

By the Committee on Governmental Operations and  
Representative Sublette

1                                   A bill to be entitled  
2           An act relating to debtors and creditors;  
3           amending s. 15.16, F.S.; providing for  
4           electronic filing of records with the  
5           Department of State; amending s. 30.17, F.S.;  
6           providing for phaseout of sheriff's execution  
7           docket; amending s. 30.231, F.S.; clarifying  
8           seizure of property for levy; amending s.  
9           48.021, F.S.; providing for a sheriff to  
10          periodically add names of process servers to an  
11          approved list; amending s. 55.10, F.S.;  
12          providing a shorter time period for the  
13          extension of certain liens; providing for  
14          application; creating s. 55.201, F.S.;  
15          requiring the Department of State to establish  
16          a database of judgment lien records; creating  
17          s. 55.202, F.S.; providing for acquisition of a  
18          judgment lien on personal property; creating s.  
19          55.203, F.S.; providing requirements for the  
20          content, filing, and indexing of judgment lien  
21          certificates by the Department of State;  
22          creating s. 55.204, F.S.; providing for lapse  
23          of a judgment lien; providing for acquisition  
24          of a second judgment lien; creating s. 55.205,  
25          F.S.; providing for the effect of a judgment  
26          lien; creating s. 55.206, F.S.; providing for  
27          amendment, termination, partial release,  
28          assignment, continuation, tolling, or  
29          correction of a recorded judgment lien;  
30          creating s. 55.207, F.S.; providing for filing  
31          and effect of a correction statement as to a

1 judgment lien record; creating s. 55.208, F.S.;  
2 providing for phaseout of effect of writs of  
3 execution delivered to a sheriff prior to a  
4 date certain; creating s. 55.209, F.S.;  
5 providing for the responsibilities of the  
6 Department of State and for filing fees;  
7 amending s. 55.604, F.S.; limiting the effect  
8 of a foreign judgment as a lien on personal  
9 property in this state; amending s. 56.09,  
10 F.S.; providing for limited levy of executions  
11 against persons; amending s. 56.21, F.S.;  
12 providing for notice of levy and execution sale  
13 and affidavit of levying creditor to judgment  
14 creditors and certain secured creditors;  
15 amending s. 56.27, F.S.; providing for payment  
16 distribution of money collected under  
17 execution; amending s. 56.29, F.S.; clarifying  
18 who may file an affidavit for purposes of  
19 supplementary proceedings; amending s. 61.11,  
20 F.S.; requiring respondent to pay certain costs  
21 and expenses associated with writs of bodily  
22 attachment in connection with court-ordered  
23 child support obligations; amending s. 77.01,  
24 F.S.; providing entities with right to writ of  
25 garnishment; creating s. 77.041, F.S.;  
26 providing for notice of procedures for  
27 asserting exemptions and requesting a hearing;  
28 amending s. 77.055, F.S.; clarifying  
29 requirements for service of garnishee's answer  
30 and notice of right to dissolve writ of  
31 garnishment; amending s. 77.06, F.S.; providing

1 for creation of judgment lien upon service of  
2 writ of garnishment; amending s. 222.12, F.S.;  
3 providing for taking of oath before notary  
4 public regarding exemptions from garnishment;  
5 amending s. 679.301, F.S.; revising the  
6 definition of a lien creditor; providing  
7 effective dates.

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9 Be It Enacted by the Legislature of the State of Florida:

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11 Section 1. Section 15.16, Florida Statutes, is amended  
12 to read:

13 15.16 Reproduction of records; admissibility in  
14 evidence; electronic receipt and transmission of records;  
15 certification; acknowledgment.--

16 (1) The Department of State may cause to be made  
17 copies of any records maintained by it by miniature  
18 photographic microfilming or microphotographic processes or  
19 any other photographic, mechanical, or other process  
20 heretofore or hereafter devised, including electronic data  
21 processing.

22 (2) Photographs, nonerasable optical images, or  
23 microphotographs in the form of film, facsimiles, or prints of  
24 any records made in compliance with the provisions of this  
25 section shall have the same force and effect as the originals  
26 thereof and shall be treated as originals for the purpose of  
27 their admissibility in evidence. Duly certified or  
28 authenticated reproductions of such photographs, nonerasable  
29 optical images, or microphotographs shall be admitted in  
30 evidence equally with the original photographs, nonerasable  
31 optical images, or microphotographs.

1           (3) The Department of State may cause to be received  
2 electronically any records that are required to be filed with  
3 it under chapter 55,~~pursuant to~~ chapter 607, chapter 608,  
4 chapter 617, chapter 620, chapter 621, chapter 679, chapter  
5 713, or chapter 865, through facsimile or other electronic  
6 transfers, for the purpose of filing such records. The  
7 originals of all such electronically transmitted records must  
8 be executed in the manner prescribed by the department  
9 ~~provided by law and must contain in the lower left-hand corner~~  
10 ~~of the first page the name, address, and telephone number of~~  
11 ~~the preparer of the original and, if prepared by an attorney~~  
12 ~~licensed in this state, the preparer's Florida Bar membership~~  
13 ~~number.~~ The receipt of such electronic transfer constitutes  
14 delivery to the department as required by law.

15           (4) Notwithstanding any other provision of law, the  
16 department may certify or acknowledge and electronically  
17 transmit any record maintained by it. The certification must  
18 be evidenced by a certification code on each page transmitted  
19 which must include the charter or filing number of the  
20 document, date of transmission, and page number of the total  
21 number of pages transmitted, and a sequential certification  
22 number assigned by the department which will identify the  
23 transmission and be available for verification of any  
24 transmitted acknowledgment or certified document.

