

Awesome Asset Protection Laws

In Nevada, for Nevadans

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Laws that protect your belongings from creditors are commonly called asset protection or exemption laws. In Nevada, these laws are pretty awesome. These laws can prevent creditors from taking your property, even with a court order. Compared to other states, the Nevada exemption laws are generous. However, interpreting these laws is complicated and confusing. It is easy to lose the rights provided in these laws if you don't carefully follow written requirements and decisions by Nevada Court. There are two main reasons you might be interested in this topic.

- 1. You have a lot of debt you can't pay and are considering whether you might lose property through bankruptcy.***
- 2. Even if bankruptcy is not an option for you now, you are worried about protecting your property from creditors.***

To fully appreciate the impact of exemption laws, it is crucial to understand only one legal term - equity. Equity is what something is worth, minus the amount of any loan(s) against it. So if an item, say a car, is worth 20,000, but has a loan against it of \$8,000, the equity is \$12,000 because \$20,000 minus \$8,000, equals \$12,000.

If you own a home worth \$300,000 and have a first mortgage of \$100,000 and a second mortgage of \$25,000, your equity is \$175,000.

Since these exemptions apply to equity, the protection you can claim does not only depend on the property's value. Exemptions will not protect your property from the creditor that has financed, holds a lien, or has any other secured interest in it.

Common Exemption Laws.

NRS 21.090(1) lists most of the Nevada exemption laws. A quick Google search can bring this law up so you can read it. But reading this law doesn't tell you everything you need to know. Therefore, I have summarized these laws which protect the property you are most likely to own. I also explain how these laws work for and against you:

- *Wages. Nevada allows wage garnishment. Garnishment usually takes place when a creditor obtains a court judgment. With a judgment, a creditor can take 18% of your wages if your gross pay is less than \$770.00 a week and garnish 25% of your wages if your gross pay is more than \$770 a week. Therefore, you KEEP between 75% to 82% of your wages. Benefits such as social security, disability, and workers' compensation, are NOT wages. Other laws protect them.*
- *Motor vehicle. Besides the loan company, a creditor cannot take your car unless your equity is more than \$15,000. With a married couple, each spouse may claim one vehicle exemption. But because of community property laws, a spouse who files alone may only claim one exemption in bankruptcy.*
- *Social Security, VA benefits, disability benefits, pension income, and Workers Compensation. Nevada law protects 100% of these benefits from creditors. But there is one huge exception. If these funds are deposited into an account with money from other sources, including other protected sources, this protection disappears. For example, do not deposit your child's social security into an account with your social security. Likewise, don't deposit your pension or disability into the same account with social security. Each income source needs its own bank account. Doing this is called co-mingling, and doing this destroys your exemption.*
- *Homestead. The Nevada law that protects your home requires you to file paperwork at the county recorder's office. This law protects up to \$605,000 in equity in your home. But, of course, there are conditions. For example, you must live in the home. And in bankruptcy, until you have lived in the home for 1215 days, you can't claim the entire amount of this protection.*
- *Furniture and household goods, including electronic devices. Nevada law protects these items up to \$12,000 per person. This protection doubles in value to \$24,000 when a married couple owns them.*
- *Child support and alimony. Nevada law protects both child support and alimony payments from creditors. But as with other Nevada laws, co-mingling this money will destroy this protection.*

- *Tools of the Trade.* Nevada laws protect your work tools and other items you need to conduct a business up to a value of \$12,000.
- *Gun.* Nevada law allows you to protect one gun, regardless of its value. However, using a gun as a business tool, such as working as a peace officer or security guard, will not get you an additional exemption. As a result, you can't then claim another gun as a tool of your trade through bankruptcy.
- *Life insurance.* Nevada law completely protects both any cash surrender value and the right to receive life insurance proceeds. However, like other exemption options, co-mingling is dangerous. For example, if you deposit life insurance in a bank account that contains other money, it will lose this protection.

What happens if an asset isn't protected?

When Nevada laws don't protect an asset, some people figure they can take steps so their creditors can't find these assets. But doing this can be dangerous. Acting without legal advice can cross the line and turn into a crime. And, of course, this has serious repercussions.

Lawyers like to say, "never trade a debt for a felony." So always ask for advice before acting. Your "great idea" is probably not original and might land you in prison.

What law lets a creditor take property.

