

1                   A bill to be entitled  
2       An act relating to procedures for the satisfaction of  
3       debts; amending s. 55.141, F.S.; revising provisions  
4       relating to satisfaction of judgments and decrees;  
5       eliminating the authority of judges to act under these  
6       provisions when there is no clerk of court; revising  
7       requirements of the clerk when accepting payment for  
8       satisfaction of a judgment and executing and recording a  
9       satisfaction of judgment; providing a sample form to be  
10      used by a clerk when recording a satisfaction of judgment;  
11      revising provisions relating to notification of  
12      satisfaction of judgment to a judgment holder; amending s.  
13      55.202, F.S.; revising procedures for acquiring a judgment  
14      lien; authorizing the court to file a judgment lien  
15      certificate before a judgment becomes final under certain  
16      circumstances; providing that an improperly filed  
17      certificate is of no effect; amending s. 55.204, F.S.;  
18      revising provisions relating to the continuation of  
19      judgment liens; revising provisions requiring the  
20      Department of State to maintain certain files and  
21      information; amending s. 55.205, F.S.; deleting a  
22      provision authorizing certain creditors to bring certain  
23      actions against the property of a debtor; amending ss.  
24      55.602, 55.603, 55.604, 55.605, and 55.606, F.S.; revising  
25      provisions relating to foreign judgments to apply only to  
26      out-of-country foreign judgments; amending s. 56.21, F.S.;  
27      revising requirements for notices of a levy and execution  
28      sale; amending s. 56.27, F.S.; clarifying provisions

29 relating to payment of money received under execution;  
 30 amending s. 56.29, F.S.; revising requirements regarding  
 31 supplementary proceedings for unsatisfied judgments;  
 32 amending s. 77.03, F.S.; deleting the provision that a  
 33 garnishing creditor must believe that execution would be  
 34 unavailing; amending s. 77.041, F.S.; increasing the time  
 35 period during which a garnishing creditor may object to  
 36 the debtor's claim of exemption and request a hearing;  
 37 amending s. 222.01, F.S.; revising provisions relating to  
 38 the designation of homestead property by the owner prior  
 39 to levy to include foreign judgments; amending s. 319.27,  
 40 F.S.; correcting a cross reference; amending s. 679.1021,  
 41 F.S.; redefining the term "lien creditor"; amending s.  
 42 701.02, F.S.; providing that certain chapters of the  
 43 Uniform Commercial Code govern the attachment and  
 44 perfection of a security interest in a mortgage upon real  
 45 property and in a promissory note or other right to  
 46 payment or performance secured by that mortgage; providing  
 47 that the assignment of such a mortgage need not be  
 48 recorded under s. 701.02, F.S., in order for a security  
 49 interest in the mortgage to attach or be perfected under  
 50 the Uniform Commercial Code; providing that a creditor or  
 51 subsequent purchaser of real property or of any interest  
 52 therein may rely on a full or partial release, discharge,  
 53 consent, joinder, subordination, satisfaction, or  
 54 assignment of a mortgage upon the property which was made  
 55 by the mortgagee of record, without regard to the filing  
 56 of certain Uniform Commercial Code financing statements;

57 providing that the filing of such a financing statement  
 58 does not constitute notice for the purposes of s. 701.02,  
 59 F.S.; defining the term "mortgagee of record"; providing  
 60 effective dates.

61  
 62 Be It Enacted by the Legislature of the State of Florida:

63  
 64 Section 1. Section 55.141, Florida Statutes, is amended to  
 65 read:

66 55.141 Satisfaction of judgments and decrees; duties of  
 67 clerk ~~and judge~~.--

68 (1) All judgments and decrees for the payment of money  
 69 rendered in the courts of this state and which have become  
 70 final, may be satisfied at any time prior to the actual levy of  
 71 execution issued thereon by payment of the full amount of such  
 72 judgment or decree, with interest thereon, plus the costs of the  
 73 issuance, if any, of execution thereon into the registry of the  
 74 court where rendered.

75 (2) Upon such payment, the clerk, ~~or the judge if there is~~  
 76 ~~no clerk,~~ shall execute ~~issue his or her receipt therefor~~ and  
 77 ~~shall~~ record in the official records a satisfaction of judgment,  
 78 ~~provided by the judgment holder,~~ upon payment of the recording  
 79 charge prescribed in s. 28.24(12) ~~plus the necessary costs of~~  
 80 ~~mailing to the clerk or judge.~~ Upon payment of the amount  
 81 required in subsection (1) and the recording charge required by  
 82 this subsection and execution and recordation of the  
 83 satisfaction by the clerk, any lien created by the judgment is  
 84 satisfied and discharged. ~~The clerk or judge shall formally~~

