

By Representative Culp

1                                   A bill to be entitled  
2           An act relating to debtors and creditors;  
3           amending s. 30.231, F.S.; providing  
4           construction; specifying requirements in any  
5           seizure of property; amending s. 55.03, F.S.;  
6           specifying accrual of interest on certain  
7           judgments; creating s. 55.105, F.S.; providing  
8           for acquiring judgment liens; providing  
9           requirements; providing for lapse of judgment  
10          liens; providing for second liens; providing  
11          for judgment lien certificates; providing  
12          requirements; providing for taking property  
13          under judgment liens; creating s. 55.106, F.S.;  
14          providing requirements and procedures for  
15          terminating, partial releases, and assignments  
16          of judgment liens; creating s. 55.107, F.S.;  
17          providing procedures for treatment of existing  
18          judgment liens; amending s. 55.604, F.S.;  
19          specifying conditions for creating a judgment  
20          lien; providing for priority of liens; amending  
21          s. 56.031, F.S.; providing for multiple writs  
22          of execution; amending s. 56.041, F.S.;  
23          providing for return of unsatisfied writs of  
24          execution; amending s. 56.09, F.S.; providing  
25          for levy of a writ of execution against an  
26          individual for money; amending s. 56.21, F.S.;  
27          providing additional requirements for notice of  
28          levy and execution sales; amending s. 56.27,  
29          F.S.; specifying disposition of moneys received  
30          under executions; providing for disposition of  
31          surplus moneys after execution sales; amending

1 s. 56.29, F.S.; clarifying requirements in  
2 supplementary proceedings; amending s. 77.01,  
3 F.S.; clarifying the right to garnishment;  
4 creating s. 77.051, F.S.; providing for a  
5 notice to defendant of certain rights;  
6 providing a form; providing procedures for  
7 asserting exemptions from garnishment and  
8 requesting hearings; providing notice  
9 requirements for garnishment; providing for  
10 hearings; amending s. 77.055, F.S.; clarifying  
11 procedures for service of garnishee's answer  
12 and notice of right to move to dissolve writ;  
13 amending s. 77.06, F.S.; providing for creation  
14 of a lien upon service of a writ of  
15 garnishment; amending s. 222.12, F.S.;  
16 clarifying procedures for proceedings for  
17 exemption; amending s. 679.301, F.S.;  
18 clarifying establishment of priorities of  
19 certain interest; repealing s. 30.17, F.S.,  
20 relating to central filing; providing an  
21 effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Paragraph (d) of subsection (1) of section  
26 30.231, Florida Statutes, is amended to read:

27 30.231 Sheriffs' fees for service of summons,  
28 subpoenas, and executions.--

29 (1) The sheriffs of all counties of the state in civil  
30 cases shall charge fixed, nonrefundable fees for docketing and  
31 service of process, according to the following schedule:

- 1           (d) Executions:
- 2           1. Twenty dollars for docketing and indexing each writ
- 3 of execution, regardless of the number of persons involved.
- 4           2. Fifty dollars for each levy.
- 5           a. A levy is considered made when any property or any
- 6 portion of the property listed in the instructions for levy is
- 7 seized, or when any property or portion of the property not
- 8 listed in the instructions for levy is seized, or upon demand
- 9 of the sheriff the writ is satisfied by the defendant in lieu
- 10 of seizure. In any seizure, the sheriff shall take actual
- 11 possession of the property or take appropriate steps to
- 12 publicize, without taking possession, that the property has
- 13 been taken into the sheriff's custody or control.
- 14           b. When the instructions are for levy upon real
- 15 property, a levy fee is required for each parcel described in
- 16 the instructions.
- 17           c. When the instructions are for levy based upon
- 18 personal property, one fee is allowed, although the property
- 19 may be seized at different locations, conditional upon all of
- 20 the items being advertised collectively and the sale being
- 21 held at a single location. However, if the property seized
- 22 cannot be sold at one location during the same sale as
- 23 advertised, but requires separate sales at different
- 24 locations, the sheriff is then authorized to impose a levy fee
- 25 for the property and sale at each location.
- 26           3. Twenty dollars for advertisement of sale under
- 27 process.
- 28           4. Twenty dollars for sale under process.
- 29           5. Twenty dollars for deed, bill of sale, or
- 30 satisfaction of judgment.
- 31

