

By the Committees on Fiscal Policy and Judiciary

309-2145-99

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 phase-out 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
11 list; amending s. 55.10, F.S.; increasing a
12 time period for certain liens; providing a
13 shorter time period for the extension of
14 certain liens; providing for application;
15 creating s. 55.201, F.S.; requiring the
16 Department of State to establish a database of
17 judgment lien records; creating s. 55.202,
18 F.S.; providing for acquisition of a judgment
19 lien on personal property; creating s. 55.203,
20 F.S.; providing requirements for the content,
21 filing, and indexing of judgment lien
22 certificates by the Department of State;
23 creating s. 55.204, F.S.; providing for lapse
24 of a judgment lien; providing for acquisition
25 of a second judgment lien; creating s. 55.205,
26 F.S.; providing for the effect of a judgment
27 lien; creating s. 55.206, F.S.; providing for
28 amendment, termination, partial release,
29 assignment, tolling, or correction of a
30 recorded judgment lien; creating s. 55.207,
31 F.S.; providing for filing and effect of a

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

1 77.06, F.S.; providing for creation of judgment
2 lien upon service of writ of garnishment;
3 amending s. 222.12, F.S.; providing for taking
4 of oath before notary public regarding
5 exemptions from garnishment; amending s.
6 679.301, F.S.; revising the definition for lien
7 creditor; allocating moneys from the
8 Corporations Trust Fund to the Department of
9 State; amending s. 607.1901, F.S.; providing
10 for the transfer of funds from the Corporations
11 Trust Fund; providing effective dates.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Section 15.16, Florida Statutes, is amended
16 to read:

17 15.16 Reproduction of records; admissibility in
18 evidence; electronic receipt and transmission of records;
19 certification; acknowledgment.--

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

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

1 authenticated reproductions of such photographs, nonerasable
2 optical images, or microphotographs shall be admitted in
3 evidence equally with the original photographs, nonerasable
4 optical images, or microphotographs.

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

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

29 (5) Notwithstanding any other law, for the purposes of
30 electronic filing ~~if not otherwise provided by law,~~ the
31 Department of State shall determine:

1 (a) The appropriate format, which must be retrievable
2 or reproducible in typewritten or printed form and must be
3 legible.

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

8 (c) The method of electronic transmission and fee
9 payment for any document placed under its jurisdiction for
10 filing or recordation.

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

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

20 Section 2. Section 30.17, Florida Statutes, is amended
21 to read:

22 30.17 Sheriff to keep an execution docket.--

23 (1) The sheriff shall keep an execution docket, which
24 shall contain a list of all executions, orders and decrees
25 directed to the sheriff, in relation to the collection of
26 moneys, and a statement of all moneys credited on such orders,
27 executions and decrees, and when and to whom and by whom paid.

28 (2) Said docket shall be subject to the inspection of
29 all parties interested.

30 (3) The sheriff's failure to keep said docket, or to
31 allow inspection of the same, shall be considered a contempt

1 of court and subject him or her to a fine not exceeding \$100,
2 at the discretion of the court.

3 (4) On October 1, 2001, the sheriff shall cease
4 docketing newly delivered writs of executions. The sheriff
5 shall maintain the existing docket until October 1, 2003. Upon
6 the request of any person or entity who delivered a writ of
7 execution to the sheriff before October 1, 2001, the sheriff
8 shall provide written certification of the date on which the
9 writ was delivered. The sheriff's duties under this section
10 shall cease on October 1, 2003.

11 Section 3. Subsection (1) of section 30.231, Florida
12 Statutes, is amended to read:

13 30.231 Sheriffs' fees for service of summons,
14 subpoenas, and executions.--

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

18 (a) All summons or writs except executions: \$20 for
19 each summons or writ to be served, except when more than one
20 summons or writ is issued at the same time out of the same
21 cause of action to be served upon one person or defendant at
22 the same time, in which case the sheriff shall be entitled to
23 one fee.

24 (b) All writs except executions requiring a levy or
25 seizure of property: \$50 in addition to the \$20 fee as stated
26 in paragraph (a).

27 (c) Witness subpoenas: \$20 for each witness to be
28 served.