85 ~~notify the owner of record of such judgment or decree, if such~~  
 86 ~~person and his or her address are known to the clerk or judge~~  
 87 ~~receiving such payment, and, upon request therefor, shall pay~~  
 88 ~~over to the person entitled, or to his or her order, the full~~  
 89 ~~amount of the payment so received, less his or her service~~  
 90 ~~charge for providing a receipt upon the court issuing a writ of~~  
 91 ~~execution on such judgment or decree, if any has been issued,~~  
 92 ~~and less his or her service charge for receiving into and paying~~  
 93 ~~out of the registry of the court such payment, together with the~~  
 94 ~~service charge of the clerk for receiving into and paying such~~  
 95 ~~money out of the registry of the court.~~

96 (3) The satisfaction of judgment executed by the clerk  
 97 must be substantially in the following form:

98  
 99 Satisfaction of Judgment by Clerk

100  
 101 The undersigned Clerk acknowledges on this \_\_\_\_\_ day of (month)  
 102 (year) receipt from (identity of party making payment) of \$  
 103 (total amount received), comprised of \$ \_\_\_\_\_ face amount of the  
 104 judgment; \$ \_\_\_\_\_ interest accruing on the judgment through the  
 105 date of payment; \$ \_\_\_\_\_ costs of issuance of any execution; and \$  
 106 \_\_\_\_\_ for recording.

107  
 108 Pursuant to section 55.141, Florida Statutes, said sum is paid  
 109 to satisfy the lien and to discharge that certain final judgment  
 110 in favor of (name of judgment holder), whose last known address,  
 111 if known, is (address if shown on face of judgment or in  
 112 recorded affidavit pursuant to section 55.10(1), Florida

113 Statutes,) against (name of judgment debtor) recorded in  
 114 Official Records Volume/Book , page , of the public  
 115 records of\_\_\_\_\_  
 116 County, Florida.

117  
 118 Upon the execution of this satisfaction, said judgment is  
 119 satisfied and discharged.

120  
 121 If an address for the judgment holder was provided under section  
 122 55.10(1), Florida Statutes, I certify that a copy of this notice  
 123 has been sent to the judgment holder at said address by  
 124 certified mail with return receipt requested or by registered  
 125 mail if the notice is to be sent outside the continental United  
 126 States.

127  
 128 Clerk of Court

129 (4) If an address for the judgment holder was provided  
 130 under s. 55.10(1), the clerk shall formally send a copy of the  
 131 satisfaction to the judgment holder at that address by certified  
 132 mail with return receipt or by registered mail if the notice is  
 133 to be sent outside the continental United States. If an address  
 134 is not provided under s. 55.10(1) or if delivery cannot be  
 135 effected to such address, the clerk may, but is not obligated  
 136 to, make reasonable attempts to locate the judgment holder. The  
 137 discharge of the lien by the issuance of the satisfaction is not  
 138 dependent upon the delivery of notice by the clerk.

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

141 payment received, less the clerk's fees for issuing execution on  
 142 such judgment, if any has been issued; less the clerk's fees for  
 143 receiving into and paying out of the registry of the court such  
 144 payment; less the clerk's fees for recording the satisfaction of  
 145 judgment; and, if the clerk incurred expenses in locating the  
 146 judgment holder, less the reasonable expenses so incurred.

147 ~~(3) Full payment of judgments and decrees as in the~~  
 148 ~~preceding subsections of this section provided shall constitute~~  
 149 ~~full payment and satisfaction thereof and any lien created by~~  
 150 ~~such judgment or decree shall thereupon be satisfied and~~  
 151 ~~discharged.~~

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

154 55.202 Judgments, orders, and decrees; lien on personal  
 155 property.--

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

160 (a) A judgment lien is acquired by filing a judgment lien  
 161 certificate in accordance with s. 55.203 with the Department of  
 162 State after the judgment has become final and if the time to  
 163 move for rehearing has lapsed, no motion for rehearing is  
 164 pending, and no stay of the judgment or its enforcement is then  
 165 in effect. A court may authorize, for cause shown, the filing of  
 166 a judgment lien certificate before a judgment has become final  
 167 when the court has authorized the issuance of a writ of  
 168 execution in the same matter. A judgment lien certificate not

169 filed in compliance with this subsection is permanently void and  
 170 of no effect.

171 (b) For any lien, warrant, assessment, or judgment  
 172 collected by the Department of Revenue, a judgment lien may be  
 173 acquired by filing the judgment lien certificate information or  
 174 warrant with the Department of State in accordance with  
 175 subsection (5).

176 (c) Except as provided in s. 55.208, the effective date of  
 177 a judgment lien is the date, including the time of day, of  
 178 filing. Although no lien attaches to property, and a creditor  
 179 does not become a lien creditor as to liens under chapter 679,  
 180 until the debtor acquires an interest in the property, priority  
 181 among competing judgment liens is determined in order of filing  
 182 date and time.