25           (5) Notwithstanding any other law, for the purposes of  
26 electronic filing ~~If not otherwise provided by law,~~ the  
27 Department of State shall determine:

28           (a) The appropriate format, which must be retrievable  
29 or reproducible in typewritten or printed form and must be  
30 legible.

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1       (b) The manner of execution, which may include any  
2 symbol, manual, facsimile, conformed, or electronic signature  
3 adopted by a person with the present intent to authenticate a  
4 document.

5       (c) The method of electronic transmission and fee  
6 payment for any document placed under its jurisdiction for  
7 filing or recordation.

8       (d) The amount of any fee surcharge for the use of an  
9 electronic filing format.

10       (6) The Department of State may utilize government or  
11 private-sector contractors in the promotion or provision of  
12 any electronic filing services, by rule, the appropriate  
13 format for, number of copies of, manner of execution of,  
14 method of electronic transmission of, and amount of and method  
15 of payment of fees for any document placed under its  
16 jurisdiction for filing or recordation.

17       Section 2. Subsection (4) is added to section 30.17,  
18 Florida Statutes, to read:

19       30.17 Sheriff to keep an execution docket.--

20       (4) On October 1, 2001, the sheriff shall cease  
21 docketing newly delivered writs of execution. The sheriff  
22 shall maintain the existing docket until October 1, 2003. Upon  
23 the request of any person or entity who delivered a writ of  
24 execution to the sheriff before October 1, 2001, the sheriff  
25 shall provide written certification of the date on which the  
26 writ was delivered. The sheriff's duties under this section  
27 shall cease on October 1, 2003.

28       Section 3. Paragraph (d) of subsection (1) of section  
29 30.231, Florida Statutes, is amended to read:

30       30.231 Sheriffs' fees for service of summons,  
31 subpoenas, and executions.--

1           (1) The sheriffs of all counties of the state in civil  
2 cases shall charge fixed, nonrefundable fees for docketing and  
3 service of process, according to the following schedule:  
4           (d) Executions:  
5           1. Twenty dollars for docketing and indexing each writ  
6 of execution, regardless of the number of persons involved.  
7           2. Fifty dollars for each levy.  
8           a. A levy is considered made when any property or any  
9 portion of the property listed or unlisted in the instructions  
10 for levy is seized, or upon demand of the sheriff the writ is  
11 satisfied by the defendant in lieu of seizure. Seizure  
12 requires that the sheriff take actual possession, if  
13 practicable, or, alternatively, constructive possession of the  
14 property by order of the court.  
15           b. When the instructions are for levy upon real  
16 property, a levy fee is required for each parcel described in  
17 the instructions.  
18           c. When the instructions are for levy based upon  
19 personal property, one fee is allowed, although the property  
20 may be seized at different locations, conditional upon all of  
21 the items being advertised collectively and the sale being  
22 held at a single location. However, if the property seized  
23 cannot be sold at one location during the same sale as  
24 advertised, but requires separate sales at different  
25 locations, the sheriff is then authorized to impose a levy fee  
26 for the property and sale at each location.  
27           3. Twenty dollars for advertisement of sale under  
28 process.  
29           4. Twenty dollars for sale under process.  
30           5. Twenty dollars for deed, bill of sale, or  
31 satisfaction of judgment.

1           Section 4. Paragraph (a) of subsection (2) of section  
2 48.021, Florida Statutes, 1998 Supplement, is amended to read:

3           48.021 Process; by whom served.--

4           (2)(a) The sheriff of each county may, in his or her  
5 discretion, establish an approved list of natural persons  
6 designated as special process servers. The sheriff may  
7 periodically ~~shall~~ add to such list the names of those natural  
8 persons who have met the requirements provided for in this  
9 section. Each natural person whose name has been added to the  
10 approved list is subject to annual recertification and  
11 reappointment by the sheriff. The sheriff shall prescribe an  
12 appropriate form for application for appointment. A reasonable  
13 fee for the processing of the application shall be charged.

14           Section 5. (1) Section 55.10, Florida Statutes, is  
15 amended to read:

16           55.10 Judgments, orders, and decrees; lien of all,  
17 generally; extension of liens; transfer of liens to other  
18 security.--

19           (1) A judgment, order, or decree becomes a lien on  
20 real estate in any county when a certified copy of it is  
21 recorded in the official records or judgment lien record of  
22 the county, whichever is maintained at the time of  
23 recordation, and it shall be a lien for a period of 14 ~~7~~ years  
24 from the date of the recording provided that the judgment,  
25 order, or decree contains the address of the person who has a  
26 lien as a result of such judgment, order, or decree or a  
27 separate affidavit is recorded simultaneously with the  
28 judgment, order, or decree stating the address of the person  
29 who has a lien as a result of such judgment, order, or decree.  
30 A judgment, order, or decree does not become a lien on real  
31 estate unless the address of the person who has a lien as a

1 result of such judgment, order, or decree is contained in the  
2 judgment, order, or decree or an affidavit with such address  
3 is simultaneously recorded with the judgment, order, or  
4 decree.

5 (2) The lien provided for in subsection (1) may be  
6 extended for an additional period of 6 7 years by rerecording  
7 a certified copy of the judgment, order, or decree within the  
8 90-day period preceding the expiration of the lien provided  
9 for in subsection (1) and by simultaneously recording an  
10 affidavit with the current address of the person who has a  
11 lien as a result of the judgment, order, or decree. The lien  
12 will not be extended unless the affidavit with the current  
13 address is simultaneously recorded.

