

hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Pickens offered the following:

**Amendment (with title amendment)**

Remove from the bill: Everything after the enacting clause  
and insert in lieu thereof:

Section 1. Section 55.201, Florida Statutes, is amended to read:

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

Section 2. Section 55.202, Florida Statutes, is amended to read:

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

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

(a) Enforceable in this state under its laws or the laws of the United States ~~A court of this state;~~

hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

1           ~~(b) A court of the United States having jurisdiction~~  
2 ~~in this state;~~

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

6           ~~(d) A foreign state as defined in the Uniform~~  
7 ~~Out-of-country Foreign Money Judgment Recognition Act, ss.~~  
8 ~~55.601-55.607, from the time and to the extent enforceable~~  
9 ~~thereunder;~~

10           **(b)(e) Entered by** an issuing tribunal with respect to  
11 a support order being enforced in this state pursuant to  
12 chapter 88; or

13           **(c)(f) Enforceable by** operation of law pursuant to s.  
14 61.14(6).

15           (2) A judgment lien may be acquired on a the judgment  
16 debtor's interest in all personal property in this state  
17 subject to execution under s. 56.061 in this state, other than  
18 fixtures, money, negotiable instruments, and mortgages.

19           (a) A judgment lien is acquired by filing recording a  
20 judgment lien certificate in accordance with s. 55.203 with  
21 the Department of State after the judgment has become final  
22 and if no stay of the judgment or its enforcement is then in  
23 effect ~~at the time the certificate is filed~~.

24           (b) For any ~~tax lien, warrant, or assessment, or~~  
25 judgment collected by the Department of Revenue granted by law  
26 ~~to the state or any of the political subdivisions for any tax~~  
27 ~~enumerated in s. 72.011~~, a judgment lien may be acquired by  
28 filing the judgment lien certificate information recording the  
29 ~~lien~~ or warrant with the Department of State in accordance  
30 with s. 55.205(5).

31           (c) Except as provided in s. 55.208, the effective

hbd-06

Bill No. HB 601

Amendment No. \_\_\_\_ (for drafter's use only)

1 date of a judgment lien is the date, including the time of  
 2 day, of filing. Although ~~A judgment lien is effective as of~~  
 3 ~~the date of recording, but~~ no lien attaches to property, and a  
 4 creditor does not become a lien creditor as to liens under  
 5 chapter 679, until the debtor acquires an interest in the  
 6 property, priority among competing judgment liens is  
 7 determined in order of filing date and time.

8 (d) Except as provided in s. 55.204(3), a judgment  
 9 creditor may file ~~record~~ only one effective judgment lien  
 10 certificate based upon a particular judgment.

11 (3) Except as otherwise provided in s. 55.208, the  
 12 priority of a judgment lien acquired in accordance with this  
 13 section or s. 55.204(3) is established at the date and time  
 14 the judgment lien is filed ~~recorded. Such judgment lien is~~  
 15 ~~deemed recorded as of its effective date as provided in this~~  
 16 ~~section or s. 55.204(3).~~

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

21 (5) Liens, assessments, warrants, or judgments filed  
 22 pursuant to paragraph (2)(b) ~~administered by or secured on~~  
 23 ~~behalf of any state agency or political subdivision of the~~  
 24 ~~state~~ may be filed directly into the central database by the  
 25 Department of Revenue ~~such agency or subdivision~~ through  
 26 electronic or information data exchange programs approved by  
 27 the Department of State. Such filings must contain the  
 28 information set forth in s. 55.203(1).