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

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

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

192 55.204 Duration and continuation of judgment lien;  
 193 destruction of records.--

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

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

200 (b) The instructions for the levy had been delivered to  
 201 the sheriff prior to the date of lapse of the lien ~~to permit the~~  
 202 ~~sheriff to act~~; and

203 (c) The property was located in the county in which the  
 204 sheriff has jurisdiction at the time of delivery of the  
 205 instruction for levy. Subsequent removal of the property does  
 206 not defeat the lien. A court may order continuation of the lien  
 207 beyond the 90-day period on a showing that extraordinary  
 208 circumstances have prevented levy.

209 (6) If no second judgment lien is filed, the Department of  
 210 State shall maintain each judgment lien file and all information  
 211 contained therein for a minimum of 1 year after the judgment  
 212 lien lapses in accordance with this section. If a second  
 213 judgment lien is filed, the department shall maintain both files  
 214 and all information contained in such files for a minimum of 1  
 215 year after the second judgment lien lapses.

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

218 55.205 Effect of judgment lien.--

219 (1) ~~A valid judgment lien gives the judgment creditor the~~  
 220 ~~right to proceed against the property of the debtor through writ~~  
 221 ~~of execution, garnishment, or other judicial process.~~ A judgment  
 222 creditor who has not acquired a judgment lien as provided in s.  
 223 55.202 or whose lien has lapsed may nevertheless proceed against  
 224 the judgment debtor's property through any appropriate ~~other~~



225 | judicial process. Such judgment creditor proceeding by writ of  
 226 | execution acquires a lien as of the time of levy and only on the  
 227 | property levied upon. Except as provided in s. 55.208, such  
 228 | judgment creditor takes subject to the claims and interest of  
 229 | priority judgment creditors.

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

232 |       55.602 Definitions.--As used in this act, the term:

233 |       (2) "Out-of-country foreign judgment" means any judgment  
 234 | of a foreign state granting or denying recovery of a sum of  
 235 | money, other than a judgment for taxes, a fine, or other  
 236 | penalty.

237 |       Section 6. Section 55.603, Florida Statutes, is amended to  
 238 | read:

239 |       55.603 Applicability.--This act applies to any out-of-  
 240 | country foreign judgment that is final and conclusive and  
 241 | enforceable where rendered, even though an appeal therefrom is  
 242 | pending or is subject to appeal.

243 |       Section 7. Section 55.604, Florida Statutes, is amended to  
 244 | read:

245 |       55.604 Recognition and enforcement.--Except as provided in  
 246 | s. 55.605, an out-of-country ~~a~~ foreign judgment meeting the  
 247 | requirements of s. 55.603 is conclusive between the parties to  
 248 | the extent that it grants or denies recovery of a sum of money.  
 249 | Procedures for recognition and enforceability of an out-of-  
 250 | country ~~a~~ foreign judgment shall be as follows:

251 |       (1) The out-of-country foreign judgment shall be filed  
 252 | with the clerk of the court and recorded in the public records

253 | in the county or counties where enforcement is sought.

254 |       (a) At the time of the recording of an out-of-country a  
 255 | foreign judgment, the judgment creditor shall make and record  
 256 | with the clerk of the circuit court an affidavit setting forth  
 257 | the name, social security number, if known, and last known post-  
 258 | office address of the judgment debtor and of the judgment  
 259 | creditor.

260 |       (b) Promptly upon the recording of the out-of-country  
 261 | foreign judgment and the affidavit, the clerk shall mail notice  
 262 | of the recording of the out-of-country foreign judgment, by  
 263 | registered mail with return receipt requested, to the judgment  
 264 | debtor at the address given in the affidavit and shall make a  
 265 | note of the mailing in the docket. The notice shall include the  
 266 | name and address of the judgment creditor and of the judgment  
 267 | creditor's attorney, if any, in this state. In addition, the  
 268 | judgment creditor may mail a notice of the recording of the  
 269 | judgment to the judgment debtor and may record proof of mailing  
 270 | with the clerk. The failure of the clerk to mail notice of  
 271 | recording will not affect the enforcement proceedings if proof  
 272 | of mailing by the judgment creditor has been recorded.

273 |       (2) The judgment debtor shall have 30 days after service  
 274 | of the notice to file a notice of objection with the clerk of  
 275 | the court specifying the grounds for nonrecognition or  
 276 | nonenforceability under this act.

277 |       (3) Upon the application of any party, and after proper  
 278 | notice, the circuit court shall have jurisdiction to conduct a  
 279 | hearing, determine the issues, and enter an appropriate order  
 280 | granting or denying recognition in accordance with the terms of

281 this act.

