

APPENDIX A

Nev. Rev. Stat. Ann. § 21.130

This document is current through Chapters 1-104, 106-176, 178, 179, 181-303, 305-317, 320-322, 324-341, 343-355, 357-362, 364, 366-420, 423, 425-445, 447-478, 480, 484-485, 487-505, 506, 508, 510, 512-517, 519-522, 524-547, 549-555, 557-560, 562-565, 567, 569, 573, 576, 579-582, 584-586, 589, 590, 595, 596, 599-603, and 606-608 of the Seventy-Ninth Regular Session (2017).

Nevada Revised Statutes Annotated > Title 2. Civil Practice. > Chapter 21. Enforcement of Judgments. > Executions and Exemptions

21.130. Notice of sale under execution; separate notice for residential foreclosure.

1. Before the sale of property on execution, notice of the sale, in addition to the notice required pursuant to NRS 21.075 and 21.076, must be given as follows:
 - (a) In cases of perishable property, by posting written notice of the time and place of sale in three public places at the township or city where the sale is to take place, for such a time as may be reasonable, considering the character and condition of the property.
 - (b) In case of other personal property, by posting a similar notice in three public places of the township or city where the sale is to take place, not less than 5 or more than 10 days before the sale, and, in case of sale on execution issuing out of a district court, by the publication of a copy of the notice in a newspaper, if there is one in the county, at least twice, the first publication being not less than 10 days before the date of the sale.
 - (c) In case of real property, by:
 - (1) Personal service upon each judgment debtor or by registered mail to the last known address of each judgment debtor and, if the property of the judgment debtor is operated as a facility licensed under chapter 449 of NRS, upon the State Board of Health;
 - (2) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold;
 - (3) Publishing a copy of the notice three times, once each week, for 3 successive weeks, in a newspaper, if there is one in the county. The cost of publication must not exceed the rate for legal advertising as provided in NRS 238.070. If the newspaper authorized by this section to publish the notice of sale neglects or refuses from any cause to make the publication, then the posting of notices as provided in this section shall be deemed sufficient notice. Notice of the sale of property on execution upon a judgment for any sum less than \$500, exclusive of costs, must be given only by posting in three public places in the county, one of which must be the courthouse;
 - (4) Recording a copy of the notice in the office of the county recorder; and
 - (5) If the sale of property is a residential foreclosure, posting a copy of the notice in a conspicuous place on the property. In addition to the requirements of NRS 21.140, the

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notice must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.

2. If the sale of property is a residential foreclosure, the notice must include, without limitation:
 - (a) The physical address of the property; and
 - (b) The contact information of the party who is authorized to provide information relating to the foreclosure status of the property.
3. If the sale of property is a residential foreclosure, a separate notice must be posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the judgment debtor, in actual occupation of the premises not later than 3 business days after the notice of the sale is given pursuant to subsection 1. The separate notice must be in substantially the following form:
 4. The sheriff shall not conduct a sale of the property on execution or deliver the judgment debtor's property to the judgment creditor if the judgment debtor or any other person entitled to notice has not been properly notified as required in this section and NRS 21.075 and 21.076.
 5. As used in this section, "residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.

History

CPA 1911, § 348; 1951, p. 153; 1965, p. 612; 1975, p. 651; 1989, ch. 539, § 7, p. 1138; 2009, ch. 484, § 2, p. 2781; 2015, ch. 507, § 31, p. 3128.

Annotations

Notes

Amendment Notes

The 2009 amendment, effective October 1, 2009, added "and, if the property of the judgment debtor is operated as a facility licensed under chapter 449 of NRS, upon the State Board of Health" in (1)(c)(1); added (1)(c)(4), (1)(c)(5), (2) and (3); redesignated former (2) as (4); added (5); and made a related and a stylistic change.

The 2015 amendment, effective October 1, 2015, substituted "surrender" for "quit" in the fifth paragraph of the Notice to Tenants of the Property of (3); and in the eighth paragraph of the Notice to Tenants of the Property of (3), added "unless service is accomplished by a sheriff, constable or licensed process server, in which case the presence of a witness is not required" in (1), added "and to the place where the leased property is situated, if different" in (2), and in (3), deleted "delivering a copy to a person residing there, if a person can be found" following "leased property" and added "situated."

APPENDIX B

Nev. Rev. Stat. Ann. § 21.075

This document is current through Chapters 1-104, 106-176, 178, 179, 181-303, 305-317, 320-322, 324-341, 343-355, 357-362, 364, 366-420, 423, 425-445, 447-478, 480, 484-485, 487-505, 506, 508, 510, 512-517, 519-522, 524-547, 549-555, 557-560, 562-565, 567, 569, 573, 576, 579-582, 584-586, 589, 590, 595, 596, 599-603, and 606-608 of the Seventy-Ninth Regular Session (2017).

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21.075. Notice of writ of execution: Service required; form; contents.

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 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.

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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. Eighty-two percent of the take-home pay for any workweek if your gross weekly salary or wage was \$770 or less on the date the most recent writ of garnishment was issued, or seventy-five percent of the take-home pay for any workweek if your gross weekly salary or wage exceeded \$770 on the date the most recent writ of garnishment was issued, 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 that is a contingent interest, if the contingency has not been satisfied or removed;

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

(b) A present or future interest in the income or principal of a trust that is a support interest 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.

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

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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.

History

1989, ch. 539, § 2, p. 1135; 1991, ch. 311, § 1, p. 811; 1991, ch. 488, § 1, p. 1412; 1995, ch. 153, § 4, p. 227; 1995, ch. 431, § 2, p. 1071; 1997, ch. 123, § 1, p. 265; 1997, ch. 685, § 7, p. 3412; 2003, ch. 201, § 3, p. 1010; 2003, ch. 324, § 1, p. 1812; 2005, ch. 121, § 2, p. 382; 2005, ch. 290, § 4, p. 1012; 2005, ch. 464, § 4, p. 2228; 2007, ch. 480, § 171.2, p. 2708; 2007, ch. 512, § 1, p. 3016; 2009, ch. 215, § 61, p. 803; 2011, ch. 270, § 1, p. 1406; 2011, ch. 338, § 6, p. 1892; 2017, ch. 329, § 3.

Annotations

Notes

Editor's Notes