1           Section 2. Subsection (1) of section 55.03, Florida  
2 Statutes, is amended to read:

3           55.03 Judgments; rate of interest, generally.--

4           (1)(a) On December 1 of each year beginning December  
5 1, 1994, the Comptroller of the State of Florida shall set the  
6 rate of interest that shall be payable on judgments or decrees  
7 for the year beginning January 1 by averaging the discount  
8 rate of the Federal Reserve Bank of New York for the preceding  
9 year, then adding 500 basis points to the averaged federal  
10 discount rate. The Comptroller shall inform the clerk of the  
11 courts and chief judge for each judicial circuit of the rate  
12 that has been established for the upcoming year. The initial  
13 interest rate established by the Comptroller shall take effect  
14 on January 1, 1995, and the interest rate established by the  
15 Comptroller in subsequent years shall take effect on January 1  
16 of each following year. Judgments obtained on or after January  
17 1, 1995, shall use the previous statutory rate for time  
18 periods before January 1, 1995, for which interest is due and  
19 shall apply the rate set by the Comptroller for time periods  
20 after January 1, 1995, for which interest is due. Interest on  
21 a judgment shall accrue for the life of the judgment at the  
22 rate set for that year by the Comptroller. ~~Nothing contained~~  
23 ~~herein shall affect a rate of interest established by written~~  
24 ~~contract or obligation.~~

25           (b) If a contract or obligation entered into after the  
26 effective date of this act specifies a contract rate of  
27 interest, any judgment entered on that contract or obligation  
28 shall include accrued interest at the contract rate up to the  
29 time the judgment is entered. Thereafter, interest on the  
30 judgment shall accrue for the life of the judgment at the  
31 simple interest rate set for that year by the Comptroller.

1           Section 3. Section 55.105, Florida Statutes, is  
2 created to read:

3           55.105 Judgments, orders, and decrees; lien on  
4 personal property.--

5           (1)(a) A judgment lien securing the unpaid amount of  
6 any money judgment may be acquired by the holder of a judgment  
7 of a court of this state, a judgment of a United States court  
8 having jurisdiction in this state, a judgment of a court of  
9 the United States or any other state to the extent enforceable  
10 under the Florida Enforcement of Foreign Judgments Act, or a  
11 judgment of a foreign state as defined in the Uniform Foreign  
12 Money-Judgment Recognition Act, from the time and to the  
13 extent enforceable under such judgments.

14           (b) The judgment lien may be acquired on the judgment  
15 debtor's interest in all personal property subject to  
16 execution in this state other than fixtures, money, and  
17 negotiable instruments. The lien is acquired by filing a  
18 judgment lien certificate in the office of the Department of  
19 State after the judgment has become final and if no stay of  
20 the judgment or enforcement of the judgment is in effect at  
21 the time the certificate is filed. The judgment lien shall be  
22 effective as of the date of filing, but no lien shall attach  
23 to property until the debtor acquires an interest in the  
24 property. Except as provided in paragraph (2)(b), a judgment  
25 creditor may file only one effective judgment lien certificate  
26 based upon a particular judgment.

27           (2)(a) Except as provided in this subsection, a  
28 judgment lien acquired under subsection (1) shall lapse and  
29 become invalid 5 years after the date of filing.

30           (b) At any time after the sixth month prior to the  
31 scheduled lapse of a judgment lien acquired under subsection

1 (1), the creditor may obtain a second judgment lien by  
2 recording a new judgment certificate. The second lien shall  
3 become effective on the date of lapse of the original lien or  
4 on the date on which the new judgment certificate is recorded,  
5 whichever is later. The second lien is a new lien, and not a  
6 continuation of the original judgment lien. The second lien  
7 shall permanently lapse and become invalid 5 years after the  
8 effective date of such lien and no additional liens based on  
9 the original judgment may be obtained.