29 (d) Executions:

30 1. Twenty dollars for docketing and indexing each writ
31 of execution, regardless of the number of persons involved.

1 2. Fifty dollars for each levy.
2 a. A levy is considered made when any property or any
3 portion of the property listed or unlisted in the instructions
4 for levy is seized, or upon demand of the sheriff the writ is
5 satisfied by the defendant in lieu of seizure. Seizure
6 requires that the sheriff take actual possession, if
7 practicable, or alternatively, constructive possession of the
8 property by order of the court.
9 b. When the instructions are for levy upon real
10 property, a levy fee is required for each parcel described in
11 the instructions.
12 c. When the instructions are for levy based upon
13 personal property, one fee is allowed, although the property
14 may be seized at different locations, conditional upon all of
15 the items being advertised collectively and the sale being
16 held at a single location. However, if the property seized
17 cannot be sold at one location during the same sale as
18 advertised, but requires separate sales at different
19 locations, the sheriff is then authorized to impose a levy fee
20 for the property and sale at each location.
21 3. Twenty dollars for advertisement of sale under
22 process.
23 4. Twenty dollars for sale under process.
24 5. Twenty dollars for deed, bill of sale, or
25 satisfaction of judgment.
26 Section 4. Paragraph (a) of subsection (2) of section
27 48.021, Florida Statutes, 1998 Supplement, is amended to read:
28 48.021 Process; by whom served.--
29 (2)(a) The sheriff of each county may, in his or her
30 discretion, establish an approved list of natural persons
31 designated as special process servers. The sheriff may

1 periodically ~~shall~~ add to such list the names of those natural
2 persons who have met the requirements provided for in this
3 section. Each natural person whose name has been added to the
4 approved list is subject to annual recertification and
5 reappointment by the sheriff. The sheriff shall prescribe an
6 appropriate form for application for appointment. A reasonable
7 fee for the processing of the application shall be charged.

8 Section 5. Section 55.10, Florida Statutes, is amended
9 to read:

10 55.10 Judgments, orders, and decrees; lien of all,
11 generally; extension of liens; transfer of liens to other
12 security.--

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

30 (2) The lien provided for in subsection (1) may be
31 extended for an additional period of 6 7 years by rerecording

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

8 ~~(3) In the event the lien is extended under subsection~~
9 ~~(2), the lien of the judgment, order, or decree may be further~~
10 ~~extended by re-recording a certified copy of it within the~~
11 ~~90-day period preceding the expiration of the lien provided~~
12 ~~for in subsection (2) and by simultaneously recording an~~
13 ~~affidavit with the current address of the person who has a~~
14 ~~lien as a result of such judgment, order, or decree. The lien~~
15 ~~will not be extended unless the affidavit with the current~~
16 ~~address is recorded.~~

17 (3)~~(4)~~ In no event shall the lien upon real property
18 created by subsections (1) and~~(2)~~, ~~and~~ ~~(3)~~ be extended
19 beyond the period provided for in s. 55.081.

20 (4)~~(5)~~ This section shall be deemed to operate
21 prospectively.

22 (5)~~(6)~~ Any lien claimed under subsections (1) and~~(2)~~,
23 ~~and~~ ~~(3)~~ may be transferred, by any person having an
24 interest in the real property upon which the lien is imposed
25 or the contract under which the lien is claimed, from such
26 real property to other security by either depositing in the
27 clerk's office a sum of money or filing in the clerk's office
28 a bond executed as surety by a surety insurer licensed to do
29 business in this state. Such deposit or bond shall be in an
30 amount equal to the amount demanded in such claim of lien plus
31 interest thereon at the legal rate for 3 years plus \$500 to

1 apply on any court costs which may be taxed in any proceeding
2 to enforce said lien. Such deposit or bond shall be
3 conditioned to pay any judgment, order, or decree which may be
4 rendered for the satisfaction of the lien for which such claim
5 of lien was recorded and costs plus \$500 for court costs. Upon
6 such deposit being made or such bond being filed, the clerk
7 shall make and record a certificate showing the transfer of
8 the lien from the real property to the security and mail a
9 copy thereof by registered or certified mail to the lienor
10 named in the claim of lien so transferred, at the address
11 stated therein. Upon the filing of the certificate of
12 transfer, the real property shall thereupon be released from
13 the lien claimed, and such lien shall be transferred to said
14 security. The clerk shall be entitled to a fee of \$10 for
15 making and serving the certificate. If the transaction
16 involves the transfer of multiple liens, an additional charge
17 of \$5 for each additional lien shall be charged. Any number of
18 liens may be transferred to one such security.

