



ESTABLISHING LEGAL DOMICILE IN NEVADA

Becoming a Nevada Resident

by Layne T. Rushforth

1. INTRODUCTION

1.1 **Generally.** “Domicile” refers to your primary residence. The term is often used interchangeably with “residence”, but the term “legal residence” is closer. You may have several residence or places where you reside, but, in the United States, it is well accepted law that you may only have one domicile or legal residence.

(a) If you make Nevada your “domicile”, it does not mean that Nevada is your exclusive place of residence, but it generally refers to the place that you reside most of the time or, at least, more than anywhere else.

(b) Each state has its own rules for establishing residency or domicile, and it is possible for more than one state to assert that you are domiciled in that state. In Nevada, and presumably in other states, there are different definitions for different purposes, such as for filing a complaint for divorce, for voter registration, for welfare benefits, and for in-state tuition at a state college or university.

1.2 **Other States. If you are looking to avoid classification as the resident of another state, Nevada law will not help you.** If you want to avoid being classified as a resident or domiciliary of another state, you must refer that state’s laws, and we strongly encourage you to consult with an attorney who is licensed in that other state and who is familiar with the laws and circumstances that apply to your specific situation. The laws pertaining to residency or domicile can be quite complex, particularly as they relate to business and taxation. It may be necessary to follow specific procedures required under your former state’s laws to legally abandon your former domicile.

2. INDICIA OF DOMICILE

2.1 **Physical Presence.** Under Nevada law, the legal definition of domicile includes actual physical presence combined with an intent to remain indefinitely. You cannot be a Nevada resident unless you are here at least some of the time. If you leave, you must have the intent to return.

2.2 **Key Elements.** While physical presence is a major element in establishing your domicile, proof of domicile also includes a number of key elements that are looked at as indicia of domicile, which include doing the following — or at least most of the following — in Nevada:

- (a) Moving into a home, condominium, or apartment with the furniture, furnishings, and possessions that indicate an intent to make this your primary residence;
- (b) Filing an declaration of domicile with the county clerk;¹
- (c) Registering to vote;
- (d) Registering your vehicles;
- (e) Obtaining a driver’s license;
- (f) Recording an executed homestead declaration with respect to your primary Nevada

¹See paragraph 2.3 of these materials.

residence with the county recorder;

(g) Using your Nevada address for state and federal tax purposes and filing a change of address with the IRS and other tax authorities on the prescribed form(s);

(h) Using your Nevada address for primary correspondence, including credit cards, magazines, bank accounts, etc. and filing a change-of-address form with the U.S. Postal Service;

(i) Transferring significant cash and securities holdings to Nevada institutions;

(j) Using — but not necessarily exclusively — one or more Nevada advisors, such as a Nevada attorney or accountant;

(k) Having your trust and/or will updated to reflect your Nevada residency and to reflect Nevada law; and

(l) Establishing memberships in civic, religious, and community organizations.

2.3 **Declaration of Domicile.** Nevada law permits a person to declare that Nevada is his or her domicile residence by signing “a sworn statement showing that he resides in and maintains a residence in that county, which he recognizes and intends to maintain as his permanent home.”² A sample affidavit is attached to this memo.

3. CONCLUSION

3.1 To be a Nevada resident essentially requires that you be here with the intent to remain here. If it is important that other states consider you as a Nevada resident, the more “indicia of domicile” that point to Nevada, the more likely you are to be successful.

3.2 **CAUTION:** Declaring yourself a resident or domiciliary of a state is not enough. You actually have to spend more time living here than you live anywhere else. If a couple spends nine months a year in California and three months a year in Nevada, they are California residents even if they have done most of the things mentioned above that would show that they are Nevada residents. Most people who are not bona fide residents of Nevada leave a paper trail (with receipts for purchases such as gas, food, and living expenses) and an electronic trail (with things such as cell-phone calls and ATM withdrawals) that is evidence of their real domicile. People like that are only pretending, and, if they carry things too far, they can be found guilty of perjury, illegal tax evasion, or other types of fraud. We discourage fraud of any kind, and we will not knowingly do anything to facilitate it.

[Version of February 7, 2015]

²NRS 41.191

DECLARATION OF DOMICILE

NRS 41.191

STATE OF NEVADA }
 }
COUNTY OF _____ } ss.

Under penalty of perjury, I hereby swear or affirm that:

- 1.I, the undersigned hereby declare that I reside in the residential real property located in _____ County, Nevada commonly known as _____.

- 2.I am domiciled in the County of _____ in the State of Nevada. From time to time, I may own other residential properties, but I maintain the above-mentioned residence as my predominant and principal home, and I intend to continue it permanently as my predominant and principal home.

- 3.I am presently a bona fide resident of Nevada.

- 4.I formerly resided at _____, but I have abandoned that residence as my predominant and principal home.

- 5.I currently maintain residences as described on Exhibit “A”, which is attached hereto and incorporated herein by this reference, but none of those residences is my predominant or principal home. *[If this does not apply, initial here: _____.]*

Print Name:

Subscribed to and sworn or affirmed by

on this _____.

NOTARY PUBLIC

