

By Representative Sublette

1 A bill to be entitled
2 An act relating to debtors and creditors;
3 amending s. 30.17, F.S.; providing for phaseout
4 of sheriff's execution docket; amending s.
5 30.231, F.S.; clarifying seizure of property
6 for levy; amending s. 48.021, F.S.; providing
7 for a sheriff to periodically add names of
8 process servers to an approved list; amending
9 s. 55.10, F.S.; increasing the time period to
10 rerecord a lien in order to get the lien
11 extended for a certain time; providing for
12 application; creating s. 55.201, F.S.;
13 requiring the Department of State to establish
14 a database of judgment lien records; creating
15 s. 55.202, F.S.; providing for acquisition of a
16 judgment lien on personal property; creating s.
17 55.203, F.S.; providing requirements for the
18 content, filing, and indexing of judgment lien
19 certificates by the Department of State;
20 creating s. 55.204, F.S.; providing for lapse
21 of a judgment lien; providing for acquisition
22 of a second judgment lien; creating s. 55.205,
23 F.S.; providing for the effect of a judgment
24 lien; creating s. 55.206, F.S.; providing for
25 amendment, termination, partial release,
26 assignment, continuation, tolling, or
27 correction of a recorded judgment lien;
28 creating s. 55.207, F.S.; providing for filing
29 and effect of a correction statement as to a
30 judgment lien record; creating s. 55.208, F.S.;
31 providing for phaseout of the effect of writs

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

1 dissolve writ of garnishment; amending s.
2 77.06, F.S.; providing for creation of judgment
3 lien upon service of writ of garnishment;
4 amending s. 222.01, F.S.; revising provisions
5 relating to designation of homestead by the
6 owner before levy; providing procedures;
7 amending s. 222.12, F.S.; providing for taking
8 of oath before notary public regarding
9 exemptions from garnishment; amending s.
10 679.301, F.S.; revising the definition of a
11 lien creditor; allocating moneys from the
12 Corporations Trust Fund to the Department of
13 State; amending s. 607.1901, F.S.; providing
14 for the transfer of funds from the Corporations
15 Trust Fund; providing effective dates.

16
17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Section 30.17, Florida Statutes, is amended
20 to read:

21 30.17 Sheriff to keep an execution docket.--

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

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

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

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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. Except for any certification requested by
10 a state agency or a political subdivision of the state, the
11 sheriff shall charge a fixed nonrefundable fee of \$20 for each
12 certification. Fees collected under this section shall be
13 disbursed in accordance with s. 30.231(5). The sheriff's
14 duties under this section shall cease on October 1, 2003.

15 Section 2. Subsection (1) of section 30.231, Florida
16 Statutes, is amended to read:

17 30.231 Sheriffs' fees for service of summons,
18 subpoenas, and executions.--

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

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

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

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- 1 (c) Witness subpoenas: \$20 for each witness to be
2 served.
- 3 (d) Executions:
- 4 1. Twenty dollars for docketing and indexing each writ
5 of execution, regardless of the number of persons involved.
- 6 2. Fifty dollars for each levy.
- 7 a. A levy is considered made when any property or any
8 portion of the property listed or unlisted in the instructions
9 for levy is seized, or upon demand of the sheriff the writ is
10 satisfied by the defendant in lieu of seizure. Seizure
11 requires that the sheriff take actual possession, if
12 practicable, or alternatively, constructive possession of the
13 property by order of the court.
- 14 b. When the instructions are for levy upon real
15 property, a levy fee is required for each parcel described in
16 the instructions.
- 17 c. When the instructions are for levy based upon
18 personal property, one fee is allowed, unless ~~although~~ the
19 property is ~~may be~~ seized at different locations, conditional
20 upon all of the items being advertised collectively and the
21 sale being held at a single location. However, if the property
22 seized cannot be sold at one location during the same sale as
23 advertised, but requires separate sales at different
24 locations, the sheriff is then authorized to impose a levy fee
25 for the property and sale at each location.
- 26 3. Twenty dollars for advertisement of sale under
27 process.
- 28 4. Twenty dollars for each sale under process.
- 29 5. Twenty dollars for each deed, bill of sale, or
30 satisfaction of judgment.
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1 Section 3. Paragraph (a) of subsection (2) of section
2 48.021, Florida Statutes, 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 4. Section 55.10, Florida Statutes, is amended
15 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 10 ~~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 10 7 years, subject to
7 the limitation in subsection (3), by rerecording a certified
8 copy of the judgment, order, or decree prior to the ~~within the~~
9 ~~90-day period preceding the~~ expiration of the lien provided
10 for in subsection (1) and by simultaneously recording an
11 affidavit with the current address of the person who has a
12 lien as a result of the judgment, order, or decree. The one
13 additional period of 10 years shall be effective from the date
14 the judgment, order, or decree is rerecorded. The lien will
15 not be extended unless the affidavit with the current address
16 is simultaneously recorded.

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

26 (3)(4) In no event shall the lien upon real property
27 created by this section ~~subsections (1), (2), and (3)~~ be
28 extended beyond the period provided for in s. 55.081.

