

1 A bill to be entitled
2 An act relating to judgments and liens;
3 amending s. 55.201, F.S.; conforming
4 terminology; amending s. 55.202, F.S.;
5 clarifying enforceable judgments subject to
6 law; amending s. 55.203, F.S.; providing for
7 electronic filing of liens, assessments,
8 warrants, and judgments directly into database;
9 amending s. 55.204, F.S.; clarifying content of
10 judgment lien certificates; conforming
11 terminology and clarifying filekeeping of
12 judgment lien files by the Department of State;
13 providing that filing of a judgment lien
14 certificate does not extend the life of a
15 judgment, order, decree, or warrant; amending
16 s. 55.205, F.S.; clarifying the effect of
17 judgment liens upon buyers who buy without
18 notice as defined in s. 678.1051, F.S.;
19 providing an exemption for fraudulent
20 conveyances; amending s. 55.206, F.S.;
21 conforming terminology regarding amendments of
22 judgment lien files; amending s. 55.207, F.S.;
23 conforming terminology regarding correction of
24 judgment lien files; amending s. 55.208, F.S.;
25 conforming terminology regarding effect of
26 filed judgment liens on writs of execution
27 previously delivered to sheriffs; amending s.
28 55.209, F.S.; clarifying provisions regarding
29 processing fees of judgment lien filing;
30 amending s. 55.604, F.S.; eliminating
31 requirement to file foreign judgments with the

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

21

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

23

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

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

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

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

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

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

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

17 ~~(b)(e)~~ Entered by an issuing tribunal with respect to
18 a support order being enforced in this state pursuant to
19 chapter 88; or

20 ~~(c)(f)~~ Enforceable by operation of law pursuant to s.
21 61.14(6).

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

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

31

1 (b) For any ~~tax lien, warrant, or assessment, or~~
2 judgment collected by the Department of Revenue ~~granted by law~~
3 ~~to the state or any of the political subdivisions for any tax~~
4 ~~enumerated in s. 72.011, a judgment lien may be acquired by~~
5 filing the judgment lien certificate information ~~recording the~~
6 ~~lien~~ or warrant with the Department of State in accordance
7 with s. 55.205(5).

8 (c) Except as provided in s. 55.208, the effective
9 date of a judgment lien is the date, including the time of
10 day, of filing. Although ~~A judgment lien is effective as of~~
11 ~~the date of recording, but no lien attaches to property, and a~~
12 creditor does not become a lien creditor as to liens under
13 chapter 679, until the debtor acquires an interest in the
14 property, priority among competing judgment liens is
15 determined in order of filing date and time.

16 (d) Except as provided in s. 55.204(3), a judgment
17 creditor may file record only one effective judgment lien
18 certificate based upon a particular judgment.

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

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

29 (5) Liens, assessments, warrants, or judgments filed
30 pursuant to paragraph (2)(b) ~~administered by or secured on~~
31 ~~behalf of any state agency or political subdivision of the~~

1 ~~state~~ may be filed directly into the central database by the
2 Department of Revenue ~~such agency or subdivision~~ through
3 electronic or information data exchange programs approved by
4 the Department of State. Such filings must contain the
5 information set forth in s. 55.203(1).

6 Section 3. Section 55.203, Florida Statutes, is
7 amended to read:

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

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

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

15 (b) The last known address and ~~social security number,~~
16 ~~federal identification number, or, in the instance in which~~
17 ~~the judgment creditor is a state agency or a political~~
18 ~~subdivision of the state, a taxpayer or other distinct~~
19 ~~identification number of each judgment debtor, except that in~~
20 ~~cases of default judgment, the social security number must be~~
21 ~~included only if known, or federal employer identification~~
22 number of each judgment debtor if shown on the judgment
23 itself.

24 (c) The legal name of the judgment creditor and, if a
25 recorded legal entity, the registered name and document filing
26 number as shown in the records of the Department of State, and
27 the name of the judgment creditor's attorney or duly
28 authorized representative, if any.

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

31

1 (e) The identity of the court which entered the
2 judgment and the case number and the date the written judgment
3 was entered.

4 (f) The amount due on the money judgment and the
5 applicable interest rate.

6 (g) The signature of the judgment creditor or the
7 judgment creditor's attorney or duly authorized
8 representative.

9 (h) With respect to a lien acquired ~~created~~ by a
10 delivery of a writ of execution to a sheriff prior to October
11 1, 2001, an affidavit by the judgment creditor which attests
12 that the person or entity possesses any documentary evidence
13 of the date of delivery of the writ, and a statement of that
14 date or a certification by the sheriff of the date as provided
15 in s. 30.17(4).

