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1 A bill to be entitled

2 An act relating to debts and debtors and administration of
3 insolvent estates; amending s. 222.25, F.S.; providing
4 that a debtor's personal property of a specified value is
5 exempt from legal process if the debtor does not receive a
6 homestead exemption; amending s. 727.103, F.S.; revising
7 definitions; amending s. 727.104, F.S.; revising
8 requirements for commencement of proceedings; specifying
9 forms for verification of assignment and schedules by
10 assignor and acceptance by assignee; amending s. 727.105,
11 F.S.; revising requirements for proceedings against an
12 assignee; amending s. 727.108, F.S.; revising and
13 expanding the duties of assignees; amending s. 727.109,
14 F.S.; revising and expanding powers of a court in certain
15 actions; amending s. 727.110, F.S.; conforming cross-
16 references; amending s. 727.111, F.S.; revising
17 requirements for notices of assignments; amending s.
18 727.112, F.S.; providing limitations on certain claims for
19 damages; amending s. 727.113, F.S.; providing additional
20 requirements for filing objections to claims; amending s.
21 727.114, F.S.; revising requirements and criteria for
22 priority of claims; providing for enforceability of
23 subordination agreements under certain circumstances;
24 providing for subordinating certain claims for damages for
25 rescission; providing an exception; providing an effective
26 date.

27
28 Be It Enacted by the Legislature of the State of Florida:

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

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30 Section 1. Subsection (4) is added to section 222.25,
31 Florida Statutes, to read:

32 222.25 Other individual property exempt from legal
33 process.--The following property is exempt from attachment,
34 garnishment, or other legal process:

35 (4) A debtor's interest in personal property, not to
36 exceed \$4,000, if the debtor does not claim or receive the
37 benefits of a homestead exemption under s. 4, Art. X of the
38 State Constitution.

39 Section 2. Section 727.103, Florida Statutes, is amended
40 to read:

41 727.103 Definitions.--As used in this chapter, unless the
42 context requires a different meaning, the term:

43 (1) "Asset" means a legal or equitable interest of the
44 assignor in property, which shall include anything that may be
45 the subject of ownership, whether real or personal, tangible or
46 intangible, including claims and causes of action, whether
47 arising by contract or in tort, wherever located and by whomever
48 held at the date of the assignment, except property exempt by
49 law from forced sale.

50 (2) "Assignee" means a natural person solely in such
51 person's capacity as an assignee for the benefit of creditors
52 under the provisions of this chapter, which assignee shall not
53 be a creditor or an equity security holder or have any interest
54 adverse to the interest of the estate.

55 (3) "Assignor" means the person or entity which has
56 executed and delivered the assignment to the assignee.

57 (4) "Assignment" means an assignment for the benefit of
 58 creditors made under this chapter.

59 (5) "Claims bar date" means the date which is 120 days
 60 after the date on which the petition is filed with the court.

61 (6) "Consensual lienholder" means a creditor that has been
 62 granted a security interest or lien in personal property or real
 63 property of the assignor prior to the date on which a petition
 64 is filed with the court and whose security interest or lien has
 65 been perfected in accordance with applicable law.

66 (7)~~(5)~~ "Court" means the circuit court where the petition
 67 is filed in accordance with s. 727.104(2).

68 (8)~~(6)~~ "Creditor" means any person having a claim against
 69 the assignor, whether such claim is contingent, liquidated,
 70 unliquidated, or disputed.

71 (9)~~(7)~~ "Estate" means all of the assets of the assignor.

72 (10)~~(8)~~ "Filing date" means the date upon which the
 73 original petition is filed in accordance with s. 727.104(2).

74 (11)~~(9)~~ "Lien" means a charge against or an interest in
 75 property to secure payment of a debt or performance of an
 76 obligation, and includes a security interest created by
 77 agreement, a judicial lien obtained by legal or equitable
 78 process or proceedings, a common-law lien, or a statutory lien.

79 (12)~~(10)~~ "Liquidation value" means the value in cash
 80 obtainable upon a forced sale of assets after payment of valid
 81 liens encumbering said assets.