10 (c) An original or second lien shall continue for an  
11 additional 90 days after lapse on any specific property that  
12 has been itemized with particularity in instructions for levy  
13 that have been delivered to a sheriff prior to the time of  
14 lapse. The lien shall continue only if the itemized property  
15 and the location of the property are described with sufficient  
16 particularity to permit the sheriff to act, and only if the  
17 property is located in the county in which the sheriff has  
18 jurisdiction at the time of delivery of the instructions.  
19 Subsequent removal of the property does not defeat the  
20 itemized lien. A court may order continuation of the itemized  
21 lien beyond the 90-day period upon a showing that  
22 extraordinary circumstances have prevented levy.

23 (3)(a) The judgment lien certificate shall:

24 1. Be signed by the judgment creditor or his or her  
25 attorney or duly authorized representative.

26 2. State the names and last-known address of the  
27 judgment creditor, the judgment creditor's attorney, and the  
28 judgment debtor.

29 3. State the court in which the judgment was entered,  
30 the case number, and the date on which the judgment was  
31 rendered.

1           4. State the amount due on the money judgment, and the  
2 applicable interest rate.

3           5. In the case of a second judgment lien, the amount  
4 of the original money judgment remaining unpaid and the  
5 interest accrued on such amount.

6           (b) The validity of the certificate shall not be  
7 defeated by technical or clerical errors made in good faith  
8 that are not seriously misleading, nor shall any claim of  
9 estoppel be based on such errors.

10          (4) The judgment lien certificate shall be recorded  
11 and indexed in the same manner as financing statements are  
12 filed pursuant to chapter 679. The Department of State shall  
13 provide information about, and copies of, judgment lien  
14 certificates in the same manner that information and copies  
15 are provided with respect to financing statements. The  
16 department may charge fees for such services commensurate with  
17 the fees charged for services in regard to financing  
18 statements.

19          (5) A valid judgment lien shall give the judgment  
20 creditor the right to take possession of the property subject  
21 to lien by means of a writ of execution, garnishment, or other  
22 judicial process. A creditor who has not filed a judgment lien  
23 certificate or whose lien has lapsed may nevertheless take  
24 possession of the debtor's property by means of such judicial  
25 process. A creditor who proceeds by writ of execution obtains  
26 a lien as of the time of levy and only on the property levied  
27 upon.

28          (6) A buyer in the ordinary course of business as  
29 defined in s. 671.201(9) takes free of a judgment lien created  
30 under this section even though the buyer knows of the  
31 existence of the lien. A valid security interest, as defined

1 in chapter 679, in after-acquired property of the debtor that  
2 is perfected prior to the effective date of a judgment lien  
3 takes priority over the judgment lien on the after-acquired  
4 property.

5 (7) If the enforceability of the judgment lien is  
6 temporarily stayed or enjoined as a result of any legal or  
7 equitable proceeding, the time for lapse of the judgment lien  
8 shall be tolled until 30 days after termination of the stay or  
9 injunction.

10 Section 4. Section 55.106, Florida Statutes, is  
11 created to read:

12 55.106 Statement of termination; partial release;  
13 assignment.--

14 (1) Within 30 days after written demand by the debtor  
15 if there is no outstanding obligation or the obligation has  
16 been partially released, the judgment lienholder shall send to  
17 the debtor a statement to the effect that he or she no longer  
18 claims a lien on the personal property of the debtor or that  
19 the lien has been partially released and setting forth the  
20 value of the lien remaining unpaid as of the date of the  
21 statement. A statement signed by a person other than the  
22 lienholder of record must include or be accompanied by the  
23 assignment or a separate written statement of assignment  
24 signed by the lienholder of record. If the affected  
25 lienholder fails to send such a statement within 10 days after  
26 proper written demand for such statement, he or she shall be  
27 liable to the debtor for \$100 and for any loss caused to the  
28 debtor, including attorney's fees, by such failure.

29 (2) The debtor may file such statement with the  
30 Department of State. The statement shall be recorded and  
31 indexed and the department may assess reasonable fees, in the



1 same manner as termination statements are filed and fees  
2 assessed pursuant to chapter 679.

