

CHAMBER ACTION

1 The Committee on Transportation recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to judgment liens; amending s. 55.141,
7 F.S.; eliminating authority of judges to act under
8 provisions relating to satisfaction of judgments and
9 decrees when there is no clerk of court; revising
10 requirements of the clerk when accepting payment for
11 satisfaction of a judgment and executing and recording a
12 satisfaction of judgment; providing a sample form for
13 recording a satisfaction of judgment; providing duties of
14 the clerk relating to location and notification of
15 judgment holders and payment of certain amounts to
16 judgment holders, less certain fees and expenses; amending
17 s. 55.202, F.S.; revising procedures for acquiring a
18 judgment lien; providing court authorization to file a
19 judgment lien certificate before a judgment becomes final
20 under certain circumstances; providing effect; amending s.
21 55.204, F.S.; revising provisions relating to continuation
22 of judgment liens; revising provisions requiring the
23 Department of State to maintain certain files and

24 information; amending s. 55.205, F.S.; deleting a
 25 provision authorizing certain creditors to bring certain
 26 actions against property of a debtor; amending ss. 55.602,
 27 55.603, 55.604, 55.605, and 55.606, F.S.; revising
 28 provisions relating to foreign judgments to apply only to
 29 out-of-country foreign judgments; amending s. 56.21, F.S.;
 30 revising requirements for notices of a levy and execution
 31 sale; amending s. 56.27, F.S.; clarifying provisions
 32 relating to payment of money received under execution;
 33 amending s. 56.29, F.S.; revising requirements regarding
 34 supplementary proceedings for unsatisfied judgments;
 35 amending s. 222.01, F.S.; expanding application of certain
 36 judgment and lien provisions to designations of homestead
 37 property before a levy to include foreign judgments;
 38 amending s. 319.27, F.S.; correcting a cross reference;
 39 amending s. 679.1021, F.S.; revising a definition of "lien
 40 creditor"; providing effective dates.

41

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

43

44 Section 1. Effective July 1, 2004, section 55.141, Florida
 45 Statutes, as amended by chapter 2003-402, Laws of Florida, is
 46 amended to read:

47 55.141 Satisfaction of judgments and decrees; duties of
 48 clerk ~~and judge~~.--

49 (1) All judgments and decrees for the payment of money
 50 rendered in the courts of this state and which have become
 51 final, may be satisfied at any time prior to the actual levy of

52 execution issued thereon by payment of the full amount of such
 53 judgment or decree, with interest thereon, plus the costs of the
 54 issuance, if any, of execution thereon into the registry of the
 55 court where rendered.

56 (2) Upon such payment, the clerk, ~~or the judge if there is~~
 57 ~~no clerk,~~ shall execute ~~issue his or her receipt therefor~~ and
 58 ~~shall record in the official records~~ a satisfaction of judgment,
 59 ~~provided by the judgment holder,~~ upon payment of the recording
 60 charge prescribed in s. 28.24(12). Upon payment in the amount
 61 required in subsection (1) and the recording charge required by
 62 this subsection and execution and recordation of the
 63 satisfaction by the clerk, any lien created by such judgment is
 64 satisfied and discharged ~~plus the necessary costs of mailing to~~
 65 ~~the clerk or judge. The clerk or judge shall formally notify the~~
 66 ~~owner of record of such judgment or decree, if such person and~~
 67 ~~his or her address are known to the clerk or judge receiving~~
 68 ~~such payment, and, upon request therefor, shall pay over to the~~
 69 ~~person entitled, or to his or her order, the full amount of the~~
 70 ~~payment so received, less his or her fees for issuing execution~~
 71 ~~on such judgment or decree, if any has been issued, and less his~~
 72 ~~or her fees for receiving into and paying out of the registry of~~
 73 ~~the court such payment, together with the fees of the clerk for~~
 74 ~~receiving into and paying such money out of the registry of the~~
 75 ~~court.~~

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

79 Satisfaction of Judgment by Clerk

80
81 The undersigned Clerk acknowledges on this day of [month],
82 [year], receipt from [identity of party making payment] of \$
83 [total amount received], comprised of \$ face amount of the
84 judgment; \$ interest accruing on the judgment through the
85 date of payment; \$ costs of issuance of any execution; and \$
86 for recording.