82 (13)~~(11)~~ "Petition" means the initial document filed with
 83 the court, as set forth in s. 727.104(2), establishing the
 84 court's jurisdiction under this chapter.

85 Section 3. Subsection (1) of section 727.104, Florida
 86 Statutes, is amended to read:

87 727.104 Commencement of proceedings.--

88 (1)(a) An irrevocable assignment and schedules shall be
 89 made in writing, containing the name and address of the assignor
 90 and assignee and providing for an equal distribution of the
 91 estate according to the priorities set forth in s. 727.114.

92 (b) The assignment shall be in substantially the following
 93 form:

94
 95 ASSIGNMENT

96
 97 ASSIGNMENT, made this ____ day of _____, (year) , between
 98 _____, with a principal place of business at _____, hereinafter
 99 "assignor," and _____, whose address is _____, hereinafter
 100 "assignee."

101 WHEREAS, the assignor has been engaged in the business of
 102 _____;

103 WHEREAS, the assignor is indebted to creditors, as set
 104 forth in Schedule A annexed hereto, is unable to pay its debts
 105 as they become due, and is desirous of providing for the payment
 106 of its debts, so far as it is possible by an assignment of all
 107 of its assets for that purpose.

108 NOW, THEREFORE, the assignor, in consideration of the
 109 assignee's acceptance of this assignment, and for other good and
 110 valuable consideration, hereby grants, assigns, conveys,
 111 transfers, and sets over, unto the assignee, her or his
 112 successors and assigns, all of its assets, except such assets as

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113 are exempt by law from levy and sale under an execution,
114 including, but not limited to, all real property, fixtures,
115 goods, stock, inventory, equipment, furniture, furnishings,
116 accounts receivable, bank deposits, cash, promissory notes, cash
117 value and proceeds of insurance policies, claims and demands
118 belonging to the assignor, and all books, records, and
119 electronic data pertaining to all such assets, wherever such
120 assets may be located, hereinafter the "estate," as which assets
121 are, to the best knowledge and belief of the assignor, set forth
122 on Schedule B annexed hereto.

123 The assignee shall take possession of and protect and
124 preserve all such assets and administer the estate in accordance
125 with the provisions of chapter 727, Florida Statutes, and shall
126 liquidate the assets of the estate with reasonable dispatch and
127 convert the estate into money, collect all claims and demands
128 hereby assigned as may be collectible, and pay and discharge all
129 reasonable expenses, costs, and disbursements in connection with
130 the execution and administration of this assignment from the
131 proceeds of such liquidations and collections.

132 The assignee shall then pay and discharge in full, to the
133 extent that funds are available in the estate after payment of
134 administrative expenses, costs, and disbursements, all of the
135 debts and liabilities now due from the assignor, including
136 interest on such debts and liabilities. If funds of the estate
137 shall not be sufficient to pay such debts and liabilities in
138 full, then the assignee shall pay from funds of the estate such
139 debts and liabilities, on a pro rata basis and in proportion to
140 their priority as set forth in s. 727.114, Florida Statutes.

141 In the event that all debts and liabilities are paid in
 142 full, any funds of the estate remaining shall be returned to the
 143 assignor.

144 To accomplish the purposes of this assignment, the assignor
 145 hereby appoints the assignee its true and lawful attorney,
 146 irrevocable, with full power and authority to do all acts and
 147 things which may be necessary to execute the assignment hereby
 148 created; to demand and recover from all persons all assets of
 149 the estate; to sue for the recovery of such assets; to execute,
 150 acknowledge, and deliver all necessary deeds, instruments, and
 151 conveyances; and to appoint one or more attorneys under her or
 152 him to assist the assignee in carrying out her or his duties
 153 hereunder.

154 The assignor hereby authorizes the assignee to sign the
 155 name of the assignor to any check, draft, promissory note, or
 156 other instrument in writing which is payable to the order of the
 157 assignor, or to sign the name of the assignor to any instrument
 158 in writing, whenever it shall be necessary to do so, to carry
 159 out the purpose of this assignment.

160 The assignee hereby accepts the trust created by the
 161 assignment, and agrees with the assignor that the assignee will
 162 faithfully and without delay carry out her or his duties under
 163 the assignment.