29 Section 3. Section 55.203, Florida Statutes, is  
 30 amended to read:

31 55.203 Judgment lien certificate; content, recording,

hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

1 and indexing.--

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

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

7 (b) The last known address and ~~social security number,~~  
8 ~~federal identification number, or, in the instance in which~~  
9 ~~the judgment creditor is a state agency or a political~~  
10 ~~subdivision of the state, a taxpayer or other distinct~~  
11 ~~identification number of each judgment debtor, except that in~~  
12 ~~cases of default judgment, the social security number must be~~  
13 ~~included only if known, or federal employer identification~~  
14 ~~number of each judgment debtor if shown on the judgment~~  
15 ~~itself.~~

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

21 (d) The address ~~and social security number or federal~~  
22 ~~employer identification number~~ of the judgment creditor.

23 (e) The identity of the court which entered the  
24 judgment and the case number and the date the written judgment  
25 was entered.

26 (f) The amount due on the money judgment and the  
27 applicable interest rate.

28 (g) The signature of the judgment creditor or the  
29 judgment creditor's attorney or duly authorized  
30 representative.

31 (h) With respect to a lien acquired ~~created~~ by a

hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

1 delivery of a writ of execution to a sheriff prior to October  
2 1, 2001, an affidavit by the judgment creditor which attests  
3 that the person or entity possesses any documentary evidence  
4 of the date of delivery of the writ, and a statement of that  
5 date or a certification by the sheriff of the date as provided  
6 in s. 30.17(4).

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

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

18 (4) The Department of State shall examine, for  
19 compliance with ss. 55.201-55.209, each document submitted for  
20 filing recording and shall accept or reject the document  
21 accordingly. For each judgment lien certificate filed  
22 recorded, the department shall:

23 (a) Create a file record.

24 (b) Assign a unique file number to the record.

25 (c) Include the date and time of filing of the  
26 judgment lien certificate.

27 (d) Maintain the file record in a database accessible  
28 to the public via the Internet.

29 (e) Index the judgment lien certificate according to  
30 the name of each judgment debtor.

31 (f) Index all subsequently filed documents relating to

hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

1 an original judgment lien certificate in a manner that  
2 associates them to the original judgment lien certificate.

3 (5) ~~The validity of A judgment lien certificate~~  
4 substantially satisfying the requirements of this section is  
5 effective even if it has minor errors or omissions that make  
6 the filing recorded under this section may not be defeated by  
7 technical or clerical errors made in good faith which are not  
8 seriously misleading, nor may any claim of estoppel be based  
9 on such errors.

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

12 Section 4. Section 55.204, Florida Statutes, is  
13 amended to read:

14 55.204 Duration and continuation of judgment lien;  
15 destruction of records.--

16 (1) Except as provided in this section, a judgment  
17 lien acquired under s. 55.202 lapses and becomes invalid 5  
18 years after the date of filing ~~recording~~ the judgment lien  
19 certificate.

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

25 (3) At any time within 6 months before or 6 months  
26 after the scheduled lapse of a judgment lien under subsection  
27 (1), the judgment creditor may acquire a second judgment lien  
28 by filing ~~recording~~ a new judgment lien certificate. The  
29 effective date of the second judgment lien is becomes  
30 ~~effective on the date of lapse of the original judgment lien~~  
31 ~~or on the date~~ and time on which the judgment lien certificate

hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

1 is filed ~~recorded, whichever is later. The second judgment~~  
2 ~~lien is deemed recorded on its effective date. The second~~  
3 judgment lien is ~~deemed~~ a new judgment lien and not a  
4 continuation of the original judgment lien. The second  
5 judgment lien permanently lapses and becomes invalid 5 years  
6 after its filing ~~effective~~ date, and no additional liens based  
7 on the original judgment or any judgment based on the original  
8 judgment may be acquired ~~obtained~~.

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

12 (a) The property had been itemized and its location  
13 described with sufficient particularity in the instructions  
14 for levy;

15 (b) The levy had been delivered to the sheriff prior  
16 to the date of lapse of the lien to permit the sheriff to act;  
17 and

18 (c) The property was located in the county in which  
19 the sheriff has jurisdiction at the time of delivery of the  
20 instruction for levy. Subsequent removal of the property does  
21 not defeat the lien. A court may order continuation of the  
22 lien beyond the 90-day period on a showing that extraordinary  
23 circumstances have prevented levy.