19 (6)~~(7)~~ Any excess of the security over the aggregate
20 amount of any judgments, orders, or decrees rendered, plus
21 costs actually taxed, shall be repaid to the party filing the
22 security or his or her successor in interest. Any deposit of
23 money shall be considered as paid into court and shall be
24 subject to the provisions of law relative to payments of money
25 into court and the disposition of these payments.

26 (7)~~(8)~~ Any party having an interest in such security
27 or the property from which the lien was transferred may at any
28 time, and any number of times, file a complaint in chancery in
29 the circuit court of the county where such security is
30 deposited for an order:

31 (a) To require additional security;

- 1 (b) To require reduction of security;
2 (c) To require change or substitution of sureties;
3 (d) To require payment or discharge thereof; or
4 (e) Relating to any other matter affecting said
5 security.

6 Section 6. The amendments to section 55.10, Florida
7 Statutes, made by this act shall apply to any judgment
8 recorded before the effective date of this act which is a lien
9 on real property on the effective date of this act, and shall
10 apply to all judgments recorded after the effective date of
11 this act.

12 Section 7. Section 55.201, Florida Statutes, is
13 created to read:

14 55.201 Central database of judgment liens on personal
15 property.--The Department of State shall maintain a database
16 of judgment lien records established in accordance with ss.
17 55.201-55.209. The database information shall be accessible to
18 the public via electronic means. The department may not permit
19 or provide the bulk sale or distribution of such database
20 information in any form.

21 Section 8. Section 55.202, Florida Statutes, is
22 created to read:

23 55.202 Judgments, orders and decrees; lien on personal
24 property.--

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

28 (a) A court of this state;

29 (b) A court of the United States having jurisdiction
30 in this state;

31

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

4 (d) A foreign state as defined in the Uniform
5 Out-of-Country Foreign Money-Judgment Recognition Act, ss.
6 55.601-55.607, from the time and to the extent enforceable
7 thereunder.

8 (2) A judgment lien may be acquired on the judgment
9 debtor's interest in all personal property subject to
10 execution in this state, other than fixtures, money, and
11 negotiable instruments. A judgment lien is acquired by filing
12 a judgment lien certificate in accordance with s. 55.203 with
13 the Department of State after the judgment has become final
14 and if no stay of the judgment or its enforcement is in effect
15 at the time the certificate is filed. A judgment lien is
16 effective as of the date of filing, but no lien attaches to
17 property until the debtor acquires an interest in the
18 property. Except as provided in s. 55.204(2), a judgment
19 creditor may file only one effective judgment lien certificate
20 based upon a particular judgment.

21 (3) Except as otherwise provided in s. 55.208, the
22 priority of a judgment lien acquired in accordance with this
23 section or s. 55.204(2) is established at the time the
24 judgment lien is recorded. Such judgment lien is deemed
25 recorded as of its effective date as provided in this section
26 or s. 55.204(2).

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

30 Section 9. Section 55.203, Florida Statutes, is
31 created to read:

1 55.203 Judgment lien certificate; content, filing, and
2 indexing.--

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

5 (a) The legal name of each judgment debtor and, if a
6 recorded legal entity, the registered name and document filing
7 number as shown in the records of the Department of State;

8 (b) The last known address and social security number,
9 except that in cases of default judgment, the social security
10 number must be included only if known, or federal employer
11 identification number of each judgment debtor;

12 (c) The legal name of the judgment creditor 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, and
15 the name of the judgment creditor's attorney or duly
16 authorized representative, if any;

17 (d) The address and social security number or federal
18 employer identification number of the judgment creditor;

19 (e) The identity of the court which entered the
20 judgment and the case number and the date the written judgment
21 was entered;

22 (f) The amount due on the money judgment and the
23 applicable interest rate; and

24 (g) The signature of the judgment creditor or the
25 judgment creditor's attorney or duly authorized
26 representative.