164 _____
 Assignor

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Assignee

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STATE OF FLORIDA
COUNTY OF _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing assignment was acknowledged before me this
____ day of _____, (year) , by _____, as assignor, and by
_____, as assignee, for the purposes therein expressed.

(Signature of Notary Public - State of Florida)
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

(c) The assignment shall have annexed thereto as Schedule
A a true list of all of the assignor's known creditors, their
mailing addresses, the amount and nature of their claims, and
whether their claims are disputed; and as Schedule B a true list
of all assets of the estate, including the estimated liquidation
value of the assets, their location, and, if real property, a
legal description thereof, as of the date of the assignment.

(d) The schedules shall be in substantially the following
forms:

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SCHEDULE A--CREDITOR LIST

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1. List all secured creditors showing:

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Name	Address	Amount	Collateral	Whether or not disputed
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2. List all wages owed showing:

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Name	Address	Amount	Whether or not disputed
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3. Consumer deposits:

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Name	Address	Amount	Whether or not disputed
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4. List all taxes owed showing:

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Name	Address	Amount	Whether or not disputed
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5. List all unsecured claims showing:

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Name	Address	Amount	Whether or not disputed
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6. List all owners or shareholders showing:

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Name	Address	Amount	Whether or not disputed
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7. List all pending litigation and opposing counsel of record

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<u>Style</u>	<u>Parties</u>	<u>Opposing Counsel of Record</u>
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SCHEDULE B--LIST OF ASSETS

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List each category of assets and for each give approximate value obtainable for the asset on the date of assignment, and address where asset is located.

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I. Nonexempt Property

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Description and Location	Liquidation Value at Date of
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Assignment

- 212
- 213 1. Legal description and street address of real estate,
- 214 including leasehold interests:
- 215 2. Fixtures:
- 216 3. Cash and bank accounts:
- 217 4. Inventory:
- 218 5. Accounts receivable:
- 219 6. Equipment:
- 220 7. Prepaid expenses, including deposits, insurance, rents, and
- 221 utilities:
- 222 8. Other, including loans to third parties, claims, and choses
- 223 in action:

224

225 II. Exempt Property

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Description and Location	Liquidation Value at Date of Assignment
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228 (e) The assignment and schedules shall be duly verified

229 upon oath by the assignor, and accepted by the assignee under

230 oath, in substantially the following form:-

231

232 VERIFICATION OF ASSIGNMENT

233 AND SCHEDULES BY ASSIGNOR

234

235 The undersigned, [Name], [Position with Assignor] of

236 [Assignor], hereby verifies the Assignment (the "Assignment") of

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237 all of its rights, title and interest in and to all of its
238 assets, as indicated on the attached Schedules to that certain
239 Assignment as filed with this Court on _____, and further
240 verifies each of the facts set forth in the Schedules annexed to
241 the Assignment to the best of my knowledge and belief.

242 _____
243 _____
244 _____ [Name], [Position with Assignor]

245 _____
246 _____
247 STATE OF FLORIDA _____)

248 _____) SS:

249 COUNTY OF [_____])

250 _____
251 _____
252 Sworn to and subscribed before me this _____ day of _____.

253 _____
254 NOTARY PUBLIC,
255 STATE OF FLORIDA AT LARGE

256 _____
257 Print Name: _____

258 Commission No: _____

259 Commission Expires: _____

260 _____
261 Personally known _____

262 or Produced Identification _____

263 Type of Identification Produced _____

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ACCEPTANCE BY ASSIGNEE

The undersigned, [Assignee], the Assignee herein, duly acknowledges that the Assignee accepts delivery of the within Assignment and that he or she will duly perform the duties imposed upon the Assignee pursuant to Florida Statutes, Chapter 727.

[Assignee]

STATE OF FLORIDA)
_____) SS:
COUNTY OF [])

Sworn to and subscribed before me this _____ day of _____.