29 (4) Except as otherwise provided in this subsection,
30 this act shall apply to all judgments, orders, and decrees of
31 record which constitute a lien on real property on the

1 effective date of this act. Any judgment, order, or decree
2 recorded prior to July 1, 1987, shall be unaffected by the
3 changes in this act and shall remain a lien on real property
4 until the period provided for in s. 55.081 expires or until
5 the lien is satisfied, whichever occurs first.

6 ~~(5) This section shall be deemed to operate~~
7 ~~prospectively.~~

8 (5)(6) Any lien claimed under this section ~~subsections~~
9 ~~(1), (2), and (3)~~ may be transferred, by any person having an
10 interest in the real property upon which the lien is imposed
11 or the contract under which the lien is claimed, from such
12 real property to other security by either depositing in the
13 clerk's office a sum of money or filing in the clerk's office
14 a bond executed as surety by a surety insurer licensed to do
15 business in this state. Such deposit or bond shall be in an
16 amount equal to the amount demanded in such claim of lien plus
17 interest thereon at the legal rate for 3 years plus \$500 to
18 apply on any court costs which may be taxed in any proceeding
19 to enforce said lien. Such deposit or bond shall be
20 conditioned to pay any judgment, order, or decree which may be
21 rendered for the satisfaction of the lien for which such claim
22 of lien was recorded and costs plus \$500 for court costs. Upon
23 such deposit being made or such bond being filed, the clerk
24 shall make and record a certificate showing the transfer of
25 the lien from the real property to the security and mail a
26 copy thereof by registered or certified mail to the lienor
27 named in the claim of lien so transferred, at the address
28 stated therein. Upon the filing of the certificate of
29 transfer, the real property shall thereupon be released from
30 the lien claimed, and such lien shall be transferred to said
31 security. The clerk shall be entitled to a fee of \$10 for

1 making and serving the certificate. If the transaction
2 involves the transfer of multiple liens, an additional charge
3 of \$5 for each additional lien shall be charged. Any number of
4 liens may be transferred to one such security.

5 ~~(6)(7)~~ Any excess of the security over the aggregate
6 amount of any judgments, orders, or decrees rendered, plus
7 costs actually taxed, shall be repaid to the party filing the
8 security or his or her successor in interest. Any deposit of
9 money shall be considered as paid into court and shall be
10 subject to the provisions of law relative to payments of money
11 into court and the disposition of these payments.

12 ~~(7)(8)~~ Any party having an interest in such security
13 or the property from which the lien was transferred may at any
14 time, and any number of times, file a complaint in chancery in
15 the circuit court of the county where such security is
16 deposited for an order:

- 17 (a) To require additional security;
18 (b) To require reduction of security;
19 (c) To require change or substitution of sureties;
20 (d) To require payment or discharge thereof; or
21 (e) Relating to any other matter affecting said
22 security.

23 Section 5. Effective October 1, 2001, section 55.201,
24 Florida Statutes, is created to read:

25 55.201 Central database of judgment liens on personal
26 property.--The Department of State shall maintain a database
27 of judgment lien records established in accordance with ss.
28 55.201-55.209.

29 Section 6. Effective October 1, 2001, section 55.202,
30 Florida Statutes, is created to read:

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1 55.202 Judgments, orders, and decrees; lien on
2 personal property.--

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

6 (a) A court of this state;

7 (b) A court of the United States having jurisdiction
8 in this state;

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

12 (d) A foreign state as defined in the Uniform
13 Out-of-Country Foreign Money-Judgment Recognition Act, ss.
14 55.601-55.607, from the time and to the extent enforceable
15 thereunder;

16 (e) An issuing tribunal with respect to a support
17 order being enforced in this state pursuant to chapter 88; or

18 (f) Operation of law pursuant to s. 61.14(6).

19 (2) A judgment lien may be acquired on the judgment
20 debtor's interest in all personal property subject to
21 execution in this state, other than fixtures, money, and
22 negotiable instruments.

23 (a) A judgment lien is acquired by filing a judgment
24 lien certificate in accordance with s. 55.203 with the
25 Department of State after the judgment has become final and if
26 no stay of the judgment or its enforcement is in effect at the
27 time the certificate is filed.

28 (b) For any tax lien or assessment granted by law to
29 the state or any of the political subdivisions for any tax
30 enumerated in s. 72.011, a judgment lien may be acquired by
31 filing the lien or warrant with the Department of State.

1 (c) A judgment lien is effective as of the date of
2 filing, but no lien attaches to property until the debtor
3 acquires an interest in the property.

4 (d) Except as provided in s. 55.204(3), a judgment
5 creditor may file only one effective judgment lien certificate
6 based upon a particular judgment.

7 (3) Except as otherwise provided in s. 55.208, the
8 priority of a judgment lien acquired in accordance with this
9 section or s. 55.204(3) is established at the time the
10 judgment lien is recorded. Such judgment lien is deemed
11 recorded as of its effective date as provided in this section
12 or s. 55.204(3).