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

28 (6) The Department of State shall maintain each  
29 judgment lien file ~~record~~ and all information contained  
30 therein for a minimum of 1 year after the judgment lien lapses  
31 in accordance with this section.

1           (7) Nothing in this section shall be construed to  
 2 extend the life of a judgment lien beyond the time that the  
 3 underlying judgment, order, decree, or warrant otherwise  
 4 expires or becomes invalid pursuant to law.

5           Section 5. Section 55.205, Florida Statutes, is  
 6 amended to read:

7           55.205 Effect of judgment lien.--

8           (1) A valid judgment lien gives the judgment creditor  
 9 the right to proceed against ~~take possession of~~ the property  
 10 of the debtor ~~subject to levy~~ through writ of execution,  
 11 garnishment, or other judicial process. A judgment creditor  
 12 who has not acquired recorded a judgment lien as provided in  
 13 s. 55.202 certificate in accordance with s. 55.203 or whose  
 14 lien has lapsed may nevertheless proceed against ~~take~~  
 15 ~~possession of~~ the judgment debtor's property through ~~such~~  
 16 other judicial process. Such ~~A~~ judgment creditor proceeding by  
 17 writ of execution acquires ~~obtains~~ a lien as of the time of  
 18 levy and only on the property levied upon. Except as provided  
 19 in s. 55.208, such judgment creditor takes subject to the  
 20 claims and interest of priority judgment creditors.

21           (2) A buyer in the ordinary course of business as  
 22 defined in s. 671.201(9) takes free of a judgment lien  
 23 acquired as provided in s. 55.202 or s. 55.204 ~~created under~~  
 24 ~~this section~~ even though the buyer knows of its existence. A  
 25 valid security interest as defined in chapter 679 in  
 26 after-acquired property of the judgment debtor which is  
 27 perfected before the debtor acquires an interest in the  
 28 property ~~prior to the effective date of a judgment lien~~ takes  
 29 priority over the judgment lien on the after-acquired  
 30 property.

31           (3) An individual buyer of goods for personal, family,



hbd-06

Bill No. HB 601

Amendment No. \_\_\_\_ (for drafter's use only)

1 or household use who buys the goods from a seller who held the  
 2 goods for personal, family, or household use, and who pays  
 3 value without knowledge that the goods are subject to a  
 4 judgment lien, is entitled, to the extent of the value paid,  
 5 to a lien on the goods superior to the judgment lien. If the  
 6 buyer has made improvements to the goods, or other reasons  
 7 justify doing so, a court may adjust the amount secured by the  
 8 lien as the equities may require.

9 (4) A buyer of stock in a corporation takes free of a  
 10 judgment lien hereunder if the buyer pays value in good faith  
 11 without notice as defined in s. 678.1051.

12 Section 6. Section 55.206, Florida Statutes, is  
 13 amended to read:

14 55.206 Amendment of judgment lien file record;  
 15 termination, partial release, assignment, continuation,  
 16 tolling, correction.--

17 (1) An amendment to a judgment lien acquired as  
 18 provided under s. 55.202 may be filed ~~recorded~~ by or on behalf  
 19 of the judgment creditor of record, which may provide for:

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

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

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

26 (d) The correction or change of any other information  
 27 provided in the ~~record of a~~ judgment lien file.

28 (2) Within 30 days following receipt of a written  
 29 demand by a judgment debtor after the obligation underlying a  
 30 judgment lien has been fully or partially released, the  
 31 judgment lienholder must deliver to the judgment debtor a

hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

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

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

16 Section 7. Section 55.207, Florida Statutes, is  
17 amended to read:

18 55.207 Correction of judgment lien file record.--

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

25 (2) A correction statement must:

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

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

30 (c) Provide the basis for the person's belief that the  
31 judgment lien certificate was wrongfully filed or the file

hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

1 ~~record~~ is inaccurate; and

2 (d) Indicate the manner in which the person believes  
3 the file ~~record~~ should be corrected to cure any inaccuracy.