16 (2) A second judgment lien certificate, as provided in
17 s. 55.204(3), must include the information required in
18 subsection (1) and must state the file number assigned to the
19 file record of the original judgment lien certificate, the
20 money amount remaining unpaid, and the interest accrued
21 thereon.

22 (3) An amendment, as provided in s. 55.206, or a
23 correction statement, as provided in s. 55.207, must state the
24 file number of the judgment lien file record to which the
25 amendment or correction statement relates and must state the
26 action, change, or statement to be added.

27 (4) The Department of State shall examine, for
28 compliance with ss. 55.201-55.209, each document submitted for
29 filing recording and shall accept or reject the document
30 accordingly. For each judgment lien certificate filed
31 ~~recorded~~, the department shall:

- 1 (a) Create a file record.
2 (b) Assign a unique file number to the record.
3 (c) Include the date and time of filing of the
4 judgment lien certificate.
5 (d) Maintain the file record in a database accessible
6 to the public via the Internet.
7 (e) Index the judgment lien certificate according to
8 the name of each judgment debtor.
9 (f) Index all subsequently filed documents relating to
10 an original judgment lien certificate in a manner that
11 associates them to the original judgment lien certificate.
12 (5) ~~The validity of A judgment lien certificate~~
13 substantially satisfying the requirements of this section is
14 effective even if it has minor errors or omissions that make
15 the filing recorded under this section may not be defeated by
16 technical or clerical errors made in good faith which are not
17 seriously misleading, nor may any claim of estoppel be based
18 on such errors.
19 (6) The Department of State shall prescribe mandatory
20 forms of all documents to be filed under this section.
21 Section 4. Section 55.204, Florida Statutes, is
22 amended to read:
23 55.204 Duration and continuation of judgment lien;
24 destruction of records.--
25 (1) Except as provided in this section, a judgment
26 lien acquired under s. 55.202 lapses and becomes invalid 5
27 years after the date of filing ~~recording~~ the judgment lien
28 certificate.
29 (2) Liens securing the payment of child support or tax
30 obligations as set forth in s. 95.091(1)(b) shall not lapse
31 until 20 years after the date of the original filing of the

1 warrant or other document required by law to establish a lien.
2 No second lien based on the original filing may be obtained.

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

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

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

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

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

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

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

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

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

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

17 55.205 Effect of judgment lien.--

18 (1) A valid judgment lien gives the judgment creditor
19 the right to proceed against ~~take possession of~~ the property
20 of the debtor ~~subject to levy~~ through writ of execution,
21 garnishment, or other judicial process. A judgment creditor
22 who has not acquired recorded a judgment lien as provided in
23 s. 55.202 ~~certificate in accordance with s. 55.203~~ or whose
24 lien has lapsed may nevertheless proceed against ~~take~~
25 ~~possession of~~ the judgment debtor's property through ~~such~~
26 other judicial process. Such ~~A~~ judgment creditor proceeding by
27 writ of execution acquires ~~obtains~~ a lien as of the time of
28 levy and only on the property levied upon. Except as provided
29 in s. 55.208, such judgment creditor takes subject to the
30 claims and interest of priority judgment creditors.

31

1 (2) A buyer in the ordinary course of business as
 3 acquired as provided in s. 55.202 or s. 55.204 ~~created under~~
 4 _____ even though the buyer knows of its existence. A
 5 valid security interest as defined in chapter 679 in
 7 perfected before the debtor acquires an interest in the
property _____ takes
 9 priority over the judgment lien on the after-acquired

11 (3) An individual buyer of goods for personal, family,
or household use who buys the goods from a seller who held the
 13 _____
 14 value without knowledge that the goods are subject to a
judgment lien, is entitled, to the extent of the value paid,
 16 _____
 17 buyer has made improvements to the goods, or other reasons
justify doing so, a court may adjust the amount secured by the
 19 _____
 20 apply to:

(a) A transfer to a relative or an insider of the
 22 _____

23 (b) A fraudulent transfer, as defined by either s.
726.105, or by U.S.C. 548;
 25 _____

26 222.30; or

(d) A transfer of goods by a judgment debtor the value
 28 _____

29 (4) A buyer of stock in a corporation takes free of a
judgment lien hereunder if the buyer pays value in good faith
 31 _____

1 Section 6. Section 55.206, Florida Statutes, is
2 amended to read:

3 55.206 Amendment of judgment lien file ~~record~~;
4 termination, partial release, assignment, continuation,
5 tolling, correction.--