14 ~~(3) In the event the lien is extended under subsection~~  
15 ~~(2), the lien of the judgment, order, or decree may be further~~  
16 ~~extended by re-recording a certified copy of it within the~~  
17 ~~90-day period preceding the expiration of the lien provided~~  
18 ~~for in subsection (2) and by simultaneously recording an~~  
19 ~~affidavit with the current address of the person who has a~~  
20 ~~lien as a result of such judgment, order, or decree. The lien~~  
21 ~~will not be extended unless the affidavit with the current~~  
22 ~~address is recorded.~~

23 (3)~~(4)~~ In no event shall the lien upon real property  
24 created by subsections (1) and,~~(2), and (3)~~ be extended  
25 beyond the period provided for in s. 55.081.

26 (4)~~(5)~~ This section shall be deemed to operate  
27 prospectively.

28 (5)~~(6)~~ Any lien claimed under subsections (1) and,  
29 ~~(2), and (3)~~ may be transferred, by any person having an  
30 interest in the real property upon which the lien is imposed  
31 or the contract under which the lien is claimed, from such



1 real property to other security by either depositing in the  
2 clerk's office a sum of money or filing in the clerk's office  
3 a bond executed as surety by a surety insurer licensed to do  
4 business in this state. Such deposit or bond shall be in an  
5 amount equal to the amount demanded in such claim of lien plus  
6 interest thereon at the legal rate for 3 years plus \$500 to  
7 apply on any court costs which may be taxed in any proceeding  
8 to enforce said lien. Such deposit or bond shall be  
9 conditioned to pay any judgment, order, or decree which may be  
10 rendered for the satisfaction of the lien for which such claim  
11 of lien was recorded and costs plus \$500 for court costs. Upon  
12 such deposit being made or such bond being filed, the clerk  
13 shall make and record a certificate showing the transfer of  
14 the lien from the real property to the security and mail a  
15 copy thereof by registered or certified mail to the lienor  
16 named in the claim of lien so transferred, at the address  
17 stated therein. Upon the filing of the certificate of  
18 transfer, the real property shall thereupon be released from  
19 the lien claimed, and such lien shall be transferred to said  
20 security. The clerk shall be entitled to a fee of \$10 for  
21 making and serving the certificate. If the transaction  
22 involves the transfer of multiple liens, an additional charge  
23 of \$5 for each additional lien shall be charged. Any number of  
24 liens may be transferred to one such security.

25 (6)~~(7)~~ Any excess of the security over the aggregate  
26 amount of any judgments, orders, or decrees rendered, plus  
27 costs actually taxed, shall be repaid to the party filing the  
28 security or his or her successor in interest. Any deposit of  
29 money shall be considered as paid into court and shall be  
30 subject to the provisions of law relative to payments of money  
31 into court and the disposition of these payments.

1           ~~(7)(8)~~ Any party having an interest in such security  
2 or the property from which the lien was transferred may at any  
3 time, and any number of times, file a complaint in chancery in  
4 the circuit court of the county where such security is  
5 deposited for an order:

- 6           (a) To require additional security;  
7           (b) To require reduction of security;  
8           (c) To require change or substitution of sureties;  
9           (d) To require payment or discharge thereof; or  
10          (e) Relating to any other matter affecting said  
11 security.

12           (2) The amendments to this section shall apply to any  
13 judgment recorded before the effective date of this act which  
14 is a lien on real property on the effective date of this act,  
15 and shall apply to all judgments recorded after the effective  
16 date of this act.

17           Section 6. Effective October 1, 2001, section 55.201,  
18 Florida Statutes, is created to read:

19           55.201 Central database of judgment liens on personal  
20 property.--The Department of State shall maintain a database  
21 of judgment lien records established in accordance with this  
22 section and ss. 55.202-55.209. The database information shall  
23 be accessible to the public via electronic means. The  
24 department may not permit or provide the bulk sale or  
25 distribution of such database information in any form.

26           Section 7. Effective October 1, 2001, section 55.202,  
27 Florida Statutes, is created to read:

28           55.202 Judgments, orders, and decrees; lien on  
29 personal property.--

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1       (1) A judgment lien securing the unpaid amount of any  
2 money judgment may be acquired by the holder of a judgment  
3 entered by:

4           (a) A court of this state;

5           (b) A court of the United States having jurisdiction  
6 in this state;

7           (c) A court of the United States or any other state to  
8 the extent enforceable under the Florida Enforcement of  
9 Foreign Judgments Act, ss. 55.501-55.509; or

10          (d) A foreign state as defined in the Uniform  
11 Out-of-country Foreign Money-Judgment Recognition Act, ss.  
12 55.601-55.607, from the time and to the extent enforceable  
13 thereunder.

14          (2) A 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. A judgment lien is acquired by filing  
18 a judgment lien certificate in accordance with s. 55.203 with  
19 the Department of State after the judgment has become final  
20 and if no stay of the judgment or its enforcement is in effect  
21 at the time the certificate is filed. A judgment lien is  
22 effective as of the date of filing, but no lien attaches to  
23 property until the debtor acquires an interest in the  
24 property. Except as provided in s. 55.204(2), a judgment  
25 creditor may file only one effective judgment lien certificate  
26 based upon a particular judgment.

27          (3) Except as otherwise provided in s. 55.208, the  
28 priority of a judgment lien acquired in accordance with this  
29 section or s. 55.204(2) is established at the time the  
30 judgment lien is recorded. Such judgment lien is deemed  
31

1 recorded as of its effective date as provided in this section  
2 or s. 55.204(2).

3 (4) Any reference to the filing of a judgment lien  
4 certificate in ss. 55.201-55.209 shall mean recording of such  
5 document.

