

Amendment No. 663

Assembly Amendment to Senate Bill No. 348

(BDR 2-779)

Proposed by: Assembly Committee on Judiciary**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

DP/KEL



Date: 5/25/2011

S.B. No. 348—Eliminates limits on the amounts of certain property that is exempt from execution. (BDR 2-779)



SENATE BILL NO. 348—SENATORS ROBERSON; CEGAVSKE, GUSTAVSON,
 HALSETH, MCGINNESS AND SETTELMAYER

MARCH 21, 2011

Referred to Committee on Judiciary

SUMMARY—~~[Eliminates limits on the amounts of certain property that is exempt from execution.]~~ Makes various changes concerning the execution on property of a judgment debtor or defendant.
 (BDR 2-779)

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 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; eliminating limits on the amounts of certain property that is exempt from execution; exempting certain property from execution; 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:

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

Existing law exempts from execution all money, benefits, privileges or immunities arising out of a policy of life insurance if the annual premium paid for the policy does not exceed \$15,000 and exempts a portion of those insurance proceeds if the premium does exceed \$15,000. (NRS 21.090) **Section 7** of this bill eliminates the \$15,000 premium limit,

allowing for a complete exemption from the execution of all money, benefits, privileges or immunities arising from a policy of life insurance. Section 7 also 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.

Existing law exempts from execution any annuity benefits presently due and payable to an annuitant on a scheduled or periodic basis up to a total of \$350 per month but allows a court to order certain just and proper payments from annuity benefits if those benefits exceed \$350 per month. (NRS 687B.290) Section 15 of this bill eliminates the \$350 monthly benefit exemption limit, allowing for a complete exemption from the execution of annuity benefits.

Section 16 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 been deposited into the account electronically within the immediately preceding 45 days from the date on which the writ was served which is reasonably identifiable as exempt from execution, notwithstanding any other deposits of money into the account, \$2,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor. For the purposes of this section, money is reasonably identifiable as exempt from execution if the money

1 is deposited in the bank account by the United States Department of the Treasury,
2 including, without limitation, money deposited as:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 2. If a writ of execution or garnishment is levied on the personal bank
37 account of the judgment debtor and the provisions of subsection 1 do not apply,
38 \$1,000 or the entire amount in the account, whichever is less, is not subject to
39 execution and must remain accessible to the judgment debtor.

40 3. If a judgment debtor has more than one personal bank account with the
41 financial institution to which a writ is issued, the amount that is not subject to
42 execution must not in the aggregate exceed the amount specified in subsection 1
43 or 2, as applicable.

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

47 5. If money in the personal account of the judgment debtor which exceeds
48 the amount that is not subject to execution pursuant to subsection 1 or 2 includes
49 exempt and nonexempt money, the judgment debtor may claim an exemption for
50 the exempt money in the manner set forth in NRS 21.112. To determine whether
51 such money in the account is exempt, the judgment creditor must use the method
52 of accounting which applies the standard that the first money deposited in the
53 account is the first money withdrawn from the account. The court may require a

1 judgment debtor to provide statements from the financial institution which
2 include all deposits into and withdrawals from the account for the immediately
3 preceding 90 days.

4 6. A financial institution which makes a reasonable effort to determine
5 whether money in the account of a judgment debtor is subject to execution for the
6 purposes of this section is immune from civil liability for any act or omission with
7 respect to that determination, including, without limitation, when the financial
8 institution makes an incorrect determination after applying commercially
9 reasonable methods for determining whether money in an account is exempt
10 because the source of the money was not clearly identifiable or because the
11 financial institution inadvertently misidentified the source of the money. If a
12 court determines that a financial institution failed to identify that money in an
13 account was not subject to execution pursuant to this section, the financial
14 institution must adjust its actions with respect to a writ of execution as soon as
15 possible but may not be held liable for damages.

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

18 Sec. 4. 1. Notwithstanding the provisions of section 3 of this act, if a
19 judgment debtor has a personal bank account in more than one financial
20 institution, the judgment creditor is entitled to an order from the court to be
21 issued with the writ of execution or garnishment which states that all money held
22 in all such accounts of the judgment debtor that are identified in the application
23 for the order are subject to the writ.