27 (2) A second judgment lien certificate, as provided in
28 s. 55.204(2), must include the information required in
29 subsection (1) and must state the file number assigned to the
30 record of the original judgment lien certificate, the money
31 amount remaining unpaid, and the interest accrued thereon.

1 (3) An amendment, as provided in s. 55.206, or a
2 correction statement, as provided in s. 55.207, must state the
3 file number of the judgment lien record to which the amendment
4 or correction statement relates and must state the action,
5 change, or statement to be added.

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

9 (a) For each judgment lien certificate filed, the
10 department shall:

11 1. Create a record;

12 2. Assign a unique file number to the record;

13 3. Include the date of filing of the judgment lien
14 certificate;

15 4. Maintain the record in a database accessible to the
16 public via electronic means;

17 5. Index the judgment lien certificate according to
18 the name of each judgment debtor; and

19 6. Index all subsequently filed documents relating to
20 an original judgment lien certificate in a manner that
21 associates them to the original judgment lien certificate.

22 (5) The validity of a judgment lien certificate filed
23 under this section may not be defeated by technical or
24 clerical errors made in good faith which are not seriously
25 misleading, nor may any claim of estoppel be based on such
26 errors.

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

29 Section 10. Section 55.204, Florida Statutes, is
30 created to read:

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1 55.204 Duration and continuation of judgment lien;
2 destruction of records.--

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

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

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

22 (a) The property had been itemized and its location
23 described with sufficient particularity in the instructions
24 for levy;

25 (b) The levy had been delivered to the sheriff prior
26 to the date of lapse of the lien to permit the sheriff to act;
27 and

28 (c) The property was located in the county in which
29 the sheriff has jurisdiction at the time of delivery of the
30 instruction for levy. Subsequent removal of the property does
31 not defeat the lien. A court may order continuation of the

1 lien beyond the 90-day period on a showing that extraordinary
2 circumstances have prevented levy.

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

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

11 Section 11. Section 55.205, Florida Statutes, is
12 created to read:

13 55.205 Effect of judgment lien.--

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

26 (2) A buyer in the ordinary course of business as
27 defined in s. 671.201(9) takes free of a judgment lien created
28 under this section even though the buyer knows of its
29 existence. A valid security interest as defined in chapter 679
30 in after-acquired property of the judgment debtor which is
31 perfected prior to the effective date of a judgment lien takes

1 priority over the judgment lien on the after-acquired
2 property.

3 Section 12. Section 55.206, Florida Statutes, is
4 created to read:

5 55.206 Amendment of judgment lien record; termination,
6 partial release, assignment, continuation, tolling,
7 correction.--

8 (1) An amendment to a judgment lien acquired under s.
9 55.202 may be filed by the judgment creditor of record, which
10 may provide for:

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

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

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

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

19 (2) Within 30 days following written demand by a
20 judgment debtor after the obligation underlying a judgment
21 lien has been fully or partially released, the judgment
22 lienholder must send to the judgment debtor a statement
23 indicating that there is no longer a claim for a lien on the
24 personal property of the judgment debtor or that the judgment
25 lien has been partially released and setting forth the value
26 of the lien remaining unpaid as of the date of the statement.

27 A statement signed by an assignee must include or be
28 accompanied by a separate written acknowledgement of
29 assignment signed by the judgment creditor of record. If the
30 judgment lienholder fails to send such a statement within 30
31 days after proper written demand therefor, the judgment

1 lienholder is liable to the judgment debtor for \$100, and for
2 any loss, including reasonable attorney's fees, caused by such
3 failure to the judgment debtor.

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

6 Section 13. Section 55.207, Florida Statutes, is
7 created to read:

8 55.207 Correction of judgment lien record.--

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

14 (2) A correction statement must:

15 (a) State the judgment debtor named and the file
16 number assigned to the judgment lien record to which the
17 correction statement relates;

18 (b) Indicate that it is a correction statement;

19 (c) Provide the basis for the person's belief that the
20 judgment lien certificate was wrongfully filed or the record
21 is inaccurate; and

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

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

27 Section 14. Section 55.208, Florida Statutes, is
28 created to read:

29 55.208 Effect of recorded judgment lien on writs of
30 execution previously delivered to a sheriff.--

31

1 (1) Any lien created by a writ of execution which has
2 been delivered to the sheriff of any county prior to October
3 1, 2001, remains in effect for 2 years thereafter as to any
4 property of the judgment debtor located in that county before
5 October 1, 2001, and remaining within that county after that
6 date. As to any property of the judgment debtor brought into
7 the county on or after October 1, 2001, such writs create no
8 lien, inchoate or otherwise.

