



LEGAL BRIEF

HOMESTEAD PROTECTION

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PREPARED BY

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HOMESTEAD PROTECTION

Nevada, like many states, has enacted laws that allow a homeowner or head of a family to designate a home and the land that it is on as a "HOMESTEAD." The governing law for Homesteads can be found in the Nevada Revised Statutes ("NRS") Chapter 115. Once designated a homestead, this home and land cannot be taken by creditors or the courts for the payment of general debts. Owners of mobile homes have the same rights even though they often do not own the surrounding land. This protection is designed to ensure that no family can be forced from the home they live in, or the surrounding land, for non-payment of certain debts.

Although declaration of a home as a Homestead can be a valuable way to protect your home and family, there are exceptions to the general protection. First, the protection only applies to equity not to exceed \$550,000.00. Also, the exemption does not cover the homeowner's responsibility to pay the mortgage on the home itself or for improvement made to the property by contractors. And, as you might expect, your home may also be subject to a forced sale to cover taxes that you owe and may be subject to sale under federal law despite homestead status. There are also other, less common exemptions to the general protection which can be found in the NRS 115.010.

If the home and property that you are claiming as a homestead has equity of over \$550,000.00, and a creditor makes a formal request, a judge may appoint disinterested appraisers to determine the true value of the property. The judge may then determine whether the property can be divided, and part of it sold, allowing the remainder to be subject to the homestead exemption. If the property value exceeds \$550,000, the judge may order the entire property sold, with the owner being paid \$550,000 from the sale and the remainder of the proceeds of will be applied to the homeowner's debts.

The Nevada Homestead statute also covers various situations which may arise such as declaration of Homestead by joint tenants or spouses, sale of homesteads upon the incompetency of a joint tenant or spouse, and disposition of a homestead upon death of the owner. See NRS Chapter 115 generally for each of the above unique situations which the Nevada homestead law accounts for.

To estimate the equity in your property, take the fair market value, then subtract from the fair market value any mortgage you have on the property and any other money you still owe on the property such as mechanics liens or taxes. The remaining figure, after these subtractions, is your equity.

There are certain steps you, as a homeowner, must go through in order to get the homestead protection. You must make your intent clear by filing a DECLARATION OF HOMESTEAD with the County Recorder's Office. The form is available online at:

<http://www.clarkcountynv.gov/Depts/recorder/Documents/DeclarationOfHomesteadForm.pdf>

You will need your parcel number and legal description to complete your Homestead form. If you do not have this information (it is on your recorded deed), you may get it from the county assessor's website at: <http://www.clarkcountynv.gov/Depts/assessor/Pages/default.aspx>

This handout is designed to help you exercise your homestead right. The forms and letters you receive from other Homestead offices are not part of the County Recorder's Office. In order to avoid paying unnecessary filing fees it is recommended that you file directly with the County Recorder's Office.

Legal Assistance attorneys at the Nellis Law Center are available to answer any questions you may have regarding your homestead right.

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