87
88 Pursuant to section 55.141, Florida Statutes, said sum is paid
89 to satisfy the lien and to discharge that certain final judgment
90 in favor of [name of judgment holder] whose last known address,
91 if known, is [address if shown on face of judgment or in
92 recorded affidavit pursuant to section 55.10(1), Florida
93 Statutes] against [name of judgment debtor] recorded in Official
94 Records Volume/Book , page of the public records of
95 County, Florida.

96
97 Upon the execution of this satisfaction, said judgment is
98 satisfied and discharged.

99
100 If an address for the judgment holder was provided pursuant to
101 section 55.10(1), Florida Statutes, I certify that a copy of
102 this notice has been sent to the judgment holder at said address
103 by certified mail with return receipt requested or by registered
104 mail if the notice is to be sent outside the continental United
105 States.

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107 Clerk of Court ~~Full payment of judgments and decrees as in the~~
 108 ~~preceding subsections of this section provided shall constitute~~
 109 ~~full payment and satisfaction thereof and any lien created by~~
 110 ~~such judgment or decree shall thereupon be satisfied and~~
 111 ~~discharged.~~

112 (4) If an address for the judgment holder was provided
 113 pursuant to s. 55.10(1), the clerk shall formally send a copy of
 114 the satisfaction to the judgment holder at said address by
 115 certified mail with return receipt or by registered mail if the
 116 notice is to be sent outside the continental United States. If
 117 an address is not provided pursuant to s. 55.10(1) or if
 118 delivery cannot be effected to such address, the clerk may, but
 119 is not obligated to, make reasonable attempts to locate the
 120 judgment holder. The discharge of the lien by the issuance of
 121 the satisfaction is not dependent upon the delivery of notice by
 122 the clerk.

123 (5) Upon application of the judgment holder, the clerk
 124 shall pay over to the judgment holder the full amount of the
 125 payment received, less the clerk's fees for issuing execution on
 126 such judgment, if any has been issued, less the clerk's fees for
 127 receiving into and paying out of the registry of the court such
 128 payment, less the clerk's fees for recording the satisfaction of
 129 judgment, and, if the clerk incurred expenses in locating the
 130 judgment holder, less the reasonable expenses so incurred.

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

133 55.202 Judgments, orders, and decrees; lien on personal
 134 property.--

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

139 (a) A judgment lien is acquired by filing a judgment lien
140 certificate in accordance with s. 55.203 with the Department of
141 State after the judgment has become final and if the time to
142 move for rehearing has lapsed, no motion for rehearing is
143 pending, and no stay of the judgment or its enforcement is then
144 in effect. A court may authorize, for cause shown, the filing of
145 a judgment lien certificate before a judgment has become final
146 when the court has authorized the issuance of a writ of
147 execution in the same matter. A judgment lien certificate not
148 filed in compliance with this subsection is permanently void and
149 of no effect.

150 (b) For any lien, warrant, assessment, or judgment
151 collected by the Department of Revenue, a judgment lien may be
152 acquired by filing the judgment lien certificate information or
153 warrant with the Department of State in accordance with
154 subsection (5).

155 (c) Except as provided in s. 55.208, the effective date of
156 a judgment lien is the date, including the time of day, of
157 filing. Although no lien attaches to property, and a creditor
158 does not become a lien creditor as to liens under chapter 679,
159 until the debtor acquires an interest in the property, priority
160 among competing judgment liens is determined in order of filing
161 date and time.

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

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

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

171 55.204 Duration and continuation of judgment lien;
 172 destruction of records.--

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

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

179 (b) The instructions for the levy had been delivered to
 180 the sheriff prior to the date of lapse of the lien ~~to permit the~~
 181 ~~sheriff to act~~; and

182 (c) The property was located in the county in which the
 183 sheriff has jurisdiction at the time of delivery of the
 184 instruction for levy. Subsequent removal of the property does
 185 not defeat the lien. A court may order continuation of the lien
 186 beyond the 90-day period on a showing that extraordinary
 187 circumstances have prevented levy.

188 (6) If no second judgment lien is filed, the Department of
 189 State shall maintain each judgment lien file and all information

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190 contained therein for a minimum of 1 year after the judgment
 191 lien lapses in accordance with this section. If a second
 192 judgment lien is filed, the department shall maintain both files
 193 and all information contained in such files for a minimum of 1
 194 year after the second judgment lien lapses.