To get the right to take your property for a debt, most creditors need a court judgment, also known as a Court Order. This requires a creditor to sue you and win. With the court order, the creditor can direct law enforcement officers to seize your property. The party holding the property has no say about turning over the property to law enforcement. After all, it's law enforcement! If the property is eligible for an exemption, it is up to YOU to assert your rights under that law.

Special Debts.

Some debts are "special." And that is not a good thing. With these special debts, the creditor doesn't need a court order to take your property. And most of the time, even exemptions can't protect you. While this situation is unusual, when it happens, the consequences can be catastrophic.

Examples of these "special debts" include

- *Debts financing property. For example, your mortgage, vehicle loan, or a loan obtained "against your property," such as a title loan or second mortgage. The financing paperwork allows the lender to foreclose or repossess the property by following other state laws. Exemption laws do not apply to these agreements.*
- *Debts you owe your own bank or credit union. Terms in the account agreement often say that the creditor may take money out of your account if you become delinquent to them. By opening the account, you agree to this happening. As a result, a court order is not necessary, and exemption laws do not apply.*
- *Debts you owe your Homeowners Association.*
- *Child support or alimony. A debt for child support or alimony comes from an underlying court order. Therefore, it may be unnecessary to have additional court proceedings to garnish your wages or intercept your pension or social security benefits. And public policy allows the collection of these debts to ignore exemption laws.*
- *A "marker" to a Nevada casino. Credit obtained directly from a casino is known as a "marker." Using a marker is considered to be the same as writing out a check. Writing a check that is no good is a crime. If someone fails to pay a marker to a Nevada casino, public policy can make not paying this debt a crime. People can and do go to jail over unpaid casino markers. Even in bankruptcy, you cannot eliminate debts that are related to a crime. If you are sitting in jail, protecting your property may not be much of an issue.*
- *Tax Debts. There is a reason people fear the IRS. While the IRS collection process is slow, once this process moves, exemption laws don't stop it. Again, it is a matter of public policy. The IRS can place a lien on your home, tow your car, clean out your bank account, and intercept your pension or social security check. In short, if you have any tax debt, whether to the IRS or any state government, there are seldom any limits to what property the tax authority can take. And the tax authorities usually do not need a court order to seize your property. If you have tax debt, you need a lawyer.*

How exemption laws help you.

Although exemption laws make it difficult for creditors to collect debts, creditors usually can garnish your pay. And if you have a bank account, a creditor with a court order can also attach it (also known as "freeze").

But typically, that is it. Trying to seize any other asset is difficult and expensive for the creditor. That is why creditors rely so heavily on credit scores to decide whether to offer you credit. In addition, it is costly for the creditor to pursue you to collect unless you voluntarily pay. Many times, creditors can't collect at all.

With a court judgment, creditors can usually only collect by garnishing your paycheck. If you don't receive wages, many creditors will give up.

However, unless this is a "special" creditor, there is little or nothing a creditor can do until they first sue you and obtain a court judgment. Until then, they can only annoy you with phone calls and letters threatening vague legal action. However, if the creditor does sue you, they may also get a court order requiring you to answer questions about your assets.

Exemptions and bankruptcy.

Exemption laws are a vital part of deciding what options you have to resolve debt problems. You certainly should consider exemption laws before deciding what type of bankruptcy would be appropriate for you. Exemption laws may protect your assets sufficiently so that you may not need to file bankruptcy at all.

In bankruptcy, two hurdles limit your use of Nevada exemption laws to protect your property. First, you must have lived in Nevada for more than two years. Second, to claim a substantial homestead exemption, you must have lived in the home for more than three years. If you haven't owned this or another Nevada home for the required time, the equity you can protect will be limited to \$170,000.

These Nevada exemption laws are complicated. And as I have mentioned, there are several unwritten exceptions to claiming the benefits of these laws. Please be sure to read them for yourself at the following link:

[Exemptions.](#)

Conclusion.

A major problem with exemption laws is they only list what you *can* keep. They don't list what you can't keep. As a result, it can be easy to overlook assets if you don't know where to look for them. For example, out-of-state real estate, an investment account, or property you only own because someone put you on the title to their property.

Asset Protection has other uses.



Besides solving problems with debts, there are other ways asset protection can help you. These laws also can be used to establish a living trust, avoid probate, prevent a fight over an inheritance, or even manage the care of a disabled person.

Nevada Asset Protection Laws are flexible enough to allow you to accomplish many of the goals you have for your family.

For more information about asset protection, contact Nevada Attorney

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