4 (3) The department shall ensure that a correction  
5 statement is indexed and available in the same manner as any  
6 filed ~~recorded~~ lien certificate in the central database of  
7 judgment lien files ~~records~~.

8 (4) The filing of a correction statement does not  
9 affect the effectiveness of the judgment lien or other filing  
10 ~~filed record~~.

11 Section 8. Section 55.208, Florida Statutes, is  
12 amended to read:

13 55.208 Effect of filed ~~recorded~~ judgment lien on writs  
14 of execution previously delivered to a sheriff.--

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

23 (2) If a judgment creditor who has delivered a writ of  
24 execution to a sheriff in any county prior to October 1, 2001,  
25 properly files a judgment lien certificate with the Department  
26 of State by October 1, 2003, the resulting judgment lien is  
27 deemed filed ~~recorded~~ on the date the writ was delivered to  
28 the sheriff as to all ~~leviable~~ property of the judgment debtor  
29 subject to execution in this state under s. 56.061 which is  
30 located in that county on October 1, 2001, and that remains  
31 continuously in that county thereafter. Priority of such

hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

1 judgment liens is determined as of the effective date they are  
2 considered to have been filed. As to all other property of the  
3 judgment debtor, the effective date of the judgment lien is as  
4 provided in s. 55.202. The duration of all judgment liens is  
5 as provided in s. 55.204, ~~regardless of the date on which a~~  
6 ~~lien is determined to have been recorded.~~

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

13 Section 9. Section 55.209, Florida Statutes, is  
14 amended to read:

15 55.209 Department of State; processing fees,  
16 responsibilities.--

17 (1) Except for liens, assessments, warrants, or  
18 judgments filed electronically ~~by a state agency or a~~  
19 ~~political subdivision of the state,~~ as provided in s.  
20 55.202(2)s. 55.202(6), the Department of State shall collect  
21 the following nonrefundable processing fees for all documents  
22 filed ~~or recorded~~ in accordance with ss. 55.201-55.209:

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

25 (b) For the certification of any filed recorded  
26 document, \$10.

27 (c) For copies of judgment lien documents which are  
28 produced by the Department of State, \$1 per page or part  
29 thereof. However, no charge may be collected for copies  
30 provided in an on-line electronic format via the Internet.

31 (d) For indexing a judgment lien by multiple judgment

hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

1 debtor names, \$5 per additional name.

2 (e) For each additional facing page attached to a  
3 judgment lien certificate or document permitted to be filed ~~or~~  
4 ~~recorded~~, \$5.

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

15 Section 10. Subsections (6) and (8) of section 55.604,  
16 Florida Statutes, are amended to read:

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

23 (6) Once an order recognizing the foreign judgment has  
24 been entered by a court of this state, the order and a copy of  
25 the judgment ~~shall be filed with the Department of State and~~  
26 may be recorded in any other county of this state without  
27 further notice or proceedings, and shall be enforceable in the  
28 same manner as the judgment of a court of this state.

29 (8) A judgment lien on personal property is acquired  
30 only when a judgment lien certificate is filed in accordance  
31 with s. 55.203 ~~satisfying the requirements of s. 55.203 has~~

hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

1 ~~been recorded~~ with the Department of State.

2 Section 11. Section 55.605, Florida Statutes, is  
3 amended to read:

4 55.605 Grounds for nonrecognition.--

5 (1) A foreign judgment is not conclusive if:

6 (a) The judgment was rendered under a system which  
7 does not provide impartial tribunals or procedures compatible  
8 with the requirements of due process of law.

9 (b) The foreign court did not have personal  
10 jurisdiction over the defendant.

11 (c) The foreign court did not have jurisdiction over  
12 the subject matter.