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

285 (5) Upon entry of an order recognizing the out-of-country  
 286 foreign judgment, or upon recording of the clerk's certificate  
 287 set forth above, the out-of-country foreign judgment shall be  
 288 enforced in the same manner as the judgment of a court of this  
 289 state.

290 (6) Once an order recognizing the out-of-country foreign  
 291 judgment has been entered by a court of this state, the order  
 292 and a copy of the judgment may be recorded in any other county  
 293 of this state without further notice or proceedings, and shall  
 294 be enforceable in the same manner as the judgment of a court of  
 295 this state.

296 (7) A lien on real estate in any county shall be created  
 297 only when there has been recorded in the official records of the  
 298 county (a) a certified copy of the judgment, and (b) a copy of  
 299 the clerk's certificate or the order recognizing the out-of-  
 300 country foreign judgment. The priority of such lien will be  
 301 established as of the time the latter of the two recordings has  
 302 occurred. ~~Such lien may be partially released or satisfied by~~  
 303 ~~the person designated pursuant to paragraph (1).~~

304 (8) A judgment lien on personal property is acquired only  
 305 when a judgment lien certificate is filed in accordance with s.  
 306 55.203 with the Department of State.

307 Section 8. Section 55.605, Florida Statutes, is amended to  
 308 read:

309 55.605 Grounds for nonrecognition.--

310 (1) An out-of-country A foreign judgment is not conclusive  
311 if:

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

315 (b) The foreign court did not have personal jurisdiction  
316 over the defendant.

317 (c) The foreign court did not have jurisdiction over the  
318 subject matter.

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

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

324 (b) The judgment was obtained by fraud.

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

328 (d) The judgment conflicts with another final and  
329 conclusive order.

330 (e) The proceeding in the foreign court was contrary to an  
331 agreement between the parties under which the dispute in  
332 question was to be settled otherwise than by proceedings in that  
333 court.

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

337 (g) The foreign jurisdiction where judgment was rendered  
 338 would not give recognition to a similar judgment rendered in  
 339 this state.

340 Section 9. Section 55.606, Florida Statutes, is amended to  
 341 read:

342 55.606 Personal jurisdiction.--The out-of-country foreign  
 343 judgment shall not be refused recognition for lack of personal  
 344 jurisdiction if:

345 (1) The defendant was served personally in the foreign  
 346 state;

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

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

354 (4) The defendant was domiciled in the foreign state when  
 355 the proceedings were instituted, or, being a body corporate, had  
 356 its principal place of business, was incorporated, or had  
 357 otherwise acquired corporate status, in the foreign state;

358 (5) The defendant had a business office in the foreign  
 359 state and the proceedings in the foreign court involved a cause  
 360 of action or a claim for relief arising out of business done by  
 361 the defendant through that office in the foreign state; or

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

365 Section 10. Effective October 1, 2005, section 56.21,  
 366 Florida Statutes, is amended to read:

367 56.21 Execution sales; notice.--Notice of all sales under  
 368 execution shall be given by advertisement once each week for 4  
 369 successive weeks in a newspaper published in the county in which  
 370 the sale is to take place. The time of such notice may be  
 371 shortened in the discretion of the court from which the  
 372 execution issued, upon affidavit that the property to be sold is  
 373 subject to decay and will not sell for its full value if held  
 374 until date of sale. On or before the date of the first  
 375 publication or posting of the notice of sale, a copy of the  
 376 notice of sale shall be furnished by certified mail to the  
 377 attorney of record of the judgment debtor, or to the judgment  
 378 debtor at the judgment debtor's last known address if the  
 379 judgment debtor does not have an attorney of record. Such copy  
 380 of the notice of sale shall be mailed even though a default  
 381 judgment was entered. When levying upon personal property, a  
 382 notice of such levy and execution sale and a copy of the  
 383 affidavit required by s. 56.27(4) shall be sent by the sheriff  
 384 ~~made by the levying creditor~~ to the attorneys ~~attorney~~ of record  
 385 of all the judgment creditors, creditor or to all the judgment  
 386 creditors who do not have an attorney of record, creditor who  
 387 have has acquired a judgment lien as provided in s. 55.202 or s.  
 388 55.204(3), and whose liens have not lapsed at the time of levy,  
 389 at the address listed in the judgment lien certificate, or, if  
 390 amended, in any amendment to the judgment lien certificate, and  
 391 to all secured creditors who have filed financing statements as  
 392 provided in part V of chapter 679 ~~s. 679.401~~ in the name of the

393 judgment debtor reflecting a security interest in property of  
 394 the kind to be sold at the execution sale at the address listed  
 395 in the financing statement, or, if amended, in any amendment to  
 396 the financing statement. Such notice shall be made in the same  
 397 manner as notice is made to any judgment debtor under this  
 398 section. When levying upon real property, notice of such levy  
 399 and execution sale shall be made to the property owner of record  
 400 in the same manner as notice is made to any judgment debtor  
 401 pursuant to this section. When selling real or personal  
 402 property, the sale date shall not be earlier than 30 days after  
 403 the date of the first advertisement.