9 (2) If a judgment creditor who has delivered a writ of
10 execution to a sheriff in any county prior to October 1, 2001,
11 properly files a judgment lien certificate with the Department
12 of State by October 1, 2003, together with a certification by
13 the sheriff as to the date on which the writ was delivered,
14 the resulting judgment lien is deemed recorded on the date the
15 writ was delivered to the sheriff as to all leviable property
16 of the judgment debtor which is located in that county on
17 October 1, 2001, and that remains continuously in that county
18 thereafter. As to all other property of the judgment debtor,
19 the effective date of the judgment lien is as provided in s.
20 55.202. The duration of all judgment liens is as provided in
21 ss. 55.204 and 55.205(3), regardless of the date on which a
22 lien is determined to have been recorded.

23 (3) If a judgment creditor who has delivered a writ of
24 execution to a sheriff in any county prior to October 1, 2001,
25 does not properly file a judgment lien certificate with the
26 Department of State by October 1, 2003, such writ is
27 considered to have been abandoned and to be of no effect after
28 October 1, 2003.

29 Section 15. Section 55.209, Florida Statutes, is
30 created to read:

31

1 55.209 Department of State; processing fees,
2 responsibilities.--

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

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

8 (b) For the certification of any recorded document,
9 \$10.

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

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

16 (e) For each additional facing page attached to a
17 judgment lien certificate or document permitted to be filed,
18 \$5.

19 (2) Unless otherwise provided by law, the Department
20 of State may not conduct any search of the database
21 established under s. 55.201 to determine the existence of any
22 judgment lien record or to perform any service other than in
23 connection with those services for which payment of services
24 are required under this section. The information maintained in
25 the database is for public notice purposes only and the
26 department may make no certification or determination of the
27 validity of any judgment lien acquired under ss. 55.202 and
28 55.204.

29 (3) The Department of State shall ensure that the
30 database information is available and accessible solely for
31 public use via the Internet or other electronic means. The

1 department may not permit or provide for the bulk sale or
2 distribution of such database information in any form.

3 Section 16. Subsection (8) is added to section 55.604,
4 Florida Statutes, to read:

5 55.604 Recognition and enforcement.--Except as
6 provided in s. 55.605, a foreign judgment meeting the
7 requirements of s. 55.603 is conclusive between the parties to
8 the extent that it grants or denies recovery of a sum of
9 money. Procedures for recognition and enforceability of a
10 foreign judgment shall be as follows:

11 (8) A judgment lien on personal property is acquired
12 only when a judgment lien certificate satisfying the
13 requirements of s. 55.203 has been filed with the Department
14 of State.

15 Section 17. Section 56.09, Florida Statutes, is
16 amended to read:

17 56.09 Executions against corporations and persons;
18 generally.--

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

23 (2) On any judgment against a person, a plaintiff may
24 have a writ of execution levied on the person's money in
25 excess of \$1,000. Such limitation on levy of execution does
26 not create an exemption, nor does it limit the availability of
27 any other exemption provided by law. For purposes of this
28 subsection only, the term "money" means cash, checks, money
29 orders, and the like. Nothing in this subsection authorizes
30 the physical search of a person.