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

197 55.205 Effect of judgment lien.--

198 (1) ~~A valid judgment lien gives the judgment creditor the~~
 199 ~~right to proceed against the property of the debtor through writ~~
 200 ~~of execution, garnishment, or other judicial process.~~ A judgment
 201 creditor who has not acquired a judgment lien as provided in s.
 202 55.202 or whose lien has lapsed may nevertheless proceed against
 203 the judgment debtor's property through any appropriate ~~other~~
 204 judicial process. Such judgment creditor proceeding by writ of
 205 execution acquires a lien as of the time of levy and only on the
 206 property levied upon. Except as provided in s. 55.208, such
 207 judgment creditor takes subject to the claims and interest of
 208 priority judgment creditors.

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

211 55.602 Definitions.--As used in this act, the term:

212 (2) "Out-of-country foreign judgment" means any judgment
 213 of a foreign state granting or denying recovery of a sum of
 214 money, other than a judgment for taxes, a fine, or other
 215 penalty.

216 Section 6. Section 55.603, Florida Statutes, is amended to
 217 read:

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218 55.603 Applicability.--This act applies to any out-of-
219 country foreign judgment that is final and conclusive and
220 enforceable where rendered, even though an appeal therefrom is
221 pending or is subject to appeal.

222 Section 7. Section 55.604, Florida Statutes, is amended to
223 read:

224 55.604 Recognition and enforcement.--Except as provided in
225 s. 55.605, an out-of-country ~~a~~ foreign judgment meeting the
226 requirements of s. 55.603 is conclusive between the parties to
227 the extent that it grants or denies recovery of a sum of money.
228 Procedures for recognition and enforceability of an out-of-
229 country ~~a~~ foreign judgment shall be as follows:

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

233 (a) At the time of the recording of an out-of-country ~~a~~
234 foreign judgment, the judgment creditor shall make and record
235 with the clerk of the circuit court an affidavit setting forth
236 the name, social security number, if known, and last known post-
237 office address of the judgment debtor and of the judgment
238 creditor.

239 (b) Promptly upon the recording of the out-of-country
240 foreign judgment and the affidavit, the clerk shall mail notice
241 of the recording of the out-of-country foreign judgment, by
242 registered mail with return receipt requested, to the judgment
243 debtor at the address given in the affidavit and shall make a
244 note of the mailing in the docket. The notice shall include the
245 name and address of the judgment creditor and of the judgment

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246 creditor's attorney, if any, in this state. In addition, the
247 judgment creditor may mail a notice of the recording of the
248 judgment to the judgment debtor and may record proof of mailing
249 with the clerk. The failure of the clerk to mail notice of
250 recording will not affect the enforcement proceedings if proof
251 of mailing by the judgment creditor has been recorded.

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

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

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

264 (5) Upon entry of an order recognizing the out-of-country
265 foreign judgment, or upon recording of the clerk's certificate
266 set forth above, the out-of-country foreign judgment shall be
267 enforced in the same manner as the judgment of a court of this
268 state.

269 (6) Once an order recognizing the out-of-country foreign
270 judgment has been entered by a court of this state, the order
271 and a copy of the judgment may be recorded in any other county
272 of this state without further notice or proceedings, and shall

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273 | be enforceable in the same manner as the judgment of a court of
274 | this state.

275 | (7) A lien on real estate in any county shall be created
276 | only when there has been recorded in the official records of the
277 | county (a) a certified copy of the judgment, and (b) a copy of
278 | the clerk's certificate or the order recognizing the out-of-
279 | country foreign judgment. The priority of such lien will be
280 | established as of the time the latter of the two recordings has
281 | occurred. ~~Such lien may be partially released or satisfied by~~
282 | ~~the person designated pursuant to paragraph (1).~~

283 | (8) A judgment lien on personal property is acquired only
284 | when a judgment lien certificate is filed in accordance with s.
285 | 55.203 with the Department of State.

286 | Section 8. Section 55.605, Florida Statutes, is amended to
287 | read:

288 | 55.605 Grounds for nonrecognition.--

289 | (1) An out-of-country A foreign judgment is not conclusive
290 | if:

291 | (a) The judgment was rendered under a system which does
292 | not provide impartial tribunals or procedures compatible with
293 | the requirements of due process of law.

294 | (b) The foreign court did not have personal jurisdiction
295 | over the defendant.

296 | (c) The foreign court did not have jurisdiction over the
297 | subject matter.

298 | (2) An out-of-country A foreign judgment need not be
299 | recognized if:

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

303 (b) The judgment was obtained by fraud.

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

307 (d) The judgment conflicts with another final and
308 conclusive order.