404 Section 11. Subsections (1), (2), and (4) of section  
 405 56.27, Florida Statutes, are amended to read:

406 56.27 Executions; payment of money collected.--

407 (1) All money received under executions shall be paid, in  
 408 the order prescribed, to the following: the sheriff, for costs;  
 409 the levying creditor in the amount of \$500 as liquidated  
 410 expenses; if the levy is upon real property, the first priority  
 411 lienholder under s. 55.10; and if the levy is upon personal  
 412 property, and the first priority lienholder under s. 55.202, s.  
 413 55.204(3), or s. 55.208(2), as set forth in an affidavit  
 414 required by subsection (4), or his or her attorney, in  
 415 satisfaction of the judgment lien, provided that the judgment  
 416 lien has not lapsed at the time of the levy. The receipt of the  
 417 attorney shall be a release of the officer paying the money to  
 418 him or her. When the name of more than one attorney appears in  
 419 the court file, the money shall be paid to the attorney who  
 420 originally commenced the action or who made the original defense

421 unless the file shows that another attorney has been  
 422 substituted.

423 (2) When property sold under execution brings more than  
 424 the amount needed to satisfy the provisions of subsection (1),  
 425 the surplus shall be paid in the order of priority to any  
 426 judgment lienholders whose judgment liens have not lapsed.  
 427 Priority of liens on personal property shall be based on the  
 428 effective date of the judgment lien acquired under s. 55.202, s.  
 429 55.204(3), or s. 55.208(2), as set forth in an affidavit  
 430 required under subsection (4). If there is a surplus after all  
 431 valid judgment liens and execution liens have been satisfied,  
 432 the surplus must be paid to the defendant.

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

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

441 (b) The information required under s. 55.203(1) and (2)  
 442 for each judgment lien certificate indexed under the name of the  
 443 judgment debtor as to each judgment creditor; the file number  
 444 assigned to the record of the original and, if any, the second  
 445 judgment lien; and the date of filing for each judgment lien  
 446 certificate under s. 55.202 or s. 55.204(3); and

447 (c) A statement that the levying creditor either does not  
 448 have any other levy in process or, if another levy is in



449 process, the levying creditor believes in good faith that the  
 450 total value of the property under execution does not exceed the  
 451 amount of outstanding judgments.

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

454 56.29 Proceedings supplementary.--

455 (1) When any person or entity holds an unsatisfied  
 456 judgment execution ~~and has delivered a writ of execution to any~~  
 457 ~~sheriff~~, the judgment holder plaintiff in execution may file an  
 458 affidavit so stating, identifying the issuing court, the case  
 459 number, and the unsatisfied amount of the judgment, including  
 460 accrued costs and interest, and stating that the execution is  
 461 valid and outstanding, and thereupon the judgment holder is  
 462 entitled to these proceedings supplementary to execution.

463 Section 13. Section 77.03, Florida Statutes, is amended to  
 464 read:

465 77.03 Issuance of writ after judgment.--After judgment has  
 466 been obtained against defendant but before the writ of  
 467 garnishment is issued, the plaintiff, the plaintiff's agent or  
 468 attorney, shall file a motion (which shall not be verified or  
 469 negative defendant's exemptions) stating the amount of the  
 470 judgment ~~and that movant does not believe that defendant has in~~  
 471 ~~his or her possession visible property on which a levy can be~~  
 472 ~~made sufficient to satisfy the judgment.~~ The motion may be filed  
 473 and the writ issued either before or after the return of  
 474 execution.

475 Section 14. Subsections (1) and (3) of section 77.041,  
 476 Florida Statutes, are amended to read:

477 77.041 Notice to individual defendant for claim of  
 478 exemption from garnishment; procedure for hearing.--

479 (1) Upon application for a writ of garnishment by a  
 480 plaintiff, if the defendant is an individual, the clerk of the  
 481 court shall attach to the writ the following "Notice to  
 482 Defendant":

483  
 484 NOTICE TO DEFENDANT OF RIGHT AGAINST  
 485 GARNISHMENT OF WAGES, MONEY,  
 486 AND OTHER PROPERTY  
 487

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

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

501  
 502 TO KEEP YOUR WAGES, MONEY, AND OTHER PROPERTY FROM  
 503 BEING GARNISHED, OR TO GET BACK ANYTHING ALREADY  
 504 TAKEN, YOU MUST COMPLETE A FORM FOR CLAIM OF EXEMPTION

505 AND REQUEST FOR HEARING AS SET FORTH BELOW AND HAVE  
 506 THE FORM NOTARIZED. YOU MUST FILE THE FORM WITH THE  
 507 CLERK'S OFFICE WITHIN 20 DAYS AFTER THE DATE YOU  
 508 RECEIVE THIS NOTICE OR YOU MAY LOSE IMPORTANT RIGHTS.  
 509 YOU MUST ALSO MAIL OR DELIVER A COPY OF THIS FORM TO  
 510 THE PLAINTIFF AND THE GARNISHEE AT THE ADDRESSES  
 511 LISTED ON THE WRIT OF GARNISHMENT.