13 (2) A foreign judgment need not be recognized if:

14 (a) The defendant in the proceedings in the foreign  
15 court did not receive notice of the proceedings in sufficient  
16 time to enable him or her to defend.

17 (b) The judgment was obtained by fraud.

18 (c) The cause of action or claim for relief on which  
19 the judgment is based is repugnant to the public policy of  
20 this state.

21 (d) The judgment conflicts with another final and  
22 conclusive order.

23 (e) The proceeding in the foreign court was contrary  
24 to an agreement between the parties under which the dispute in  
25 question was to be settled otherwise than by proceedings in  
26 that court.

27 (f) In the case of jurisdiction based only on personal  
28 service, the foreign court was a seriously inconvenient forum  
29 for the trial of the action.

30 (g) The foreign jurisdiction where judgment was  
31 rendered would not give recognition to a similar judgment

hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

1 rendered in this state. ~~For purposes of this paragraph, the~~  
2 ~~Secretary of State shall establish and maintain a list of~~  
3 ~~foreign jurisdictions where the condition specified in this~~  
4 ~~paragraph has been found to apply.~~

5 Section 12. Section 56.21, Florida Statutes, is  
6 amended to read:

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

hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

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

11 Section 13. Subsections (1) and (2) of section 56.27,  
 12 Florida Statutes, are amended to read:

13 56.27 Executions; payment of 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 priority lienholder under s.  
 18 55.202, s. 55.204(3), or s. 55.208(2)~~judgment lienholder~~  
 19 ~~having the earliest recorded judgment lien acquired under ss.~~  
 20 ~~55.202 and 55.204(3)~~, as set forth in an affidavit required by  
 21 subsection (4), or his or her attorney, in satisfaction of the  
 22 judgment lien, provided that the judgment lien has not lapsed  
 23 at the time of the levy. The receipt of the attorney shall be  
 24 a 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



hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

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), or s.  
4 55.208(2), as set forth in an affidavit required under  
5 subsection (4). If there is a surplus after all valid judgment  
6 liens and execution liens have been satisfied, the surplus  
7 must be paid to the defendant.

8 Section 14. Section 77.01, Florida Statutes, is  
9 amended to read:

10 77.01 Right to garnishment.--Every person or entity  
11 who has sued to recover a debt or has recovered judgment in  
12 any court against any person or entity has a right to a writ  
13 of garnishment, in the manner hereinafter provided, to subject  
14 any debt due ~~or any debt under a negotiable instrument that~~  
15 ~~will become due~~ to defendant by a third person or any debt not  
16 evidenced by a negotiable instrument that will become due  
17 absolutely through the passage of time only to the defendant  
18 by a third person, and any tangible or intangible personal  
19 property of defendant in the possession or control of a third  
20 person. The officers, agents, and employees of any companies  
21 or corporations are third persons in regard to the companies  
22 or corporations, and as such are subject to garnishment after  
23 judgment against the companies or corporations.

24 Section 15. Section 77.041, Florida Statutes, is  
25 amended to read:

26 77.041 Notice to individual defendant for claim of  
27 exemption from garnishment; procedure for hearing.--

28 (1) Upon application for a writ of garnishment by a  
29 plaintiff, if the defendant is an individual, the clerk of the  
30 court shall attach to the writ the following "Notice to  
31 Defendant":

hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

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

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

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

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

If you request a hearing, it will be held as soon as possible after your request is received by the court. The

hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

1 plaintiff must file any objection within 2 business days if  
 2 you hand delivered to the plaintiff a copy of the form for  
 3 Claim of Exemption and Request for Hearing or, alternatively,  
 4 7 days if you mailed a copy of the form for claim and request  
 5 to the plaintiff. If the plaintiff files an objection to your  
 6 Claim of Exemption and Request for Hearing, the clerk will  
 7 notify you and the other parties of the time and date of the  
 8 hearing. You may attend the hearing with or without an  
 9 attorney. If the plaintiff fails to file an objection, no  
 10 hearing is required, the writ of garnishment will be dissolved  
 11 and your wages, money, or property will be released.

