

SENATE BILL NO. 373—SENATORS SEGERBLOM,
PARKS, SPEARMAN; ATKINSON AND KIHUEN

MARCH 18, 2013

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to judgments.
(BDR 2-932)

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 judgments; authorizing a court to issue an order permitting a judgment debtor to pay a judgment in installments under certain circumstances; increasing the percentage of a judgment debtor's disposable earnings which is exempt from execution; authorizing a judgment debtor who is a resident of this State to bring a civil action in certain circumstances against a judgment creditor who obtains a writ of garnishment without domesticating a foreign judgment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 1** of this bill authorizes a court to allow a person who has had a
2 judgment for the payment of money entered against him or her to pay the judgment
3 in installments from income or property that is not exempt from execution if the
4 court determines that the defendant is unable to pay the judgment.

5 Existing law provides that 75 percent of a judgment debtor's disposable
6 earnings for any workweek are exempt from execution. (NRS 21.025, 21.075,
7 21.090, 31.045, 31.295) **Sections 2-4 and 6-9** of this bill increase the exemption to
8 90 percent of a judgment debtor's disposable earnings for any workweek.

9 Existing law requires a judgment creditor who seeks to enforce a foreign
10 judgment in this State to domesticate the foreign judgment by filing a copy of the
11 foreign judgment with the clerk of any district court of this State. (NRS 17.330-
12 17.400) **Section 5** of this bill authorizes a judgment debtor who is a resident of this
13 State to bring a civil action against a judgment creditor who, without domesticating
14 a foreign judgment, garnishes a bank account or any other personal property
15 maintained by the judgment debtor at a branch of a financial institution located in
16 this State or the earnings of the judgment debtor from employment in this State.



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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 a new provision to read as follows:

1. A judge of any court having jurisdiction at the time of the entry of a judgment, upon proper showing made by the defendant with both parties or their attorneys present in court, may make a written order permitting the judgment debtor to pay the judgment in installments from that portion of the judgment debtor's income or property which is not exempt from execution, at such times and in such amounts as, in the opinion of the judge, the judgment creditor is able to pay.

2. Upon compliance by the judgment creditor with the provisions of this section and the court rules, a judge of any court may issue an order permitting a judgment creditor to pay in installments from that portion of the judgment debtor's income or property which is not exempt from execution, at such times and in such amounts as, in the opinion of the judge, the judgment creditor is able to pay, any judgment previously entered by his or her court or filed in his or her court pursuant to NRS 17.350.

3. At any time after the entry of a judgment by a court or the filing of a judgment in a court pursuant to NRS 17.350, a judgment debtor may file a petition with the clerk of the court in which the judgment was entered or filed requesting the clerk to issue a notice, directed to the judgment creditor. The petition must include an affidavit of the judgment creditor setting forth the judgment debtor's inability to pay the judgment from that portion of the judgment debtor's income or property which is not exempt from execution.

4. A notice issued pursuant to subsection 3 must notify the judgment creditor of the day and time of a hearing to allow the judgment debtor to pay the judgment in installments. The notice must be served on the judgment creditor not later than 4 days before the date set for the hearing on the petition, by placing the notice in the United States mail in an envelope properly stamped and addressed to the judgment creditor or the agent or attorney of the judgment creditor.

5. Except as otherwise provided by court order, a writ of execution or a writ of garnishment may not be issued on the judgment after the filing of a petition pursuant to subsection 3.

Sec. 2. NRS 21.025 is hereby amended to read as follows:

21.025 A writ of execution issued on a judgment for the recovery of money must be substantially in the following form:

(Title of the Court)

(Number and abbreviated title of the case)

EXECUTION



THE PEOPLE OF THE STATE OF NEVADA:

To the sheriff of County.

Greetings:

To FINANCIAL INSTITUTIONS: This judgment is for the recovery of money for the support of a person.

On(month).....(day).....(year), a judgment was entered by the above-entitled court in the above-entitled action in favor of as judgment creditor and against as judgment debtor for:

\$..... principal,
\$..... attorney's fees,
\$..... interest, and
\$..... costs, making a total amount of
\$..... the judgment as entered, and

WHEREAS, according to an affidavit or a memorandum of costs after judgment, or both, filed herein, it appears that further sums have accrued since the entry of judgment, to wit:

\$..... accrued interest, and
\$..... accrued costs, together with \$..... fee, for the
issuance of this writ, making a total of
\$..... as accrued costs, accrued interest and fees.