512  
 513 If you request a hearing, it will be held as soon as  
 514 possible after your request is received by the court. The  
 515 plaintiff must file any objection within 3 ~~2~~ business days if  
 516 you hand delivered to the plaintiff a copy of the form for Claim  
 517 of Exemption and Request for Hearing or, alternatively, 8  
 518 business ~~7~~ days if you mailed a copy of the form for claim and  
 519 request to the plaintiff. If the plaintiff files an objection to  
 520 your Claim of Exemption and Request for Hearing, the clerk will  
 521 notify you and the other parties of the time and date of the  
 522 hearing. You may attend the hearing with or without an attorney.  
 523 If the plaintiff fails to file an objection, no hearing is  
 524 required, the writ of garnishment will be dissolved and your  
 525 wages, money, or property will be released.

526  
 527 YOU SHOULD FILE THE FORM FOR CLAIM OF EXEMPTION  
 528 IMMEDIATELY TO KEEP YOUR WAGES, MONEY, OR PROPERTY  
 529 FROM BEING APPLIED TO THE COURT JUDGMENT. THE CLERK  
 530 CANNOT GIVE YOU LEGAL ADVICE. IF YOU NEED LEGAL  
 531 ASSISTANCE YOU SHOULD SEE A LAWYER. IF YOU CANNOT  
 532 AFFORD A PRIVATE LAWYER, LEGAL SERVICES MAY BE

533 AVAILABLE. CONTACT YOUR LOCAL BAR ASSOCIATION OR ASK  
 534 THE CLERK'S OFFICE ABOUT ANY LEGAL SERVICES PROGRAM IN  
 535 YOUR AREA.

536  
 537 CLAIM OF EXEMPTION AND  
 538 REQUEST FOR HEARING  
 539

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

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

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561 \_\_\_\_\_(explain)

562

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

565

566 Address: \_\_\_\_\_

567

568 Telephone number: \_\_\_\_\_

569

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

572

573 \_\_\_\_\_

574 Defendant's signature

575

576 Date \_\_\_\_\_

577

578 STATE OF FLORIDA

579

580 COUNTY OF

581

582 Sworn and subscribed to before me this \_\_\_\_\_ day of (month  
583 and year), by (name of person making statement)

584

585 Notary Public/Deputy Clerk

586

587 Personally Known \_\_\_\_\_OR Produced Identification\_\_\_\_\_

588

589 Type of Identification Produced \_\_\_\_\_

590

591 (3) Upon the filing by a defendant of a claim of exemption  
 592 and request for hearing, a hearing will be held as soon as is  
 593 practicable to determine the validity of the claimed exemptions.  
 594 If the plaintiff does not file a sworn written statement that  
 595 contests the defendant's claim of exemption within 3 ~~2~~ business  
 596 days after hand delivering the claim and request or,  
 597 alternatively, 8 ~~7~~ business days, if the claim and request were  
 598 served by mail, no hearing is required and the clerk must  
 599 automatically dissolve the writ and notify the parties of the  
 600 dissolution by mail.

601 Section 15. Subsections (2) and (4) of section 222.01,  
 602 Florida Statutes, are amended to read:

603 222.01 Designation of homestead by owner before levy.--

604 (2) When a certified copy of a judgment has been filed in  
 605 the public records of a county pursuant to chapter 55 s. 55.10,  
 606 a person who is entitled to the benefit of the provisions of the  
 607 State Constitution exempting real property as homestead and who  
 608 has a contract to sell or a commitment from a lender for a  
 609 mortgage on the homestead may file a notice of homestead in the  
 610 public records of the county in which the homestead property is  
 611 located in substantially the following form:

612

613 NOTICE OF HOMESTEAD

614

615 To: (Name and address of judgment creditor as shown  
 616 on recorded judgment and name and address of any other

617 person shown in the recorded judgment to receive a  
 618 copy of the Notice of Homestead).

