

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 under certain circumstances; 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; revising provisions relating to the exemption of annuity benefits from certain claims of the annuitant's creditors; 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, 8 and 9** of this bill increase the
8 exemption to 85 percent of a judgment debtor's disposable earnings for any
9 workweek if the gross annual salary or wage of the debtor is \$40,000 or less.

10 Existing law requires a judgment creditor who seeks to enforce a foreign
11 judgment in this State to domesticate the foreign judgment by filing a copy of the
12 foreign judgment with the clerk of any district court of this State. (NRS 17.330-
13 17.400) **Section 5** of this bill authorizes a judgment debtor who is a resident of this



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14 State to bring a civil action against a judgment creditor who, without domesticating
15 a foreign judgment, garnishes a bank account or any other personal property
16 maintained by the judgment debtor at a branch of a financial institution located in
17 this State or the earnings of the judgment debtor from employment in this State.
18 Existing law exempts annuity benefits from certain claims of the annuitant's
19 creditors under certain circumstances. (NRS 687B.290) **Section 10** of this bill
20 subjects certain amounts of annuity benefits to execution by certain creditors of the
21 annuitant.

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

1 **Section 1.** Chapter 21 of NRS is hereby amended by adding
2 thereto a new provision to read as follows:
3 *1. A judge of any court having jurisdiction at the time of the*
4 *entry of a judgment, upon proper showing made by the defendant*
5 *with both parties or their attorneys present in court, may make a*
6 *written order permitting the judgment debtor to pay the judgment*
7 *in installments from that portion of the judgment debtor's income*
8 *or property which is not exempt from execution, at such times and*
9 *in such amounts as, in the opinion of the judge, the judgment*
10 *debtor is able to pay.*
11 *2. Upon compliance by the judgment debtor with the*
12 *provisions of this section and the court rules, a judge of any court*
13 *may issue an order permitting a judgment debtor to pay in*
14 *installments from that portion of the judgment debtor's income or*
15 *property which is not exempt from execution, at such times and in*
16 *such amounts as, in the opinion of the judge, the judgment debtor*
17 *is able to pay, any judgment previously entered by his or her court*
18 *or filed in his or her court pursuant to NRS 17.350.*
19 *3. At any time after the entry of a judgment by a court or the*
20 *filing of a judgment in a court pursuant to NRS 17.350, a*
21 *judgment debtor may file a petition with the clerk of the court in*
22 *which the judgment was entered or filed requesting the clerk to*
23 *issue a notice, directed to the judgment creditor. The petition must*
24 *include an affidavit of the judgment debtor setting forth the*
25 *judgment debtor's inability to pay the judgment from that portion*
26 *of the judgment debtor's income or property which is not exempt*
27 *from execution.*
28 *4. A notice issued pursuant to subsection 3 must notify the*
29 *judgment creditor of the day and time of a hearing to allow the*
30 *judgment debtor to pay the judgment in installments. The notice*
31 *must be served on the judgment creditor not later than 4 days*
32 *before the date set for the hearing on the petition, by placing the*
33 *notice in the United States mail in an envelope properly stamped*



1 *and addressed to the judgment creditor or the agent or attorney of*
2 *the judgment creditor.*

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

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

7 21.025 A writ of execution issued on a judgment for the
8 recovery of money must be substantially in the following form:
9

10 (Title of the Court)

11 (Number and abbreviated title of the case)

EXECUTION

12
13
14 THE PEOPLE OF THE STATE OF NEVADA:

15
16 To the sheriff of County.
17

18 Greetings:
19

20 To FINANCIAL INSTITUTIONS: This judgment is for
21 the recovery of money for the support of a person.
22

23 On(month).....(day).....(year), a judgment was entered
24 by the above-entitled court in the above-entitled action in
25 favor of as judgment creditor and against
26 as judgment debtor for:
27

28 \$..... principal,
29 \$..... attorney's fees,
30 \$..... interest, and
31 \$..... costs, making a total amount of
32 \$..... the judgment as entered, and
33