31

1 Section 18. Section 56.21, Florida Statutes, is
2 amended to read:

3 56.21 Execution sales; notice.--Notice of all sales
4 under execution shall be given by advertisement once each week
5 for 4 successive weeks in a newspaper published in the county
6 in which the sale is to take place. The time of such notice
7 may be shortened in the discretion of the court from which the
8 execution issued, upon affidavit that the property to be sold
9 is subject to decay and will not sell for its full value if
10 held until date of sale. On or before the date of the first
11 publication or posting of the notice of sale, a copy of the
12 notice of sale shall be furnished by certified mail to the
13 attorney of record of the judgment debtor, or to the judgment
14 debtor at the judgment debtor's last known address if the
15 judgment debtor does not have an attorney of record. Such copy
16 of the notice of sale shall be mailed even though a default
17 judgment was entered. When levying upon personal property, a
18 notice of such levy and execution sale and a copy of the
19 affidavit required by s. 56.27(4) shall be made by the levying
20 creditor to the attorney of record of the judgment creditor or
21 the judgment creditor who has filed a judgment lien
22 certificate as provided in s. 55.202 and to all secured
23 creditors who have filed financing statements as provided in
24 s. 679.401 in the name of the judgment debtor reflecting a
25 security interest in property of the kind to be sold at the
26 execution sale. Such notice shall be made in the same manner
27 as notice is made to any judgment debtor under this section.
28 When levying upon real property, notice of such levy and
29 execution sale shall be made to the property owner of record
30 in the same manner as notice is made to any judgment debtor
31 pursuant to this section. When selling real or personal

1 property, the sale date shall not be earlier than 30 days
2 after the date of the first advertisement.

3 Section 19. Section 56.27, Florida Statutes, 1998
4 Supplement, is amended to read:

5 56.27 Executions; payment ~~to execution creditor~~ of
6 money collected.--

7 (1) All money received under executions shall be paid,
8 in the order prescribed, to the following: the sheriff for
9 costs, the levying creditor in the amount of \$500 as
10 liquidated expenses and the judgment lienholder having the
11 earliest recorded judgment lien acquired under s. 55.202, as
12 set forth in an affidavit required by s. 56.27(4), or his or
13 her attorney, in satisfaction of the judgment lien, provided
14 that the judgment lien has not lapsed at the time of the levy
15 ~~party in whose favor the execution was issued or his or her~~
16 ~~attorney.~~ The receipt of the attorney shall be a release of
17 the officer paying the money to him or her. When the name of
18 more than one attorney appears in the court file, the money
19 shall be paid to the attorney who originally commenced the
20 action or who made the original defense unless the file shows
21 that another attorney has been substituted.

22 (2) When property sold under execution brings more
23 than the amount needed to satisfy the provisions of subsection
24 (1), the surplus shall be paid in the order of priority to any
25 judgment lienholders whose judgment liens have not lapsed.
26 Priority shall be based on the effective date of the judgment
27 lien acquired under s. 55.202, as set forth in an affidavit
28 required under s. 56.27(4). If there is a surplus after all
29 valid judgment liens and execution liens have been satisfied
30 ~~of the execution,~~ the surplus must be paid to the defendant
31 ~~or, if there is another writ against the defendant docketed~~

1 ~~and indexed with the sheriff, the surplus must be paid to the~~
2 ~~junior writ.~~

3 (3) The value of the property levied upon shall not be
4 considered excessive unless the value unreasonably exceeds the
5 total debt reflected in all unsatisfied judgment liens that
6 have not lapsed and any unsatisfied lien of the levying
7 creditor.

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

12 (a) An attestation that the levying creditor has
13 reviewed the database or judgment lien records established in
14 accordance with ss. 55.201-55.209 and that the information
15 contained in the affidavit based on that review is true and
16 correct;

17 (b) The information required under ss. 55.203(1) and
18 55.203(2) for each judgment lien certificate indexed under the
19 name of the judgment debtor as to each judgment creditor; the
20 file number assigned to the record of the original and, if
21 any, the second judgment lien; and the date of filing for each
22 judgment lien certificate under s. 55.202 or s. 55.204(2); and

23 (c) A statement that the levying creditor either does
24 not have any other levy in process or, if another levy is in
25 process, the levying creditor believes in good faith that the
26 total value of the property under execution does not exceed
27 the amount of outstanding judgments.