3 Section 5. Section 55.107, Florida Statutes, is  
4 created to read:

5 55.107 Effect of recorded judgment liens.--

6 (1) Any liens created by writs of execution that have  
7 been delivered to the sheriff of any county prior to the  
8 effective date of this act shall remain effective for 2 years  
9 after that date as to any property of the debtor located in  
10 that county on that date and remaining in that county after  
11 that date. As to any property of the debtor brought into the  
12 county after that date, such writs create no lien, inchoate or  
13 otherwise.

14 (2) If a judgment creditor that has delivered a writ  
15 of execution to a sheriff in any county prior to the effective  
16 date of this act properly records a judgment certificate  
17 within 2 years of that date, together with a certification by  
18 the sheriff as to the date on which the writ was delivered to  
19 him or her, the resulting judgment lien will be deemed to have  
20 been recorded on the date the writ was delivered to the  
21 sheriff as to all property of the debtor subject to levy  
22 located in that county on the effective date of this act and  
23 remaining continuously in that county after such date. As to  
24 all other property of the debtor, the effective date of the  
25 judgment lien is as provided in this act. The duration of all  
26 judgment liens under this act is as provided in this act,  
27 regardless of the date on which a lien is deemed to have been  
28 recorded.

29 (3) If a judgment creditor, who has delivered a writ  
30 of execution to a sheriff in any county prior to the effective  
31 date of this act, does not properly record a judgment

1 certificate within 2 years after such date, any such writs  
2 will be deemed to have been abandoned and of no effect 2 years  
3 after the effective date of this act.

4 Section 6. Subsection (8) is added to section 55.604,  
5 Florida Statutes, to read:

6 55.604 Recognition and enforcement.--Except as  
7 provided in s. 55.605, a foreign judgment meeting the  
8 requirements of s. 55.603 is conclusive between the parties to  
9 the extent that it grants or denies recovery of a sum of  
10 money. Procedures for recognition and enforceability of a  
11 foreign judgment shall be as follows:

12 (8) A judgment lien on personal property shall be  
13 created only after a certified copy of the judgment, a copy of  
14 a circuit court clerk's certificate or order recognizing the  
15 foreign judgment, and a judgment certificate satisfying the  
16 requirements of s. 55.105 has been recorded in the office of  
17 the Department of State. The priority of such lien shall be  
18 established as of the time the latest of the three recordings  
19 has occurred. Such lien may be partially released or  
20 satisfied by the person designated pursuant to subsection (1).

21 Section 7. Section 56.031, Florida Statutes, is  
22 amended to read:

23 56.031 Writs of execution ~~Executions~~; form; multiple  
24 writs.--All writs of execution ~~executions~~ shall be dated on  
25 the day on which they are issued, shall be directed to all and  
26 singular the sheriffs of the state and shall be in full force  
27 throughout the state. Multiple writs of execution shall be  
28 issued by the clerk on request of the judgment creditor, which  
29 writs may be docketed in different counties.

30 Section 8. Subsection (2) of section 56.041, Florida  
31 Statutes, is amended to read:

1           56.041 Writs of execution ~~Executions~~; collection and  
2 return.--

3           (2) All unsatisfied writs of execution ~~executions~~ in  
4 the hands of the sheriff may be returned to the judgment  
5 creditor when the sheriff determines that a reasonable time in  
6 which to levy on the property of the debtor has passed and  
7 that it would serve no useful purpose for the sheriff to  
8 continue in possession of the writ ~~court issuing the~~  
9 ~~execution, 20 years after the date of issuance of final~~  
10 ~~judgment upon which the execution was issued.~~ Upon such  
11 return, the clerk of the court of issuance shall provide a  
12 receipt, to the sheriff submitting the return, acknowledging  
13 the return of the unsatisfied writ of execution.

14           Section 9. Section 56.09, Florida Statutes, is amended  
15 to read:

16           56.09 Writs of execution ~~Executions against~~  
17 ~~corporations~~; generally.--

18           (1) On any judgment against a corporation, a plaintiff  
19 may have a writ of ~~an~~ execution levied on the current money as  
20 well as on the goods and chattels, lands and tenements of said  
21 corporation.