6 Section 8. Effective October 1, 2001, section 55.203,  
7 Florida Statutes, is created to read:

8 55.203 Judgment lien certificate; content, filing, and  
9 indexing.--

10 (1) An original judgment lien certificate, as provided  
11 in s. 55.202, must include:

12 (a) The legal name of each judgment debtor and, if a  
13 recorded legal entity, the registered name and document filing  
14 number as shown in the records of the Department of State.

15 (b) The last known address and social security number,  
16 except that in cases of default judgment, the social security  
17 number must be included only if known, or federal employer  
18 identification number of each judgment debtor.

19 (c) The legal name of the judgment creditor and, if a  
20 recorded legal entity, the registered name and document filing  
21 number as shown in the records of the Department of State, and  
22 the name of the judgment creditor's attorney or duly  
23 authorized representative, if any.

24 (d) The address and social security number or federal  
25 employer identification number of the judgment creditor.

26 (e) The identity of the court which entered the  
27 judgment and the case number and the date the written judgment  
28 was entered.

29 (f) The amount due on the money judgment and the  
30 applicable interest rate.

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1       (g) The signature of the judgment creditor or the  
2 judgment creditor's attorney or duly authorized  
3 representative.

4       (2) A second judgment lien certificate, as provided in  
5 s. 55.204(2), must include the information required in  
6 subsection (1) and must state the file number assigned to the  
7 record of the original judgment lien certificate, the money  
8 amount remaining unpaid, and the interest accrued thereon.

9       (3) An amendment, as provided in s. 55.206, or a  
10 correction statement, as provided in s. 55.207, must state the  
11 file number of the judgment lien record to which the amendment  
12 or correction statement relates and must state the action,  
13 change, or statement to be added.

14       (4) The Department of State shall examine, for  
15 compliance with ss. 55.201-55.209, each document submitted for  
16 filing and shall accept or reject the document accordingly.

17       (a) For each judgment lien certificate filed, the  
18 department shall:

19           1. Create a record.

20           2. Assign a unique file number to the record.

21           3. Include the date of filing of the judgment lien  
22 certificate.

23           4. Maintain the record in a database accessible to the  
24 public via electronic means.

25           5. Index the judgment lien certificate according to  
26 the name of each judgment debtor.

27           6. Index all subsequently filed documents relating to  
28 an original judgment lien certificate in a manner that  
29 associates them to the original judgment lien certificate.

30       (5) The validity of a judgment lien certificate filed  
31 under this section may not be defeated by technical or

1 clerical errors made in good faith which are not seriously  
2 misleading, nor may any claim of estoppel be based on such  
3 errors.

4 (6) The Department of State shall prescribe mandatory  
5 forms of all documents to be filed under this section.

6 Section 9. Effective October 1, 2001, section 55.204,  
7 Florida Statutes, is created to read:

8 55.204 Duration and continuation of judgment lien;  
9 destruction of records.--

10 (1) Except as provided in this section, a judgment  
11 lien acquired under s. 55.202 lapses and becomes invalid 5  
12 years after the date of filing the judgment lien certificate.

13 (2) At any time within 6 months prior to the scheduled  
14 lapse of a judgment lien acquired under s. 55.202, the  
15 judgment creditor may acquire a second judgment lien by filing  
16 a new judgment lien certificate. The second judgment lien  
17 becomes effective on the date of lapse of the original  
18 judgment lien or on the date on which the judgment lien  
19 certificate is filed, whichever is later. The second judgment  
20 lien is deemed recorded on its effective date. The second  
21 judgment lien is deemed a new judgment lien and not a  
22 continuation of the original judgment lien. The second  
23 judgment lien permanently lapses and becomes invalid 5 years  
24 after its effective date, and no additional liens based on the  
25 original judgment may be obtained.

26 (3) A judgment lien continues only as to itemized  
27 property for an additional 90 days after lapse of the lien.  
28 Such judgment lien will continue only if:

29 (a) The property had been itemized and its location  
30 described with sufficient particularity in the instructions  
31 for levy.

1       (b) The levy had been delivered to the sheriff prior  
2 to the date of lapse of the lien to permit the sheriff to act.

3       (c) The property was located in the county in which  
4 the sheriff had jurisdiction at the time of delivery of the  
5 instruction for levy. Subsequent removal of the property does  
6 not defeat the lien. A court may order continuation of the  
7 lien beyond the 90-day period on a showing that extraordinary  
8 circumstances have prevented levy.

9       (4) The date of lapse of a judgment lien whose  
10 enforceability has been temporarily stayed or enjoined as a  
11 result of any legal or equitable proceeding is tolled until 30  
12 days after the stay or injunction is terminated.

13       (5) The Department of State shall maintain each  
14 judgment lien record and all information contained therein for  
15 a minimum of 1 year after the judgment lien lapses in  
16 accordance with this section.

17       Section 10. Effective October 1, 2001, section 55.205,  
18 Florida Statutes, is created to read:

19       55.205 Effect of judgment lien.--

20       (1) A valid judgment lien gives the judgment creditor  
21 the right to take possession of the property subject to levy  
22 through writ of execution, garnishment, or other judicial  
23 process. A judgment creditor who has not filed a judgment lien  
24 certificate in accordance with s. 55.203 or whose lien has  
25 lapsed may nevertheless take possession of the judgment  
26 debtor's property through such other judicial process. A  
27 judgment creditor proceeding by writ of execution obtains a  
28 lien as of the time of levy and only on the property levied  
29 upon. Except as provided in s. 55.208, such judgment creditor  
30 takes subject to the claims and interest of priority judgment  
31 creditors.

