

By Senator Campbell

32-653D-04

See HB 955

1                                   A bill to be entitled  
2           An act relating to judgment liens; amending s.  
3           55.141, F.S.; revising provisions relating to  
4           satisfaction of judgments and decrees;  
5           eliminating authority of judges to act under  
6           these provisions when there is no clerk of  
7           court; revising requirements of clerk when  
8           accepting payment for satisfaction of a  
9           judgment and executing and recording a  
10          satisfaction of judgment; providing a sample  
11          form to be used by a clerk when recording a  
12          satisfaction of judgment; revising provisions  
13          relating to notification of satisfaction of  
14          judgment to a judgment holder; amending s.  
15          55.202, F.S.; revising procedures for acquiring  
16          a judgment lien; providing court authorization  
17          to file a judgment lien certificate before a  
18          judgment becomes final under certain  
19          circumstances; providing effect; amending s.  
20          55.204, F.S.; revising provisions relating to  
21          continuation of judgment liens; revising  
22          provisions requiring the Department of State to  
23          maintain certain files and information;  
24          amending s. 55.205, F.S.; deleting a provision  
25          authorizing certain creditors to bring certain  
26          actions against property of a debtor; amending  
27          ss. 55.602, 55.603, 55.604, 55.605, and 55.606,  
28          F.S.; revising provisions relating to foreign  
29          judgments to apply only to out-of-country  
30          foreign judgments; amending s. 56.21, F.S.;  
31          revising requirements for notices of a levy and

1 execution sale; amending s. 56.27, F.S.;  
2 clarifying provisions relating to payment of  
3 money received under execution; amending s.  
4 56.29, F.S.; revising requirements regarding  
5 supplementary proceedings for unsatisfied  
6 judgments; amending s. 222.01, F.S.; revising  
7 provisions relating to designation of homestead  
8 property by the owner prior to levy to include  
9 foreign judgments; amending s. 319.27, F.S.;  
10 correcting a cross-reference; amending s.  
11 679.1021, F.S.; revising a definition of "lien  
12 creditor"; providing effective dates.

13

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

15

16 Section 1. Section 55.141, Florida Statutes, as  
17 amended by section 69 of chapter 2003-402, Laws of Florida, is  
18 amended to read:

19 55.141 Satisfaction of judgments and decrees; duties  
20 of clerk ~~and judge~~--

21 (1) All judgments and decrees for the payment of money  
22 rendered in the courts of this state and which have become  
23 final, may be satisfied at any time prior to the actual levy  
24 of execution issued thereon by payment of the full amount of  
25 such judgment or decree, with interest thereon, plus the costs  
26 of the issuance, if any, of execution thereon into the  
27 registry of the court where rendered.

28 (2) Upon such payment, the clerk, ~~or the judge if~~  
29 ~~there is no clerk,~~ shall execute ~~issue his or her receipt~~  
30 ~~therefor~~ and ~~shall~~ record in the official records a  
31 satisfaction of judgment, ~~provided by the judgment holder,~~

1 upon payment of the recording charge prescribed in s.  
2 28.24(12). Upon payment in the amount required in subsection  
3 (1) and the recording charge required by this subsection and  
4 execution and recordation of the satisfaction by the clerk,  
5 any lien created by such judgment is satisfied and discharged.  
6 ~~s. 28.24(12) plus the necessary costs of mailing to the clerk~~  
7 ~~or judge. The clerk or judge shall formally notify the owner~~  
8 ~~of record of such judgment or decree, if such person and his~~  
9 ~~or her address are known to the clerk or judge receiving such~~  
10 ~~payment, and, upon request therefor, shall pay over to the~~  
11 ~~person entitled, or to his or her order, the full amount of~~  
12 ~~the payment so received, less his or her fees for issuing~~  
13 ~~execution on such judgment or decree, if any has been issued,~~  
14 ~~and less his or her fees for receiving into and paying out of~~  
15 ~~the registry of the court such payment, together with the fees~~  
16 ~~of the clerk for receiving into and paying such money out of~~  
17 ~~the registry of the court.~~

18 (3) The satisfaction of judgment executed by the clerk  
19 shall be substantially in the following form:

20  
21 Satisfaction of Judgment by Clerk

22  
23 The undersigned Clerk acknowledges on this        day of  
24 (month), (year), receipt from (identity of party making  
25 payment) of \$ (total amount received), comprised of \$        face  
26 amount of the judgment; \$        interest accruing on the  
27 judgment through the date of payment; \$        costs of issuance  
28 of any execution; and \$        for recording.