34 WHEREAS, according to an affidavit or a memorandum
35 of costs after judgment, or both, filed herein, it appears
36 that further sums have accrued since the entry of judgment, to
37 wit:
38

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



1 Credit must be given for payments and partial satisfactions in
 2 the amount of
 3 \$.....
 4 which is to be first credited against the total accrued costs and
 5 accrued interest, with any excess credited against the
 6 judgment as entered, leaving a net balance of
 7 \$.....
 8 actually due on the date of the issuance of this writ, of which
 9 \$.....
 10 bears interest at percent per annum, in the amount of
 11 \$..... per day, from the date of judgment to the date of levy,
 12 to which must be added the commissions and costs of the
 13 officer executing this writ.
 14

15 NOW, THEREFORE, SHERIFF OF
 16 COUNTY, you are hereby commanded to satisfy this
 17 judgment with interest and costs as provided by law, out of
 18 the personal property of the judgment debtor, except that for
 19 any workweek, *85 percent of the disposable earnings of the*
 20 *debtor during that week if the gross annual salary or wage*
 21 *of the debtor is \$40,000 or less, 75 percent of the disposable*
 22 *earnings of the debtor during that week if the gross annual*
 23 *salary or wage of the debtor exceeds \$40,000* or 50 times the
 24 minimum hourly wage prescribed by section 6(a)(1) of the
 25 federal Fair Labor Standards Act of 1938, 29 U.S.C. §
 26 206(a)(1), and in effect at the time the earnings are payable,
 27 whichever is greater, is exempt from any levy of execution
 28 pursuant to this writ, and if sufficient personal property
 29 cannot be found, then out of the real property belonging to the
 30 debtor in the aforesaid county, and make return to this writ
 31 within not less than 10 days or more than 60 days endorsed
 32 thereon with what you have done.

33 Dated: This day of the month of of the
 34 year

35 Clerk.
 36 By....., Deputy Clerk.

37 **Sec. 3.** NRS 21.075 is hereby amended to read as follows:
 38 21.075 1. Execution on the writ of execution by levying on
 39 the property of the judgment debtor may occur only if the sheriff
 40 serves the judgment debtor with a notice of the writ of execution
 41 pursuant to NRS 21.076 and a copy of the writ. The notice must
 42 describe the types of property exempt from execution and explain
 43 the procedure for claiming those exemptions in the manner required
 44 in subsection 2. The clerk of the court shall attach the notice to the
 45 writ of execution at the time the writ is issued.



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

3
4 NOTICE OF EXECUTION

5
6 YOUR PROPERTY IS BEING ATTACHED OR
7 YOUR WAGES ARE BEING GARNISHED
8

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

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

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

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

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

28 4. Proceeds from a policy of life insurance.

29 5. Payments of benefits under a program of industrial
30 insurance.

31 6. Payments received as disability, illness or
32 unemployment benefits.

33 7. Payments received as unemployment compensation.

34 8. Veteran's benefits.

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

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

40 (b) Allodial title has been established and not relinquished
41 for the dwelling or mobile home, in which case all of the
42 dwelling or mobile home and its appurtenances are exempt,
43 including the land on which they are located, unless a valid
44 waiver executed pursuant to NRS 115.010 is applicable to the
45 judgment.



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

7 11. A vehicle, if your equity in the vehicle is less than
8 \$15,000.

9 12. ~~Seventy-five~~ *Eighty-five* percent of the take-home
10 pay for any workweek ~~if~~ *if your gross annual salary or*
11 *wage is \$40,000 or less, or seventy-five percent of the take-*
12 *home pay for any workweek if your gross annual salary or*
13 *wage exceeds \$40,000* unless the weekly take-home pay is
14 less than 50 times the federal minimum hourly wage, in
15 which case the entire amount may be exempt.