22           (2) On any judgment against an individual, a plaintiff  
23 may have a writ of execution levied on the individual's money  
24 in excess of \$1,000. Such limitation on levy of execution does  
25 not create an exemption, nor does it limit the availability of  
26 any other exemption.

27           Section 10. Section 56.21, Florida Statutes, is  
28 amended to read:

29           56.21 Execution sales; notice.--Notice of all sales  
30 under execution shall be given by advertisement once each week  
31 for 4 successive weeks in a newspaper published in the county

1 in which the sale is to take place. The time of such notice  
2 may be shortened in the discretion of the court from which the  
3 execution issued, upon affidavit that the property to be sold  
4 is subject to decay and will not sell for its full value if  
5 held until date of sale. On or before the date of the first  
6 publication or posting of the notice of sale, a copy of the  
7 notice of sale shall be furnished by certified mail to the  
8 attorney of record of the judgment debtor, or to the judgment  
9 debtor at the judgment debtor's last known address if the  
10 judgment debtor does not have an attorney of record. Such copy  
11 of the notice of sale shall be mailed even though a default  
12 judgment was entered. Notice of such levy and execution sale  
13 shall be mailed in the same manner as notice is mailed to any  
14 judgment debtor pursuant to this section to all judgment  
15 creditors or their attorneys who have filed judgment  
16 certificates pursuant to s. 55.105 in the name of the judgment  
17 debtor and to all secured creditors who have filed financing  
18 statements pursuant to s. 679.401 in the name of the debtor  
19 reflecting a security interest in property of the kind to be  
20 sold at the execution sale.When levying upon real property,  
21 notice of such levy and execution sale shall be made to the  
22 property owner of record in the same manner as notice is made  
23 to any judgment debtor pursuant to this section. When selling  
24 real or personal property, the sale date shall not be earlier  
25 than 30 days after the date of the first advertisement.

26 Section 11. Section 56.27, Florida Statutes, is  
27 amended to read:

28 56.27 Executions; payment ~~to execution creditor~~ of  
29 money collected.--

30 (1) Of the All money received under an execution, the  
31 first \$500 executions shall be paid not in reduction of the

1 judgment but as liquidated expenses to the creditor who caused  
2 the sheriff to levy, and the remainder to the judgment  
3 lienholder to the party in whose favor the execution was  
4 ~~issued~~ or his or her attorney whose judgment lien certificate  
5 was first filed in the office of the Department of State and  
6 whose judgment lien has not lapsed at the time of levy. The  
7 receipt of the attorney shall be a release of the officer  
8 paying the money to him or her. When the name of more than  
9 one attorney appears in the court file, the money shall be  
10 paid to the attorney who originally commenced the action or  
11 who made the original defense unless the file shows that  
12 another attorney has been substituted. ~~When property sold~~  
13 ~~under execution brings more than the amount of the execution,~~  
14 ~~the surplus shall be paid to defendant without delay.~~

15       (2) When property is sold under execution for an  
16 amount greater than the amount of the earliest valid judgment  
17 lien plus the sheriff's costs and the levying creditor's  
18 liquidated expenses, the surplus shall be paid to any other  
19 judgment lienholders whose liens have not lapsed in the order  
20 of filing. If there is a surplus after paying all valid  
21 judgment liens, the surplus shall be paid to the creditor who,  
22 if not already satisfied, caused the levy through writ or  
23 instructions for levy. If there is a surplus after paying all  
24 valid judgment and execution liens, the surplus shall be paid  
25 to the defendant without delay.

26       (3) The value of the property levied upon shall not be  
27 considered excessive unless the value of the seized property  
28 unreasonably exceeds the total debt reflected in all  
29 unsatisfied judgment liens that have not lapsed and any  
30 unsatisfied lien of the levying creditor.