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

16 (5) As used in ss. 55.201-55.209, the terms "holder of
17 a judgment" and "judgment creditor" include the Department of
18 Revenue with respect to a judgment being enforced by the
19 Department of Revenue as the state IV-D agency.

20 (6) Liens, assessments, or judgments administered by
21 or secured on behalf of any state agency or policy subdivision
22 of the state may be filed directly into the central database
23 by such agency or subdivision through electronic or
24 information data exchange programs approved by the Department
25 of State.

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

28 55.203 Judgment lien certificate; content, filing, and
29 indexing.--

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

- 1 (a) The legal name of each judgment debtor and, if a
2 recorded legal entity, the registered name and document filing
3 number as shown in the records of the Department of State;
4 (b) The last known address and social security number,
5 federal identification number, or, in the instance in which
6 the judgment creditor is a state agency or a political
7 subdivision of the state, a taxpayer or other distinct
8 identification number of each judgment debtor, except that in
9 cases of default judgment, the social security number must be
10 included only if known, or federal employer identification
11 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 (h) With respect to a lien created by a delivery of a
28 writ of execution to a sheriff prior to October 1, 2001, an
29 affidavit by the judgment creditor which attests that the
30 person or entity possesses any documentary evidence of the
31 date of delivery of the writ, and a statement of that date or

1 a certification by the sheriff of the date as provided in s.
2 30.17(4).

3 (2) A second judgment lien certificate, as provided in
4 s. 55.204(3), must include the information required in
5 subsection (1) and must state the file number assigned to the
6 record of the original judgment lien certificate, the money
7 amount remaining unpaid, and the interest accrued thereon.

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

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

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

18 1. Create a record;
19 2. Assign a unique file number to the record;
20 3. Include the date of filing of the judgment lien
21 certificate;

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

24 5. Index the judgment lien certificate according to
25 the name of each judgment debtor; and

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

29 (5) The validity of a judgment lien certificate filed
30 under this section may not be defeated by technical or
31 clerical errors made in good faith which are not seriously

1 misleading, nor may any claim of estoppel be based on such
2 errors.

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

5 Section 8. Effective October 1, 2001, section 55.204,
6 Florida Statutes, is created to read:

7 55.204 Duration and continuation of judgment lien;
8 destruction of records.--

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

12 (2) Liens securing the payment of child support or tax
13 obligations as set forth in s. 95.091(1)(b) shall not lapse
14 until 20 years after the date of the original filing of the
15 warrant or other document required by law to establish a lien.
16 No second lien based on the original filing may be obtained.

17 (3) At any time within 6 months before the scheduled
18 lapse of a judgment lien under subsection (1), the judgment
19 creditor may acquire a second judgment lien by filing a new
20 judgment lien certificate. The second judgment lien becomes
21 effective on the date of lapse of the original judgment lien
22 or on the date on which the judgment lien certificate is
23 filed, whichever is later. The second judgment lien is deemed
24 recorded on its effective date. The second judgment lien is
25 deemed a new judgment lien and not a continuation of the
26 original judgment lien. The second judgment lien permanently
27 lapses and becomes invalid 5 years after its effective date,
28 and no additional liens based on the original judgment may be
29 obtained.

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

4 (a) The property had been itemized and its location
5 described with sufficient particularity in the instructions
6 for levy;

7 (b) The levy had been delivered to the sheriff prior
8 to the date of lapse of the lien to permit the sheriff to act;
9 and

10 (c) The property was located in the county in which
11 the sheriff has jurisdiction at the time of delivery of the
12 instruction for levy. Subsequent removal of the property does
13 not defeat the lien. A court may order continuation of the
14 lien beyond the 90-day period on a showing that extraordinary
15 circumstances have prevented levy.

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

20 (6) The Department of State shall maintain each
21 judgment lien record and all information contained therein for
22 a minimum of 1 year after the judgment lien lapses in
23 accordance with this section.

24 Section 9. Effective October 1, 2001, section 55.205,
25 Florida Statutes, is created to read:

26 55.205 Effect of judgment lien.--

27 (1) A valid judgment lien gives the judgment creditor
28 the right to take possession of the property subject to levy
29 through writ of execution, garnishment, or other judicial
30 process. A judgment creditor who has not filed a judgment lien
31 certificate in accordance with s. 55.203 or whose lien has

1 lapsed may nevertheless take possession of the judgment
2 debtor's property through such other judicial process. A
3 judgment creditor proceeding by writ of execution obtains a
4 lien as of the time of levy and only on the property levied
5 upon. Except as provided in s. 55.208, such judgment creditor
6 takes subject to the claims and interest of priority judgment
7 creditors.