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

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

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

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

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

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

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

42 15. All money and other benefits paid pursuant to the
43 order of a court of competent jurisdiction for the support and
44 maintenance of a former spouse, including the amount of any



1 arrearages in the payment of such support and maintenance to
2 which the former spouse may be entitled.

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

5 (a) A present or future interest in the income or principal
6 of a trust that is a contingent interest, if the contingency has
7 not been satisfied or removed;

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

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

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

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

18 17. If a trust contains a spendthrift provision:

19 (a) A present or future interest in the income or principal
20 of a trust that is a mandatory interest in which the trustee does
21 not have discretion concerning whether to make the
22 distribution from the trust, if the interest has not been
23 distributed from the trust; and

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

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

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

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

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



1 22. Payments received as compensation for the loss of
2 future earnings of the judgment debtor or of a person upon
3 whom the judgment debtor is dependent at the time the
4 payment is received, to the extent reasonably necessary for
5 the support of the judgment debtor and any dependent of the
6 judgment debtor.

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

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

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

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

14 ↳ These exemptions may not apply in certain cases such as a
15 proceeding to enforce a judgment for support of a person or a
16 judgment of foreclosure on a mechanic's lien. You should
17 consult an attorney immediately to assist you in determining
18 whether your property or money is exempt from execution. If
19 you cannot afford an attorney, you may be eligible for
20 assistance through (name of organization in
21 county providing legal services to indigent or elderly
22 persons). If you do not wish to consult an attorney or receive
23 legal services from an organization that provides assistance to
24 persons who qualify, you may obtain the form to be used to
25 claim an exemption from the clerk of the court.

26
27 PROCEDURE FOR CLAIMING EXEMPT PROPERTY
28

29 If you believe that the money or property taken from you
30 is exempt, you must complete and file with the clerk of the
31 court an executed claim of exemption. A copy of the claim of
32 exemption must be served upon the sheriff, the garnishee and
33 the judgment creditor within 10 days after the notice of
34 execution or garnishment is served on you by mail pursuant
35 to NRS 21.076 which identifies the specific property that is
36 being levied on. The property must be released by the
37 garnishee or the sheriff within 9 judicial days after you serve
38 the claim of exemption upon the sheriff, garnishee and
39 judgment creditor, unless the sheriff or garnishee receives a
40 copy of an objection to the claim of exemption and a notice
41 for a hearing to determine the issue of exemption. If this
42 happens, a hearing will be held to determine whether the
43 property or money is exempt. The objection to the claim of
44 exemption and notice for the hearing to determine the issue of
45 exemption must be filed within 8 judicial days after the claim



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

16 IF YOU DO NOT FILE THE EXECUTED CLAIM OF
17 EXEMPTION WITHIN THE TIME SPECIFIED, YOUR
18 PROPERTY MAY BE SOLD AND THE MONEY GIVEN
19 TO THE JUDGMENT CREDITOR, EVEN IF THE
20 PROPERTY OR MONEY IS EXEMPT.

21 **Sec. 4.** NRS 21.090 is hereby amended to read as follows:

22 21.090 1. The following property is exempt from execution,
23 except as otherwise specifically provided in this section or required
24 by federal law:

25 (a) Private libraries, works of art, musical instruments and
26 jewelry not to exceed \$5,000 in value, belonging to the judgment
27 debtor or a dependent of the judgment debtor, to be selected by the
28 judgment debtor, and all family pictures and keepsakes.

29 (b) Necessary household goods, furnishings, electronics,
30 wearing apparel, other personal effects and yard equipment, not to
31 exceed \$12,000 in value, belonging to the judgment debtor or a
32 dependent of the judgment debtor, to be selected by the judgment
33 debtor.

34 (c) Farm trucks, farm stock, farm tools, farm equipment,
35 supplies and seed not to exceed \$4,500 in value, belonging to the
36 judgment debtor to be selected by the judgment debtor.

37 (d) Professional libraries, equipment, supplies, and the tools,
38 inventory, instruments and materials used to carry on the trade or
39 business of the judgment debtor for the support of the judgment
40 debtor and his or her family not to exceed \$10,000 in value.