309 (e) The proceeding in the foreign court was contrary to an
310 agreement between the parties under which the dispute in
311 question was to be settled otherwise than by proceedings in that
312 court.

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

316 (g) The foreign jurisdiction where judgment was rendered
317 would not give recognition to a similar judgment rendered in
318 this state.

319 Section 9. Section 55.606, Florida Statutes, is amended to
320 read:

321 55.606 Personal jurisdiction.--The out-of-country foreign
322 judgment shall not be refused recognition for lack of personal
323 jurisdiction if:

324 (1) The defendant was served personally in the foreign
325 state;

326 (2) The defendant voluntarily appeared in the proceedings,
327 other than for the purpose of protecting property seized or

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328 | threatened with seizure in the proceedings or of contesting the
329 | jurisdiction of the court over him or her;

330 | (3) The defendant, prior to the commencement of the
331 | proceedings, had agreed to submit to the jurisdiction of the
332 | foreign court with respect to the subject matter involved;

333 | (4) The defendant was domiciled in the foreign state when
334 | the proceedings were instituted, or, being a body corporate, had
335 | its principal place of business, was incorporated, or had
336 | otherwise acquired corporate status, in the foreign state;

337 | (5) The defendant had a business office in the foreign
338 | state and the proceedings in the foreign court involved a cause
339 | of action or a claim for relief arising out of business done by
340 | the defendant through that office in the foreign state; or

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

344 | Section 10. Effective October 1, 2004, section 56.21,
345 | Florida Statutes, is amended to read:

346 | 56.21 Execution sales; notice.--Notice of all sales under
347 | execution shall be given by advertisement once each week for 4
348 | successive weeks in a newspaper published in the county in which
349 | the sale is to take place. The time of such notice may be
350 | shortened in the discretion of the court from which the
351 | execution issued, upon affidavit that the property to be sold is
352 | subject to decay and will not sell for its full value if held
353 | until date of sale. On or before the date of the first
354 | publication or posting of the notice of sale, a copy of the
355 | notice of sale shall be furnished by certified mail to the

356 attorney of record of the judgment debtor, or to the judgment
 357 debtor at the judgment debtor's last known address if the
 358 judgment debtor does not have an attorney of record. Such copy
 359 of the notice of sale shall be mailed even though a default
 360 judgment was entered. When levying upon personal property, a
 361 notice of such levy and execution sale and a copy of the
 362 affidavit required by s. 56.27(4) shall be sent by the sheriff
 363 ~~made by the levying creditor~~ to the attorneys ~~attorney~~ of record
 364 of all the judgment creditors, creditor or to all the judgment
 365 creditors who do not have an attorney of record, creditor who
 366 have ~~has~~ acquired a judgment lien as provided in s. 55.202 or s.
 367 55.204(3), and whose liens have not lapsed at the time of levy,
 368 at the address listed in the judgment lien certificate, or, if
 369 amended, in any amendment to the judgment lien certificate, and
 370 to all secured creditors who have filed financing statements as
 371 provided in part V of chapter 679 s. 679.401 in the name of the
 372 judgment debtor reflecting a security interest in property of
 373 the kind to be sold at the execution sale at the address listed
 374 in the financing statement, or, if amended, in any amendment to
 375 the financing statement. Such notice shall be made in the same
 376 manner as notice is made to any judgment debtor under this
 377 section. When levying upon real property, notice of such levy
 378 and execution sale shall be made to the property owner of record
 379 in the same manner as notice is made to any judgment debtor
 380 pursuant to this section. When selling real or personal
 381 property, the sale date shall not be earlier than 30 days after
 382 the date of the first advertisement.

383 Section 11. Subsections (1), (2), and (4) of section
384 56.27, Florida Statutes, are amended to read:

385 56.27 Executions; payment of money collected.--

386 (1) All money received under executions shall be paid, in
387 the order prescribed, to the following: the sheriff, for costs;
388 the levying creditor in the amount of \$500 as liquidated
389 expenses; if the levy is upon real property, the first priority
390 lienholder under s. 55.10; and if the levy is upon personal
391 property, and the first priority lienholder under s. 55.202, s.
392 55.204(3), or s. 55.208(2), as set forth in an affidavit
393 required by subsection (4), or his or her attorney, in
394 satisfaction of the judgment lien, provided that the judgment
395 lien has not lapsed at the time of the levy. The receipt of the
396 attorney shall be a release of the officer paying the money to
397 him or her. When the name of more than one attorney appears in
398 the court file, the money shall be paid to the attorney who
399 originally commenced the action or who made the original defense
400 unless the file shows that another attorney has been
401 substituted.