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

1 Section 20. 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 21. Paragraph (a) of subsection (2) of section
11 61.11, Florida Statutes, is amended to read:

12 61.11 Writs.--

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

30 Section 22. Section 77.01, Florida Statutes, is
31 amended to read:

1 77.01 Right to garnishment.--Every person or entity
2 who has sued to recover a debt or has recovered judgment in
3 any court against any person or entity, ~~natural or corporate~~,
4 has a right to a writ of garnishment, in the manner
5 hereinafter provided, to subject any debt due or any debt
6 under a negotiable instrument that will become due to
7 defendant by a third person, and any tangible or intangible
8 personal property of defendant in the possession or control of
9 a third person. The officers, agents, and employees of any
10 companies or corporations are third persons in regard to the
11 companies or corporations, and as such are subject to
12 garnishment after judgment against the companies or
13 corporations.

14 Section 23. Section 77.041, Florida Statutes, is
15 created to read:

16 77.041 Notice to defendant for claim of exemption from
17 garnishment; procedure for hearing.--

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

21
22 NOTICE TO DEFENDANT OF RIGHT AGAINST GARNISHMENT
23 OF WAGES, MONEY, AND OTHER PROPERTY

24 The Writ of Garnishment delivered to you with this
25 Notice means that wages, money, and other property belonging
26 to you have been garnished to pay a court judgment against
27 you. HOWEVER, YOU MAY BE ABLE TO KEEP OR RECOVER YOUR WAGES,
28 MONEY, OR PROPERTY. READ THIS NOTICE CAREFULLY.

29 State and federal laws provide that certain wages,
30 money, and property, even if deposited in a bank, savings and
31 loan, or credit union, may not be taken to pay certain types

1 of court judgments. Such wages, money, and property are exempt
2 from garnishment. The major exemptions are listed below on the
3 form for Claim of Exemption and Request for Hearing. This list
4 does not include all possible exemptions. You should consult a
5 lawyer for specific advice.

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

17 If you request a hearing, it will be held as soon as
18 possible after your request is received by the court. The
19 plaintiff must file any objection within 2 business days, or
20 alternatively, 7 days if you mailed a copy of the form for
21 Claim of Exemption and Request for Hearing to the plaintiff.
22 If the plaintiff files an objection to your Claim of Exemption
23 and Request for Hearing, the clerk will notify you and the
24 other parties of the time and date of the hearing. You may
25 attend the hearing with or without an attorney. If the
26 plaintiff fails to file an objection, no hearing is required,
27 the writ of garnishment will be dissolved and your wages,
28 money, or property will be released.

29 YOU SHOULD FILE THE FORM FOR CLAIM OF EXEMPTION
30 IMMEDIATELY TO KEEP YOUR WAGES, MONEY, OR
31 PROPERTY FROM BEING APPLIED TO THE COURT

1
2 I request a hearing to decide the validity of my claim. Notice
3 of the hearing should be given to me at:
4
5 Address: _____
6
7 Telephone number: _____
8
9 The statements made in this request are true to the best of my
10 knowledge and belief.
11
12 _____
13
14 Defendant's signature
15
16 Date _____
17
18 STATE OF FLORIDA
19
20 COUNTY OF
21
22 Sworn and subscribed to before me this day of
23(month and year), by (name of person making
24 statement).....
25
26 Notary Public/Deputy Clerk
27
28 Personally KnownOR Produced Identification
29
30 Type of Identification Produced
31

1 (2) The plaintiff must mail, by first class, a copy of
2 the writ of garnishment, a copy of the motion for writ of
3 garnishment, and the "Notice to Defendant" to the defendant's
4 last known address within 5 business days after the writ is
5 issued or 3 business days after the writ is served on the
6 garnishee, whichever is later. However, if such documents are
7 returned as undeliverable by the post office, or if the last
8 known address is not discoverable after diligent search, the
9 plaintiff must mail, by first class, the documents to the
10 defendant at the defendant's place of employment. The
11 plaintiff shall file in the proceeding a certificate of such
12 service.

13 (3) Upon the filing by a defendant of a claim of
14 exemption and request for hearing, a hearing will be held as
15 soon as is practicable to determine the validity of the
16 claimed exemptions. If the plaintiff does not file a sworn
17 written statement that contests the defendant's claim of
18 exemption within 2 business days, or alternatively 7 business
19 days, if the claim and request were served by mail, no hearing
20 is required and the clerk must automatically dissolve the writ
21 and notify the parties of the dissolution by mail.

