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**Is Nevada a Good Bet for Asset Protection?**

When it comes to protecting assets from creditors, state laws determine whether debtors remain safe from creditors. Florida and Texas have some of the more debtor-friendly state laws, however, with the introduction of N.R.S. 86.401.2(a) in 2011, Nevada became the most debtor-friendly state in the United States.

Despite negative inferences, Nevada legislature explains that there are individuals and businesses whose professions put them at a higher legal risk, like, doctors, and the state laws offer them the opportunity to safe-guard their assets and protect themselves from frivolous law suits and creditors.

Nevada is also the best place to form trusts because of the shorter two-year window which creditors have to try and garner debts owed. Once assets have been in a Nevada trust for two years, they are safe from creditors. The two-year time frame is the shortest in the United States.

One of the more popular options available in asset protection is the use of LLCs. This is because, in most states, including California, the laws prevent a creditor of a debtor-member of an LLC from getting to the assets of that LLC. The only available option open to a creditor attempting to collect on a debt of a member of an LLC is something called a Charging Order.

**Charging Orders**

On behalf of a creditor, a court issues an order to the LLC of a debtor-member, requiring that all distributions of the LLC made to the debtor-member must be directed to the creditor instead. The Charging Order remains the only resource for creditors, for a very simple reason, to protect the LLC itself (and the other non-debtor members).

Naturally, not all LLCs, especially those whose primary focus is asset protection, have more than one LLC member. This raises the question: Are single-member LLCs also protected from creditors?

In 2011, Nevada made its stance clear on this very question with an amended statute:

> This section…..[p]rovides the exclusive remedy by which a judgment creditor of a member may satisfy a judgment out of the member's interest of the judgment debtor, whether the limited liability company has one member or more than one member. N.R.S. 86.401.2(a).

The same laws that protect multi-member LLCs also protect a single-member LLC.

**What About Corporations?**

Previously, creditors could use a Turnover Order, a court-issued order made to the debtor-shareholder, which allows the creditor of a debtor-shareholder to seize the shares of that shareholder. And, if the

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debtor-shareholder has the controlling shares in, or is the sole owner of the corporation, the creditor can and does seize all assets associated with the corporation.

However, Nevada has extended the Charging Order limitation to corporations. This means that creditors can only access the dividends paid to the debtor-shareholder. However, this protection applies to close corporations (corporations with under a 100 shareholders), and of course, single-shareholder corporations. Nevada was the first state to go this extra mile in protecting the assets of the state's businesses.

The big question is… does the Nevada Charging Order always protect LLCs and Corporations from creditors? The simple answer is, it is subjective.

Our clients understand that there may be potential disadvantages to using LLCs and corporations as asset protection tools. If Nevada is not the individual's or business' home state, in the event of a suit or creditor, the individual or business may be subject to the laws of their home state and not Nevada law.

For example, if a single-member LLC is registered in Nevada but the member in question resides or operates out of California, California law may apply. The outcome of how a case will be treated falls heavily on the discretion of the judge handling the case.

Every client is different, and their needs and circumstances must be treated uniquely. This is why speaking to an attorney may be the best protection you provide for your assets.