Credit must be given for payments and partial satisfactions in the amount of

\$.....

which is to be first credited against the total accrued costs and accrued interest, with any excess credited against the judgment as entered, leaving a net balance of

\$.....

actually due on the date of the issuance of this writ, of which

\$.....

bears interest at percent per annum, in the amount of \$..... per day, from the date of judgment to the date of levy, to which must be added the commissions and costs of the officer executing this writ.

NOW, THEREFORE, SHERIFF OF
..... COUNTY, you are hereby
commanded to satisfy this judgment with interest and costs as



provided by law, out of the personal property of the judgment debtor, except that for any workweek, ~~75~~ 90 percent of the disposable earnings of the 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, is exempt from any levy of execution pursuant to this writ, and if sufficient personal property cannot be found, then out of the real property belonging to the debtor in the aforesaid county, and make return to this writ within not less than 10 days or more than 60 days endorsed thereon with what you have done.

Dated: This day of the month of of the year

....., Clerk.

By....., Deputy Clerk.

Sec. 3. NRS 21.075 is hereby amended to read as follows:

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

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

NOTICE OF EXECUTION

YOUR PROPERTY IS BEING ATTACHED OR YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to (name of person), the judgment creditor. 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



1 survivors' benefits, supplemental security income benefits
2 and disability insurance benefits.

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

5 3. Payments for public assistance granted through the
6 Division of Welfare and Supportive Services of the
7 Department of Health and Human Services or a local
8 governmental entity.

9 4. Proceeds from a policy of life insurance.

10 5. Payments of benefits under a program of industrial
11 insurance.

12 6. Payments received as disability, illness or
13 unemployment benefits.

14 7. Payments received as unemployment compensation.

15 8. Veteran's benefits.

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

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

21 (b) Allodial title has been established and not relinquished
22 for the dwelling or mobile home, in which case all of the
23 dwelling or mobile home and its appurtenances are exempt,
24 including the land on which they are located, unless a valid
25 waiver executed pursuant to NRS 115.010 is applicable to the
26 judgment.

27 10. All money reasonably deposited with a landlord by
28 you to secure an agreement to rent or lease a dwelling that is
29 used by you as your primary residence, except that such
30 money is not exempt with respect to a landlord or landlord's
31 successor in interest who seeks to enforce the terms of the
32 agreement to rent or lease the dwelling.

33 11. A vehicle, if your equity in the vehicle is less than
34 \$15,000.

35 12. ~~Seventy-five~~ *Ninety* percent of the take-home pay
36 for any workweek, unless the weekly take-home pay is less
37 than 50 times the federal minimum hourly wage, in which
38 case the entire amount may be exempt.

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

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



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(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 that is a contingent interest, if the contingency has not been satisfied or removed;

(b) A present or future interest in the income or principal of a trust for which discretionary power is held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(c) 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;

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

(e) Any power held by the person who created the trust.

17. If a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust that is a mandatory interest in which the trustee does not have discretion concerning whether to make the



1 distribution from the trust, if the interest has not been
2 distributed from the trust; and

3 (b) A present or future interest in the income or principal
4 of a trust that is a support interest in which the standard for
5 distribution may be interpreted by the trustee or a court, if the
6 interest has not been distributed from the trust.

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

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

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

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

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

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

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

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

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

36 ➡ These exemptions may not apply in certain cases such as a
37 proceeding to enforce a judgment for support of a person or a
38 judgment of foreclosure on a mechanic's lien. You should
39 consult an attorney immediately to assist you in determining
40 whether your property or money is exempt from execution. If
41 you cannot afford an attorney, you may be eligible for
42 assistance through (name of organization in
43 county providing legal services to indigent or elderly
44 persons). If you do not wish to consult an attorney or receive
45 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 an executed claim of exemption. A copy of the claim of exemption must be served upon the sheriff, the garnishee and the judgment creditor within 10 days after the notice of execution or garnishment is served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on. The property must be released by the garnishee or the sheriff within 9 judicial days after you serve the claim of exemption upon the sheriff, garnishee and judgment creditor, unless 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 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 to determine whether the property or money is exempt must be held within 7 judicial days after the 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 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. 4. 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~~ 90 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



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1 bonus. The term includes compensation received by a judgment
2 debtor that is in the possession of the judgment debtor,
3 compensation held in accounts maintained in a bank or any other
4 financial institution or, in the case of a receivable, compensation
5 that is due the judgment debtor.

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

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

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

24 (k) All money, benefits, privileges or immunities accruing or in
25 any manner growing out of any life insurance.

26 (l) The homestead as provided for by law, including a
27 homestead for which allodial title has been established and not
28 relinquished and for which a waiver executed pursuant to NRS
29 115.010 is not applicable.

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

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

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



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

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

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

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

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

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

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

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

(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.