29  
30 Pursuant to section 55.141, Florida Statutes, said sum is paid  
31 to satisfy the lien and to discharge that certain final

1 judgment in favor of (name of judgment holder) whose last  
2 known address, if known, is (address if shown on face of  
3 judgment or in recorded affidavit pursuant to section  
4 55.10(1), Florida Statutes,) against (name of judgment debtor)  
5 recorded in Official Records Volume/Book , page of the  
6 public records of County, Florida.

7  
8 Upon the execution of this satisfaction, said judgment is  
9 satisfied and discharged.

10  
11 If an address for the judgment holder was provided under  
12 section 55.10(1), Florida Statutes, I certify that a copy of  
13 this notice has been sent to the judgment holder at said  
14 address by certified mail with return receipt requested or by  
15 registered mail if the notice is to be sent outside the  
16 continental United States.

17  
18 Clerk of Court

19 (4) If an address for the judgment holder was provided  
20 under s. 55.10(1), the clerk shall formally send a copy of the  
21 satisfaction to the judgment holder at said address by  
22 certified mail with return receipt or by registered mail if  
23 the notice is to be sent outside the continental United  
24 States. If an address is not provided under s. 55.10(1) or if  
25 delivery cannot be effected to such address, the clerk may,  
26 but is not obligated to, make reasonable attempts to locate  
27 the judgment holder. The discharge of the lien by the issuance  
28 of the satisfaction is not dependent upon the delivery of  
29 notice by the clerk.

30 (5) Upon application of the judgment holder, the clerk  
31 shall pay over to the judgment holder the full amount of the

1 payment received, less the clerk's fees for issuing execution  
2 on such judgment, if any has been issued; less the clerk's  
3 fees for receiving into and paying out of the registry of the  
4 court such payment; less the clerk's fees for recording the  
5 satisfaction of judgment; and if the clerk incurred expenses  
6 in locating the judgment holder, less the reasonable expenses  
7 so incurred.

8 ~~(3) Full payment of judgments and decrees as in the~~  
9 ~~preceding subsections of this section provided shall~~  
10 ~~constitute full payment and satisfaction thereof and any lien~~  
11 ~~created by such judgment or decree shall thereupon be~~  
12 ~~satisfied and discharged.~~

13 Section 2. Subsections (2) and (3) of section 55.202,  
14 Florida Statutes, are amended to read:

15 55.202 Judgments, orders, and decrees; lien on  
16 personal property.--

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

21 (a) A judgment lien is acquired by filing a judgment  
22 lien certificate in accordance with s. 55.203 with the  
23 Department of State after the judgment has become final and if  
24 the time to move for rehearing has lapsed, no motion for  
25 rehearing is pending, and no stay of the judgment or its  
26 enforcement is then in effect. A court may authorize, for  
27 cause shown, the filing of a judgment lien certificate before  
28 a judgment has become final when the court has authorized the  
29 issuance of a writ of execution in the same matter. A judgment  
30 lien certificate not filed in compliance with this subsection  
31 is permanently void and of no effect.

1           (b) For any lien, warrant, assessment, or judgment  
2 collected by the Department of Revenue, a judgment lien may be  
3 acquired by filing the judgment lien certificate information  
4 or warrant with the Department of State in accordance with  
5 subsection (5).

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

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

16           (3) Except as otherwise provided in s. 55.208, the  
17 priority of a judgment lien acquired in accordance with this  
18 section or s. 55.204(3) is established at the date and time  
19 the judgment lien certificate is filed.

20           Section 3. Subsections (4) and (6) of section 55.204,  
21 Florida Statutes, are amended to read:

22           55.204 Duration and continuation of judgment lien;  
23 destruction of records.--

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

27           (a) The property had been itemized and its location  
28 described with sufficient particularity in the instructions  
29 for levy to permit the sheriff to act;

30  
31

1           (b) The instructions for the levy had been delivered  
2 to the sheriff prior to the date of lapse of the lien ~~to~~  
3 ~~permit the sheriff to act;~~ and

4           (c) The property was located in the county in which  
5 the sheriff has jurisdiction at the time of delivery of the  
6 instruction for levy. Subsequent removal of the property does  
7 not defeat the lien. A court may order continuation of the  
8 lien beyond the 90-day period on a showing that extraordinary  
9 circumstances have prevented levy.