402 (2) When property sold under execution brings more than
403 the amount needed to satisfy the provisions of subsection (1),
404 the surplus shall be paid in the order of priority to any
405 judgment lienholders whose judgment liens have not lapsed.
406 Priority of liens on personal property shall be based on the
407 effective date of the judgment lien acquired under s. 55.202, s.
408 55.204(3), or s. 55.208(2), as set forth in an affidavit
409 required under subsection (4). If there is a surplus after all

410 valid judgment liens and execution liens have been satisfied,
411 the surplus must be paid to the defendant.

412 (4) ~~On or~~ Before the date of the first publication or
413 posting of the notice of sale provided for under s. 56.21, the
414 levying creditor shall deliver to the sheriff ~~file~~ an affidavit
415 setting forth the following as to the judgment debtor:

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

420 (b) The information required under s. 55.203(1) and (2)
421 for each judgment lien certificate indexed under the name of the
422 judgment debtor as to each judgment creditor; the file number
423 assigned to the record of the original and, if any, the second
424 judgment lien; and the date of filing for each judgment lien
425 certificate under s. 55.202 or s. 55.204(3); and

426 (c) A statement that the levying creditor either does not
427 have any other levy in process or, if another levy is in
428 process, the levying creditor believes in good faith that the
429 total value of the property under execution does not exceed the
430 amount of outstanding judgments.

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

433 56.29 Proceedings supplementary.--

434 (1) When any person or entity holds an unsatisfied
435 judgment ~~execution and has delivered a writ of execution to any~~
436 ~~sheriff~~, the judgment holder ~~plaintiff in execution~~ may file an
437 affidavit so stating, identifying the issuing court, the case

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438 | number, the unsatisfied amount of the judgment including accrued
 439 | costs and interest, and that the execution is valid and
 440 | outstanding, and thereupon the judgment holder is entitled to
 441 | these proceedings supplementary to execution.

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

444 | 222.01 Designation of homestead by owner before levy.--

445 | (2) When a certified copy of a judgment has been filed in
 446 | the public records of a county pursuant to chapter 55 ~~s. 55.10~~,
 447 | a person who is entitled to the benefit of the provisions of the
 448 | State Constitution exempting real property as homestead and who
 449 | has a contract to sell or a commitment from a lender for a
 450 | mortgage on the homestead may file a notice of homestead in the
 451 | public records of the county in which the homestead property is
 452 | located in substantially the following form:

453 |
 454 | NOTICE OF HOMESTEAD

455 |
 456 | To:... (Name and address of judgment creditor as shown on
 457 | recorded judgment and name and address of any other person shown
 458 | in the recorded judgment to receive a copy of the Notice of
 459 | Homestead). ...

460 |
 461 | You are notified that the undersigned claims as homestead
 462 | exempt from levy and execution under Section 4, Article X of the
 463 | State Constitution, the following described property:

464 |
 465 | ... (Legal description) ...

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The undersigned certifies, under oath, that he or she has applied for and received the homestead tax exemption as to the above-described property, that _____ is the tax identification parcel number of this property, and that the undersigned has resided on this property continuously and uninterruptedly from ... (date) ... to the date of this Notice of Homestead. Further, the undersigned will either convey or mortgage the above-described property pursuant to the following:

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

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

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

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494 THE HOMESTEAD IS LOCATED. YOUR FAILURE TO SO ACT WILL RESULT IN
495 ANY BUYER OR LENDER, OR HIS OR HER SUCCESSORS AND ASSIGNS, UNDER
496 THE ABOVE-DESCRIBED CONTRACT OF SALE OR LOAN COMMITMENT TO TAKE
497 FREE AND CLEAR OF ANY JUDGMENT LIEN YOU MAY HAVE ON THE
498 PROPERTY.

499
500 This ____ day of _____, 2____.

501 _____
502 ... (Signature of Owner) ...

503
504 _____
505 ... (Printed Name of Owner) ...

506
507 _____
508 ... (Owner's Address) ...

509
510 Sworn to and subscribed before me by
511 _____ who is personally known to me or
512 produced _____ as identification, this
513 ____ day of _____, 2____.

