

## NEVADA HOMESTEAD LAW

### **Nevada Constitution Art. 4, § 30. Homesteads: Exemption from forced sale; joint consent required for alienation; recording of declaration**

A homestead as provided by law, shall be exempt from forced sale under any process of law, and shall not be alienated without the joint consent of husband and wife when that relation exists; but no property shall be exempt from sale for taxes or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon; Provided, the provisions of this Section shall not apply to any process of law obtained by virtue of a lien given by the consent of both husband and wife ...[.]

### **N.R.S. § 115.005. Definitions**

As used in this chapter, unless the context otherwise requires:

1. “Equity” means the amount that is determined by subtracting from the fair market value of the property the value of any liens excepted from the homestead exemption pursuant to subsection 3 of NRS 115.010 or NRS 115.090.

2. “Homestead” means the property consisting of:

(a) A quantity of land, together with the dwelling house thereon and its appurtenances;

(b) A mobile home whether or not the underlying land is owned by the claimant; or

(c) A unit, whether real or personal property, existing pursuant to chapter 116 or 117 of NRS, with any appurtenant limited common elements and its interest in the common elements of the common-interest community,

to be selected by the husband and wife, or either of them, or a single person claiming the homestead.

### **N.R.S. § 115.010. Exemption from sale on execution and from process of court; amount of exemption; exceptions ...**

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

2. The exemption provided in subsection 1 extends only to that amount of equity in the property held by the claimant which does not exceed \$550,000 in value ....

3. ... [T]he exemption provided in subsection 1 does not extend to process to enforce the payment of obligations contracted for the purchase of the property, or for improvements made thereon, including any mechanic's lien lawfully obtained, or for legal taxes, or for:

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

(b) Any lien to which prior consent has been given through the acceptance of property subject to any recorded declaration of restrictions, deed restriction, restrictive covenant or equitable servitude, specifically including any lien in favor of an association pursuant to NRS 116.3116 or 117.070,

by both husband and wife, when that relation exists.

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**N.R.S. § 115.020. Declaration of homestead ...**

1. The selection must be made by either the husband or wife, or both of them, or the single person, declaring an intention in writing to claim the property as a homestead....

2. The declaration must state:

(a) When made by a married person or persons, that they or either of them are married, or if not married, that he or she is a householder.

(b) When made by a married person or persons, that they or either of them, as the case may be, are, at the time of making the declaration, residing with their family, or with the person or persons under their care and maintenance, on the premises, particularly describing the premises.

(c) When made by any claimant under this section, that it is their or his intention to use and claim the property as a homestead.

3. The declaration must be signed by the person or persons making it and acknowledged and recorded as conveyances affecting real property are required to be acknowledged and recorded. If the property declared upon as a homestead is the separate property of either spouse, both must join in the execution and acknowledgment of the declaration.

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**N.R.S. § 115.050. Execution against homestead**

1. Whenever execution has been issued against the property of a party claiming the property as a homestead, and the creditor in the judgment makes an oath before the judge of the district court of the county in which the property is situated that the amount of equity held by the claimant in the property exceeds, to the best of the creditor's information and belief, the sum of \$550,000, the judge shall, upon notice to the debtor, appoint three disinterested and competent persons as appraisers to estimate and report as to the amount of equity held by the claimant in the property and, if the amount of equity exceeds the sum of \$550,000, determine whether the property can be divided so as to leave the property subject to the homestead exemption without material injury

2. If it appears, upon the report, to the satisfaction of the judge that the property can be thus divided, he shall order the excess to be sold under execution. If it appears that the property cannot be thus divided, and the amount of equity held by the claimant in the property exceeds the exemption allowed by this chapter, he shall order the entire property to be sold, and out of the proceeds the sum of \$550,000 to be paid to the defendant in execution, and the excess to be applied to the satisfaction on the execution. No bid under \$550,000 may be received by the officer making the sale.

3. When the execution is against a husband or wife, the judge may direct the \$550,000 to be deposited in court, to be paid out only upon the joint receipt of the husband and wife, and the deposit possesses all the protection against legal process and voluntary disposition by either spouse as did the original homestead.

**N.R.S. § 115.080. Property not exempt from sale for taxes.**

Nothing in this chapter shall be so construed as exempting any real or personal property from sale for taxes.

**N.R.S. § 115.090. Property not exempt from recovery of money owed to Department of Health and Human Services for Medicaid benefits.**

Nothing in this chapter exempts any real or personal property from any statute of this State that authorizes the recovery of money owed to the Department of Health and Human Services as a result of the payment of benefits from Medicaid through the imposition or foreclosure of a lien against the property of a recipient of Medicaid in the manner set forth in NRS 422.29302 to 422.29308, inclusive.