10           (6) If no second judgment lien is filed, the  
11 Department of State shall maintain each judgment lien file and  
12 all information contained therein for a minimum of 1 year  
13 after the judgment lien lapses in accordance with this  
14 section. If a second judgment lien is filed, the department  
15 shall maintain both files and all information contained in  
16 such files for a minimum of 1 year after the second judgment  
17 lien lapses.

18           Section 4. Subsection (1) of section 55.205, Florida  
19 Statutes, is amended to read:

20           55.205 Effect of judgment lien.--

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

1           Section 5. Subsection (2) of section 55.602, Florida  
2 Statutes, is amended to read:

3           55.602 Definitions.--As used in this act, the term:

4           (2) "Out-of-country foreign judgment" means any  
5 judgment of a foreign state granting or denying recovery of a  
6 sum of money, other than a judgment for taxes, a fine, or  
7 other penalty.

8           Section 6. Section 55.603, Florida Statutes, is  
9 amended to read:

10           55.603 Applicability.--This act applies to any  
11 out-of-country foreign judgment that is final and conclusive  
12 and enforceable where rendered, even though an appeal  
13 therefrom is pending or is subject to appeal.

14           Section 7. Section 55.604, Florida Statutes, is  
15 amended to read:

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

22           (1) The out-of-country foreign judgment shall be filed  
23 with the clerk of the court and recorded in the public records  
24 in the county or counties where enforcement is sought.

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

31

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

15           (2) The judgment debtor shall have 30 days after  
16 service of the notice to file a notice of objection with the  
17 clerk of the court specifying the grounds for nonrecognition  
18 or nonenforceability under this act.

19           (3) Upon the application of any party, and after  
20 proper notice, the circuit court shall have jurisdiction to  
21 conduct a hearing, determine the issues, and enter an  
22 appropriate order granting or denying recognition in  
23 accordance with the terms of this act.

24           (4) If the judgment debtor fails to file a notice of  
25 objection within the required time, the clerk of the court  
26 shall record a certificate stating that no objection has been  
27 filed.

28           (5) Upon entry of an order recognizing the  
29 out-of-country foreign judgment, or upon recording of the  
30 clerk's certificate set forth above, the out-of-country  
31

1 foreign judgment shall be enforced in the same manner as the  
2 judgment of a court of this state.

3 (6) Once an order recognizing the out-of-country  
4 foreign judgment has been entered by a court of this state,  
5 the order and a copy of the judgment may be recorded in any  
6 other county of this state without further notice or  
7 proceedings, and shall be enforceable in the same manner as  
8 the judgment of a court of this state.

9 (7) A lien on real estate in any county shall be  
10 created only when there has been recorded in the official  
11 records of the county (a) a certified copy of the judgment,  
12 and (b) a copy of the clerk's certificate or the order  
13 recognizing the out-of-country foreign judgment. The priority  
14 of such lien will be established as of the time the latter of  
15 the two recordings has occurred. ~~Such lien may be partially~~  
16 ~~released or satisfied by the person designated pursuant to~~  
17 ~~paragraph (1).~~

18 (8) A judgment lien on personal property is acquired  
19 only when a judgment lien certificate is filed in accordance  
20 with s. 55.203 with the Department of State.

21 Section 8. Section 55.605, Florida Statutes, is  
22 amended to read:

23 55.605 Grounds for nonrecognition.--

24 (1) An out-of-country ~~A~~ foreign judgment is not  
25 conclusive if:

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

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

31

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

3 (2) An out-of-country A foreign judgment need not be  
4 recognized if:

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

8 (b) The judgment was obtained by fraud.

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

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

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

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

21 (g) The foreign jurisdiction where judgment was  
22 rendered would not give recognition to a similar judgment  
23 rendered in this state.