619  
 620 You are notified that the undersigned claims as  
 621 homestead exempt from levy and execution under Section  
 622 4, Article X of the State Constitution, the following  
 623 described property:

624  
 625 (Legal description)  
 626

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

636  
 637 (Describe the contract of sale or loan commitment by  
 638 date, names of parties, date of anticipated closing,  
 639 and amount. The name, address, and telephone number of  
 640 the person conducting the anticipated closing must be  
 641 set forth.)  
 642

643 The undersigned also certifies, under oath, that the  
 644 judgment lien filed by you on (date) and recorded in

645 Official Records Book \_\_\_\_\_, Page \_\_\_\_\_, of the Public  
 646 Records of \_\_\_\_\_ County, Florida, does not  
 647 constitute a valid lien on the described property.  
 648

649 YOU ARE FURTHER NOTIFIED, PURSUANT TO SECTION 222.01  
 650 ET SEQ., FLORIDA STATUTES, THAT WITHIN 45 DAYS AFTER  
 651 THE MAILING OF THIS NOTICE YOU MUST FILE AN ACTION IN  
 652 THE CIRCUIT COURT OF \_\_\_\_\_ COUNTY, FLORIDA, FOR A  
 653 DECLARATORY JUDGMENT TO DETERMINE THE CONSTITUTIONAL  
 654 HOMESTEAD STATUS OF THE SUBJECT PROPERTY OR TO  
 655 FORECLOSE YOUR JUDGMENT LIEN ON THE PROPERTY AND  
 656 RECORD A LIS PENDENS IN THE PUBLIC RECORDS OF THE  
 657 COUNTY WHERE THE HOMESTEAD IS LOCATED. YOUR FAILURE TO  
 658 SO ACT WILL RESULT IN ANY BUYER OR LENDER, OR HIS OR  
 659 HER SUCCESSORS AND ASSIGNS, UNDER THE ABOVE-DESCRIBED  
 660 CONTRACT OF SALE OR LOAN COMMITMENT TO TAKE FREE AND  
 661 CLEAR OF ANY JUDGMENT LIEN YOU MAY HAVE ON THE  
 662 PROPERTY.  
 663

664 This \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

\_\_\_\_\_  
 (Signature of Owner)

\_\_\_\_\_  
 (Printed Name of Owner)

\_\_\_\_\_  
 (Owner's Address)

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



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Sworn to and subscribed before me by  
 \_\_\_\_\_ who is personally  
 known to me or produced  
 \_\_\_\_\_ as identification,  
 this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_

\_\_\_\_\_  
 Notary Public

(4) A lien pursuant to chapter 55 ~~s. 55.10~~ of any lienor upon whom such notice is served, who fails to institute an action for a declaratory judgment to determine the constitutional homestead status of the property described in the notice of homestead or to file an action to foreclose the judgment lien, together with the filing of a lis pendens in the public records of the county in which the homestead is located, within 45 days after service of such notice shall be deemed as not attaching to the property by virtue of its status as homestead property as to the interest of any buyer or lender, or his or her successors or assigns, who takes under the contract of sale or loan commitment described above within 180 days after the filing in the public records of the notice of homestead. This subsection shall not act to prohibit a lien from attaching to the real property described in the notice of homestead at such time as the property loses its homestead status.

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

701           319.27 Notice of lien on motor vehicles or mobile homes;  
702 notation on certificate; recording of lien.--

703           (2) No lien for purchase money or as security for a debt  
704 in the form of a security agreement, retain title contract,  
705 conditional bill of sale, chattel mortgage, or other similar  
706 instrument or any other nonpossessory lien, including a lien for  
707 child support, upon a motor vehicle or mobile home upon which a  
708 Florida certificate of title has been issued shall be  
709 enforceable in any of the courts of this state against creditors  
710 or subsequent purchasers for a valuable consideration and  
711 without notice, unless a sworn notice of such lien has been  
712 filed in the department and such lien has been noted upon the  
713 certificate of title of the motor vehicle or mobile home. Such  
714 notice shall be effective as constructive notice when filed. The  
715 ~~No~~ interest of a statutory nonpossessory lienor; the interest of  
716 a nonpossessory execution, attachment, or equitable lienor; or  
717 the interest of a lien creditor as defined in s. 679.1021(1)(zz)  
718 ~~679.301(3)~~, if nonpossessory, shall not be enforceable against  
719 creditors or subsequent purchasers for a valuable consideration  
720 unless such interest becomes a possessory lien or is noted upon  
721 the certificate of title for the subject motor vehicle or mobile  
722 home prior to the occurrence of the subsequent transaction.  
723 Provided the provisions of this subsection relating to a  
724 nonpossessory statutory lienor; a nonpossessory execution,  
725 attachment, or equitable lienor; or the interest of a lien  
726 creditor as defined in s. 679.1021(1)(zz) ~~679.301(3)~~ shall not  
727 apply to liens validly perfected prior to October 1, 1988. The  
728 notice of lien shall provide the following information:

729 (a) The date of the lien if a security agreement, retain  
 730 title contract, conditional bill of sale, chattel mortgage, or  
 731 other similar instrument was executed prior to the filing of the  
 732 notice of lien;

733 (b) The name and address of the registered owner;

734 (c) A description of the motor vehicle or mobile home,  
 735 showing the make, type, and vehicle identification number; and

736 (d) The name and address of the lienholder.