31

1           Section 12. Subsection (1) of section 56.29, Florida  
2 Statutes, is amended to read:

3           56.29 Proceedings supplementary.--

4           (1) When any person ~~sheriff~~ holds an unsatisfied  
5 execution and has delivered a writ of execution to any  
6 sheriff, the plaintiff in execution may file an affidavit so  
7 stating and that the execution is valid and outstanding and  
8 thereupon is entitled to these proceedings supplementary to  
9 execution.

10          Section 13. Section 77.01, Florida Statutes, is  
11 amended to read:

12          77.01 Right to garnishment.--Every person or entity  
13 who has sued to recover a debt or has recovered judgment in  
14 any court against any person or entity, ~~natural or corporate~~,  
15 has a right to a writ of garnishment, in the manner  
16 hereinafter provided, to subject any debt due to defendant by  
17 a third person or except with respect to debts under  
18 negotiable instruments, to debts which shall become due  
19 absolutely to defendant by a third person through the passage  
20 of time only, and any tangible or intangible personal property  
21 of defendant in the possession or control of a third person.  
22 The officers, agents, and employees of any companies or  
23 corporations are third persons in regard to the companies or  
24 corporations, and as such are subject to garnishment after  
25 judgment against the companies or corporations.

26          Section 14. Section 77.051, Florida Statutes, is  
27 created to read:

28          77.051 Notice of procedure for asserting exemptions  
29 and requesting hearing; procedure for hearing.--  
30  
31

1           (1) Upon application for a writ of garnishment by a  
2 plaintiff, the clerk of the court shall attach to the writ the  
3 following notice:

4           "NOTICE TO DEFENDANT OF THE RIGHT TO KEEP  
5 WAGES, MONEY, AND OTHER PROPERTY FROM BEING  
6 GARNISHED." The writ of garnishment delivered  
7 to you with this notice means that wages,  
8 money, or other property belonging to you has  
9 been garnished in order to pay a court judgment  
10 against you. HOWEVER, YOU MAY BE ABLE TO GET  
11 YOUR MONEY OR PROPERTY BACK, SO READ THIS  
12 NOTICE CAREFULLY. State and federal laws state  
13 that certain money and property may not be  
14 taken to pay certain types of court judgments  
15 even if deposited in a bank, savings and loan,  
16 or credit union. Such money or property is  
17 stated to be "exempt" from garnishment. The  
18 major exemptions are listed below on the claim  
19 for exemption on the claim for exemption form.  
20 This list does not include all possible  
21 exemptions so you should consult an attorney  
22 for specific advice. TO KEEP YOUR WAGES, MONEY,  
23 AND OTHER PROPERTY FROM BEING GARNISHED, OR TO  
24 GET BACK ANYTHING ALREADY TAKEN, YOU MUST  
25 PREPARE THE "CLAIM FOR EXEMPTION AND REQUEST  
26 FOR HEARING" FORM BELOW, HAVE IT NOTARIZED, AND  
27 FILE IT WITH THE CLERK'S OFFICE WITHIN 20 DAYS  
28 AFTER THE DATE YOU RECEIVE THIS NOTICE OR YOU  
29 MAY LOSE IMPORTANT RIGHTS. YOU MUST ALSO MAIL  
30 OR DELIVER A COPY TO THE PLAINTIFF AND THE  
31 GARNISHEE AT THE ADDRESS LISTED IN THE WRIT OF

1       GARNISHMENT. If you request a hearing, it will  
2       be held as soon as possible after your request  
3       is received by the court. The plaintiff will  
4       have 2 business days, plus 5 days if the copy  
5       of your request was mailed to plaintiff, to  
6       file an objection to your Claim of Exemption.  
7       If the plaintiff files an objection, the clerk  
8       will notify you and the other parties of the  
9       time and date of the hearing. You may attend  
10       the hearing with or without an attorney. If  
11       the plaintiff fails to file an objection, the  
12       garnishment will be dismissed and your property  
13       or money will be released. YOU SHOULD FILE  
14       YOUR CLAIM FOR EXEMPTION IMMEDIATELY TO KEEP  
15       YOUR WAGES, MONEY, OR PROPERTY FROM BEING  
16       APPLIED TO THE COURT JUDGMENT. The clerk  
17       cannot give you legal advice. If you need  
18       legal assistance you should see a lawyer. If  
19       you can't afford a private lawyer, legal  
20       services may be available. Contact your local  
21       bar association or ask the clerk's office about  
22       any legal services program in your area.  
23       CLAIM FOR EXEMPTION AND REQUEST FOR HEARING.  
24       I claim that the exemption(s) from garnishment  
25       which are checked below apply in this case:  
26       \_\_\_\_\_ 1. Head of family wages. (You must check a. or b.  
27       below)  
28       \_\_\_\_\_ a. I provide more than one half of the support  
29       for a child or other dependent and have net earnings of \$500  
30       or less per week.  
31



