

Bill No. HB 1061, 2nd Eng.

Amendment No.

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Bronson moved the following amendment:

Senate Amendment (with title amendment)

On page 48, between lines 3 and 4,

insert:

Section 22. Part XII of chapter 559, Florida Statutes, consisting of section 559.95, is created to read:

PART XII

CREDITOR'S RIGHTS

559.95 Sale of more than 51 percent of certain property by debtor; notice to unsecured claimants required.--

(1) A debtor who transfers, other than in the ordinary course of the debtor's business, 51 percent or more of the value, at cost, of the supplies, inventory, merchandise, real or tangible personal property, or equipment held by such debtor, with the intent of terminating such business, must provide notice of the proposed transfer to the debtor's unsecured claimants not less than 15 days prior to the effective date of the transfer. Such notice must contain a description of the supplies, inventory, merchandise, real or

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1 tangible personal property or equipment being transferred, and
2 the name and address of the transferee. If the debtor has less
3 than 50 unsecured claimants, notice must be provided by
4 personal delivery or first class U.S. mail, sent to the last
5 address of the claimants known to the debtor. If the debtor
6 has 50 or more unsecured claimants, the notice may be provided
7 by publication in a newspaper of general circulation in the
8 debtor's principal place of business in this state.

9 (2) As used in this section, the term:

10 (a) "Claimant" means a person holding a claim incurred
11 in the debtor's business other than:

12 1. An unsecured and unmatured claim for unemployment
13 compensation and benefits, including commissions and vacation,
14 severance, and sick leave pay;

15 2. A claim for injury to an individual or property, or
16 for breach of warranty, unless a right of action for the claim
17 has accrued, the claim has been asserted against the seller,
18 and the seller knows the identity of the person asserting the
19 claim and the basis upon which the person asserted it; or

20 3. A claim for taxes owing to a governmental unit.

21 (b) "Unsecured claimant" means a claimant who has not
22 been granted a security interest pursuant to chapter 679.

23 (c) "Transfer" means a single transfer or a set of
24 substantially contemporaneous transfers. The attachment or
25 perfection of a security interest, a transfer in any
26 insolvency proceeding, or a transfer that is a foreclosure of
27 a creditor's interest is not a transfer under this section.

28 (d) "Debtor" means a motor vehicle dealer as defined
29 in s. 320.27, a motor vehicle repair shop as defined in s.
30 559.903(7) or a person who deals in automotive or automotive
31 services industry goods. Debtor does not include a motor

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1 vehicle dealer licensed by s. 320.27(1)(c)1. and registered
2 under s. 559.903(7), or a recreational vehicle dealer licensed
3 by s. 320.771, and registered under s. 559.903(7).

4 (3) An unsecured claimant may recover from the debtor
5 any actual damages the unsecured claimant sustains as a result
6 of the intentional failure of the debtor to provide notice of
7 the transfer to such unsecured claimant. In any action arising
8 out of this section, the prevailing party shall recover
9 reasonable attorneys' fees and costs.

10 (4) An action under this subsection must be brought
11 within one year after the effective date of the transfer.

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13 (Redesignate subsequent sections.)

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16 ===== T I T L E A M E N D M E N T =====

17 And the title is amended as follows:

18 On page 4, line 22, after the semicolon

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20 insert:

21 providing definitions; requiring such debtors
22 to provide notice to certain unsecured
23 claimants of the transfer of certain assets;

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