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

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

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

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

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

17 (2) Within 30 days following receipt of a written
18 demand by a judgment debtor after the obligation underlying a
19 judgment lien has been fully or partially released, the
20 judgment lienholder must deliver to the judgment debtor a
21 written statement indicating that there is no longer a claim
22 for a lien on the personal property of the judgment debtor or
23 that the judgment lien has been partially released and setting
24 forth the value of the lien remaining unpaid as of the date of
25 the statement. A statement signed by an assignee must include
26 or be accompanied by a separate written acknowledgement of
27 assignment signed by or for the benefit of the judgment
28 creditor of record. If the judgment lienholder fails to
29 deliver such a statement within 30 days after proper written
30 demand therefor, the judgment lienholder is liable to the
31 judgment debtor for \$100, and for any actual or consequential

1 damages, including reasonable attorney's fees, caused by such
2 failure to the judgment debtor.

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

5 Section 7. Section 55.207, Florida Statutes, is
6 amended to read:

7 55.207 Correction of judgment lien file record.--

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

14 (2) A correction statement must:

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

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

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

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

24 (3) The department shall ensure that a correction
25 statement is indexed and available in the same manner as any
26 filed recorded lien certificate in the central database of
27 judgment lien files records.

28 (4) The filing of a correction statement does not
29 affect the effectiveness of the judgment lien or other filing
30 filed record.

31

1 Section 8. Section 55.208, Florida Statutes, is
2 amended to read:

3 55.208 Effect of filed ~~recorded~~ judgment lien on writs
4 of execution previously delivered to a sheriff.--

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

13 (2) If a judgment creditor who has delivered a writ of
14 execution to a sheriff in any county prior to October 1, 2001,
15 properly files a judgment lien certificate with the Department
16 of State by October 1, 2003, the resulting judgment lien is
17 deemed filed ~~recorded~~ on the date the writ was delivered to
18 the sheriff as to all ~~leviable~~ property of the judgment debtor
19 subject to execution in this state under s. 56.061 which is
20 located in that county on October 1, 2001, and that remains
21 continuously in that county thereafter. Priority of such
22 judgment liens is determined as of the effective date they are
23 considered to have been filed.As to all other property of the
24 judgment debtor, the effective date of the judgment lien is as
25 provided in s. 55.202. The duration of all judgment liens is
26 as provided in s. 55.204, ~~regardless of the date on which a~~
27 ~~lien is determined to have been recorded.~~

28 (3) If a judgment creditor who has delivered a writ of
29 execution to a sheriff in any county before October 1, 2001,
30 does not properly file ~~record~~ a judgment lien certificate with
31 the Department of State by October 1, 2003, such writ is

1 considered to have been abandoned and to be of no effect after

3 Section 9. Section 55.209, Florida Statutes, is
4 amended to read:

6 responsibilities.--

7 (1) Except for liens, assessments, _____ or
8 judgments filed electronically _____
9 ~~political subdivision of the state,~~ s.
10 _____ ~~s. 55.202(6)~~, the Department of State shall collect

12 filed ~~or recorded~~

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

16 document, \$10. filed _____

17 (c) For copies of judgment lien documents which are
19 thereof. However, no charge may be collected for copies
20 provided in an on-line electronic format via the Internet.

22 debtor names, \$5 per additional name.

23 (e) For each additional facing page attached to a ~~or~~
25 _____, \$5.

26 (2) Unless otherwise provided by law, the Department
28 established under s. 55.201 to determine the existence of any
29 judgment lien _____ ~~record~~
30 in connection with those services for which payment of
31 services are required under this section. The information

CODING:Words _____ are deletions; words underlined

1 maintained in the database is for public notice purposes only
2 and the department may make no certification or determination
3 of the validity of any judgment lien acquired under ss. 55.202
4 and 55.204(3).

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

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

13 (6) Once an order recognizing the foreign judgment has
14 been entered by a court of this state, the order and a copy of
15 the judgment ~~shall be filed with the Department of State and~~
16 may be recorded in any other county of this state without
17 further notice or proceedings, and shall be enforceable in the
18 same manner as the judgment of a court of this state.

19 (8) A judgment lien on personal property is acquired
20 only when a judgment lien certificate is filed in accordance
21 with s. 55.203 ~~satisfying the requirements of s. 55.203 has~~
22 ~~been recorded~~ with the Department of State.