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(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 distribution interest in the trust as defined in NRS 163.4155 that is a contingent interest, if the contingency has not been satisfied or removed;

(2) A distribution interest in the trust as defined in NRS 163.4155 that is a discretionary interest as described in NRS 163.4185, if the interest has not been distributed;

(3) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been exercised;

(4) 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 exercised; and

(5) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been exercised.

(dd) If a trust contains a spendthrift provision:

(1) A distribution interest in the trust as defined in NRS 163.4155 that is a mandatory interest as described in NRS 163.4185, if the interest has not been distributed; and

(2) Notwithstanding a beneficiary's right to enforce a support interest, a distribution interest in the trust as defined in NRS 163.4155 that is a support interest as described in NRS 163.4185, if the interest has not been distributed.



- 1 (ee) Proceeds received from a private disability insurance plan.
2 (ff) Money in a trust fund for funeral or burial services pursuant
3 to NRS 689.700.
4 (gg) Compensation that was payable or paid pursuant to
5 chapters 616A to 616D, inclusive, or chapter 617 of NRS as
6 provided in NRS 616C.205.
7 (hh) Unemployment compensation benefits received pursuant to
8 NRS 612.710.
9 (ii) Benefits or refunds payable or paid from the Public
10 Employees' Retirement System pursuant to NRS 286.670.
11 (jj) Money paid or rights existing for vocational rehabilitation
12 pursuant to NRS 615.270.
13 (kk) Public assistance provided through the Department of
14 Health and Human Services pursuant to NRS 422.291.
15 (ll) Child welfare assistance provided pursuant to NRS 432.036.
16 2. Except as otherwise provided in NRS 115.010, no article or
17 species of property mentioned in this section is exempt from
18 execution issued upon a judgment to recover for its price, or upon a
19 judgment of foreclosure of a mortgage or other lien thereon.
20 3. Any exemptions specified in subsection (d) of section 522 of
21 the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to
22 property owned by a resident of this State unless conferred also by
23 subsection 1, as limited by subsection 2.
24 **Sec. 5.** Chapter 31 of NRS is hereby amended by adding
25 thereto a new section to read as follows:
26 *1. Any judgment debtor who is a resident of this State and*
27 *who maintains an account or any other property at a branch of a*
28 *financial institution located in this State or whose earnings are*
29 *derived from employment in this State may bring a civil action*
30 *against a judgment creditor under a foreign judgment, if the*
31 *judgment creditor, without satisfying the requirements of NRS*
32 *17.330 to 17.400, inclusive, has obtained a writ of garnishment to*
33 *satisfy all or part of the foreign judgment from:*
34 *(a) The earnings of the judgment debtor derived from*
35 *employment in this State; or*
36 *(b) Money in the account or any other property maintained by*
37 *the judgment debtor at a branch of a financial institution located*
38 *in this State.*
39 *2. A judgment debtor who prevails in an action brought*
40 *under this section may recover from the judgment creditor*
41 *damages equal to two times any amount paid to the judgment*
42 *creditor under the writ of garnishment. If the judgment debtor*
43 *prevails in an action brought under this section, the court must*
44 *award reasonable attorney's fees and costs to the plaintiff.*



3. As used in this section, “foreign judgment” has the meaning ascribed to it in NRS 17.340.

Sec. 6. 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~~ *Ninety* 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



1 the Internal Revenue Code, 26 U.S.C. § 529, unless the
2 money is deposited after the entry of a judgment against the
3 purchaser or account owner or the money will not be used by
4 any beneficiary to attend a college or university.

5 14. All money and other benefits paid pursuant to the
6 order of a court of competent jurisdiction for the support,
7 education and maintenance of a child, whether collected by
8 the judgment debtor or the State.

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

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

16 (a) A present or future interest in the income or principal
17 of a trust that is a contingent interest, if the interest has not
18 been satisfied or removed;

19 (b) A present or future interest in the income or principal
20 of a trust for which discretionary power is held by a trustee to
21 determine whether to make a distribution from the trust, if the
22 interest has not been distributed from the trust;

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

26 (d) Certain powers held by a trust protector or certain
27 other persons; and

28 (e) Any power held by the person who created the trust.

29 17. If a trust contains a spendthrift provision:

30 (a) A present or future interest in the income or principal
31 of a trust that is a mandatory interest in which the trustee does
32 not have discretion concerning whether to make the
33 distribution from the trust, if the interest has not been
34 distributed from the trust; and

35 (b) A present or future interest in the income or principal
36 of a trust that is a support interest in which the standard for
37 distribution may be interpreted by the trustee or a court, if the
38 interest has not been distributed from the trust.