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



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

4 (g) For any workweek, **85 percent of the disposable earnings of**
5 **a judgment debtor during that week if the gross annual salary or**
6 **wage of the judgment debtor is \$40,000 or less, 75 percent of the**
7 **disposable earnings of a judgment debtor during that week** **†** **if the**
8 **gross annual salary or wage of the judgment debtor exceeds**
9 **\$40,000** or 50 times the minimum hourly wage prescribed by
10 section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29
11 U.S.C. § 206(a)(1), and in effect at the time the earnings are
12 payable, whichever is greater. Except as otherwise provided in
13 paragraphs (o), (s) and (t), the exemption provided in this paragraph
14 does not apply in the case of any order of a court of competent
15 jurisdiction for the support of any person, any order of a court of
16 bankruptcy or of any debt due for any state or federal tax. As used in
17 this paragraph:

18 (1) "Disposable earnings" means that part of the earnings of
19 a judgment debtor remaining after the deduction from those earnings
20 of any amounts required by law to be withheld.

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

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

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

37 (j) All courthouses, jails, public offices and buildings, lots,
38 grounds and personal property, the fixtures, furniture, books, papers
39 and appurtenances belonging and pertaining to the courthouse, jail
40 and public offices belonging to any county of this State, all
41 cemeteries, public squares, parks and places, public buildings, town
42 halls, markets, buildings for the use of fire departments and military
43 organizations, and the lots and grounds thereto belonging and
44 appertaining, owned or held by any town or incorporated city, or
45 dedicated by the town or city to health, ornament or public use, or



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1 for the use of any fire or military company organized under the laws
2 of this State and all lots, buildings and other school property owned
3 by a school district and devoted to public school purposes.

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

6 (l) The homestead as provided for by law, including a
7 homestead for which allodial title has been established and not
8 relinquished and for which a waiver executed pursuant to NRS
9 115.010 is not applicable.

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

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

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

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

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

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

32 (1) An individual retirement arrangement which conforms
33 with the applicable limitations and requirements of section 408 or
34 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

35 (2) A written simplified employee pension plan which
36 conforms with the applicable limitations and requirements of section
37 408 of the Internal Revenue Code, 26 U.S.C. § 408;

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

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

43 (5) A trust forming part of a qualified tuition program
44 pursuant to chapter 353B of NRS, any applicable regulations
45 adopted pursuant to chapter 353B of NRS and section 529 of the



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

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

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

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

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

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

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

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

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

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

44 (bb) Stock of a corporation described in subsection 2 of NRS
45 78.746 except as set forth in that section.



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

3 (1) A distribution interest in the trust as defined in NRS
4 163.4155 that is a contingent interest, if the contingency has not
5 been satisfied or removed;

6 (2) A distribution interest in the trust as defined in NRS
7 163.4155 that is a discretionary interest as described in NRS
8 163.4185, if the interest has not been distributed;

9 (3) A power of appointment in the trust as defined in NRS
10 163.4157 regardless of whether the power has been exercised;

11 (4) A power listed in NRS 163.5553 that is held by a trust
12 protector as defined in NRS 163.5547 or any other person regardless
13 of whether the power has been exercised; and

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

16 (dd) If a trust contains a spendthrift provision:

17 (1) A distribution interest in the trust as defined in NRS
18 163.4155 that is a mandatory interest as described in NRS 163.4185,
19 if the interest has not been distributed; and

20 (2) Notwithstanding a beneficiary's right to enforce a support
21 interest, a distribution interest in the trust as defined in NRS
22 163.4155 that is a support interest as described in NRS 163.4185, if
23 the interest has not been distributed.

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

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

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

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

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

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

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

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

39 2. Except as otherwise provided in NRS 115.010, no article or
40 species of property mentioned in this section is exempt from
41 execution issued upon a judgment to recover for its price, or upon a
42 judgment of foreclosure of a mortgage or other lien thereon.

