

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION _____ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER _____

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative Renner offered the following:

Amendment

Remove lines 126-176 and insert:

6 debtor ~~defendant in execution~~ wants to retake possession of any
 7 property levied on, the judgment debtor ~~he or she~~ may do so by
 8 executing a bond with surety to be approved by the officer in
 9 favor of the judgment creditor ~~plaintiff~~ in a sum double the
 10 value of the property retaken as fixed by the officer holding
 11 the execution and conditioned that the property will be
 12 forthcoming on the day of sale stated in the bond.

13 Section 9. Section 56.15, Florida Statutes, is amended to
 14 read:

15 56.15 Executions; stay of illegal writs.—If any execution
 16 issues illegally, the judgment debtor ~~defendant in execution~~ may
 17 obtain a stay by making and delivering an affidavit to the

Amendment No. 1

18 officer having the execution, stating the illegality and whether
19 any part of the execution is due, with a bond with surety
20 payable to the judgment creditor ~~plaintiff~~ in double the amount
21 of the execution or the part of which a stay is sought
22 conditioned to pay the execution or part claimed to be illegal
23 and any damages for delay if the affidavit is not well founded.
24 On receipt of such affidavit and bond the officer shall stay
25 proceedings on the execution and return the bond and affidavit
26 to the court from which the execution issued. The court shall
27 pass on the question of illegality as soon as possible. If the
28 execution is adjudged illegal in any part, the court shall stay
29 it as to the part but if it is adjudged legal in whole or in
30 part, the court shall enter judgment against the principal and
31 surety on such bond for the amount of so much of the execution
32 as is adjudged to be legal and execution shall issue thereon.

33 Section 10. Section 56.16, Florida Statutes, is amended to
34 read:

35 56.16 Executions; claims of third parties to property
36 levied on.—If any person, including a person to whom a Notice to
37 Appear has been issued pursuant to s. 56.29(2), other than the
38 judgment debtor ~~defendant in execution~~ claims any property
39 levied on, he or she may obtain possession of the property by
40 filing with the officer having the execution an affidavit by the
41 claimant, or the claimant's ~~himself or herself, his or her agent~~
42 or attorney, that the property claimed belongs to the claimant
43 ~~him or her~~ and by furnishing the officer a bond with surety to

Amendment No. 1

44 be approved by the officer in favor of the judgment creditor
45 ~~plaintiff~~ in double the value of the goods claimed as the value
46 is fixed by the officer and conditioned to deliver said property
47 on demand of said officer if it is adjudged to be the property
48 of the judgment debtor ~~defendant in execution~~ and to pay the
49 judgment creditor ~~plaintiff~~ all damages found against the
50 claimant ~~him or her~~ if it appears that the claim was interposed
51 for the purpose of delay.

52 Section 11. Section 56.18, Florida Statutes, is amended to
53 read:

54 56.18 Executions; trial of claims of third persons.—As
55 soon as possible after the return, or after service of a Notice
56 to Appear pursuant to s. 56.29(2), a jury, if not waived, shall
57 be impaneled to try the
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