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

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

18 55.206 Amendment of judgment lien record; termination,
19 partial release, assignment, continuation, tolling,
20 correction.--

21 (1) An amendment to a judgment lien acquired under s.
22 55.202 may be filed by the judgment creditor of record, which
23 may provide for:

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

26 (b) The continuation and termination of the
27 continuation of a judgment lien, as provided in s. 55.204(4);

28 (c) The tolling and termination of the tolling of a
29 lapse of a judgment lien, as provided in s. 55.204(5); or

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

1 (2) Within 30 days following written demand by a
2 judgment debtor after the obligation underlying a judgment
3 lien has been fully or partially released, the judgment
4 lienholder must send to the judgment debtor a statement
5 indicating that there is no longer a claim for a lien on the
6 personal property of the judgment debtor or that the judgment
7 lien has been partially released and setting forth the value
8 of the lien remaining unpaid as of the date of the statement.
9 A statement signed by an assignee must include or be
10 accompanied by a separate written acknowledgement of
11 assignment signed by the judgment creditor of record. If the
12 judgment lienholder fails to send such a statement within 30
13 days after proper written demand therefor, the judgment
14 lienholder is liable to the judgment debtor for \$100, and for
15 any loss, including reasonable attorney's fees, caused by such
16 failure to the judgment debtor.

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

19 Section 11. Effective October 1, 2001, section 55.207,
20 Florida Statutes, is created to read:

21 55.207 Correction of judgment lien record.--

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

27 (2) A correction statement must:

28 (a) State the judgment debtor named and the file
29 number assigned to the judgment lien record to which the
30 correction statement relates;

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

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

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

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

9 Section 12. Effective October 1, 2001, section 55.208,
10 Florida Statutes, is created to read:

11 55.208 Effect of recorded judgment lien on writs of
12 execution previously delivered to a sheriff.--

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

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

3 (3) If a judgment creditor who has delivered a writ of
4 execution to a sheriff in any county before October 1, 2001,
5 does not properly file a judgment lien certificate with the
6 Department of State by October 1, 2003, such writ is
7 considered to have been abandoned and to be of no effect after
8 October 1, 2003.

9 Section 13. Effective October 1, 2001, section 55.209,
10 Florida Statutes, is created to read:

11 55.209 Department of State; processing fees,
12 responsibilities.--

13 (1) Except for liens, assessments, or judgments filed
14 electronically by a state agency or a political subdivision of
15 the state, as provided in s. 55.202(6), the Department of
16 State shall collect the following nonrefundable processing
17 fees for all documents filed in accordance with ss.
18 55.201-55.209:

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

21 (b) For the certification of any recorded document,
22 \$10.

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

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

29 (e) For each additional facing page attached to a
30 judgment lien certificate or document permitted to be filed,
31 \$5.

1 (2) Unless otherwise provided by law, the Department
2 of State may not conduct any search of the database
3 established under s. 55.201 to determine the existence of any
4 judgment lien record or to perform any service other than in
5 connection with those services for which payment of services
6 are required under this section. The information maintained in
7 the database is for public notice purposes only and the
8 department may make no certification or determination of the
9 validity of any judgment lien acquired under ss. 55.202 and
10 55.204(3).

11 Section 14. Effective October 1, 2001, subsection (1)
12 of section 55.604, Florida Statutes, is amended, and
13 subsection (8) is added to that section to read:

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

20 (1) The foreign judgment shall be filed with ~~the~~
21 ~~Department of State~~ and the clerk of the court and recorded in
22 the public records in the county or counties where enforcement
23 is sought. ~~The filing with the Department of State shall not~~
24 ~~create a lien on any property.~~

25 (a) At the time of the recording of a foreign
26 judgment, the judgment creditor shall make and record with the
27 clerk of the circuit court an affidavit setting forth the
28 name, social security number, if known, and last known
29 post-office address of the judgment debtor and of the judgment
30 creditor.

31

1 (b) Promptly upon the recording of the foreign
2 judgment and the affidavit, the clerk shall mail notice of the
3 recording of the foreign judgment, by registered mail with
4 return receipt requested, to the judgment debtor at the
5 address given in the affidavit and shall make a note of the
6 mailing in the docket. The notice shall include the name and
7 address of the judgment creditor and of the judgment
8 creditor's attorney, if any, in this state. In addition, the
9 judgment creditor may mail a notice of the recording of the
10 judgment to the judgment debtor and may record proof of
11 mailing with the clerk. The failure of the clerk to mail
12 notice of recording will not affect the enforcement
13 proceedings if proof of mailing by the judgment creditor has
14 been recorded.

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

19 Section 15. Section 56.09, Florida Statutes, is
20 amended to read:

21 56.09 Executions against corporations and persons;
22 generally.--

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

27 (2) On any judgment against a person, a plaintiff may
28 have a writ of execution levied on the person's money in
29 excess of \$1,000. Such limitation on levy of execution does
30 not create an exemption, nor does it limit the availability of
31 any other exemption provided by law. For purposes of this

1 subsection only, the term "money" means cash, checks, money
2 orders, and the like. Nothing in this subsection authorizes
3 the physical search of a person.