1       (2) A buyer in the ordinary course of business as  
2 defined in s. 671.201(9) takes free of a judgment lien created  
3 under this section even though the buyer knows of its  
4 existence. A valid security interest as defined in chapter 679  
5 in after-acquired property of the judgment debtor which is  
6 perfected prior to the effective date of a judgment lien takes  
7 priority over the judgment lien on the after-acquired  
8 property.

9           Section 11. Effective October 1, 2001, section 55.206,  
10 Florida Statutes, is created to read:

11           55.206 Amendment of judgment lien record; termination,  
12 partial release, assignment, continuation, tolling,  
13 correction.--

14           (1) An amendment to a judgment lien acquired under s.  
15 55.202 may be filed by the judgment creditor of record, which  
16 may provide for:

17           (a) The termination, partial release, or assignment of  
18 the judgment creditor's interest in a judgment lien;

19           (b) The continuation and termination of the  
20 continuation of a judgment lien, as provided in s. 55.204(3);

21           (c) The tolling and termination of the tolling of a  
22 lapse of a judgment lien, as provided in s. 55.204(4); or

23           (d) The correction or change of any other information  
24 provided in the record of a judgment lien.

25           (2) Within 30 days following written demand by a  
26 judgment debtor after the obligation underlying a judgment  
27 lien has been fully or partially released, the judgment  
28 lienholder must send to the judgment debtor a statement  
29 indicating that there is no longer a claim for a lien on the  
30 personal property of the judgment debtor or that the judgment  
31 lien has been partially released, and setting forth the value



1 of the lien remaining unpaid as of the date of the statement.  
2 A statement signed by an assignee must include or be  
3 accompanied by a separate written acknowledgment of assignment  
4 signed by the judgment creditor of record. If the judgment  
5 lienholder fails to send such a statement within 30 days after  
6 proper written demand therefor, the judgment lienholder is  
7 liable to the judgment debtor for \$100, and for any loss,  
8 including reasonable attorney's fees, caused by such failure  
9 to the judgment debtor.

10 (3) The judgment debtor, the judgment creditor, or the  
11 assignee may file such statement with the Department of State.

12 Section 12. Effective October 1, 2001, section 55.207,  
13 Florida Statutes, is created to read:

14 55.207 Correction of judgment lien record.--

15 (1) A person may file with the Department of State a  
16 correction statement with respect to a judgment lien record,  
17 as provided in s. 55.203, indexed under the person's name if  
18 the person believes that the record is inaccurate or that the  
19 judgment lien certificate was wrongfully filed.

20 (2) A correction statement must:

21 (a) State the judgment debtor named and the file  
22 number assigned to the judgment lien record to which the  
23 correction statement relates.

24 (b) Indicate that it is a correction statement.

25 (c) Provide the basis for the person's belief that the  
26 judgment lien certificate was wrongfully filed or the record  
27 is inaccurate.

28 (d) Indicate the manner in which the person believes  
29 the record should be corrected to cure any inaccuracy.

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1           (3) The filing of a correction statement does not  
2 affect the effectiveness of the judgment lien or other filed  
3 record.

4           Section 13. Effective October 1, 2001, section 55.208,  
5 Florida Statutes, is created to read:

6           55.208 Effect of recorded judgment lien on writs of  
7 execution previously delivered to a sheriff.--

8           (1) Any lien created by a writ of execution which has  
9 been delivered to the sheriff of any county prior to October  
10 1, 2001, remains in effect for 2 years thereafter as to any  
11 property of the judgment debtor located in that county before  
12 October 1, 2001, and remaining within that county after that  
13 date. As to any property of the judgment debtor brought into  
14 the county on or after October 1, 2001, such writs create no  
15 lien, inchoate or otherwise.

16           (2) If a judgment creditor who has delivered a writ of  
17 execution to a sheriff in any county prior to October 1, 2001,  
18 properly files a judgment lien certificate with the Department  
19 of State by October 1, 2003, together with a certification by  
20 the sheriff as to the date on which the writ was delivered,  
21 the resulting judgment lien is deemed recorded on the date the  
22 writ was delivered to the sheriff as to all leviable property  
23 of the judgment debtor which is located in that county on  
24 October 1, 2001, and that remains continuously in that county  
25 thereafter. As to all other property of the judgment debtor,  
26 the effective date of the judgment lien is as provided in s.  
27 55.202. The duration of all judgment liens is as provided in  
28 s. 55.204, regardless of the date on which a lien is  
29 determined to have been recorded.

30           (3) If a judgment creditor who has delivered a writ of  
31 execution to a sheriff in any county prior to October 1, 2001,

1 does not properly file a judgment lien certificate with the  
2 Department of State by October 1, 2003, such writ is  
3 considered to have been abandoned and to be of no effect after  
4 October 1, 2003.

5 Section 14. Effective October 1, 2001, section 55.209,  
6 Florida Statutes, is created to read:

7 55.209 Department of State; processing fees,  
8 responsibilities.--

9 (1) The Department of State shall collect the  
10 following nonrefundable processing fees for all documents  
11 filed in accordance with ss. 55.201-55.209:

12 (a) For any judgment lien certificate or other  
13 documents permitted to be filed, \$20.

14 (b) For the certification of any recorded document,  
15 \$10.

16 (c) For copies of judgment lien documents which are  
17 produced by the Department of State, \$1 per page or part  
18 thereof. However, no charge may be collected for copies  
19 provided in an online electronic format via the Internet.

20 (d) For indexing a judgment lien by multiple judgment  
21 debtor names, \$5 per additional name.

22 (e) For each additional facing page attached to a  
23 judgment lien certificate or document permitted to be filed,  
24 \$5.