43 3. Any exemptions specified in subsection (d) of section 522 of
44 the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to



1 property owned by a resident of this State unless conferred also by
2 subsection 1, as limited by subsection 2.

3 **Sec. 5.** Chapter 31 of NRS is hereby amended by adding
4 thereto a new section to read as follows:

5 *1. Any judgment debtor who is a resident of this State and
6 who maintains an account or any other property at a branch of a
7 financial institution located in this State or whose earnings are
8 derived from employment in this State may bring a civil action
9 against a judgment creditor under a foreign judgment, if the
10 judgment creditor, without satisfying the requirements of NRS
11 17.330 to 17.400, inclusive, has obtained a writ of garnishment to
12 satisfy all or part of the foreign judgment from:*

13 *(a) The earnings of the judgment debtor derived from
14 employment in this State; or*

15 *(b) Money in the account or any other property maintained by
16 the judgment debtor at a branch of a financial institution located
17 in this State.*

18 *2. A judgment debtor who prevails in an action brought
19 under this section may recover from the judgment creditor
20 damages equal to two times any amount paid to the judgment
21 creditor under the writ of garnishment. If the judgment debtor
22 prevails in an action brought under this section, the court must
23 award reasonable attorney's fees and costs to the plaintiff.*

24 *3. As used in this section, "foreign judgment" has the
25 meaning ascribed to it in NRS 17.340.*

26 **Sec. 6.** NRS 31.045 is hereby amended to read as follows:

27 31.045 1. Execution on the writ of attachment by attaching
28 property of the defendant may occur only if:

29 (a) The judgment creditor serves the defendant with notice of
30 the execution when the notice of the hearing is served pursuant to
31 NRS 31.013; or

32 (b) Pursuant to an ex parte hearing, the sheriff serves upon the
33 judgment debtor notice of the execution and a copy of the writ at the
34 same time and in the same manner as set forth in NRS 21.076.

35 ➤ If the attachment occurs pursuant to an ex parte hearing, the clerk
36 of the court shall attach the notice to the writ of attachment at the
37 time the writ is issued.

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

40
41 NOTICE OF EXECUTION

42
43 YOUR PROPERTY IS BEING ATTACHED OR
44 YOUR WAGES ARE BEING GARNISHED



1 Plaintiff, (name of person), alleges that you
2 owe the plaintiff money. The plaintiff has begun the
3 procedure to collect that money. To secure satisfaction of
4 judgment, the court has ordered the garnishment of your
5 wages, bank account or other personal property held by third
6 persons or the taking of money or other property in your
7 possession.

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

11 1. Payments received pursuant to the federal Social
12 Security Act, including, without limitation, retirement and
13 survivors' benefits, supplemental security income benefits
14 and disability insurance benefits.

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

17 3. Payments for public assistance granted through the
18 Division of Welfare and Supportive Services of the
19 Department of Health and Human Services or a local
20 governmental entity.

21 4. Proceeds from a policy of life insurance.

22 5. Payments of benefits under a program of industrial
23 insurance.

24 6. Payments received as disability, illness or
25 unemployment benefits.

26 7. Payments received as unemployment compensation.

27 8. Veteran's benefits.

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

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

33 (b) Allodial title has been established and not relinquished
34 for the dwelling or mobile home, in which case all of the
35 dwelling or mobile home and its appurtenances are exempt,
36 including the land on which they are located, unless a valid
37 waiver executed pursuant to NRS 115.010 is applicable to the
38 judgment.

39 10. All money reasonably deposited with a landlord by
40 you to secure an agreement to rent or lease a dwelling that is
41 used by you as your primary residence, except that such
42 money is not exempt with respect to a landlord or the
43 landlord's successor in interest who seeks to enforce the
44 terms of the agreement to rent or lease the dwelling.



1 11. A vehicle, if your equity in the vehicle is less than
2 \$15,000.