22 Section 24. Section 77.055, Florida Statutes, is
23 amended to read:

24 77.055 Service of garnishee's answer and notice of
25 right to dissolve writ ~~Notice to defendant and other~~
26 ~~interested persons.~~--Within 5 days after service of the
27 garnishee's answer on the plaintiff or after the time period
28 for the garnishee's answer has expired, the plaintiff shall
29 serve, by mail, the following documents: ~~a copy of the writ, a~~
30 copy of the garnishee's answer, and a notice advising, ~~and a~~
31 ~~certificate of service.~~ ~~The notice shall advise the recipient~~

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

14 Section 25. Subsection (1) of section 77.06, Florida
15 Statutes, is amended to read:

16 77.06 Writ; effect.--

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

26 Section 26. Section 222.12, Florida Statutes, is
27 amended to read:

28 222.12 Proceedings for exemption.--Whenever any money
29 or other thing due for labor or services as aforesaid is
30 attached by such process, the person to whom the same is due
31 and owing may make oath before the officer who issued the

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

17 Section 27. Subsections (2) and (3) of section
18 679.301, Florida Statutes, are amended to read:

19 679.301 Persons who take priority over unperfected
20 security interests; right of "lien creditor."--

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

28 (3) A "lien creditor" means a creditor who has
29 acquired a lien on the property involved by attachment, levy,
30 or the like and includes a judgment lienholder as provided
31 under ss. 55.202-55.209, an assignee for benefit of creditors

1 from the time of assignment, and a trustee in bankruptcy from
2 the date of the filing of the petition or a receiver in equity
3 from the time of appointment.

4 Section 28. The Department of State is authorized to
5 allocate the following funds from the department's
6 Corporations Trust Fund to administer this act:

7 (1) Effective July 1, 1999, 4 full-time equivalent
8 positions and \$274,858 in Salaries and Benefits, \$200,000 in
9 Expense, and \$442,753 in Operating Capital Outlay; and

10 (2) Effective January 1, 2001, 9 additional full-time
11 equivalent positions and \$213,243 in Salaries and Benefits and
12 \$32,247 in Operating Capital Outlay.

13
14 The funds allocated under this section are not subject to
15 reversion.

16 Section 29. Paragraph (d) of subsection (2) of section
17 607.1901, Florida Statutes, is amended, and paragraph (i) is
18 added to that subsection, to read:

19 607.1901 Corporations Trust Fund creation; transfer of
20 funds.--

21 (2)

22 (d) The division shall transfer from the trust fund to
23 the Cultural Institutions Trust Fund, quarterly, the amount of
24 \$10 from each corporate annual report fee collected by the
25 division and prorations transferring ~~\$10 million~~ ~~\$8 million~~
26 each fiscal year, to be used as provided in s. 265.2861.

27 (i) The division shall transfer from the trust fund to
28 the Office of the Secretary, Grants, and Donations Trust Fund,
29 quarterly, prorations transferring \$1.6 million each fiscal
30 year, to be used as provided in s. 288.816.

31

1 Section 30. This act shall take effect October 1,
2 1999, except that sections 7 through 16, and sections 18
3 through 20 shall take effect October 1, 2001.

4
5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 CS/SB 294

8 Removes the requirement to re-record a judgment every 7 years
9 by extending the effective period of a judgment lien on real
10 property from 7 years to 14 years. Thereafter, re-recording is
11 only necessary to continue the judgment lien for another 6
years or for whatever period of time remains within the
20-year period as measured from the date the judgment was
entered, whichever occurs first.

12 Authorizes the Department of State to allocate \$917,611 from
13 the Corporations Trust Fund for FY 1999-00 and \$245,490
14 effective January 1, 2001, for administering the centralized
electronic data base of judgment liens on personal property.

15 Increases the annual transfer from \$8 million to \$10 million
16 from the Corporations Trust Fund to the Cultural Institutions
Trust Fund for the purpose of funding cultural programs as
provided in s.265.2861.

17 Authorizes the Department to transfer \$1.6 million each fiscal
18 year from the Corporations Trust Fund to the Grants and
19 Donations Trust Fund in the Office of the Secretary for the
purpose of funding intergovernmental relations programs as
provided in s.288.816.