24 2. A judgment creditor may apply to the court for an order pursuant to
25 subsection 1 by submitting a signed affidavit which identifies each financial
26 institution in which the judgment debtor has a personal account.

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

29 Sec. 5. 1. If a writ of execution or garnishment is levied on property in a
30 safe-deposit box maintained at a financial institution, a separate writ must be
31 issued from any writ that is issued to levy on an account of the judgment debtor
32 with the financial institution. Notice of the writ must be served personally on the
33 financial institution and promptly thereafter on any third person who is named
34 on the safe-deposit box.

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

38 3. The sheriff may allow the person in whose name the safe-deposit box is
39 held to open the safe-deposit box so that the contents may be removed pursuant to
40 the levy. The financial institution may refuse to allow the forcible opening of the
41 safe-deposit box to allow the removal of the property levied upon unless the
42 judgment creditor pays in advance the cost of forcibly opening the safe-deposit
43 box and of repairing any damage caused thereby.

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

45 21.075 1. Execution on the writ of execution by levying on the property of
46 the judgment debtor may occur only if the sheriff serves the judgment debtor with a
47 notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The
48 notice must describe the types of property exempt from execution and explain the
49 procedure for claiming those exemptions in the manner required in subsection 2.
50 The clerk of the court shall attach the notice to the writ of execution at the time the
51 writ is issued.

52 2. The notice required pursuant to subsection 1 must be substantially in the
53 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. The judgment creditor 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 \$550,000, 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 by you as your primary residence, except that such money is not exempt with respect to a landlord or landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

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

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.

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.

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.

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.

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 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.

~~[Section 1]~~ 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.

(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.

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

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

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

17 (k) All money, benefits, privileges or immunities accruing or in any manner
18 growing out of any life insurance. ~~f. if the annual premium paid does not exceed~~
19 ~~\$15,000. If the premium exceeds that amount, a similar exemption exists which~~
20 ~~bears the same proportion to the money, benefits, privileges and immunities so~~
21 ~~accruing or growing out of the insurance that the \$15,000 bears to the whole annual~~
22 ~~premium paid.~~

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

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

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

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

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

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

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

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

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

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

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

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

9 (s) All money and other benefits paid pursuant to the order of a court of
10 competent jurisdiction for the support, education and maintenance of a child,
11 whether collected by the judgment debtor or the State.

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

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

20 (v) Payments received as compensation for the wrongful death of a person
21 upon whom the judgment debtor was dependent at the time of the wrongful death,
22 to the extent reasonably necessary for the support of the judgment debtor and any
23 dependent of the judgment debtor.

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

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

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

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

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

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

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

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

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

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

51 (4) A power of appointment in the trust as defined in NRS 163.4157
52 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.

(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 ~~by~~ pursuant to this section, the judgment debtor must, within ~~14~~ 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]~~ or garnishment the judgment debtor's claim of exemption ~~[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:~~

~~(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. 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~~

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

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 a 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

(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:

(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 by you as your primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

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

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.

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.

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.

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.

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

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

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

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

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

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

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

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

17 17. If a trust contains a spendthrift provision:

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

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

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

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

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

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

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

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

46 23. Payments received as restitution for a criminal act.

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

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

51 26. Stock of a corporation described in subsection 2 of NRS 78.746
52 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 ~~to 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 the ~~judgment creditor files a motion~~ *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 objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed 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 not less than 5 judicial days before the date set for the hearing.* The hearing must be held within ~~10~~ *7 judicial* days after the ~~motion~~ *objection to the claim of exemption and notice* for a 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.

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

for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

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

Sec. 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:

(1) Gross Earnings \$

(2) Deductions required by law (not including child support) \$

(3) Disposable Earnings [Subtract line 2 from line 1] \$

(4) Federal Minimum Wage \$

(5) Multiply line 4 by 50 \$

(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.

1 Answer:

2
3 Do you know of any debts owing to the defendants, whether due or not due,
4 or any money, property, effects, goods, chattels, rights, credits or choses in action,
5 belonging to or in which is interested, and now in the
6 possession or under the control of others? If so, state particulars.