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

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

44 20. Payments, in an amount not to exceed \$16,150,
45 received as compensation for personal injury, not including



* S B 3 7 3 *

1 compensation for pain and suffering or actual pecuniary loss,
2 by the judgment debtor or by a person upon whom the
3 judgment debtor is dependent at the time the payment is
4 received.

5 21. Payments received as compensation for the wrongful
6 death of a person upon whom the judgment debtor was
7 dependent at the time of the wrongful death, to the extent
8 reasonably necessary for the support of the judgment debtor
9 and any dependent of the judgment debtor.

10 22. Payments received as compensation for the loss of
11 future earnings of the judgment debtor or of a person upon
12 whom the judgment debtor is dependent at the time the
13 payment is received, to the extent reasonably necessary for
14 the support of the judgment debtor and any dependent of the
15 judgment debtor.

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

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

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

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

23 ➤ These exemptions may not apply in certain cases such as
24 proceedings to enforce a judgment for support of a child or a
25 judgment of foreclosure on a mechanic's lien. You should
26 consult an attorney immediately to assist you in determining
27 whether your property or money is exempt from execution. If
28 you cannot afford an attorney, you may be eligible for
29 assistance through (name of organization in
30 county providing legal services to the indigent or elderly
31 persons). If you do not wish to consult an attorney or receive
32 legal services from an organization that provides assistance to
33 persons who qualify, you may obtain the form to be used to
34 claim an exemption from the clerk of the court.

35 36 PROCEDURE FOR CLAIMING EXEMPT PROPERTY

37
38 If you believe that the money or property taken from you
39 is exempt or necessary for the support of you or your family,
40 you must file with the clerk of the court on a form provided
41 by the clerk an executed claim of exemption. A copy of the
42 claim of exemption must be served upon the sheriff, the
43 garnishee and the judgment creditor within 10 days after the
44 notice of execution or garnishment is served on you by mail
45 pursuant to NRS 21.076 which identifies the specific property



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

26 IF YOU DO NOT FILE THE EXECUTED CLAIM OF
27 EXEMPTION WITHIN THE TIME SPECIFIED, YOUR
28 PROPERTY MAY BE SOLD AND THE MONEY GIVEN
29 TO THE JUDGMENT CREDITOR, EVEN IF THE
30 PROPERTY OR MONEY IS EXEMPT.
31

32 If you received this notice with a notice of a hearing for
33 attachment and you believe that the money or property which
34 would be taken from you by a writ of attachment is exempt or
35 necessary for the support of you or your family, you are
36 entitled to describe to the court at the hearing why you
37 believe your property is exempt. You may also file a motion
38 with the court for a discharge of the writ of attachment. You
39 may make that motion any time before trial. A hearing will be
40 held on that motion.
41

42 IF YOU DO NOT FILE THE MOTION BEFORE THE
43 TRIAL, YOUR PROPERTY MAY BE SOLD AND
44 THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE



* S B 3 7 3 *

PROPERTY OR MONEY IS EXEMPT OR NECESSARY
FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Sec. 7. NRS 31.060 is hereby amended to read as follows:

31.060 Subject to the requirements of NRS 31.045, the sheriff to whom the writ is directed and delivered shall execute it without delay, and if the undertaking mentioned in NRS 31.040 is not given, as follows:

1. Real property must be attached by leaving a copy of the writ with the occupant of the property or, if there is no occupant, by posting a copy in a conspicuous place on the property and recording the writ, together with a description of the property attached, with the recorder of the county.

2. Personal property must be attached:

(a) By taking it into immediate custody, and, if directed by the plaintiff, using the services of any company which operates a tow car, as defined in NRS 706.131, or common motor carrier, as defined in NRS 706.036, to transport it for storage in a warehouse or storage yard that is insured or bonded in an amount not less than the full value of the property; or

(b) By placing a keeper in charge of a going business where the property is located, with the plaintiff prepaying the expense of the keeper to the sheriff, during which period, the defendant, by order of the court or the consent of the plaintiff, may continue to operate in the ordinary course of business at the defendant's own expense if all sales are for cash and the full proceeds are paid to the keeper for the purpose of the attachment.

➤ If the property is stored pursuant to paragraph (a), the property must be segregated from other property and marked by signs or other appropriate means indicating that it is in the custody of the sheriff.

3. Any mobile home, as defined in NRS 40.215, must be attached by:

(a) Posting a copy of the writ in a conspicuous place on the mobile home;

(b) Taking it into immediate custody, subject to the provisions of subsection 2; or

(c) Placing a keeper in charge of the mobile home for 2 days, with the plaintiff prepaying the expense of the keeper to the sheriff:

(1) During which period, the defendant may continue to occupy the mobile home; and

(2) After which period, the sheriff shall take the mobile home into the sheriff's immediate custody, subject to the provisions of subsection 2, unless other disposition is made by the court or the parties to the action.