NOTARY PUBLIC,
STATE OF FLORIDA AT LARGE

Print Name: _____
Commission No: _____
Commission Expires: _____

293
 294 Personally known
 295 or Produced Identification
 296 Type of Identification Produced

297
 298 Section 4. Section 727.105, Florida Statutes, is amended
 299 to read:

300 727.105 Proceedings against assignee.--No proceeding may
 301 be commenced against the assignee except as provided in this
 302 chapter, but nothing contained herein shall affect any action or
 303 proceeding by a governmental unit to enforce such governmental
 304 unit's police or regulatory power. Except in the case of a
 305 consensual lienholder ~~secured creditor~~ enforcing its rights in
 306 personal property or real property collateral ~~under chapter 679,~~
 307 there shall be no levy, execution, attachment, or the like in
 308 respect of any judgment against assets of the estate, ~~other than~~
 309 ~~real property,~~ in the possession, custody, or control of the
 310 assignee.

311 Section 5. Section 727.108, Florida Statutes, is amended
 312 to read:

313 727.108 Duties of assignee.--The assignee shall:
 314 (1) Collect and reduce to money the assets of the estate,
 315 whether by suit in any court of competent jurisdiction or by
 316 public or private sale, including, but not limited to,
 317 prosecuting any tort claims or causes of action that were
 318 previously held by the assignor, regardless of any generally
 319 applicable law concerning the nonassignability of tort claims or
 320 causes of action.

321 (a) In respect of the estate's claims and causes of
 322 action, the assignee may prosecute such claims or causes of
 323 action as provided in this subsection or sell and assign, in
 324 whole or in part, such claims or causes of action to another
 325 person or entity on such terms as the assignee determines are in
 326 the best interest of the estate pursuant to s. 727.111(4).

327 (b) In an action in any court by the assignee, or the
 328 first immediate transferee of the assignee, other than an
 329 affiliate or insider of the assignor, against any defendant to
 330 assert a claim or chose in action of the estate, the claim shall
 331 not be subject to, and any remedy shall not be limited by, any
 332 defense based on the assignor's acquiescence, cooperation, or
 333 participation in the wrongful act by the defendant which forms
 334 the basis of such claim or chose in action.†

335 (2) Within 30 days after the filing date, examine the
 336 assignor, under oath, concerning the acts, conduct, assets,
 337 liabilities, and financial condition of the assignor or any
 338 matter related to the assignee's administration of the estate,
 339 unless excused by the court for good cause shown.†

340 (3) Give notice to creditors of all matters concerning the
 341 administration of the estate, pursuant to the provisions of s.
 342 727.111.†

343 (4) Conduct the business of the assignor for a limited
 344 period not to exceed 14 calendar days if in the best interest of
 345 the estate, or for a longer period ~~periods~~, if in the best
 346 interest of the estate, upon notice and until such time as an
 347 objection, if any, is sustained by the court, provided that the
 348 assignee shall not operate the business of the assignor for a

349 period of longer than 45 calendar days without a court order
 350 authorizing such operation if an objection by a party in
 351 interest is interposed to the assignee's motion for authority to
 352 operate the assignor's business. ~~authorization of the court,~~

353 (5) To the extent reasonable in the exercise of the
 354 assignee's business judgment, reject an unexpired lease of
 355 nonresidential real property or of personal property under which
 356 the assignor is the lessee.

357 ~~(6)-(5)~~ To the extent reasonable and necessary, pay
 358 administrative expenses of the estate, subject, however, to s.
 359 727.114(1) (a) .†

360 ~~(7)-(6)~~ To the extent necessary, employ at the expense of
 361 the estate one or more appraisers, auctioneers, accountants,
 362 attorneys, or other professional persons, to assist the assignee
 363 in carrying out his or her duties under this chapter.†

364 ~~(8)-(7)~~ Keep regular accounts and furnish such information
 365 concerning the estate as may be reasonably requested by
 366 creditors or other parties in interest.†

367 ~~(9)-(8)~~ File with the court an interim report of receipts
 368 and disbursements within 6 months after the filing date unless
 369 excused by the court or unless the estate has been sooner
 370 distributed in full.†

371 ~~(10)-(9)~~ Examine the validity and priority of all claims
 372 against the estate.†

373 ~~(11)-(10)~~ Abandon assets to duly perfected secured or lien
 374 creditors, where, after due investigation, he or she determines
 375 that the estate has no equity in such assets or such assets are

376 burdensome to the estate or are of inconsequential value and
 377 benefit to the estate.†

378 (12)~~(11)~~ Pay dividends and secured or priority claims as
 379 often as is compatible with the best interests of the estate and
 380 close the estate as expeditiously as possible.†~~and~~

381 (13)~~(12)~~ File with the court a final report of all
 382 receipts and disbursements and file an application for his or
 383 her discharge pursuant to the provisions of s. 727.116.