4 Section 16. Effective October 1, 2001, section 56.21,
5 Florida Statutes, is amended to read:

6 56.21 Execution sales; notice.--Notice of all sales
7 under execution shall be given by advertisement once each week
8 for 4 successive weeks in a newspaper published in the county
9 in which the sale is to take place. The time of such notice
10 may be shortened in the discretion of the court from which the
11 execution issued, upon affidavit that the property to be sold
12 is subject to decay and will not sell for its full value if
13 held until date of sale. On or before the date of the first
14 publication or posting of the notice of sale, a copy of the
15 notice of sale shall be furnished by certified mail to the
16 attorney of record of the judgment debtor, or to the judgment
17 debtor at the judgment debtor's last known address if the
18 judgment debtor does not have an attorney of record. Such copy
19 of the notice of sale shall be mailed even though a default
20 judgment was entered. When levying upon personal property, a
21 notice of such levy and execution sale and a copy of the
22 affidavit required by s. 56.27(4) shall be made by the levying
23 creditor to the attorney of record of the judgment creditor or
24 the judgment creditor who has filed a judgment lien
25 certificate as provided in s. 55.202 or s. 55.204(3) at the
26 address listed in the judgment lien certificate, or, if
27 amended, in any amendment to the judgment lien certificate,
28 and to all secured creditors who have filed financing
29 statements as provided in s. 679.401 in the name of the
30 judgment debtor reflecting a security interest in property of
31 the kind to be sold at the execution sale at the address

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

10 Section 17. Effective October 1, 2001, section 56.27,
11 Florida Statutes, is amended to read:

12 56.27 Executions; payment ~~to execution creditor~~ of
13 money collected.--

14 (1) All money received under executions shall be paid,
15 in the order prescribed, to the following: the sheriff for
16 costs, the levying creditor in the amount of \$500 as
17 liquidated expenses and the judgment lienholder having the
18 earliest recorded judgment lien acquired under ss. 55.202 and
19 55.204(3), as set forth in an affidavit required by subsection
20 (4), or his or her attorney, in satisfaction of the judgment
21 lien, provided that the judgment lien has not lapsed at the
22 time of the levy party in whose favor the execution was issued
23 ~~or his or her attorney.~~ The receipt of the attorney shall be a
24 release of the officer paying the money to him or her. When
25 the name of more than one attorney appears in the court file,
26 the money shall be paid to the attorney who originally
27 commenced the action or who made the original defense unless
28 the file shows that another attorney has been substituted.

29 (2) When property sold under execution brings more
30 than the amount needed to satisfy the provisions of subsection
31 (1), the surplus shall be paid in the order of priority to any

1 judgment lienholders whose judgment liens have not lapsed.
2 Priority shall be based on the effective date of the judgment
3 lien acquired under s. 55.202 or s. 55.204(3), as set forth in
4 an affidavit required under s. 56.27(4). If there is a surplus
5 after all valid judgment liens and execution liens have been
6 satisfied of the execution, the surplus must be paid to the
7 defendant or, if there is another writ against the defendant
8 docketed and indexed with the sheriff, the surplus must be
9 paid to the junior writ.

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

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

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

24 (b) The information required under s. 55.203(1) and
25 (2) for each judgment lien certificate indexed under the name
26 of the judgment debtor as to each judgment creditor; the file
27 number assigned to the record of the original and, if any, the
28 second judgment lien; and the date of filing for each judgment
29 lien certificate under s. 55.202 or s. 55.204(3); and

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

1 process, the levying creditor believes in good faith that the
2 total value of the property under execution does not exceed
3 the amount of outstanding judgments.

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

8 Section 18. Subsection (1) of section 56.29, Florida
9 Statutes, is amended to read:

10 56.29 Proceedings supplementary.--

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

17 Section 19. Paragraph (a) of subsection (2) of section
18 61.11, Florida Statutes, is amended to read:

19 61.11 Writs.--

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

1 imprisonment, and other related expenses associated with the
2 service of the writ and transportation of the respondent.~~The~~
3 ~~writ shall direct that~~ Service and execution of the writ may
4 be made on any day of the week and any time of the day or
5 night.

6 Section 20. Section 77.01, Florida Statutes, is
7 amended to read:

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

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

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

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

28
29 NOTICE TO DEFENDANT OF RIGHT AGAINST GARNISHMENT
30 OF WAGES, MONEY, AND OTHER PROPERTY
31

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

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

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

25 If you request a hearing, it will be held as soon as
26 possible after your request is received by the court. The
27 plaintiff must file any objection within 2 business days if
28 you hand delivered to the plaintiff a copy of the form for
29 Claim of Exemption and Request for Hearing or, alternatively,
30 7 days if you mailed a copy of the form for claim and request
31 to the plaintiff. If the plaintiff files an objection to your

1 Claim of Exemption and Request for Hearing, the clerk will
2 notify you and the other parties of the time and date of the
3 hearing. You may attend the hearing with or without an
4 attorney. If the plaintiff fails to file an objection, no
5 hearing is required, the writ of garnishment will be dissolved
6 and your wages, money, or property will be released.

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

17 CLAIM OF EXEMPTION AND REQUEST FOR HEARING

18 I claim exemptions from garnishment under the following
19 categories as checked:

20 _____ 1. Head of family wages. (You must check a
21 or b below.)

