



LEGAL BRIEF

HOMESTEAD PROTECTION

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PREPARED BY

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The following information is from the Clark County Court Civil Law Self Help Center and can be accessed at: <http://www.civillawselfhelpcenter.org/>

What is a Homestead?

If you get sued and a judgment is entered against you, the person or company that wins the lawsuit can force the sheriff to sell your home or mobile home to pay off the judgment. However, if you "homestead" your home or mobile home, in most instances the person or company that wins the lawsuit cannot force a sale of your home or mobile home. A "homestead" means that you have filed a declaration of homestead form with the county recorder's office. You may homestead your property to protect it from creditors.

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, you can only protect \$550,000 equity in your home or mobile home by homesteading it. If your property is worth more than \$550,000 you should go ahead and homestead the property but you will only be able to protect \$550,000 of your equity in it. The Homestead law does not protect you against debts secured by a mortgage or deed of trust, payment of taxes, IRS lien, mechanic's lien, child support or alimony payments. . 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, 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.

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>

You next record your Declaration of Homestead by taking or mailing the form to the county recorder's office. Although you may mail the form to the County Recorder's Office instead of personally delivering it there, it will take considerably longer for your Homestead to be recorded. If the home or mobile home you are homesteading is in Clark County, you must take or mail your Declaration of Homestead to the Clark County Recorder. The Clark County Recorder's Office (main office) is located at 500 S. Grand Central Parkway, 2nd Floor, Box 551510, Las Vegas, Nevada 89155-1510.

You must pay a recording fee of \$40.00. The Recorder's office will record your Declaration of Homestead and return the form to you by mail.

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

THE INFORMATION CONTAINED IN THIS PAMPHLET IS OF A GENERAL NATURE AND IS PROVIDED FOR YOUR ASSISTANCE AND CONVENIENCE. IT IS NOT INTENDED AS LEGAL ADVICE AND IS NOT A SUBSTITUTE FOR LEGAL COUNSEL. IF YOU HAVE ANY QUESTIONS AS TO HOW THE LAW IN THIS AREA AFFECTS YOU OR YOUR LEGAL RIGHTS, CONTACT A CIVILIAN ATTORNEY OR THE NELLIS AIR FORCE BASE LEGAL OFFICE FOR AN APPOINTMENT WITH A LICENSED ATTORNEY.