24 Section 9. Section 55.606, Florida Statutes, is  
25 amended to read:

26 55.606 Personal jurisdiction.--The out-of-country  
27 foreign judgment shall not be refused recognition for lack of  
28 personal jurisdiction if:

29 (1) The defendant was served personally in the foreign  
30 state;

31

1           (2) The defendant voluntarily appeared in the  
2 proceedings, other than for the purpose of protecting property  
3 seized or threatened with seizure in the proceedings or of  
4 contesting the jurisdiction of the court over him or her;

5           (3) The defendant, prior to the commencement of the  
6 proceedings, had agreed to submit to the jurisdiction of the  
7 foreign court with respect to the subject matter involved;

8           (4) The defendant was domiciled in the foreign state  
9 when the proceedings were instituted, or, being a body  
10 corporate, had its principal place of business, was  
11 incorporated, or had otherwise acquired corporate status, in  
12 the foreign state;

13           (5) The defendant had a business office in the foreign  
14 state and the proceedings in the foreign court involved a  
15 cause of action or a claim for relief arising out of business  
16 done by the defendant through that office in the foreign  
17 state; or

18           (6) The defendant operated a motor vehicle or airplane  
19 in the foreign state and the proceedings involved a cause of  
20 action or claim for relief arising out of such operation.

21           Section 10. Effective October 1, 2004, section 56.21,  
22 Florida Statutes, is amended to read:

23           56.21 Execution sales; notice.--Notice of all sales  
24 under execution shall be given by advertisement once each week  
25 for 4 successive weeks in a newspaper published in the county  
26 in which the sale is to take place. The time of such notice  
27 may be shortened in the discretion of the court from which the  
28 execution issued, upon affidavit that the property to be sold  
29 is subject to decay and will not sell for its full value if  
30 held until date of sale. On or before the date of the first  
31 publication or posting of the notice of sale, a copy of the

1 notice of sale shall be furnished by certified mail to the  
2 attorney of record of the judgment debtor, or to the judgment  
3 debtor at the judgment debtor's last known address if the  
4 judgment debtor does not have an attorney of record. Such copy  
5 of the notice of sale shall be mailed even though a default  
6 judgment was entered. When levying upon personal property, a  
7 notice of such levy and execution sale and a copy of the  
8 affidavit required by s. 56.27(4) shall be sent by the sheriff  
9 ~~made by the levying creditor~~ to the attorneys ~~attorney~~ of  
10 record of all the judgment creditors, creditor or to all the  
11 judgment creditors who do not have an attorney of record,  
12 ~~creditor~~ who have ~~has~~ acquired a judgment lien as provided in  
13 s. 55.202 or s. 55.204(3), and whose liens have not lapsed at  
14 the time of levy, at the address listed in the judgment lien  
15 certificate, or, if amended, in any amendment to the judgment  
16 lien certificate, and to all secured creditors who have filed  
17 financing statements as provided in part V of chapter 679 s.  
18 ~~679.401~~ in the name of the judgment debtor reflecting a  
19 security interest in property of the kind to be sold at the  
20 execution sale at the address listed in the financing  
21 statement, or, if amended, in any amendment to the financing  
22 statement. Such notice shall be made in the same manner as  
23 notice is made to any judgment debtor under this section. When  
24 levying upon real property, notice of such levy and execution  
25 sale shall be made to the property owner of record in the same  
26 manner as notice is made to any judgment debtor pursuant to  
27 this section. When selling real or personal property, the sale  
28 date shall not be earlier than 30 days after the date of the  
29 first advertisement.

30 Section 11. Subsections (1), (2), and (4) of section  
31 56.27, Florida Statutes, are amended to read:

1           56.27 Executions; payment of money collected.--  
2           (1) All money received under executions shall be paid,  
3 in the order prescribed, to the following: the sheriff, for  
4 costs; the levying creditor in the amount of \$500 as  
5 liquidated expenses; if the levy is upon real property, the  
6 first priority lienholder under s. 55.10; and if the levy is  
7 upon personal property, and the first priority lienholder  
8 under s. 55.202, s. 55.204(3), or s. 55.208(2), as set forth  
9 in an affidavit required by subsection (4), or his or her  
10 attorney, in satisfaction of the judgment lien, provided that  
11 the judgment lien has not lapsed at the time of the levy. The  
12 receipt of the attorney shall be a release of the officer  
13 paying the money to him or her. When the name of more than one  
14 attorney appears in the court file, the money shall be paid to  
15 the attorney who originally commenced the action or who made  
16 the original defense unless the file shows that another  
17 attorney has been substituted.  
18           (2) When property sold under execution brings more  
19 than the amount needed to satisfy the provisions of subsection  
20 (1), the surplus shall be paid in the order of priority to any  
21 judgment lienholders whose judgment liens have not lapsed.  
22 Priority of liens on personal property shall be based on the  
23 effective date of the judgment lien acquired under s. 55.202,  
24 s. 55.204(3), or s. 55.208(2), as set forth in an affidavit  
25 required under subsection (4). If there is a surplus after all  
26 valid judgment liens and execution liens have been satisfied,  
27 the surplus must be paid to the defendant.  
28           (4) ~~On or~~ Before the date of the first publication or  
29 posting of the notice of sale provided for under s. 56.21, the  
30 levying creditor shall deliver to the sheriff ~~file~~ an  
31