7 Answer:

8
9 Are you a financial institution with a personal account held by one or all
10 of the defendants? If so, state the account number and the amount of money in
11 the account which is subject to garnishment. As set forth in section 3 of this act,
12 \$2,000 or the entire amount in the account, whichever is less, is not subject to
13 garnishment if the financial institution reasonably identifies that an electronic
14 deposit of money has been made into the account within the immediately
15 preceding 45 days which is exempt from execution, including, without limitation,
16 payments of money described in section 3 of this act or, if no such deposit has
17 been made, \$1,000 or the entire amount in the account, whichever is less, is not
18 subject to garnishment. The amount which is not subject to garnishment does not
19 apply to each account of the judgment debtor, but rather is an aggregate amount
20 that is not subject to garnishment.

21 Answer:

22
23 State your correct name and address, or the name and address of your
24 attorney upon whom written notice of further proceedings in this action may be
25 served.

26 Answer:

27
28
29 Garnishee

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

33
34 (Signature of garnishee)

35 ~~[SUBSCRIBED and SWORN to before me this day of the month of~~
36 ~~..... of the year]~~

37
38 2. The garnishee shall answer the interrogatories in writing upon oath or
39 affirmation and submit the answers to the sheriff within the time required by the
40 writ. The garnishee shall submit his or her answers to the judgment debtor within
41 the same time. If the garnishee fails to do so, the garnishee shall be deemed in
42 default.

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

44 31.296 1. Except as otherwise provided in subsection 3, if the garnishee
45 indicates in the garnishee's answer to garnishee interrogatories that the garnishee is
46 the employer of the defendant, the writ of garnishment served on the garnishee shall
47 be deemed to continue for 120 days or until the amount demanded in the writ is
48 satisfied, whichever occurs earlier.

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

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

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

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

4. The judgment creditor who caused the writ of attachment to issue pursuant to NRS 31.013 shall prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days which sets forth, without limitation, the amount owed by the judgment debtor, the costs and fees allowed pursuant to NRS 18.160 and any accrued interest and costs on the 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. 2.]~~ Sec. 15. NRS 687B.290 is hereby amended to read as follows:

687B.290 1. The benefits, rights, privileges and options which under any annuity contract issued prior to or after January 1, 1972, are due or prospectively due the annuitant shall not be subject to execution nor shall the annuitant be compelled to exercise any such rights, powers or options, nor shall creditors be allowed to interfere with or terminate the contract, except ~~[-~~

~~(a) As]~~ as to amounts paid for or as premium on any such annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to the making of the payment to the annuitant out of which the creditor seeks to recover. Any such notice shall specify the amount claimed or such facts as will enable the insurer to ascertain such amount, and shall set forth such facts as will enable the insurer to ascertain the annuity contract, the annuitant and the payment sought to be avoided on the ground of fraud.

1 ~~[(b) The total exemption of benefits presently due and payable to any annuitant~~
2 ~~periodically or at stated times under all annuity contracts under which he or she is~~
3 ~~an annuitant shall not at any time exceed \$350 per month for the length of time~~
4 ~~represented by such installments, and such periodic payments in excess of \$350 per~~
5 ~~month shall be subject to garnishee execution to the same extent as are wages and~~
6 ~~salaries.~~

7 ~~— (c) If the total benefits presently due and payable to any annuitant under all~~
8 ~~annuity contracts under which he or she is an annuitant, at any time exceed~~
9 ~~payment at the rate of \$350 per month, then the court may order such annuitant to~~
10 ~~pay to a judgment creditor or apply on the judgment, in installments, such portion~~
11 ~~of such excess benefits as to the court may appear just and proper, after due regard~~
12 ~~for the reasonable requirements of the judgment debtor and the family of the~~
13 ~~judgment debtor, if dependent upon the judgment debtor, as well as any payments~~
14 ~~required to be made by the annuitant to other creditors under prior court orders.]~~

15 2. If the contract so provides, the benefits, rights, privileges or options
16 accruing under such contract to a beneficiary or assignee shall not be transferable or
17 subject to commutation, and ~~[if the benefits are payable periodically or at stated~~
18 ~~times.]~~ the same exemptions and exceptions contained in this section for the
19 annuitant shall apply with respect to such beneficiary or assignee.

20 Sec. 16. 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 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.