25 (2) Unless otherwise provided by law, the Department  
26 of State may not conduct any search of the database  
27 established under s. 55.201 to determine the existence of any  
28 judgment lien record or to perform any service other than in  
29 connection with those services for which payment of services  
30 are required under this section. The information maintained in  
31 the database is for public notice purposes only and the

1 department may make no certification or determination of the  
2 validity of any judgment lien acquired under ss. 55.202 and  
3 55.204.

4 (3) The Department of State shall ensure that the  
5 database information is available and accessible solely for  
6 public use via the Internet or other electronic means. The  
7 department may not permit or provide for the bulk sale or  
8 distribution of such database information in any form.

9 Section 15. Effective October 1, 2001, subsection (8)  
10 is added to section 55.604, Florida Statutes, to read:

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

17 (8) A judgment lien on personal property is acquired  
18 only when a judgment lien certificate satisfying the  
19 requirements of s. 55.203 has been filed with the Department  
20 of State.

21 Section 16. Section 56.09, Florida Statutes, is  
22 amended to read:

23 56.09 Executions against corporations and persons;  
24 generally.--

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

29 (2) On any judgment against a person, a plaintiff may  
30 have a writ of execution levied on the person's money in  
31 excess of \$1,000. Such limitation on levy of execution does

1 not create an exemption, nor does it limit the availability of  
2 any other exemption provided by law. For purposes of this  
3 subsection only, the term "money" means cash, checks, money  
4 orders, and the like. Nothing in this subsection authorizes  
5 the physical search of a person.

6 Section 17. Effective October 1, 2001, section 56.21,  
7 Florida Statutes, is amended to read:

8 56.21 Execution sales; notice.--Notice of all sales  
9 under execution shall be given by advertisement once each week  
10 for 4 successive weeks in a newspaper published in the county  
11 in which the sale is to take place. The time of such notice  
12 may be shortened in the discretion of the court from which the  
13 execution issued, upon affidavit that the property to be sold  
14 is subject to decay and will not sell for its full value if  
15 held until date of sale. On or before the date of the first  
16 publication or posting of the notice of sale, a copy of the  
17 notice of sale shall be furnished by certified mail to the  
18 attorney of record of the judgment debtor, or to the judgment  
19 debtor at the judgment debtor's last known address if the  
20 judgment debtor does not have an attorney of record. Such copy  
21 of the notice of sale shall be mailed even though a default  
22 judgment was entered. When levying upon personal property, a  
23 notice of such levy and execution sale and a copy of the  
24 affidavit required by s. 56.27(4) shall be made by the levying  
25 creditor to the attorney of record of the judgment creditor or  
26 the judgment creditor who has filed a judgment lien  
27 certificate as provided in s. 55.202 and to all secured  
28 creditors who have filed financing statements as provided in  
29 s. 679.402 in the name of the judgment debtor reflecting a  
30 security interest in property of the kind to be sold at the  
31 execution sale. Such notice shall be made in the same manner

1 as notice is made to any judgment debtor under this section.  
2 When levying upon real property, notice of such levy and  
3 execution sale shall be made to the property owner of record  
4 in the same manner as notice is made to any judgment debtor  
5 pursuant to this section. When selling real or personal  
6 property, the sale date shall not be earlier than 30 days  
7 after the date of the first advertisement.

8 Section 18. Effective October 1, 2001, section 56.27,  
9 Florida Statutes, 1998 Supplement, is amended to read:

10 56.27 Executions; payment ~~to execution creditor~~ of  
11 money collected.--

12 (1) All money received under executions shall be paid,  
13 in the order prescribed, to the following: the sheriff for  
14 costs, the levying creditor in the amount of \$500 as  
15 liquidated expenses and the judgment lienholder having the  
16 earliest recorded judgment lien acquired under s. 55.202, as  
17 set forth in an affidavit required by subsection (4), or his  
18 or her attorney, in satisfaction of the judgment lien,  
19 provided that the judgment lien has not lapsed at the time of  
20 the levy party in whose favor the execution was issued or his  
21 or her attorney. The receipt of the attorney shall be a  
22 release of the officer paying the money to him or her. When  
23 the name of more than one attorney appears in the court file,  
24 the money shall be paid to the attorney who originally  
25 commenced the action or who made the original defense unless  
26 the file shows that another attorney has been substituted.

27 (2) When property sold under execution brings more  
28 than the amount needed to satisfy the provisions of subsection  
29 (1), the surplus shall be paid in the order of priority to any  
30 judgment lienholders whose judgment liens have not lapsed.  
31 Priority shall be based on the effective date of the judgment

1 lien acquired under s. 55.202, as set forth in an affidavit  
2 required under subsection (4). If there is a surplus after all  
3 valid judgment liens and execution liens have been satisfied  
4 ~~of the execution~~, the surplus must be paid to the defendant  
5 ~~or, if there is another writ against the defendant docketed~~  
6 ~~and indexed with the sheriff, the surplus must be paid to the~~  
7 ~~junior writ.~~

8 (3) The value of the property levied upon shall not be  
9 considered excessive unless the value unreasonably exceeds the  
10 total debt reflected in all unsatisfied judgment liens that  
11 have not lapsed and any unsatisfied lien of the levying  
12 creditor.

13 (4) On or before the date of the first publication or  
14 posting of the notice of sale provided for under s. 56.21, the  
15 levying creditor shall file an affidavit setting forth the  
16 following as to the judgment debtor:

17 (a) An attestation that the levying creditor has  
18 reviewed the database or judgment lien records established in  
19 accordance with ss. 55.201-55.209 and that the information  
20 contained in the affidavit based on that review is true and  
21 correct.

