the ~~fee~~ *fees* described in ~~paragraph~~ *paragraphs (a) and* (d) of subsection 2 of NRS 258.125, all fees prescribed in this chapter shall be payable in advance, if demanded. If a constable shall not have received any or all of his or her fees, which may be due the constable for services rendered by him or her in any suit or proceedings, the constable may have execution therefor in his or her own name against the party or parties from whom they are due, to be issued from the court where the action is pending, upon the order of the justice of the peace or court upon affidavit filed.

Sec. 14. NRS 612.710 is hereby amended to read as follows:

612.710 Except as otherwise provided in NRS 31A.150:

1. Any assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this chapter is void, except for a voluntary assignment of benefits to satisfy an obligation to pay support for a child.

2. Benefits are exempt from levy, execution, attachment, or any other remedy provided for the collection of debt. Benefits received by any person ~~[, if they are not mingled with other money of the recipient,]~~ are exempt from any remedy for the collection of all debts, except debts incurred for necessities furnished to the person or the person's spouse or dependents during the time when the person was unemployed.

3. Any other waiver of any exemption provided for in this section is void.

Sec. 15. NRS 21.114 is hereby repealed.

TEXT OF REPEALED SECTION

21.114 Sureties: Submission to jurisdiction of court; exceptions to sufficiency and justification.

1. By entering into any undertaking provided for in NRS 21.112, the sureties thereunder submit themselves to the jurisdiction of the court and irrevocably appoint the clerk of the court as agent upon whom any papers affecting liability on the undertaking may be



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served. Liability on such undertaking may be enforced on motion to the court without the necessity of an independent action. The motion and such reasonable notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the sureties if their addresses are known.

2. Exceptions to the sufficiency of the sureties and their justification may be had and taken in the same manner as upon an undertaking given in other cases under titles 2 and 3 of NRS. If they, or others in their place, fail to justify at the time and place appointed, the sheriff must release the property; but if no exception is taken within 5 days after notice of receipt of the undertaking, the judgment debtor shall be deemed to have waived any and all objections to the sufficiency of the sureties.