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4. Debts and credits, due or to become due, and other personal property in the possession or under the control of persons other than the defendant must be attached by service of a writ of garnishment as provided in NRS 31.240 to 31.460, inclusive ~~H~~, and section 5 of this act.

Sec. 8. 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 garnishable 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 \$.....



1 [B] Multiply line 5 by 2 \$

2 [C] Multiply line 5 by 52 and then divide

3 by 24 \$

4 [D] Multiply line 5 by 52 and then divide

5 by 12 \$

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

7 This is the attachable earnings. This amount must not
8 exceed ~~125%~~ 10% of the disposable earnings from line 3.

9 Answer:

10
11 Did you have in your possession, in your charge or
12 under your control, on the date the writ of garnishment was
13 served upon you, any money, property, effects, goods,
14 chattels, rights, credits or choses in action of the defendants,
15 or either of them, or in whichis interested?
16 If so, state its value, and state fully all particulars.

17 Answer:

18
19 Do you know of any debts owing to the defendants,
20 whether due or not due, or any money, property, effects,
21 goods, chattels, rights, credits or choses in action, belonging
22 to or in whichis interested, and
23 now in the possession or under the control of others? If so,
24 state particulars.

25 Answer:

26
27 Are you a financial institution with a personal account
28 held by one or all of the defendants? If so, state the account
29 number and the amount of money in the account which is
30 subject to garnishment. As set forth in NRS 21.105, \$2,000 or
31 the entire amount in the account, whichever is less, is not
32 subject to garnishment if the financial institution reasonably
33 identifies that an electronic deposit of money has been made
34 into the account within the immediately preceding 45 days
35 which is exempt from execution, including, without
36 limitation, payments of money described in NRS 21.105 or, if
37 no such deposit has been made, \$400 or the entire amount in
38 the account, whichever is less, is not subject to garnishment,
39 unless the garnishment is for the recovery of money owed for
40 the support of any person. The amount which is not subject to
41 garnishment does not apply to each account of the judgment
42 debtor, but rather is an aggregate amount that is not subject to
43 garnishment.

44 Answer:

45



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

4 Answer:

5

6
7 Garnishee
8 I (insert the name of the garnishee), declare under
9 penalty of perjury that the answers to the foregoing
10 interrogatories by me subscribed are true and correct.

11
12 (Signature of garnishee)

13
14 2. The garnishee shall answer the interrogatories in writing
15 upon oath or affirmation and submit the answers to the sheriff
16 within the time required by the writ. The garnishee shall submit his
17 or her answers to the judgment debtor within the same time. If the
18 garnishee fails to do so, the garnishee shall be deemed in default.

19 **Sec. 9.** NRS 31.295 is hereby amended to read as follows:

20 31.295 1. As used in this section:

21 (a) "Disposable earnings" means that part of the earnings of any
22 person remaining after the deduction from those earnings of any
23 amounts required by law to be withheld.

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

32 2. The maximum amount of the aggregate disposable earnings
33 of a person which are subject to garnishment may not exceed:

34 (a) ~~Twenty-five~~ **Ten** percent of the person's disposable
35 earnings for the relevant workweek; or

36 (b) The amount by which the person's disposable earnings for
37 that week exceed 50 times the federal minimum hourly wage
38 prescribed by section 6(a)(1) of the federal Fair Labor Standards Act
39 of 1938, 29 U.S.C. § 206(a)(1), in effect at the time the earnings are
40 payable,

41 ↪ whichever is less.

42 3. The restrictions of subsection 2 do not apply in the case of:

43 (a) Any order of any court for the support of any person.

44 (b) Any order of any court of bankruptcy.

45 (c) Any debt due for any state or federal tax.



1 4. Except as otherwise provided in this subsection, the
2 maximum amount of the aggregate disposable earnings of a person
3 for any workweek which are subject to garnishment to enforce any
4 order for the support of any person may not exceed:

5 (a) Fifty percent of the person's disposable earnings for that
6 week if the person is supporting a spouse or child other than the
7 spouse or child for whom the order of support was rendered; or

8 (b) Sixty percent of the person's disposable earnings for that
9 week if the person is not supporting such a spouse or child,

10 ➤ except that if the garnishment is to enforce a previous order of
11 support with respect to a period occurring at least 12 weeks before
12 the beginning of the workweek, the limits which apply to the
13 situations described in paragraphs (a) and (b) are 55 percent and 65
14 percent, respectively.