737 (3)

738 (b) As applied to a determination of the respective rights  
 739 of a secured party under this chapter and a lien creditor as  
 740 defined by s. 679.1021(1)(zz) ~~679.301(3)~~, or a nonpossessory  
 741 statutory lienor, a security interest under this chapter shall  
 742 be perfected upon the filing of the notice of lien with the  
 743 department, the county tax collector, or their agents. Provided,  
 744 however, the date of perfection of a security interest of such  
 745 secured party shall be the same date as the execution of the  
 746 security agreement or other similar instrument if the notice of  
 747 lien is filed in accordance with this subsection within 15 days  
 748 after the debtor receives possession of the motor vehicle or  
 749 mobile home and executes such security agreement or other  
 750 similar instrument. The date of filing of the notice of lien  
 751 shall be the date of its receipt by the department central  
 752 office in Tallahassee, if first filed there, or otherwise by the  
 753 office of the county tax collector, or their agents.

754 Section 17. Paragraph (zz) of subsection (1) of section  
 755 679.1021, Florida Statutes, is amended to read:

756 679.1021 Definitions and index of definitions.--

757 (1) In this chapter, the term:

758 (zz) "Lien creditor" means:

759 1. A creditor that has acquired a lien on the property  
760 involved by attachment, levy, judgment lien certificate, or the  
761 like;

762 2. An assignee for benefit of creditors from the time of  
763 assignment;

764 3. A trustee in bankruptcy from the date of the filing of  
765 the petition; or

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

767 Section 18. Section 701.02, Florida Statutes, is amended  
768 to read:

769 701.02 Assignment not effectual against creditors unless  
770 recorded and indicated in title of document; applicability.--

771 (1) An ~~No~~ assignment of a mortgage upon real property or  
772 of any interest therein is not, ~~shall be~~ good or effectual in  
773 law or equity, against creditors or subsequent purchasers, for a  
774 valuable consideration, and without notice, unless the  
775 assignment is contained in a document that ~~which~~, in its title,  
776 indicates an assignment of mortgage and is recorded according to  
777 law.

778 (2) This section also applies ~~The provisions of this~~  
779 ~~section shall also extend~~ to assignments of mortgages resulting  
780 from transfers of all or any part or parts of the debt or, ~~note~~  
781 or notes secured by mortgage, and none of same is ~~shall be~~  
782 effectual in law or in equity against creditors or subsequent  
783 purchasers for a valuable consideration without notice, unless a  
784 duly executed assignment be recorded according to law.

785 (3) Any assignment of a mortgage, duly executed and  
 786 recorded according to law, purporting to assign the principal of  
 787 the mortgage debt or the unpaid balance of such principal,  
 788 shall, as against subsequent purchasers and creditors for value  
 789 and without notice, be held and deemed to assign any and all  
 790 accrued and unpaid interest secured by such mortgage, unless  
 791 such interest is ~~shall be~~ specifically and affirmatively  
 792 reserved in such an assignment by the assignor, and a ~~no~~  
 793 reservation of such interest or any part thereof may not ~~shall~~  
 794 be implied.

795 (4) Notwithstanding subsections (1), (2), and (3)  
 796 governing the assignment of mortgages, the provisions of the  
 797 Uniform Commercial Code of this state, chapters 670-680, govern  
 798 the attachment and perfection of a security interest in a  
 799 mortgage upon real property and in a promissory note or other  
 800 right to payment or performance secured by that mortgage. The  
 801 assignment of such a mortgage need not be recorded under this  
 802 section for purposes of attachment or perfection of a security  
 803 interest in the mortgage under the Uniform Commercial Code.

804 (5) Notwithstanding subsection (4), a creditor or  
 805 subsequent purchaser of real property or any interest therein,  
 806 for valuable consideration and without notice, is entitled to  
 807 rely on a full or partial release, discharge, consent, joinder,  
 808 subordination, satisfaction, or assignment of a mortgage upon  
 809 such property made by the mortgagee of record, without regard to  
 810 the filing of any Uniform Commercial Code financing statement  
 811 that purports to perfect a security interest in the mortgage or  
 812 in a promissory note or other right to payment or performance

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813 secured by the mortgage, and the filing of any such financing  
814 statement does not constitute notice for the purposes of this  
815 section. For the purposes of this subsection, the term  
816 "mortgagee of record" means the person named as the mortgagee in  
817 the recorded mortgage or, if an assignment of the mortgage has  
818 been recorded in accordance with this section, the term  
819 "mortgagee of record" means the assignee named in the recorded  
820 assignment.

821       Section 19. Except as otherwise expressly provided in this  
822 act, this act shall take effect upon becoming a law.