

By Representative Warner

1 A bill to be entitled
2 An act relating to service of process; amending
3 s. 48.031, F.S.; providing for service upon
4 person in charge of a business at the time of
5 service; amending s. 48.183, F.S.; providing
6 for service of process in an action for
7 possession of residential premises; amending s.
8 48.27, F.S.; providing for application and fee
9 for inclusion on list of certified process
10 servers; authorizing certain service when a
11 civil action has been filed in a circuit or
12 county court in the state; amending s. 55.03,
13 F.S., relating to docketing and indexing of
14 civil process generally; providing an exception
15 from certain docketing and indexing or
16 collection requirements when rate of interest
17 is not on the face of the process, writ,
18 judgment, or decree; amending s. 56.27, F.S.,
19 relating to payment to execution creditor of
20 money collected; providing for payment to a
21 junior writ of certain surplus moneys
22 collected; amending s. 56.28, F.S.; requiring
23 written demand by plaintiff as a condition for
24 officer's liability to pay over within 10 days
25 certain moneys collected; providing an
26 effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Paragraph (b) of subsection (2) of section
31 48.031, Florida Statutes, is amended to read:

1 48.031 Service of process generally; service of
2 witness subpoenas.--

3 (2)

4 (b) Substitute service may be made on an individual
5 doing business as a sole proprietorship at his or her place of
6 business, during regular business hours, by serving the person
7 in charge of the business at the time of service ~~manager~~ of
8 the business if one or more attempts to serve the owner have
9 been made at the place of business.

10 Section 2. Subsection (1) of section 48.183, Florida
11 Statutes, is amended to read:

12 48.183 Service of process in action for possession of
13 premises.--

14 (1) In an action for possession of residential
15 premises ~~under s. 83.59~~ or nonresidential premises, if the
16 tenant cannot be found in the county or there is no person 15
17 years of age or older residing at the tenant's usual place of
18 abode in the county after at least two attempts to obtain
19 service as provided above in this subsection, summons may be
20 served by attaching a copy to a conspicuous place on the
21 property described in the complaint or summons. The minimum
22 time delay between the two attempts to obtain service shall be
23 6 hours. Nothing herein shall be construed as prohibiting
24 service of process on a tenant as is otherwise provided on
25 defendants in civil cases.

26 Section 3. Section 48.27, Florida Statutes, is amended
27 to read:

28 48.27 Certified process servers.--

29 (1) The chief judge of each judicial circuit may
30 establish an approved list of natural persons designated as
31 certified process servers. The chief judge may periodically

1 add to such list the names of those natural persons who have
2 met the requirements for certification provided for in s.
3 48.29. Each person whose name has been added to the approved
4 list is subject to annual recertification and reappointment by
5 the chief judge of a judicial circuit. The chief judge shall
6 prescribe appropriate forms for application for inclusion on
7 the list of certified process servers. A reasonable fee for
8 the processing of any such application shall be charged.

9 (2) The addition of a person's name to the list
10 authorizes him or her to serve initial nonenforceable civil
11 process on a person found within the circuit where the process
12 server is certified when a civil action has been filed against
13 such person in a ~~the~~ circuit court or in a county court in the
14 state ~~circuit~~. Upon filing an action in circuit or county
15 court, a person may select from the list for the circuit where
16 the process is to be served one or more certified process
17 servers to serve initial nonenforceable civil process.

18 (3) Nothing herein shall be interpreted to exclude a
19 sheriff or deputy or other person appointed by the sheriff
20 pursuant to s. 48.021 from serving process or to exclude a
21 person from appointment by individual motion and order to
22 serve process in any civil action in accordance with Rule
23 1.070(b) of the Florida Rules of Civil Procedure.

24 Section 4. Subsection (3) is added to section 55.03,
25 Florida Statutes, to read:

26 55.03 Judgments; rate of interest, generally.--

27 (3) No sheriff shall be required to docket and index
28 or collect on any process, writ, judgment, or decree described
29 in subsection (2) if the rate of interest is not on the face
30 of the process, writ, judgment, or decree.

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1 Section 5. Section 56.27, Florida Statutes, is amended
2 to read:

3 56.27 Executions; payment to execution creditor of
4 money collected.--All money received under executions shall be
5 paid to the party in whose favor the execution was issued or
6 his or her attorney. The receipt of the attorney shall be a
7 release of the officer paying the money to him or her. When
8 the name of more than one attorney appears in the court file,
9 the money shall be paid to the attorney who originally
10 commenced the action or who made the original defense unless
11 the file shows that another attorney has been substituted.
12 When property sold under execution brings more than the amount
13 of the execution, the surplus must ~~shall~~ be paid to defendant
14 or, if there is another writ against the defendant docketed
15 and indexed with the sheriff, the surplus must be paid to the
16 junior writ ~~without delay~~.

17 Section 6. Section 56.28, Florida Statutes, is amended
18 to read:

19 56.28 Executions; failure of officer to pay over
20 moneys collected.--If any officer collecting money under
21 execution fails ~~shall fail~~ or refuses ~~refuse~~ to pay it over
22 within 30 days after it has ~~shall have~~ been received by him or
23 her, or within 10 days after demand ~~made~~ by the plaintiff or
24 his or her attorney of record made in writing and delivered
25 during regular business hours to the civil process bureau, the
26 officer is ~~shall be~~ liable to pay the same and 20 percent
27 damages, to be recovered by motion in court.

28 Section 7. This act shall take effect October 1, 1997.
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HOUSE SUMMARY

Provides for service of process upon a person in charge of a business at the time of service. Provides for service of process in an action for possession of residential premises. Provides for application and fee for inclusion on list of certified process servers. Authorizes certain service when a civil action has been filed in a county court in the state. Provides an exception from certain docketing and indexing or collection requirements when the rate of interest is not on the face of the process, writ, judgment, or decree. Provides for payment to execution creditor of money collected. Provides for payment to a junior writ of certain surplus moneys collected. Requires written demand by plaintiff as a condition for officer's liability to pay over within 10 days certain moneys collected.