22 _____ a. I provide more than one half of the
23 support for a child or other dependent and
24 have net earnings of \$500 or less per week.

25 _____ b. I provide more than one half of the
26 support for a child or other dependent, have
27 net earnings of more than \$500 per week, but
28 have not agreed in writing to have my wages
29 garnished.

30 _____ 2. Social Security benefits.

31 _____ 3. Supplemental Security Income benefits.

- 1 _____ 4. Public assistance (welfare).
- 2 _____ 5. Workers' Compensation.
- 3 _____ 6. Unemployment Compensation.
- 4 _____ 7. Veterans' benefits.
- 5 _____ 8. Retirement or profit-sharing benefits or
- 6 pension money.
- 7 _____ 9. Life insurance benefits or cash surrender
- 8 value of a life insurance policy or proceeds
- 9 of annuity contract.
- 10 _____ 10. Disability income benefits.
- 11 _____ 11. Prepaid College Trust Fund or Medical
- 12 Savings Account.
- 13 _____ 12. Other exemptions as provided by law.
- 14 _____ (explain)
- 15
- 16 I request a hearing to decide the validity of my claim. Notice
- 17 of the hearing should be given to me at:
- 18
- 19 Address: _____
- 20
- 21 Telephone number: _____
- 22
- 23 The statements made in this request are true to the best of my
- 24 knowledge and belief.
- 25
- 26 _____
- 27
- 28 Defendant's signature
- 29
- 30 Date _____
- 31

1 STATE OF FLORIDA

2

3 COUNTY OF

4

5 Sworn and subscribed to before me this day of
6(month and year), by (name of person making
7 statement).....

8

9 Notary Public/Deputy Clerk

10

11 Personally KnownOR Produced Identification

12

13 Type of Identification Produced

14 (2) The plaintiff must mail, by first class, a copy of
15 the writ of garnishment, a copy of the motion for writ of
16 garnishment, and the "Notice to Defendant" to the defendant's
17 last known address within 5 business days after the writ is
18 issued or 3 business days after the writ is served on the
19 garnishee, whichever is later. However, if such documents are
20 returned as undeliverable by the post office, or if the last
21 known address is not discoverable after diligent search, the
22 plaintiff must mail, by first class, the documents to the
23 defendant at the defendant's place of employment. The
24 plaintiff shall file in the proceeding a certificate of such
25 service.

26 (3) Upon the filing by a defendant of a claim of
27 exemption and request for hearing, a hearing will be held as
28 soon as is practicable to determine the validity of the
29 claimed exemptions. If the plaintiff does not file a sworn
30 written statement that contests the defendant's claim of
31 exemption within 2 business days after hand delivering the

1 claim and request or, alternatively, 7 business days, if the
2 claim and request were served by mail, no hearing is required
3 and the clerk must automatically dissolve the writ and notify
4 the parties of the dissolution by mail.

5 Section 22. Section 77.055, Florida Statutes, is
6 amended to read:

7 77.055 Service of garnishee's answer and notice of
8 right to dissolve writ ~~Notice to defendant and other~~
9 ~~interested persons.~~--Within 5 days after service of the
10 garnishee's answer on the plaintiff or after the time period
11 for the garnishee's answer has expired, the plaintiff shall
12 serve, by mail, the following documents: ~~a copy of the writ, a~~
13 copy of the garnishee's answer, and a notice advising, ~~and a~~
14 ~~certificate of service.~~ ~~The notice shall advise~~ the recipient
15 that he or she must move to dissolve the writ of garnishment
16 within 20 days after the date indicated on the certificate of
17 service in the notice if any allegation in the plaintiff's
18 motion for writ of garnishment is untrue ~~within the time~~
19 ~~period set forth in s. 77.07(2) or be defaulted and that he or~~
20 ~~she may have exemptions from the garnishment which must be~~
21 ~~asserted as a defense.~~ The plaintiff shall serve these
22 documents on the defendant at the defendant's last known
23 address and any other address disclosed by the garnishee's
24 answer and on any other person disclosed in the garnishee's
25 answer to have any ownership interest in the deposit, account,
26 or property controlled by the garnishee. The plaintiff shall
27 file in the proceeding a certificate of such service.

28 Section 23. Subsection (1) of section 77.06, Florida
29 Statutes, is amended to read:

30 77.06 Writ; effect.--
31

1 (1) Service of the writ shall make garnishee liable
2 for all debts due by him or her to defendant and for any
3 tangible or intangible personal property of defendant in the
4 garnishee's possession or control at the time of the service
5 of the writ or at any time between the service and the time of
6 the garnishee's answer. Service of the writ creates a lien in
7 or upon any such debts or property at the time of service or
8 at the time such debts or property come into the garnishee's
9 possession or control.