384 Section 6. Section 727.109, Florida Statutes, is amended
 385 to read:

386 727.109 Power of the court.--The court shall have power
 387 to:

388 (1) Enforce all provisions of this chapter.†

389 (2) Set, approve, or reconsider the amount of the
 390 assignee's bond.†

391 (3) Upon notice, and hearing if requested, authorize the
 392 business of the assignor to be conducted ~~for limited periods~~ by
 393 the assignee for a period longer than 14 calendar days, if in
 394 the best interest of the estate.†

395 (4) Allow or disallow claims against the estate and
 396 determine their priority and establish a deadline, upon motion
 397 by the assignee, for the filing of all claims against the
 398 assignment estate arising from and after the date on which the
 399 assignor's petition for assignment was filed with the court,
 400 which deadline shall occur not less than 30 days prior to notice
 401 by mail of the order establishing such deadline.†

402 (5) Determine any claims of exemption by the assignor, if
 403 disputed.†

404 (6) Authorize the assignee to reject an unexpired lease of
 405 nonresidential real property or of personal property under which
 406 the assignor is the lessee pursuant to s. 727.108(5).

407 (7) Upon notice as provided pursuant to s. 727.111 to all
 408 creditors and consensual lienholders, hear and determine a
 409 motion made by the assignee for approval of a proposed sale of
 410 assets of the estate other than in the ordinary course of
 411 business, or the compromise or settlement of a controversy, and
 412 enter an order granting such motion notwithstanding the lack of
 413 objection to such motion if the assignee reasonably believes
 414 that such order is necessary to proceed with the action
 415 contemplated by the motion.

416 ~~(8)-(6)~~ Hear and determine any of the following actions
 417 brought by the assignee, which she or he is hereby empowered to
 418 maintain:

419 (a) Enforce the turnover of assets of the estate pursuant
 420 to s. 727.106.~~+~~

421 (b) Determine the validity, priority, and extent of a lien
 422 or other interests in assets of the estate, or to subordinate or
 423 avoid an unperfected security interest pursuant to the
 424 assignee's rights as a lien creditor under s. 679.301.~~+~~

425 (c) Avoid any conveyance or transfer void or voidable by
 426 law.~~+~~

427 ~~(9)-(7)~~ Approve the assignee's final report and interim and
 428 final distributions to creditors.~~+~~

429 ~~(10)-(8)~~ Approve reasonable fees and the reimbursement of
 430 expenses for the assignee and all professional persons retained

431 by the assignee, upon objection of a party in interest or upon
 432 the court's own motion.‡

433 (11)~~(9)~~ Hear and determine any motion brought by a party
 434 in interest or by the court to close the estate after the
 435 passage of 1 year from the date of filing of the petition.‡

436 (12)~~(10)~~ Discharge the assignee and the assignee's surety
 437 from liability upon matters included in the assignee's final
 438 report.‡

439 (13)~~(11)~~ Reopen estates for cause shown.‡

440 (14)~~(12)~~ Punish by contempt any failure to comply with the
 441 provisions of this chapter or any order of the court made
 442 pursuant to this chapter.‡~~and~~

443 (15)~~(13)~~ Exercise such other and further powers as are
 444 necessary to enforce or carry out the provisions of this
 445 chapter.