22 (b) The information required under s. 55.203(1) or (2)  
23 for each judgment lien certificate indexed under the name of  
24 the judgment debtor as to each judgment creditor; the file  
25 number assigned to the record of the original and, if any, the  
26 second judgment lien; and the date of filing for each judgment  
27 lien certificate under s. 55.202 or s. 55.204(2).

28 (c) A statement that the levying creditor either does  
29 not have any other levy in process or, if another levy is in  
30 process, the levying creditor believes in good faith that the  
31

1 total value of the property under execution does not exceed  
2 the amount of outstanding judgments.

3 (5) A sheriff paying money received under an execution  
4 in accordance with the information contained in the affidavit  
5 under subsection (4) is not liable to anyone for damages  
6 arising from a wrongful levy.

7 Section 19. Effective October 1, 2001, subsection (1)  
8 of section 56.29, Florida Statutes, is amended to read:

9 56.29 Proceedings supplementary.--

10 (1) When any person ~~sheriff~~ holds an unsatisfied  
11 execution and has delivered a writ of execution to any  
12 sheriff, the plaintiff in execution may file an affidavit so  
13 stating and that the execution is valid and outstanding and  
14 thereupon is entitled to these proceedings supplementary to  
15 execution.

16 Section 20. Paragraph (a) of subsection (2) of section  
17 61.11, Florida Statutes, is amended to read:

18 61.11 Writs.--

19 (2)(a) When the court issues a writ of bodily  
20 attachment in connection with a court-ordered child support  
21 obligation, the writ or attachment to the writ must include,  
22 at a minimum, such information on the respondent's physical  
23 description and location as is required for entry of the writ  
24 into the Florida Crime Information Center telecommunications  
25 system and authorization for the assessment and collection of  
26 the actual costs associated with the service of the writ and  
27 transportation of the respondent in compliance thereof. In  
28 addition to the purge payment, the respondent shall be  
29 responsible for payment of all court costs, sheriff fees as  
30 provided in s. 30.231, actual costs of detention or  
31 imprisonment, and other related expenses associated with the



1 service of the writ and transportation of the respondent.~~The~~  
2 ~~writ shall direct that~~ Service and execution of the writ may  
3 be made on any day of the week and any time of the day or  
4 night.

5 Section 21. Section 77.01, Florida Statutes, is  
6 amended to read:

7 77.01 Right to garnishment.--Every person or entity  
8 who has sued to recover a debt or has recovered judgment in  
9 any court against any person or entity, ~~natural or corporate~~,  
10 has a right to a writ of garnishment, in the manner  
11 hereinafter provided, to subject any debt due or any debt  
12 under a negotiable instrument that will become due to  
13 defendant by a third person, and any tangible or intangible  
14 personal property of defendant in the possession or control of  
15 a third person. The officers, agents, and employees of any  
16 companies or corporations are third persons in regard to the  
17 companies or corporations, and as such are subject to  
18 garnishment after judgment against the companies or  
19 corporations.

20 Section 22. Section 77.041, Florida Statutes, is  
21 created to read:

22 77.041 Notice to defendant for claim of exemption from  
23 garnishment; procedure for hearing.--

24 (1) Upon application for a writ of garnishment by a  
25 plaintiff, the clerk of the court shall attach to the writ the  
26 following "Notice to Defendant":

27  
28 NOTICE TO DEFENDANT OF RIGHT AGAINST GARNISHMENT  
29 OF WAGES, MONEY, AND OTHER PROPERTY

30 The Writ of Garnishment delivered to you with this  
31 Notice means that wages, money, and other property belonging

1 to you have been garnished to pay a court judgment against  
2 you. HOWEVER, YOU MAY BE ABLE TO KEEP OR RECOVER YOUR WAGES,  
3 MONEY, OR PROPERTY. READ THIS NOTICE CAREFULLY.

4 State and federal laws provide that certain wages,  
5 money, and property, even if deposited in a bank, savings and  
6 loan, or credit union, may not be taken to pay certain types  
7 of court judgments. Such wages, money, and property are exempt  
8 from garnishment. The major exemptions are listed below on the  
9 form for Claim of Exemption and Request for Hearing. This list  
10 does not include all possible exemptions. You should consult a  
11 lawyer for specific advice.

12 TO KEEP YOUR WAGES, MONEY, AND OTHER PROPERTY  
13 FROM BEING GARNISHED, OR TO GET BACK ANYTHING  
14 ALREADY TAKEN, YOU MUST COMPLETE A FORM FOR  
15 CLAIM OF EXEMPTION AND REQUEST FOR HEARING AS  
16 SET FORTH BELOW AND HAVE THE FORM NOTARIZED.  
17 YOU MUST FILE THE FORM WITH THE CLERK'S OFFICE  
18 WITHIN 20 DAYS AFTER THE DATE YOU RECEIVE THIS  
19 NOTICE OR YOU MAY LOSE IMPORTANT RIGHTS. YOU  
20 MUST ALSO MAIL OR DELIVER A COPY OF THIS FORM  
21 TO THE PLAINTIFF AND THE GARNISHEE AT THE  
22 ADDRESSES LISTED ON THE WRIT OF GARNISHMENT.

23 If you request a hearing, it will be held as soon as  
24 possible after your request is received by the court. The  
25 plaintiff must file any objection within 2 business days, or  
26 alternatively, 7 days if you mailed a copy of the form for  
27 Claim of Exemption and Request for Hearing to the plaintiff.  
28 If the plaintiff files an objection to your Claim of Exemption  
29 and Request for Hearing, the clerk will notify you and the  
30 other parties of the time and date of the hearing. You may  
31 attend the hearing with or without an attorney. If the

1 plaintiff fails to file an objection, no hearing is required,  
2 the writ of garnishment will be dissolved and your wages,  
3 money, or property will be released.