23 Section 11. Section 55.605, Florida Statutes, is
24 amended to read:

25 55.605 Grounds for nonrecognition.--

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

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

30 (b) The foreign court did not have personal
31 jurisdiction over the defendant.

1 (c) The foreign court did not have jurisdiction over
2 the subject matter.

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

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

7 (b) The judgment was obtained by fraud.

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

11 (d) The judgment conflicts with another final and
12 conclusive order.

13 (e) The proceeding in the foreign court was contrary
14 to an agreement between the parties under which the dispute in
15 question was to be settled otherwise than by proceedings in
16 that court.

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

20 (g) The foreign jurisdiction where judgment was
21 rendered would not give recognition to a similar judgment
22 rendered in this state. ~~For purposes of this paragraph, the~~
23 ~~Secretary of State shall establish and maintain a list of~~
24 ~~foreign jurisdictions where the condition specified in this~~
25 ~~paragraph has been found to apply.~~

26 Section 12. Section 56.21, Florida Statutes, is
27 amended to read:

28 56.21 Execution sales; notice.--Notice of all sales
29 under execution shall be given by advertisement once each week
30 for 4 successive weeks in a newspaper published in the county
31 in which the sale is to take place. The time of such notice

1 may be shortened in the discretion of the court from which the
2 execution issued, upon affidavit that the property to be sold

4 held until date of sale. On or before the date of the first
5 publication or posting of the notice of sale, a copy of the

7 attorney of record of the judgment debtor, or to the judgment
8 debtor at the judgment debtor's last known address if the

10 of the notice of sale shall be mailed even though a default
11 judgment was entered. When levying upon personal property, a

13 affidavit required by s. 56.27(4) shall be made by the levying
14 creditor to the attorney of record of the judgment creditor or
15 acquired a judgment lien
16 _____ as provided in s. 55.202
17 or s. 55.204(3) at the address listed in the judgment lien

19 lien certificate, and to all secured creditors who have filed
20 financing statements as provided in s. 679.401 in the name of

22 of the kind to be sold at the execution sale at the address
23 listed in the financing statement, or, if amended, in any

25 made in the same manner as notice is made to any judgment
26 debtor under this section. When levying upon real property,

28 property owner of record in the same manner as notice is made
29 to any judgment debtor pursuant to this section. When selling

31 than 30 days after the date of the first advertisement.

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

3 56.27 Executions; payment of money collected.--

4 (1) All money received under executions shall be paid,
5 in the order prescribed, to the following: the sheriff, for
6 costs; the levying creditor in the amount of \$500 as
7 liquidated expenses; and the priority lienholder under s.
8 55.202, s. 55.204(3), or s. 55.208(2)~~judgment lienholder~~
9 ~~having the earliest recorded judgment lien acquired under ss.~~
10 ~~55.202 and 55.204(3)~~, as set forth in an affidavit required by
11 subsection (4), or his or her attorney, in satisfaction of the
12 judgment lien, provided that the judgment lien has not lapsed
13 at the time of the levy. The receipt of the attorney shall be
14 a release of the officer paying the money to him or her. When
15 the name of more than one attorney appears in the court file,
16 the money shall be paid to the attorney who originally
17 commenced the action or who made the original defense unless
18 the file shows that another attorney has been substituted.

19 (2) When property sold under execution brings more
20 than the amount needed to satisfy the provisions of subsection
21 (1), the surplus shall be paid in the order of priority to any
22 judgment lienholders whose judgment liens have not lapsed.
23 Priority shall be based on the effective date of the judgment
24 lien acquired under s. 55.202, ~~or~~ s. 55.204(3), or s.
25 55.208(2), as set forth in an affidavit required under
26 subsection (4). If there is a surplus after all valid judgment
27 liens and execution liens have been satisfied, the surplus
28 must be paid to the defendant.

29 Section 14. Section 77.01, Florida Statutes, is
30 amended to read:

31

1 77.01 Right to garnishment.--Every person or entity
2 who has sued to recover a debt or has recovered judgment in
3 any court against any person or entity has a right to a writ
4 of garnishment, in the manner hereinafter provided, to subject
5 any debt due ~~or any debt under a negotiable instrument that~~
6 ~~will become due~~ to defendant by a third person or any debt not
7 evidenced by a negotiable instrument that will become due
8 absolutely through the passage of time only to the defendant
9 by a third person, and any tangible or intangible personal
10 property of defendant in the possession or control of a third
11 person. The officers, agents, and employees of any companies
12 or corporations are third persons in regard to the companies
13 or corporations, and as such are subject to garnishment after
14 judgment against the companies or corporations.