3 12. ~~Seventy-five~~ *Eighty-five* percent of the take-home
4 pay for any workweek ~~if~~ *if your gross annual salary or*
5 *wage is \$40,000 or less, or seventy-five percent of the take-*
6 *home pay for any workweek if your gross annual salary or*
7 *wage exceeds \$40,000* unless the weekly take-home pay is
8 less than 50 times the federal minimum hourly wage, in
9 which case the entire amount may be exempt.

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

12 (a) An individual retirement arrangement which conforms
13 with the applicable limitations and requirements of section
14 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408
15 and 408A;

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

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

21 (d) A trust forming part of a stock bonus, pension or
22 profit-sharing plan that is a qualified plan pursuant to sections
23 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et
24 seq.; and

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

32 14. All money and other benefits paid pursuant to the
33 order of a court of competent jurisdiction for the support,
34 education and maintenance of a child, whether collected by
35 the judgment debtor or the State.

36 15. All money and other benefits paid pursuant to the
37 order of a court of competent jurisdiction for the support and
38 maintenance of a former spouse, including the amount of any
39 arrearages in the payment of such support and maintenance to
40 which the former spouse may be entitled.

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

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



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

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

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

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

11 17. If a trust contains a spendthrift provision:

12 (a) A present or future interest in the income or principal
13 of a trust that is a mandatory interest in which the trustee does
14 not have discretion concerning whether to make the
15 distribution from the trust, if the interest has not been
16 distributed from the trust; and

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

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

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

26 20. Payments, in an amount not to exceed \$16,150,
27 received as compensation for personal injury, not including
28 compensation for pain and suffering or actual pecuniary loss,
29 by the judgment debtor or by a person upon whom the
30 judgment debtor is dependent at the time the payment is
31 received.

32 21. Payments received as compensation for the wrongful
33 death of a person upon whom the judgment debtor was
34 dependent at the time of the wrongful death, to the extent
35 reasonably necessary for the support of the judgment debtor
36 and any dependent of the judgment debtor.

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

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

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



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

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

5 ↳ These exemptions may not apply in certain cases such as
6 proceedings to enforce a judgment for support of a child or a
7 judgment of foreclosure on a mechanic's lien. You should
8 consult an attorney immediately to assist you in determining
9 whether your property or money is exempt from execution. If
10 you cannot afford an attorney, you may be eligible for
11 assistance through (name of organization in
12 county providing legal services to the indigent or elderly
13 persons). If you do not wish to consult an attorney or receive
14 legal services from an organization that provides assistance to
15 persons who qualify, you may obtain the form to be used to
16 claim an exemption from the clerk of the court.
17

18 PROCEDURE FOR CLAIMING EXEMPT PROPERTY

19

20 If you believe that the money or property taken from you
21 is exempt or necessary for the support of you or your family,
22 you must file with the clerk of the court on a form provided
23 by the clerk an executed claim of exemption. A copy of the
24 claim of exemption must be served upon the sheriff, the
25 garnishee and the judgment creditor within 10 days after
26 the notice of execution or garnishment is served on you by
27 mail pursuant to NRS 21.076 which identifies the specific
28 property that is being levied on. The property must be
29 released by the garnishee or the sheriff within 9 judicial days
30 after you serve the claim of exemption upon the sheriff,
31 garnishee and judgment creditor, unless the sheriff or
32 garnishee receives a copy of an objection to the claim of
33 exemption and a notice for a hearing to determine the issue of
34 exemption. If this happens, a hearing will be held to
35 determine whether the property or money is exempt. The
36 objection to the claim of exemption and notice for the hearing
37 to determine the issue of exemption must be filed within 8
38 judicial days after the claim of exemption is served on the
39 judgment creditor by mail or in person and served on the
40 judgment debtor, the sheriff and any garnishee not less than 5
41 judicial days before the date set for the hearing. The hearing
42 must be held within 7 judicial days after the objection to the
43 claim of exemption and notice for a hearing is filed. You may
44 be able to have your property released more quickly if you
45 mail to the judgment creditor or the attorney of the judgment