514
515 _____
516 Notary Public

517
518 (4) A lien pursuant to chapter 55 ~~s. 55.10~~ of any lienor
519 upon whom such notice is served, who fails to institute an
520 action for a declaratory judgment to determine the
521 constitutional homestead status of the property described in the

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

522 notice of homestead or to file an action to foreclose the
 523 judgment lien, together with the filing of a lis pendens in the
 524 public records of the county in which the homestead is located,
 525 within 45 days after service of such notice shall be deemed as
 526 not attaching to the property by virtue of its status as
 527 homestead property as to the interest of any buyer or lender, or
 528 his or her successors or assigns, who takes under the contract
 529 of sale or loan commitment described above within 180 days after
 530 the filing in the public records of the notice of homestead.
 531 This subsection shall not act to prohibit a lien from attaching
 532 to the real property described in the notice of homestead at
 533 such time as the property loses its homestead status.

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

536 319.27 Notice of lien on motor vehicles or mobile homes;
 537 notation on certificate; recording of lien.--

538 (2) No lien for purchase money or as security for a debt
 539 in the form of a security agreement, retain title contract,
 540 conditional bill of sale, chattel mortgage, or other similar
 541 instrument or any other nonpossessory lien, including a lien for
 542 child support, upon a motor vehicle or mobile home upon which a
 543 Florida certificate of title has been issued shall be
 544 enforceable in any of the courts of this state against creditors
 545 or subsequent purchasers for a valuable consideration and
 546 without notice, unless a sworn notice of such lien has been
 547 filed in the department and such lien has been noted upon the
 548 certificate of title of the motor vehicle or mobile home. Such
 549 notice shall be effective as constructive notice when filed. The

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550 ~~No~~ interest of a statutory nonpossessory lienor; the interest of
 551 a nonpossessory execution, attachment, or equitable lienor; or
 552 the interest of a lien creditor as defined in s. 679.1021(1)(zz)
 553 ~~679.301(3)~~, if nonpossessory, shall not be enforceable against
 554 creditors or subsequent purchasers for a valuable consideration
 555 unless such interest becomes a possessory lien or is noted upon
 556 the certificate of title for the subject motor vehicle or mobile
 557 home prior to the occurrence of the subsequent transaction.
 558 Provided the provisions of this subsection relating to a
 559 nonpossessory statutory lienor; a nonpossessory execution,
 560 attachment, or equitable lienor; or the interest of a lien
 561 creditor as defined in s. 679.1021(1)(zz) ~~679.301(3)~~ shall not
 562 apply to liens validly perfected prior to October 1, 1988. The
 563 notice of lien shall provide the following information:
 564 (a) The date of the lien if a security agreement, retain
 565 title contract, conditional bill of sale, chattel mortgage, or
 566 other similar instrument was executed prior to the filing of the
 567 notice of lien;
 568 (b) The name and address of the registered owner;
 569 (c) A description of the motor vehicle or mobile home,
 570 showing the make, type, and vehicle identification number; and
 571 (d) The name and address of the lienholder.
 572 (3)
 573 (b) As applied to a determination of the respective rights
 574 of a secured party under this chapter and a lien creditor as
 575 defined by s. 679.1021(1)(zz) ~~679.301(3)~~, or a nonpossessory
 576 statutory lienor, a security interest under this chapter shall
 577 be perfected upon the filing of the notice of lien with the

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578 department, the county tax collector, or their agents. Provided,
 579 however, the date of perfection of a security interest of such
 580 secured party shall be the same date as the execution of the
 581 security agreement or other similar instrument if the notice of
 582 lien is filed in accordance with this subsection within 15 days
 583 after the debtor receives possession of the motor vehicle or
 584 mobile home and executes such security agreement or other
 585 similar instrument. The date of filing of the notice of lien
 586 shall be the date of its receipt by the department central
 587 office in Tallahassee, if first filed there, or otherwise by the
 588 office of the county tax collector, or their agents.

589 Section 15. Paragraph (zz) of subsection (1) of section
 590 679.1021, Florida Statutes, is amended to read:

591 679.1021 Definitions and index of definitions.--

592 (1) In this chapter, the term:

593 (zz) "Lien creditor" means:

594 1. A creditor that has acquired a lien on the property
 595 involved by attachment, levy, judgment lien certificate, or the
 596 like;

597 2. An assignee for benefit of creditors from the time of
 598 assignment;

599 3. A trustee in bankruptcy from the date of the filing of
 600 the petition; or

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

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