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

22  
 23                                   CLAIM OF EXEMPTION AND  
 24                                   REQUEST FOR HEARING  
 25

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

- 28     ....     1. Head of family wages. (You must check a.  
 29                   or b. below.)  
 30     ....     a. I provide more than one-half of the  
 31                   support for a child or other dependent and

hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

1            have net earnings of \$500 or less per week.

2    ....    b. I provide more than one-half of the

3            support for a child or other dependent, have

4            net earnings of more than \$500 per week, but

5            have not agreed in writing to have my wages

6            garnished.

7    ....    2. Social Security benefits.

8    ....    3. Supplemental Security Income benefits.

9    ....    4. Public assistance (welfare).

10   ....    5. Workers' Compensation.

11   ....    6. Unemployment Compensation.

12   ....    7. Veterans' benefits.

13   ....    8. Retirement or profit-sharing benefits or

14            pension money.

15   ....    9. Life insurance benefits or cash surrender

16            value of a life insurance policy or proceeds

17            of annuity contract.

18   ....    10. Disability income benefits.

19   ....    11. Prepaid College Trust Fund or Medical

20            Savings Account.

21   ....    12. Other exemptions as provided by law.

22            .....(explain)

23

24 I request a hearing to decide the validity of my claim. Notice

25 of the hearing should be given to me at:

26

27 Address: .....

28 Telephone number:.....

29

30 The statements made in this request are true to the best of my

31 knowledge and belief.

hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

1  
2 .....  
3 Defendant's signature  
4 Date.....  
5  
6 STATE OF FLORIDA  
7 COUNTY OF  
8  
9 Sworn and subscribed to before me this ..... day of  
10 ...(month and year)..., by ...(name of person making  
11 statement)...

12 Notary Public/Deputy Clerk  
13 Personally Known .....OR Produced Identification....  
14 Type of Identification Produced.....  
15

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

28 (3) Upon the filing by a defendant of a claim of  
29 exemption and request for hearing, a hearing will be held as  
30 soon as is practicable to determine the validity of the  
31 claimed exemptions. If the plaintiff does not file a sworn

hbd-06

Bill No. HB 601

Amendment No. \_\_\_\_ (for drafter's use only)

1 written statement that contests the defendant's claim of  
2 exemption within 2 business days after hand delivering the  
3 claim and request or, alternatively, 7 business days, if the  
4 claim and request were served by mail, no hearing is required  
5 and the clerk must automatically dissolve the writ and notify  
6 the parties of the dissolution by mail.

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

9 678.1051 Notice of adverse claim.--

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

13 Section 17. Paragraph (a) of subsection (5) of section  
14 713.901, Florida Statutes, and subsections (6) and (7) of that  
15 section are amended to read:

16 713.901 Florida Uniform Federal Lien Registration  
17 Act.--

18 (5) DUTIES OF FILING OFFICER.--

19 (a) If a notice of federal lien, a refiling of a  
20 notice of federal lien, or a notice of revocation of any  
21 certificate described in paragraph (b) is presented to a  
22 filing officer who is:

23 1. The Secretary of State or his or her designee, the  
24 filing officer ~~he or she~~ shall cause the notice to be marked,  
25 held, and indexed in accordance with the provisions of s.  
26 55.202 and 55.203 ~~s. 679.403(4)~~, ~~as if the notice were a~~  
27 ~~financing statement within the meaning of the Uniform~~  
28 ~~Commercial Code.~~

29 2. Any other officer described in subsection (3), the  
30 filing officer ~~he or she~~ shall mark and index the notice or  
31 certificate in the same manner as other instruments filed for

hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

1 recording in the official records.