1 affidavit setting forth the following as to the judgment  
2 debtor:

3 (a) An attestation that the levying creditor has  
4 reviewed the database or judgment lien records established in  
5 accordance with ss. 55.201-55.209 and that the information  
6 contained in the affidavit based on that review is true and  
7 correct;

8 (b) The information required under s. 55.203(1) and  
9 (2) for each judgment lien certificate indexed under the name  
10 of the judgment debtor as to each judgment creditor; the file  
11 number assigned to the record of the original and, if any, the  
12 second judgment lien; and the date of filing for each judgment  
13 lien certificate under s. 55.202 or s. 55.204(3); and

14 (c) A statement that the levying creditor either does  
15 not have any other levy in process or, if another levy is in  
16 process, the levying creditor believes in good faith that the  
17 total value of the property under execution does not exceed  
18 the amount of outstanding judgments.

19 Section 12. Subsection (1) of section 56.29, Florida  
20 Statutes, is amended to read:

21 56.29 Proceedings supplementary.--

22 (1) When any person or entity holds an unsatisfied  
23 ~~judgment execution and has delivered a writ of execution to~~  
24 ~~any sheriff, the judgment holder plaintiff in execution~~ may  
25 file an affidavit so stating, identifying the issuing court,  
26 the case number, the unsatisfied amount of the judgment  
27 including accrued costs and interest, and that the execution  
28 is valid and outstanding, and thereupon the judgment holder is  
29 entitled to these proceedings supplementary to execution.

30 Section 13. Subsections (2) and (4) of section 222.01,  
31 Florida Statutes, are amended to read:



1 identification parcel number of this property,  
2 and that the undersigned has resided on this  
3 property continuously and uninterruptedly from  
4 ...(date)... to the date of this Notice of  
5 Homestead. Further, the undersigned will either  
6 convey or mortgage the above-described property  
7 pursuant to the following:

8  
9 ...(Describe the contract of sale or loan  
10 commitment by date, names of parties, date of  
11 anticipated closing, and amount. The name,  
12 address, and telephone number of the person  
13 conducting the anticipated closing must be set  
14 forth.)...

15  
16 The undersigned also certifies, under oath,  
17 that the judgment lien filed by you on  
18 ...(date)... and recorded in Official Records  
19 Book ....., Page ....., of the Public Records of  
20 ..... County, Florida, does not constitute a  
21 valid lien on the described property.

22  
23 YOU ARE FURTHER NOTIFIED, PURSUANT TO SECTION  
24 222.01 ET SEQ., FLORIDA STATUTES, THAT WITHIN  
25 45 DAYS AFTER THE MAILING OF THIS NOTICE YOU  
26 MUST FILE AN ACTION IN THE CIRCUIT COURT OF  
27 ..... COUNTY, FLORIDA, FOR A DECLARATORY  
28 JUDGMENT TO DETERMINE THE CONSTITUTIONAL  
29 HOMESTEAD STATUS OF THE SUBJECT PROPERTY OR TO  
30 FORECLOSE YOUR JUDGMENT LIEN ON THE PROPERTY  
31 AND RECORD A LIS PENDENS IN THE PUBLIC RECORDS

1 OF THE COUNTY WHERE THE HOMESTEAD IS LOCATED.  
2 YOUR FAILURE TO SO ACT WILL RESULT IN ANY BUYER  
3 OR LENDER, OR HIS OR HER SUCCESSORS AND  
4 ASSIGNS, UNDER THE ABOVE-DESCRIBED CONTRACT OF  
5 SALE OR LOAN COMMITMENT TO TAKE FREE AND CLEAR  
6 OF ANY JUDGMENT LIEN YOU MAY HAVE ON THE  
7 PROPERTY.

8  
9 This .... day of ....., 2.....  
10 .....  
11 ...(Signature of Owner)...  
12 .....  
13 .....  
14 ...(Printed Name of Owner)...  
15 .....  
16 .....  
17 ...(Owner's Address)...