4 YOU SHOULD FILE THE FORM FOR CLAIM OF EXEMPTION  
5 IMMEDIATELY TO KEEP YOUR WAGES, MONEY, OR  
6 PROPERTY FROM BEING APPLIED TO THE COURT  
7 JUDGMENT. THE CLERK CANNOT GIVE YOU LEGAL  
8 ADVICE. IF YOU NEED LEGAL ASSISTANCE YOU SHOULD  
9 SEE A LAWYER. IF YOU CAN'T AFFORD A PRIVATE  
10 LAWYER, LEGAL SERVICES MAY BE AVAILABLE.  
11 CONTACT YOUR LOCAL BAR ASSOCIATION OR ASK THE  
12 CLERK'S OFFICE ABOUT ANY LEGAL SERVICES PROGRAM  
13 IN YOUR AREA.

14  
15 CLAIM OF EXEMPTION AND REQUEST FOR HEARING

16 I claim exemptions from garnishment under the following  
17 categories as checked:

- 18 \_\_\_\_\_ 1. Head of family wages. (You must check a  
19 or b below.)  
20 \_\_\_\_\_ a. I provide more than one-half of the  
21 support for a child or other dependent and  
22 have net earnings of \$500 or less per week.  
23 \_\_\_\_\_ b. I provide more than one-half of the  
24 support for a child or other dependent, have  
25 net earnings of more than \$500 per week, but  
26 have not agreed in writing to have my wages  
27 garnished.  
28 \_\_\_\_\_ 2. Social security benefits.  
29 \_\_\_\_\_ 3. Supplemental Security Income benefits.  
30 \_\_\_\_\_ 4. Public assistance (welfare).  
31 \_\_\_\_\_ 5. Workers' compensation.



1 Notary Public/Deputy Clerk  
2  
3 Personally Known .....OR Produced Identification  
4 .....  
5 Type of Identification Produced .....  
6       (2) The plaintiff must mail, by first class, a copy of  
7 the writ of garnishment, a copy of the motion for writ of  
8 garnishment, and the "Notice to Defendant" to the defendant's  
9 last known address within 5 business days after the writ is  
10 issued or 3 business days after the writ is served on the  
11 garnishee, whichever is later. However, if such documents are  
12 returned as undeliverable by the post office, or if the last  
13 known address is not discoverable after diligent search, the  
14 plaintiff must mail, by first class, the documents to the  
15 defendant at the defendant's place of employment. The  
16 plaintiff shall file in the proceeding a certificate of such  
17 service.  
18       (3) Upon the filing by a defendant of a claim of  
19 exemption and request for hearing, a hearing will be held as  
20 soon as is practicable to determine the validity of the  
21 claimed exemptions. If the plaintiff does not file a sworn  
22 written statement that contests the defendant's claim of  
23 exemption within 2 business days or, alternatively, 7 business  
24 days if the claim and request were served by mail, no hearing  
25 is required and the clerk must automatically dissolve the writ  
26 and notify the parties by mail of the dissolution.  
27       Section 23. Section 77.055, Florida Statutes, is  
28 amended to read:  
29       77.055 Service of garnishee's answer and notice of  
30 right to dissolve writ ~~Notice to defendant and other~~  
31 ~~interested persons.~~--Within 5 days after service of the

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

19 Section 24. Subsection (1) of section 77.06, Florida  
20 Statutes, is amended to read:

21 77.06 Writ; effect.--

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

31

1           Section 25. Section 222.12, Florida Statutes, is  
2 amended to read:

3           222.12 Proceedings for exemption.--Whenever any money  
4 or other thing due for labor or services as aforesaid is  
5 attached by such process, the person to whom the same is due  
6 and owing may make oath before the officer who issued the  
7 process or before a notary public that the money attached is  
8 due for the personal labor and services of such person, and  
9 she or he is the head of a family residing in said state.

10 When such an affidavit is made, notice of same shall be  
11 forthwith given to the party, or her or his attorney, who sued  
12 out the process, and if the facts set forth in such affidavit  
13 are not denied under oath within 2 business days after the  
14 service of said notice, the process shall be returned, and all  
15 proceedings under the same shall cease. If the facts stated  
16 in the affidavit are denied by the party who sued out the  
17 process within the time above set forth and under oath, then  
18 the matter shall be tried by the court from which the writ or  
19 process issued, in like manner as claims to property levied  
20 upon by writ of execution are tried, and the money or thing  
21 attached shall remain subject to the process until released by  
22 the judgment of the court which shall try the issue.

23           Section 26. Subsections (2) and (3) of section  
24 679.301, Florida Statutes, 1998 Supplement, are amended to  
25 read:

26           679.301 Persons who take priority over unperfected  
27 security interests; right of "lien creditor."--

28           (2) If the secured party files with respect to a  
29 purchase money security interest before or within 15 days  
30 after the debtor receives possession of the collateral, the  
31 secured party ~~he or she~~ takes priority over the rights of a

1 transferee in bulk or of a lien creditor ~~which arise between~~  
2 ~~the time the security interest attaches and the time of~~  
3 ~~filing.~~

4 (3) A "lien creditor" means a creditor who has  
5 acquired a lien on the property involved by attachment, levy,  
6 or the like and includes a judgment lienholder as provided  
7 under ss. 55.202-55.209, an assignee for benefit of creditors  
8 from the time of assignment, and a trustee in bankruptcy from  
9 the date of the filing of the petition or a receiver in equity  
10 from the time of appointment.

11 Section 27. Except as otherwise provided herein, this  
12 act shall take effect October 1, 1999.

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