446 Section 7. Subsection (1) of section 727.110, Florida
 447 Statutes, is amended to read:

448 727.110 Actions by assignee and other parties in
 449 interest.--

450 (1) All matters requiring court authorization under this
 451 chapter shall be brought by motion, except for the following
 452 matters, which shall be brought by supplemental proceeding, as
 453 provided in subsection (2):

454 (a) An action by the assignee to recover money or other
 455 assets of the estate;

456 (b) An action by the assignee to determine the validity,
 457 priority, or extent of a lien or other interest in property or

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458 to subordinate or avoid an unperfected security interest under
 459 s. 727.109(8)~~(6)~~(b); and

460 (c) An action by the assignee to avoid any conveyance or
 461 transfer void or voidable by law under s. 727.109(8)~~(6)~~(c).

462 Section 8. Subsections (4) and (8) of section 727.111,
 463 Florida Statutes, are amended to read:

464 727.111 Notice.--

465 (4) The assignee shall give the assignor and all creditors
 466 not less than 20 days' notice by mail of a proposed sale of
 467 assets of the estate other than in the ordinary course of
 468 business, the assignee's continued operation of the assignor's
 469 business for a period of longer than 14 calendar days, the
 470 compromise or settlement of a controversy, and the payment of
 471 fees and expenses to the assignee and to professional persons
 472 employed by the assignee pursuant to s. 727.108(7)~~(6)~~. Any and
 473 all objections to the proposed action must be filed and served
 474 upon the assignee and the assignee's attorney, if any, not less
 475 than 3 days before the date of the proposed action. The notice
 476 shall include a description of the proposed action to be taken
 477 and the date of the proposed action, and shall set forth the
 478 date and place for the hearing at which any objections shall be
 479 heard. If no objections are timely filed and served, the
 480 assignee may take such action as described in the notice without
 481 further order of the court or may obtain an order of the court
 482 granting such motion if the assignee reasonably believes that
 483 such order is necessary to proceed with the action contemplated
 484 by the motion.

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485 (8) Wherever notice is required to be given under this
486 chapter, a certificate of service of such notice shall be filed
487 with the court and notice shall be given to all consensual
488 lienholders and counsel that have filed a notice of appearance
489 with the court or are identified in the assignor's schedules.

490 Section 9. Subsections (6) and (7) are added to section
491 727.112, Florida Statutes, to read:

492 727.112 Proof of claim.--

493 (6) If a claim for damages results from the assignee's
494 rejection of a lease of real property, such claim shall be
495 limited to the sum of:

496 (a) The rent reserved by such lease, without acceleration,
497 for the greater of 1 year, or 15 percent of the remaining term
498 of such lease, following the earlier of the date of assignment
499 or the date on which such lessor repossessed or the lessee
500 surrendered the leased property.

501 (b) Any unpaid rent due under such lease, without
502 acceleration, on the earlier of such dates.

503 (c) Reasonable attorney's fees and costs incurred by the
504 lessor in connection with such lease.

505 (d) The lessor's reasonable costs incurred in reletting
506 the premises previously leased by the assignor.

507 (7) If a claim for damages results from the termination of
508 an employment contract, such claim shall be limited to the sum
509 of:

510 (a) The compensation provided by such contract, without
511 acceleration, for 1 year following the earlier of the date of
512 assignment or the date on which the assignor or assignee, as

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513 applicable, directed the employee to terminate, or such employee
514 terminated, performance under such contract.

515 (b) Any unpaid compensation due under such contract,
516 without acceleration, on the earlier of such dates.

517 Section 10. Section 727.113, Florida Statutes, is amended
518 to read:

519 727.113 Objections to claims.--

520 (1) At any time prior to the entry of an order approving
521 the assignee's final report, the assignee or any party in
522 interest, including another creditor of the assignor, may file
523 with the court an objection to a claim, which objection shall be
524 in writing and shall set forth the nature of the objection. A
525 copy of the objection, together with notice of hearing thereon,
526 shall be mailed to the creditor at least 20 days prior to the
527 hearing. All claims properly filed with the assignee and not
528 disallowed by the court shall constitute all claims entitled to
529 distribution from the estate.

530 (2) Following expiration of the claims bar date, the
531 assignee shall create a register of all creditors that have
532 filed claims against the assignor's estate and shall make such
533 register available upon request to any creditor or other party
534 in interest.