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1 creditor written proof that the property is exempt. Such proof
2 may include, without limitation, a letter from the government,
3 an annual statement from a pension fund, receipts for
4 payment, copies of checks, records from financial institutions
5 or any other document which demonstrates that the money in
6 your account is exempt.
7

8 IF YOU DO NOT FILE THE EXECUTED CLAIM OF
9 EXEMPTION WITHIN THE TIME SPECIFIED, YOUR
10 PROPERTY MAY BE SOLD AND THE MONEY GIVEN
11 TO THE JUDGMENT CREDITOR, EVEN IF THE
12 PROPERTY OR MONEY IS EXEMPT.
13

14 If you received this notice with a notice of a hearing for
15 attachment and you believe that the money or property which
16 would be taken from you by a writ of attachment is exempt or
17 necessary for the support of you or your family, you are
18 entitled to describe to the court at the hearing why you
19 believe your property is exempt. You may also file a motion
20 with the court for a discharge of the writ of attachment. You
21 may make that motion any time before trial. A hearing will be
22 held on that motion.
23

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

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

30 31.060 Subject to the requirements of NRS 31.045, the sheriff
31 to whom the writ is directed and delivered shall execute it without
32 delay, and if the undertaking mentioned in NRS 31.040 is not given,
33 as follows:

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

39 2. Personal property must be attached:

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



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

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

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

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

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

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

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

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

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

31 **Sec. 8.** NRS 31.290 is hereby amended to read as follows:

32 31.290 1. The interrogatories to be submitted with any writ
33 of execution, attachment or garnishment to the garnishee may be in
34 substance as follows:
35

36 INTERROGATORIES

37
38 Are you in any manner indebted to the defendants.....

39
40 ,
41 or either of them, either in property or money, and is the debt
42 now due? If not due, when is the debt to become due? State
43 fully all particulars.

44 Answer:

45



1 Are you an employer of one or all of the defendants? If
2 so, state the length of your pay period and the amount of
3 disposable earnings, as defined in NRS 31.295, that each
4 defendant presently earns during a pay period. State the
5 minimum amount of disposable earnings that is exempt from
6 this garnishment, which is the federal minimum hourly wage
7 prescribed by section 6(a)(1) of the federal Fair Labor
8 Standards Act of 1938, 29 U.S.C. § 206(a)(1), in effect at the
9 time the earnings are payable multiplied by 50 for each week
10 of the pay period, after deducting any amount required by law
11 to be withheld.

12 Calculate the garnishable amount as follows:

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

14 [A] Weekly: ___ [B] Biweekly: ___ [C] Semimonthly: ___

15 [D] Monthly: ___

16 (1) Gross Earnings \$.....

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

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

21 (4) Federal Minimum Wage \$.....

22 (5) Multiply line 4 by 50 \$.....

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

25 [A] Multiply line 5 by 1 \$.....

26 [B] Multiply line 5 by 2 \$.....

27 [C] Multiply line 5 by 52 and then divide
28 by 24 \$.....

29 [D] Multiply line 5 by 52 and then divide
30 by 12 \$.....

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

32 This is the attachable earnings. This amount must not
33 exceed ~~25%~~ **15 percent of the disposable earnings from**
34 **line 3 if the employee's gross annual salary or wage is**
35 **\$40,000 or less or 25 percent of the disposable earnings**
36 **from line 3 if the employee's gross annual salary or wage**
37 **exceeds ~~of the disposable earnings from line 3.~~ \$40,000.**

38 Answer:

39
40 Did you have in your possession, in your charge or
41 under your control, on the date the writ of garnishment was
42 served upon you, any money, property, effects, goods,
43 chattels, rights, credits or choses in action of the defendants,
44 or either of them, or in whichis interested?
45 If so, state its value, and state fully all particulars.