2 (6) FEES.--The charges or fees of the Secretary of  
3 State, with respect to a notice or certificate filed under  
4 this section, or for searching records with respect thereto,  
5 shall be the same as prescribed in s. ss.15.091 and 679.402,  
6 ~~for filing and indexing financing statements or other writings~~  
7 ~~under chapter 679, or for searching records with respect~~  
8 ~~thereto.~~ The charges or fees of the clerks of the circuit  
9 court with respect to a notice or certificate filed under this  
10 section shall be the same as prescribed in s. 28.24, relating  
11 to instruments recorded in the official records.

12 (7) UNIFORMITY OF APPLICATION AND CONSTRUCTION.--This  
13 section shall be applied and construed to effectuate its  
14 general purpose to make uniform the law with respect to the  
15 subject of this section among the states enacting it and to  
16 permit a filing officer, including the Secretary of State, who  
17 is now using a paper filing system to record notices of liens,  
18 certificates, and other notices affecting federal tax liens or  
19 other federal liens to use a filing system consisting of paper  
20 or an electronic or magnetic medium, or some combination  
21 thereof, as he or she considers appropriate, and to permit  
22 federal officials to file notices of liens upon real or  
23 personal property for obligations payable to the United  
24 States, and certificates and notices affecting those liens,  
25 under the filing system being maintained by the Secretary of  
26 State or the filing officer.

27 Section 18. This act shall take effect October 1,  
28 2001.

29  
30  
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hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

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

2 And the title is amended as follows:

3 remove from the title of the bill: the entire title

4

5 and insert in lieu thereof:

6

A bill to be entitled

7

An act relating to judgments and liens;

8

amending s. 55.201, F.S.; conforming

9

terminology; amending s. 55.202, F.S.;

10

clarifying enforceable judgments subject to

11

law; amending s. 55.203, F.S.; providing for

12

electronic filing of liens, assessments,

13

warrants, and judgments directly into database;

14

amending s. 55.204, F.S.; clarifying content of

15

judgment lien certificates; conforming

16

terminology and clarifying filekeeping of

17

judgment lien files by the Department of State;

18

providing that filing of a judgment lien

19

certificate does not extend the life of a

20

judgment, order, decree, or warrant; amending

21

s. 55.205, F.S.; clarifying the effect of

22

judgment liens upon buyers who buy without

23

notice as defined in s. 678.1051, F.S.;

24

amending s. 55.206, F.S.; conforming

25

terminology regarding amendments of judgment

26

lien files; amending s. 55.207, F.S.;

27

conforming terminology regarding correction of

28

judgment lien files; amending s. 55.208, F.S.;

29

conforming terminology regarding effect of

30

filed judgment liens on writs of execution

31

previously delivered to sheriffs; amending s.



hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

1           55.209, F.S.; clarifying provisions regarding  
2           processing fees of judgment lien filing;  
3           amending s. 55.604, F.S.; eliminating  
4           requirement to file foreign judgments with the  
5           Department of State; amending s. 55.605, F.S.;  
6           eliminating requirements that the Secretary of  
7           State maintain a list of foreign jurisdictions  
8           recognizing judgments; amending s. 56.21, F.S.;  
9           clarifying provisions regarding execution  
10          sales; amending s. 56.27, F.S.; clarifying  
11          provisions regarding execution and payments  
12          thereunder; amending s. 77.01, F.S.; providing  
13          that certain debts related to negotiable  
14          instruments are not subject to garnishment;  
15          amending s. 77.041, F.S.; providing that only  
16          individuals subject to garnishment must be  
17          provided a "Notice to Defendant"; amending s.  
18          678.1051, F.S.; providing that a judgment lien  
19          certificate does not constitute an adverse  
20          claim against a financial asset; amending s.  
21          713.901, F.S., the Florida Uniform Federal Lien  
22          Registration Act; providing procedures for  
23          filing documentation relating to federal liens;  
24          providing an effective date.

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