10 Section 24. Section 222.01, Florida Statutes, is
11 amended to read:

12 222.01 Designation of homestead by owner before
13 levy.--

14 (1) Whenever any natural person residing in this state
15 desires to avail himself or herself of the benefit of the
16 provisions of the constitution and laws exempting property as
17 a homestead from forced sale under any process of law, he or
18 she may make a statement, in writing, containing a description
19 of the real property, mobile home, or modular home claimed to
20 be exempt and declaring that the real property, mobile home,
21 or modular home is the homestead of the party in whose behalf
22 such claim is being made. Such statement shall be signed by
23 the person making it and shall be recorded in the circuit
24 court.

25 (2) When a certified copy of a judgment has been filed
26 in the public records of a county pursuant to s. 55.10, a
27 person who is entitled to the benefit of the provisions of the
28 State Constitution exempting real property as homestead and
29 who has a contract to sell or a commitment from a lender for a
30 mortgage on the homestead may file a notice of homestead in
31

1 the public records of the county in which the homestead
2 property is located in substantially the following form:

3
4 NOTICE OF HOMESTEAD

5
6 To:...(Name and address of judgment creditor as
7 shown on recorded judgment and name and address
8 of any other person shown in the recorded
9 judgment to receive a copy of the Notice of
10 Homestead)....

11
12 You are notified that the undersigned claims as
13 homestead exempt from levy and execution under
14 Section 4, Article X of the State Constitution,
15 the following described property:

16
17 ...(Legal description)...

18
19 The undersigned certifies, under oath, that he
20 or she has applied for and received the
21 homestead tax exemption as to the
22 above-described property, that is the tax
23 identification parcel number of this property,
24 and that the undersigned has resided on this
25 property continuously and uninterruptedly from
26 ...(date)... to the date of this Notice of
27 Homestead. Further, the undersigned will either
28 convey or mortgage the above-described property
29 pursuant to the following:

1 ...(Describe the contract of sale or loan
2 commitment by date, names of parties, date of
3 anticipated closing, and amount. The name,
4 address, and telephone number of the person
5 conducting the anticipated closing must be set
6 forth.)...

7
8 The undersigned also certifies, under oath,
9 that the judgment lien filed by you on
10 ...(date)... and recorded in Official Records
11 Book, Page, of the Public Records of
12 County, Florida, does not constitute a
13 valid lien on the described property.

14
15 YOU ARE FURTHER NOTIFIED, PURSUANT TO SECTION
16 222.01 ET SEQ., FLORIDA STATUTES, THAT WITHIN
17 45 DAYS AFTER THE MAILING OF THIS NOTICE YOU
18 MUST FILE AN ACTION IN THE CIRCUIT COURT OF
19 COUNTY, FLORIDA, FOR A DECLARATORY
20 JUDGMENT TO DETERMINE THE CONSTITUTIONAL
21 HOMESTEAD STATUS OF THE SUBJECT PROPERTY OR TO
22 FORECLOSE YOUR JUDGMENT LIEN ON THE PROPERTY
23 AND RECORD A LIS PENDENS IN THE PUBLIC RECORDS
24 OF THE COUNTY WHERE THE HOMESTEAD IS LOCATED.
25 YOUR FAILURE TO SO ACT WILL RESULT IN ANY BUYER
26 OR LENDER, OR HIS OR HER SUCCESSORS AND
27 ASSIGNS, UNDER THE ABOVE-DESCRIBED CONTRACT OF
28 SALE OR LOAN COMMITMENT TO TAKE FREE AND CLEAR
29 OF ANY JUDGMENT LIEN YOU MAY HAVE ON THE
30 PROPERTY.

31

1 (4) A lien pursuant to s. 55.10 of any lienor upon
2 whom such notice is served, who fails to institute an action
3 for a declaratory judgment to determine the constitutional
4 homestead status of the property described in the notice of
5 homestead or to file an action to foreclose the judgment lien,
6 together with the filing of a lis pendens in the public
7 records of the county in which the homestead is located,
8 within 45 days after service of such notice shall be deemed as
9 not attaching to the property by virtue of its status as
10 homestead property as to the interest of any buyer or lender,
11 or his or her successors or assigns, who takes under the
12 contract of sale or loan commitment described above within 180
13 days after the filing in the public records of the notice of
14 homestead. This subsection shall not act to prohibit a lien
15 from attaching to the real property described in the notice of
16 homestead at such time as the property loses its homestead
17 status.

18 (5) As provided in s. 4, Art. X of the State
19 Constitution, this subsection shall not apply to:

20 (a) Liens and judgments for the payment of taxes and
21 assessments on real property.

22 (b) Liens and judgments for obligations contracted for
23 the purchase of real property.

24 (c) Liens and judgments for labor, services, or
25 materials furnished to repair or improve real property.

26 (d) Liens and judgments for other obligations
27 contracted for house, field, or other labor performed on real
28 property.

29 Section 25. Section 222.12, Florida Statutes, is
30 amended to read:

31

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

21 Section 26. Subsections (2) and (3) of section
22 679.301, Florida Statutes, are amended to read:

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

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

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

8 Section 27. The Department of State is authorized to
9 allocate the following funds from the department's
10 Corporations Trust Fund to administer this act:

11 (1) Effective July 1, 2000, four full-time equivalent
12 positions and \$274,858 in annual salaries and benefits,
13 \$200,000 in recurring expense, and \$442,753 in operating
14 capital outlay; and

15 (2) Effective March 1, 2001, nine additional full-time
16 equivalent positions and \$268,443 in annual salaries and
17 benefits and \$32,247 in operating capital outlay.