535 (3) The assignee, as well as any creditor or any party in
536 interest, shall have standing to challenge the validity, extent,
537 or priority of any claim filed by a creditor against the
538 assignor's estate.

539 (4) A creditor whose claim is secured by a lien against
540 property of the estate shall have 60 days following the sale or

541 disposition of the property securing his or her claim to file a
 542 claim for an unsecured deficiency, notwithstanding the passage
 543 of the claims bar date. Notwithstanding the 60-day time period,
 544 if such a creditor fails to file with the assignee a deficiency
 545 claim within 10 days after the filing and service by mail of the
 546 assignee's final report of all receipts and disbursements, such
 547 creditor's deficiency claim shall be disallowed as untimely and
 548 such creditor shall not be entitled to share in any distribution
 549 made to holders of unsecured claims pursuant to s. 727.114(1)(f)
 550 on account of such creditor's deficiency claim.

551 Section 11. Section 727.114, Florida Statutes, is amended
 552 to read:

553 727.114 Priority of claims.--Allowed claims shall receive
 554 distribution under this chapter in the following order of
 555 priority and, with the exception of paragraph subsection (1)(a),
 556 on a pro rata basis:

557 (1) (a) Creditors with liens on assets of the estate, which
 558 liens are duly perfected pursuant to applicable law, shall
 559 receive the proceeds from the disposition of their collateral,
 560 less the reasonable, necessary expenses of preserving or
 561 disposing of such collateral to the extent of any benefit to
 562 such creditors. If and to the extent that such proceeds are less
 563 than the amount of a creditor's claim or a creditor's lien is
 564 avoided pursuant to s. 727.109(8) ~~(6)~~(c), such a creditor shall
 565 be deemed to be an unsecured creditor for such deficiency
 566 pursuant to paragraph (f) subsection (6) of this section.

567 ~~(b) (2)~~ Expenses incurred during the administration of the
 568 estate, other than those expenses allowable under paragraph (a)

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569 ~~subsection (1)~~, including allowed fees and reimbursements of all
570 expenses of the assignee and professional persons employed by
571 the assignee under s. 727.108(6), and rent incurred by the
572 assignee in occupying any premises in which the assets of the
573 assignment estate are located or the business of the assignor is
574 conducted, from and after the date of the assignment, through
575 and until the earlier of the date on which the lease for such
576 premises is rejected pursuant to an order of the court, or the
577 date of termination of such lease pursuant to s. 727.108(6).

578 ~~(c)(3)~~ Unsecured claims of governmental units for taxes
579 which accrued within 3 years prior to the filing date.

580 ~~(d)(4)~~ Claims for wages, salaries, or commissions,
581 including vacation, severance, and sick leave pay, or
582 contributions to an employee benefit plan earned by employees of
583 the assignor individual within 180 ~~90~~ days before ~~of~~ the filing
584 date or the cessation of the assignor's business, whichever
585 occurs first, but only to the extent of \$10,000 ~~\$2,000~~.

586 ~~(e)(5)~~ Allowed unsecured claims, to the extent of \$2,225
587 ~~\$900~~ for each individual, arising from the deposit with the
588 assignor before the filing date of money in connection with the
589 purchase, lease, or rental of property or the purchase of
590 services for personal, family, or household use by such
591 individuals that were not delivered or provided.

592 ~~(f)(6)~~ Unsecured claims.

593 (2) A subordination agreement is enforceable in a case
594 arising under this chapter to the same extent that such
595 agreement is enforceable under applicable law.

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596 (3) For the purpose of distribution under this chapter, a
597 claim arising from rescission of a purchase or sale of a
598 security of the assignor or of an affiliate of the assignor for
599 damages arising from the purchase or sale of such a security, or
600 for reimbursement or contribution allowed under this chapter on
601 account of such a claim, shall be subordinated to all claims or
602 interests that are senior to or equal to the claim or interest
603 represented by such security, except if such security is common
604 stock, such claim shall have the same priority as common stock.

605

606 ~~If all of the above classes have been paid in full, any residue~~
607 ~~shall be paid to the assignor.~~

608

Section 12. This act shall take effect July 1, 2007.