18  
19 Sworn to and subscribed before me by  
20 ..... who is personally  
21 known to me or produced  
22 ..... as identification,  
23 this .... day of ....., 2.....  
24 .....  
25 .....  
26 Notary Public

27  
28 (4) A lien pursuant to chapter 55 ~~s. 55.10~~ of any  
29 lienor upon whom such notice is served, who fails to institute  
30 an action for a declaratory judgment to determine the  
31 constitutional homestead status of the property described in

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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

14 Section 14. Subsection (2) and paragraph (b) of  
15 subsection (3) of section 319.27, Florida Statutes, are  
16 amended to read:

17 319.27 Notice of lien on motor vehicles or mobile  
18 homes; notation on certificate; recording of lien.--

19 (2) No lien for purchase money or as security for a  
20 debt in the form of a security agreement, retain title  
21 contract, conditional bill of sale, chattel mortgage, or other  
22 similar instrument or any other nonpossessory lien, including  
23 a lien for child support, upon a motor vehicle or mobile home  
24 upon which a Florida certificate of title has been issued  
25 shall be enforceable in any of the courts of this state  
26 against creditors or subsequent purchasers for a valuable  
27 consideration and without notice, unless a sworn notice of  
28 such lien has been filed in the department and such lien has  
29 been noted upon the certificate of title of the motor vehicle  
30 or mobile home. Such notice shall be effective as constructive  
31 notice when filed. The ~~No~~ interest of a statutory

1 nonpossessory lienor; the interest of a nonpossessory  
2 execution, attachment, or equitable lienor; or the interest of  
3 a lien creditor as defined in s. 679.1021(1)(zz) ~~679.301(3)~~,  
4 if nonpossessory, shall not be enforceable against creditors  
5 or subsequent purchasers for a valuable consideration unless  
6 such interest becomes a possessory lien or is noted upon the  
7 certificate of title for the subject motor vehicle or mobile  
8 home prior to the occurrence of the subsequent transaction.  
9 Provided the provisions of this subsection relating to a  
10 nonpossessory statutory lienor; a nonpossessory execution,  
11 attachment, or equitable lienor; or the interest of a lien  
12 creditor as defined in s. 679.1021(1)(zz)~~679.301(3)~~ shall not  
13 apply to liens validly perfected prior to October 1, 1988. The  
14 notice of lien shall provide the following information:  
15       (a) The date of the lien if a security agreement,  
16 retain title contract, conditional bill of sale, chattel  
17 mortgage, or other similar instrument was executed prior to  
18 the filing of the notice of lien;  
19       (b) The name and address of the registered owner;  
20       (c) A description of the motor vehicle or mobile home,  
21 showing the make, type, and vehicle identification number; and  
22       (d) The name and address of the lienholder.  
23       (3)  
24       (b) As applied to a determination of the respective  
25 rights of a secured party under this chapter and a lien  
26 creditor as defined by s. 679.1021(1)(zz)~~679.301(3)~~, or a  
27 nonpossessory statutory lienor, a security interest under this  
28 chapter shall be perfected upon the filing of the notice of  
29 lien with the department, the county tax collector, or their  
30 agents. Provided, however, the date of perfection of a  
31 security interest of such secured party shall be the same date

1 as the execution of the security agreement or other similar  
2 instrument if the notice of lien is filed in accordance with  
3 this subsection within 15 days after the debtor receives  
4 possession of the motor vehicle or mobile home and executes  
5 such security agreement or other similar instrument. The date  
6 of filing of the notice of lien shall be the date of its  
7 receipt by the department central office in Tallahassee, if  
8 first filed there, or otherwise by the office of the county  
9 tax collector, or their agents.

10 Section 15. Paragraph (zz) of subsection (1) of  
11 section 679.1021, Florida Statutes, is amended to read:

12 679.1021 Definitions and index of definitions.--

13 (1) In this chapter, the term:

14 (zz) "Lien creditor" means:

15 1. A creditor that has acquired a lien on the property  
16 involved by attachment, levy, judgment lien certificate, or  
17 the like;

18 2. An assignee for benefit of creditors from the time  
19 of assignment;

20 3. A trustee in bankruptcy from the date of the filing  
21 of the petition; or

22 4. A receiver in equity from the time of appointment.

23 Section 16. Except as otherwise provided herein, this  
24 act shall take effect upon becoming a law.

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