

Amendment No. 3 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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11 The Committee on Judicial Oversight offered the following:

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13 **Amendment (with title amendment)**

14 On page 17, between lines 9 - 10 of the bill insert:

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16 Section 14. Section 77.01, Florida Statutes, is amended
17 to read:

18 77.01 Right to garnishment.--Every person or entity
19 who has sued to recover a debt or has recovered judgment in
20 any court against any person or entity has a right to a writ
21 of garnishment, in the manner hereinafter provided, to subject
22 any debt due ~~or any debt under a negotiable instrument that~~
23 ~~will become due~~ to a defendant by a third person or any debt
24 not evidenced by a negotiable instrument that will become due
25 absolutely through the passage of time only to defendant by a
26 third person,and any tangible or intangible personal property
27 of defendant in the possession or control of a third person.
28 The officers, agents, and employees of any companies or
29 corporations are third persons in regard to the companies or
30 corporations, and as such are subject to garnishment after
31 judgment against the companies or corporations.

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1 Section 15. Subsections (1) and (2) of section 77.041,
2 Florida Statutes, are amended to read:

3 77.041 Notice to individual defendant for claim of
4 exemption from garnishment; procedure for hearing.--

5 (1) Upon application for a writ of garnishment by a
6 plaintiff, if the defendant is an individual the clerk of the
7 court shall attach to the writ the following "Notice to
8 Defendant":

9

10 NOTICE TO DEFENDANT OF RIGHT AGAINST
11 GARNISHMENT OF WAGES, MONEY,
12 AND OTHER PROPERTY
13

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

19 State and federal laws provide that certain wages,
20 money, and property, even if deposited in a bank, savings and
21 loan, or credit union, may not be taken to pay certain types
22 of court judgments. Such wages, money, and property are exempt
23 from garnishment. The major exemptions are listed below on the
24 form for Claim of Exemption and Request for Hearing. This list
25 does not include all possible exemptions. You should consult a
26 lawyer for specific advice.

27 TO KEEP YOUR WAGES, MONEY, AND OTHER PROPERTY
28 FROM BEING GARNISHED, OR TO GET BACK ANYTHING
29 ALREADY TAKEN, YOU MUST COMPLETE A FORM FOR
30 CLAIM OF EXEMPTION AND REQUEST FOR HEARING AS
31 SET FORTH BELOW AND HAVE THE FORM NOTARIZED.

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1 YOU MUST FILE THE FORM WITH THE CLERK'S OFFICE
2 WITHIN 20 DAYS AFTER THE DATE YOU RECEIVE THIS
3 NOTICE OR YOU MAY LOSE IMPORTANT RIGHTS. YOU
4 MUST ALSO MAIL OR DELIVER A COPY OF THIS FORM
5 TO THE PLAINTIFF AND THE GARNISHEE AT THE
6 ADDRESSES LISTED ON THE WRIT OF GARNISHMENT.

7 If you request a hearing, it will be held as soon as
8 possible after your request is received by the court. The
9 plaintiff must file any objection within 2 business days if
10 you hand delivered to the plaintiff a copy of the form for
11 Claim of Exemption and Request for Hearing or, alternatively,
12 7 days if you mailed a copy of the form for claim and request
13 to the plaintiff. If the plaintiff files an objection to your
14 Claim of Exemption and Request for Hearing, the clerk will
15 notify you and the other parties of the time and date of the
16 hearing. You may attend the hearing with or without an
17 attorney. If the plaintiff fails to file an objection, no
18 hearing is required, the writ of garnishment will be dissolved
19 and your wages, money, or property will be released.

20 YOU SHOULD FILE THE FORM FOR CLAIM OF EXEMPTION
21 IMMEDIATELY TO KEEP YOUR WAGES, MONEY, OR
22 PROPERTY FROM BEING APPLIED TO THE COURT
23 JUDGMENT. THE CLERK CANNOT GIVE YOU LEGAL
24 ADVICE. IF YOU NEED LEGAL ASSISTANCE YOU SHOULD
25 SEE A LAWYER. IF YOU CANNOT AFFORD A PRIVATE
26 LAWYER, LEGAL SERVICES MAY BE AVAILABLE.
27 CONTACT YOUR LOCAL BAR ASSOCIATION OR ASK THE
28 CLERK'S OFFICE ABOUT ANY LEGAL SERVICES PROGRAM
29 IN YOUR AREA.

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31 CLAIM OF EXEMPTION AND

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REQUEST FOR HEARING

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

- 1. Head of family wages. (You must check a. or b. below.)
- a. I provide more than one-half of the support for a child or other dependent and have net earnings of \$500 or less per week.
- b. I provide more than one-half of the support for a child or other dependent, have net earnings of more than \$500 per week, but have not agreed in writing to have my wages garnished.
- 2. Social Security benefits.
- 3. Supplemental Security Income benefits.
- 4. Public assistance (welfare).
- 5. Workers' Compensation.
- 6. Unemployment Compensation.
- 7. Veterans' benefits.
- 8. Retirement or profit-sharing benefits or pension money.
- 9. Life insurance benefits or cash surrender value of a life insurance policy or proceeds of annuity contract.
- 10. Disability income benefits.
- 11. Prepaid College Trust Fund or Medical Savings Account.
- 12. Other exemptions as provided by law.
.....(explain)

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1 I request a hearing to decide the validity of my claim. Notice
2 of the hearing should be given to me at:

3
4 Address:
5 Telephone number:.....
6

7 The statements made in this request are true to the best of my
8 knowledge and belief.

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10

11 Defendant's signature
12 Date.....
13

14 STATE OF FLORIDA
15 COUNTY OF

16
17 Sworn and subscribed to before me this day of
18 ...(month and year)..., by ...(name of person making
19 statement)...

20 Notary Public/Deputy Clerk
21 Personally KnownOR Produced Identification....
22 Type of Identification Produced.....
23

24 (2) The plaintiff must mail, by first class, a copy of
25 the writ of garnishment, a copy of the motion for writ of
26 garnishment, and, if the defendant is an individual, the
27 "Notice to Defendant" to the defendant's last known address
28 within 5 business days after the writ is issued or 3 business
29 days after the writ is served on the garnishee, whichever is
30 later. However, if such documents are returned as
31 undeliverable by the post office, or if the last known address

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1 is not discoverable after diligent search, the plaintiff must
2 mail, by first class, the documents to the defendant at the
3 defendant's place of employment. The plaintiff shall file in
4 the proceeding a certificate of such service.

5 Section 16. Subsection (5) of section 678.1051,
6 Florida Statutes, is amended to read:

7 678.1051 Notice of adverse claim.--

8 (5) Filing of a financing statement under chapter 679,
9 or a judgment lien certificate under chapter 55, is not notice
10 of an adverse claim to a financial asset.

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

14 And the title is amended as follows:

15 On page 2, line 11, after the semicolon,

16
17 insert:

18 amending s. 77.01, F.S.; providing that certain
19 debts related to negotiable instruments are not
20 subject to garnishment; amending s. 77.041,
21 F.S.; providing that only individuals subject
22 to garnishment must be provided a "Notice of
23 Defendant"; amending s. 678.1051, F.S.;
24 providing that a judgment lien certificate does
25 not constitute an adverse claim against a
26 financial asset;

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