1               b. I provide more than one half of the support  
2 for a child or other dependent, have net earnings of more than  
3 \$500 per week, but have not agreed in writing to have my wages  
4 garnished.

- 5               2. Social Security benefits.  
6               3. Supplemental Security Income benefits.  
7               4. Public assistance (welfare).  
8               5. Workers' Compensation.  
9               6. Unemployment Compensation.  
10              7. Veterans' benefits.  
11              8. Retirement benefits.  
12              9. Life insurance benefits or cash surrender value  
13 of a life insurance policy.  
14              10. Other

15 I request a hearing to decide the validity of my claim.

16 Notice of the hearing should be given to me at:

17 \_\_\_\_\_  
18 Address \_\_\_\_\_ Telephone number

19 \_\_\_\_\_  
20 The statements made in this request are true to the best of my  
21 knowledge and belief.

22 \_\_\_\_\_  
23 \_\_\_\_\_  
24 Date \_\_\_\_\_ Defendant's signature

25 STATE OF FLORIDA

26 COUNTY OF

27 Subscribed and sworn to before me on \_\_\_\_\_ by \_\_\_\_\_,  
28 who presented \_\_\_\_\_ as identification and who took  
29 an oath.

30 \_\_\_\_\_

31 \_\_\_\_\_

1 Notary Public/Deputy Clerk.

2       (2) The plaintiff shall mail a copy of the writ of  
3 garnishment, a copy of the motion for writ of garnishment, and  
4 the "Notice to Defendant" to the defendant within 5 business  
5 days after the writ is issued, or 3 business days after the  
6 writ is served on the garnishee, whichever is later. The  
7 plaintiff shall mail the motion for writ of garnishment, the  
8 writ of garnishment, and the "Notice to Defendant" by first  
9 class mail to the residence of the defendant. However, if the  
10 correspondence is returned as undeliverable by the post  
11 office, or if the residence address is not discoverable after  
12 diligent search, then the correspondence shall be sent by  
13 first class mail to the defendant at his or her place of  
14 employment. The plaintiff shall file in the proceeding a  
15 certificate of such service.

16       (3) Upon the filing by a defendant of a claim for  
17 exemption and request for hearing, a hearing shall be held as  
18 soon as practicable to determine the validity of the claimed  
19 exemptions. Unless the plaintiff files, within 2 business  
20 days after receiving correspondence as provided in subsection  
21 (2), plus 5 days if the request is served by mail, a written  
22 statement under oath that the defendant's claim of exemption  
23 is contested, no hearing shall be required, and the clerk  
24 shall automatically dissolve the writ and notify the parties  
25 by mail of the dissolution.

26       Section 15. Section 77.055, Florida Statutes, is  
27 amended to read:

28       77.055 Service of garnishee's answer and notice of  
29 right to move to dissolve writ to defendant and other  
30 interested persons.--Within 5 days after service of the  
31 garnishee's answer on the plaintiff or after the time period

1 for the garnishee's answer has expired, the plaintiff shall  
2 serve, by mail, the following documents: ~~a copy of the writ,~~  
3 a copy of the garnishee's answer ~~and,~~ a notice advising, ~~and a~~  
4 ~~certificate of service.~~ ~~The notice shall advise~~ the recipient  
5 that he or she must move to dissolve the writ of garnishment  
6 within 20 days after the date set forth in the notice if any  
7 allegation in the plaintiff's motion is untrue ~~the time period~~  
8 ~~set forth in s. 77.07(2) or be defaulted and that he or she~~  
9 ~~may have exemptions from the garnishment which must be~~  
10 ~~asserted as a defense.~~ The plaintiff shall serve these  
11 documents on the defendant at the defendant's last known  
12 address and any other address disclosed by the garnishee's  
13 answer and on any other person disclosed in the garnishee's  
14 answer to have any ownership interest in the deposit, account,  
15 or property controlled by the garnishee. The plaintiff shall  
16 file in the proceeding a certificate of such service.

