



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;

¹See paragraph 2.3 of these materials.

- (f) Recording an executed homestead declaration with respect to your primary Nevada 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.

RUSHFORTH LEE & KIEFER LLP

Telephone: 702-255-4552 or 855-255-4552 | Fax: 702-255-4677 or 855-RUSH-FAX
E-mail: office@rkllegal.com | Web sites: <http://rkllegal.info/> and <http://rkllegal.com/>
Office: 1707 Village Center Circle, Suite 150, Las Vegas, Nevada 89134-0597
Postal Mail: P.O. Box 371655, Las Vegas, Nevada 89137-1655

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²NRS 41.191