18 Section 28. Subsection (2) of section 607.1901,
19 Florida Statutes, is amended to read:

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

22 (2)(a) The Legislature shall appropriate from the fund
23 such amounts as it deems necessary for the operation of the
24 division.

25 (b) An amount equal to 2.9 percent of all moneys
26 deposited each month in the fund is transferred to the
27 Corporation Tax Administration Trust Fund created pursuant to
28 s. 213.31.

29 (c) In the last six months of any fiscal year, an
30 amount equal to 43 percent of all moneys deposited each month
31 into the fund is transferred to the General Revenue Fund.

1 (d) The division shall transfer from the trust fund to
2 the Cultural Institutions Trust Fund, quarterly, the amount of
3 \$10 from each corporate annual report fee collected by the
4 division and prorations transferring not more than \$10~~\$8~~
5 million each fiscal year, to be used as provided in s.
6 265.2861.

7 (e) The division shall transfer from the trust fund to
8 the Cultural Institutions Trust Fund, quarterly, prorations
9 transferring \$250,000 each fiscal year, to be used as provided
10 in s. 265.609.

11 (f) The division shall transfer from the trust fund to
12 the Cultural Institutions Trust Fund, quarterly, prorations
13 transferring \$550,000 each fiscal year, to be used as provided
14 in s. 265.608.

15 (g) The division shall transfer from the trust fund to
16 the Historical Resources Operating Trust Fund, quarterly,
17 prorations transferring \$2 million each fiscal year, to be
18 used as provided in s. 267.0671.

19 (h) The division shall transfer from the trust fund to
20 the Historical Resources Operating Trust Fund, quarterly,
21 prorations transferring \$1.5 million each fiscal year, to be
22 used as provided in s. 267.072.

23 (i) The division shall transfer from the trust fund to
24 the department's Grants and Donations Trust Fund quarterly
25 prorations equaling not more than \$1.6 million each fiscal
26 year, to be used in the provision of services under s.
27 288.816.

28 Section 29. Except as otherwise provided in this act,
29 this act shall take effect October 1, 2000.

30
31

HOUSE SUMMARY

Requires the department to maintain a database of judgment lien certificates on personal property. Provides that such liens may be acquired on a judgment debtor's interest in all personal property subject to execution in the state except fixtures, money, and negotiable instruments. Prescribes filing and indexing requirements. Provides for the duration of judgment liens and for the destruction of records. Provides that a valid judgment lien gives the judgment creditor the right to take possession of the personal property subject to lien through writ of execution, garnishment, or other judicial process. Establishes the effect of such liens. Prescribes procedures for filing amendments or correction statements relating to a recorded judgment lien indexed in a person's name. Revises language and provides procedures with respect to the designation of homestead by an owner prior to levy. Authorizes the department to collect processing fees. Requires the department to ensure the availability to the public of electronic access to such information. Conditions the effect of a foreign judgment as a lien on personal property upon a properly recorded judgment lien certificate filed with the department.

Allows sheriffs to assess a \$20 nonrefundable fee for each request for certification of a writ delivered and docketed before October 1, 2001, for purposes of being able to satisfy the requirements for acquiring a judgment lien based on the previously delivered but unsatisfied writ in accordance with the new centralized database.

Revises the valid recording periods of a judgment lien on real property, from every 7 years from the date of last recording to every 10 years as measured from the date of last recording, up to 20 years or for whatever period remains on the 20-year period as measured from the date of the judgment.

Incorporates and provides for the electronic filing of tax liens and assessments, and child support orders issued by the Department of Revenue into the centralized filing lien database.

Eliminates the provision requiring the Department of State to make the database information publicly accessible solely via the Internet or electronic means.

Clarifies that foreign judgment liens on personal property will only be valid on the filing of a judgment lien certificate with the Department of State.

Amends the statutory form used to claim an exemption from

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1 garnishment by clarifying the categories of legally
2 recognized exemptions from garnishment.

3 Provides an expedited process and statutory form for
4 filing a Notice of Homestead Status and initiating a
5 declaratory action to determine the validity of homestead
6 property or otherwise foreclose on a lien against
7 property which is the subject of an impending sale or
8 pending mortgage approval.

9 Increases the total amount of prorations transferred from
10 the Corporations Trust Fund to the Cultural Institutions
11 Trust Fund from \$8 million to no more than \$10 million
12 for services statutorily provided through this fund.

13 Directs the Department of State to transfer from the
14 Corporations Trust Fund no more than \$1.6 million each
15 fiscal year to the Grants and Donations Trust Fund for
16 services statutorily provided through this fund.

17 Revises the effective dates and phaseout dates of dockets
18 of writs of execution to correspond with the
19 establishment of the centralized filing judgment lien
20 database.

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