1 Answer:
2

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

9 Answer:
10

11 Are you a financial institution with a personal account
12 held by one or all of the defendants? If so, state the account
13 number and the amount of money in the account which is
14 subject to garnishment. As set forth in NRS 21.105, \$2,000 or
15 the entire amount in the account, whichever is less, is not
16 subject to garnishment if the financial institution reasonably
17 identifies that an electronic deposit of money has been made
18 into the account within the immediately preceding 45 days
19 which is exempt from execution, including, without
20 limitation, payments of money described in NRS 21.105 or, if
21 no such deposit has been made, \$400 or the entire amount in
22 the account, whichever is less, is not subject to garnishment,
23 unless the garnishment is for the recovery of money owed for
24 the support of any person. The amount which is not subject to
25 garnishment does not apply to each account of the judgment
26 debtor, but rather is an aggregate amount that is not subject to
27 garnishment.

28 Answer:
29

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

33 Answer:
34

35

36 Garnishee
37 I (insert the name of the garnishee), declare under
38 penalty of perjury that the answers to the foregoing
39 interrogatories by me subscribed are true and correct.

40
41 (Signature of garnishee)
42

43 2. The garnishee shall answer the interrogatories in writing
44 upon oath or affirmation and submit the answers to the sheriff
45 within the time required by the writ. The garnishee shall submit his



1 or her answers to the judgment debtor within the same time. If the
2 garnishee fails to do so, the garnishee shall be deemed in default.

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

4 31.295 1. As used in this section:

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

8 (b) "Earnings" means compensation paid or payable for personal
9 services performed by a judgment debtor in the regular course of
10 business, including, without limitation, compensation designated as
11 income, wages, tips, a salary, a commission or a bonus. The term
12 includes compensation received by a judgment debtor that is in the
13 possession of the judgment debtor, compensation held in accounts
14 maintained in a bank or any other financial institution or, in the case
15 of a receivable, compensation that is due the judgment debtor.

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

18 (a) *Fifteen percent of the person's disposable earnings for the*
19 *relevant workweek if the person's gross annual salary or wage is*
20 *\$40,000 or less;*

21 (b) Twenty-five percent of the person's disposable earnings for
22 the relevant workweek ~~if~~
23 ~~(b) if the person's gross annual salary or wage exceeds~~
24 *\$40,000; or*

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

30 ↪ whichever is less.

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

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

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

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

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

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

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

44 ↪ except that if the garnishment is to enforce a previous order of
45 support with respect to a period occurring at least 12 weeks before



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1 the beginning of the workweek, the limits which apply to the
2 situations described in paragraphs (a) and (b) are 55 percent and 65
3 percent, respectively.

4 **Sec. 10.** NRS 687B.290 is hereby amended to read as follows:

5 687B.290 1. The benefits, rights, privileges and options
6 which under any annuity contract issued prior to or after January 1,
7 1972, are due or prospectively due the annuitant shall not be subject
8 to execution nor shall the annuitant be compelled to exercise any
9 such rights, powers or options, nor shall creditors be allowed to
10 interfere with or terminate the contract, except as to *amounts listed*
11 *as an asset on an application for a loan or pledged as payment for*
12 *a loan or* amounts paid for or as premium on any such annuity with
13 intent to defraud creditors, with interest thereon, and of which the
14 creditor has given the insurer written notice at its home office *within*
15 *1 year after the annuitant makes a payment to the insurer or* prior
16 to the making of the payment to the annuitant out of which the
17 creditor seeks to recover. Any such notice shall specify the amount
18 claimed or such facts as will enable the insurer to ascertain such
19 amount, and shall set forth such facts as will enable the insurer to
20 ascertain the annuity contract, the annuitant and the payment sought
21 to be avoided on the ground of fraud.

22 2. If the contract so provides, the benefits, rights, privileges or
23 options accruing under such contract to a beneficiary or assignee
24 shall not be transferable or subject to commutation, and the same
25 exemptions and exceptions contained in this section for the
26 annuitant shall apply with respect to such beneficiary or assignee.

30