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

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

19 (1) Upon application for a writ of garnishment by a
20 plaintiff, if the defendant is an individual, the clerk of the
21 court shall attach to the writ the following "Notice to
22 Defendant":

23
24 NOTICE TO DEFENDANT OF RIGHT AGAINST
25 GARNISHMENT OF WAGES, MONEY,
26 AND OTHER PROPERTY

27
28 The Writ of Garnishment delivered to you with this
29 Notice means that wages, money, and other property belonging
30 to you have been garnished to pay a court judgment against
31

2 MONEY, OR PROPERTY. READ THIS NOTICE CAREFULLY.

3 State and federal laws provide that certain wages,
5 loan, or credit union, may not be taken to pay certain types
6 of court judgments. Such wages, money, and property are exempt
8 form for Claim of Exemption and Request for Hearing. This list
9 does not include all possible exemptions. You should consult a

11 TO KEEP YOUR WAGES, MONEY, AND OTHER PROPERTY
12 FROM BEING GARNISHED, OR TO GET BACK ANYTHING

14 CLAIM OF EXEMPTION AND REQUEST FOR HEARING AS
15 SET FORTH BELOW AND HAVE THE FORM NOTARIZED.

17 WITHIN 20 DAYS AFTER THE DATE YOU RECEIVE THIS
18 NOTICE OR YOU MAY LOSE IMPORTANT RIGHTS. YOU

20 TO THE PLAINTIFF AND THE GARNISHEE AT THE
21 ADDRESSES LISTED ON THE WRIT OF GARNISHMENT.

23 possible after your request is received by the court. The
24 plaintiff must file any objection within 2 business days if

26 Claim of Exemption and Request for Hearing or, alternatively,
27 7 days if you mailed a copy of the form for claim and request

29 Claim of Exemption and Request for Hearing, the clerk will
30 notify you and the other parties of the time and date of the

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

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

14
15 CLAIM OF EXEMPTION AND
16 REQUEST FOR HEARING
17

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 Telephone number:.....

21
22 The statements made in this request are true to the best of my
23 knowledge and belief.

24
25
26 Defendant's signature
27 Date.....

28
29 STATE OF FLORIDA
30 COUNTY OF

31

1 Sworn and subscribed to before me this day of
2 ...(month and year)..., by ...(name of person making
3 statement)...

4 Notary Public/Deputy Clerk

5 Personally KnownOR Produced Identification....

6 Type of Identification Produced.....

7

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

20 (3) Upon the filing by a defendant of a claim of
21 exemption and request for hearing, a hearing will be held as
22 soon as is practicable to determine the validity of the
23 claimed exemptions. If the plaintiff does not file a sworn
24 written statement that contests the defendant's claim of
25 exemption within 2 business days after hand delivering the
26 claim and request or, alternatively, 7 business days, if the
27 claim and request were served by mail, no hearing is required
28 and the clerk must automatically dissolve the writ and notify
29 the parties of the dissolution by mail.

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

1 678.1051 Notice of adverse claim.--

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

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

8 713.901 Florida Uniform Federal Lien Registration
9 Act.--

10 (5) DUTIES OF FILING OFFICER.--

11 (a) If a notice of federal lien, a refileing of a
12 notice of federal lien, or a notice of revocation of any
13 certificate described in paragraph (b) is presented to a
14 filing officer who is:

15 1. The Secretary of State or his or her designee, the
16 filing officer ~~he or she~~ shall cause the notice to be marked,
17 held, and indexed in accordance with the provisions of s.
18 55.202 and 55.203 ~~s. 679.403(4)~~, ~~as if the notice were a~~
19 ~~financing statement within the meaning of the Uniform~~
20 ~~Commercial Code.~~

21 2. Any other officer described in subsection (3), the
22 filing officer ~~he or she~~ shall mark and index the notice or
23 certificate in the same manner as other instruments filed for
24 recording in the official records.

25 (6) FEES.--The charges or fees of the Secretary of
26 State, with respect to a notice or certificate filed under
27 this section, or for searching records with respect thereto,
28 shall be the same as prescribed in s.ss.15.091 and 679.402,
29 ~~for filing and indexing financing statements or other writings~~
30 ~~under chapter 679, or for searching records with respect~~
31 ~~thereto.~~ The charges or fees of the clerks of the circuit

1 court with respect to a notice or certificate filed under this
2 section shall be the same as prescribed in s. 28.24, relating
3 to instruments recorded in the official records.

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

19 Section 18. This act shall take effect October 1,
20 2001.