17 Section 16. Subsection (1) of section 77.06, Florida  
18 Statutes, is amended to read:

19 77.06 Writ; effect.--

20 (1) Service of the writ shall make garnishee liable  
21 for all debts due by him or her to defendant and for any  
22 tangible or intangible personal property of defendant in the  
23 garnishee's possession or control at the time of the service  
24 of the writ or at any time between the service and the time of  
25 the garnishee's answer. Service of the writ creates a lien in  
26 or upon any such debts or property at the time of service or  
27 at the time such debts or property come into the garnishee's  
28 possession or control, whichever is later.

29 Section 17. Section 222.12, Florida Statutes, is  
30 amended to read:

31

1           222.12 Proceedings for exemption.--Whenever any money  
2 or other thing due for labor or services as aforesaid is  
3 attached by such process, the person to whom the same is due  
4 and owing may make oath before the officer who issued the  
5 process or before a notary public that the money attached is  
6 due for the personal labor and services of such person, and  
7 she or he is the head of a family residing in said state.  
8 When such an affidavit is made, notice of same shall be  
9 forthwith given to the party, or her or his attorney, who sued  
10 out the process, and if the facts set forth in such affidavit  
11 are not denied under oath within 2 business days after the  
12 service of said notice, the process shall be returned, and all  
13 proceedings under the same shall cease. If the facts stated  
14 in the affidavit are denied by the party who sued out the  
15 process within the time above set forth and under oath, then  
16 the matter shall be tried by the court from which the writ or  
17 process issued, in like manner as claims to property levied  
18 upon by writ of execution are tried, and the money or thing  
19 attached shall remain subject to the process until released by  
20 the judgment of the court which shall try the issue.

21           Section 18. Subsections (2) and (3) of section  
22 679.301, Florida Statutes, are amended to read:

23           679.301 Persons who take priority over unperfected  
24 security interests; right of "lien creditor."--

25           (2) If the secured party files with respect to a  
26 purchase money security interest before or within 15 days  
27 after the debtor receives possession of the collateral, the  
28 secured party ~~he or she~~ takes priority over the rights of a  
29 transferee in bulk or of a lien creditor ~~which arise between~~  
30 ~~the time the security interest attaches and the time of~~  
31 filing.

1           (3) A "lien creditor" means a creditor who has  
2 acquired a lien on the property involved by attachment, levy,  
3 or the like and includes a holder of a valid judgment lien  
4 under s. 55.105,an assignee for benefit of creditors from the  
5 time of assignment, and a trustee in bankruptcy from the date  
6 of the filing of the petition or a receiver in equity from the  
7 time of appointment.

8           Section 19. Section 30.17, Florida Statutes, is hereby  
9 repealed.

10           Section 20. This act shall take effect upon becoming a  
11 law.

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13 \*\*\*\*\*

14                                       HOUSE SUMMARY

15           Specifies requirements in property seizures by sheriffs  
16 and specifies accrual of interest on contracts or  
17 obligations.

18           Provides requirements, procedures, conditions, and  
19 priorities for judgment liens.

20           Revises provisions relating to writs of execution to  
21 provide for levy of a writ of execution against an  
22 individual for money, additional requirements for notice  
23 of levy and execution sales, and disposition of moneys  
after execution sales.

24           Revises provisions relating to garnishment to provide for  
25 a notice to defendant of specified rights, procedures for  
26 asserting exemptions from garnishment and requesting  
27 hearings, notice requirements for garnishment,  
garnishment hearings, procedures for service of  
garnishee's answer, and creation of liens. See bill for  
details.

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