

1 A bill to be entitled
2 An act relating to debts and debtors; amending s. 222.25,
3 F.S.; providing that a debtor's personal property of a
4 specified value is exempt from legal process if the debtor
5 does not receive a homestead exemption; providing a
6 limitation; amending s. 702.035, F.S.; clarifying that the
7 number of days for publishing a notice relating to a
8 foreclosure proceeding excludes legal holidays; amending
9 s. 727.103, F.S.; revising definitions; amending s.
10 727.104, F.S.; revising requirements for commencement of
11 proceedings; specifying forms for verification of
12 assignment and schedules by assignor and acceptance by
13 assignee; amending s. 727.105, F.S.; revising requirements
14 for proceedings against an assignee; amending s. 727.108,
15 F.S.; revising and expanding the duties of assignees;
16 amending s. 727.109, F.S.; revising and expanding powers
17 of a court in certain actions; amending s. 727.110, F.S.;
18 conforming cross-references; amending s. 727.111, F.S.;
19 revising requirements for notices of assignments; amending
20 s. 727.112, F.S.; providing limitations on certain claims
21 for damages; amending s. 727.113, F.S.; providing
22 additional requirements for filing objections to claims;
23 amending s. 727.114, F.S.; revising requirements and
24 criteria for priority of claims; providing for
25 enforceability of subordination agreements under certain
26 circumstances; providing for subordinating certain claims
27 for damages for rescission; providing an exception;
28 providing an effective date.

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

Section 1. Section 222.25, Florida Statutes, is amended to read:

222.25 Other individual property exempt from legal process.--The following property of natural persons is exempt from attachment, garnishment, or other legal process:

(1) A debtor's interest, not to exceed \$1,000 in value, in a single motor vehicle as defined in s. 320.01.

(2) A debtor's interest in any professionally prescribed health aids for the debtor or a dependent of the debtor.

(3) A debtor's interest in a refund or a credit received or to be received, or the traceable deposits in a financial institution of a debtor's interest in a refund or credit, pursuant to s. 32 of the Internal Revenue Code of 1986, as amended. This exemption does not apply to a debt owed for child support or spousal support.

(4) A debtor's interest in personal property, not to exceed \$4,000, if the debtor does not claim or receive the benefits of a homestead exemption under s. 4, Art. X of the State Constitution. This exemption does not apply to a debt owed for child support or spousal support.

Section 2. Section 702.035, Florida Statutes, is amended to read:

702.035 Legal notice concerning foreclosure proceedings.--Whenever a legal advertisement, publication, or notice relating to a foreclosure proceeding is required to be

57 placed in a newspaper, it is the responsibility of the
58 petitioner or petitioner's attorney to place such advertisement,
59 publication, or notice. For counties with more than 1 million
60 total population as reflected in the most recent Official
61 Decennial Census of the United States Census Bureau as shown on
62 the official website of the United States Census Bureau, any
63 notice of publication required by this section shall be deemed
64 to have been published in accordance with the law if the notice
65 is published in a newspaper that has been entered as a
66 periodical matter at a post office in the county in which the
67 newspaper is published, is published a minimum of 5 days a week,
68 exclusive of legal holidays, and has been in existence and
69 published a minimum of 5 days a week, exclusive of legal
70 holidays, for 1 year or is a direct successor to a newspaper
71 that has been in existence for 1 year that has been published a
72 minimum of 5 days a week, exclusive of legal holidays. The
73 advertisement, publication, or notice shall be placed directly
74 by the attorney for the petitioner, by the petitioner if acting
75 pro se, or by the clerk of the court. Only the actual costs
76 charged by the newspaper for the advertisement, publication, or
77 notice may be charged as costs in the action.

78 Section 3. Section 727.103, Florida Statutes, is amended
79 to read:

80 727.103 Definitions.--As used in this chapter, unless the
81 context requires a different meaning, the term:

82 (1) "Asset" means a legal or equitable interest of the
83 assignor in property, which shall include anything that may be
84 the subject of ownership, whether real or personal, tangible or

85 intangible, including claims and causes of action, whether
86 arising by contract or in tort, wherever located and by whomever
87 held at the date of the assignment, except property exempt by
88 law from forced sale.

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

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

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

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

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

105 ~~(7)-(5)~~ "Court" means the circuit court where the petition
106 is filed in accordance with s. 727.104(2).

107 ~~(8)-(6)~~ "Creditor" means any person having a claim against
108 the assignor, whether such claim is contingent, liquidated,
109 unliquidated, or disputed.

110 ~~(9)-(7)~~ "Estate" means all of the assets of the assignor.

111 ~~(10)-(8)~~ "Filing date" means the date upon which the
112 original petition is filed in accordance with s. 727.104(2).

113 (11)~~(9)~~ "Lien" means a charge against or an interest in
 114 property to secure payment of a debt or performance of an
 115 obligation, and includes a security interest created by
 116 agreement, a judicial lien obtained by legal or equitable
 117 process or proceedings, a common-law lien, or a statutory lien.

118 (12)~~(10)~~ "Liquidation value" means the value in cash
 119 obtainable upon a forced sale of assets after payment of valid
 120 liens encumbering said assets.

121 (13)~~(11)~~ "Petition" means the initial document filed with
 122 the court, as set forth in s. 727.104(2), establishing the
 123 court's jurisdiction under this chapter.

124 Section 4. Subsection (1) of section 727.104, Florida
 125 Statutes, is amended to read:

126 727.104 Commencement of proceedings.--

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

131 (b) The assignment shall be in substantially the following
 132 form:

134 ASSIGNMENT

136 ASSIGNMENT, made this _____ day of _____, (year) , between
 137 _____, with a principal place of business at _____, hereinafter
 138 "assignor," and _____, whose address is _____, hereinafter
 139 "assignee."

140 WHEREAS, the assignor has been engaged in the business of
 141 _____;

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

147 NOW, THEREFORE, the assignor, in consideration of the
 148 assignee's acceptance of this assignment, and for other good and
 149 valuable consideration, hereby grants, assigns, conveys,
 150 transfers, and sets over, unto the assignee, her or his
 151 successors and assigns, all of its assets, except such assets as
 152 are exempt by law from levy and sale under an execution,
 153 including, but not limited to, all real property, fixtures,
 154 goods, stock, inventory, equipment, furniture, furnishings,
 155 accounts receivable, bank deposits, cash, promissory notes, cash
 156 value and proceeds of insurance policies, claims and demands
 157 belonging to the assignor, and all books, records, and
 158 electronic data pertaining to all such assets, wherever such
 159 assets may be located, hereinafter the "estate," as which assets
 160 are, to the best knowledge and belief of the assignor, set forth
 161 on Schedule B annexed hereto.

162 The assignee shall take possession of and protect and
 163 preserve all such assets and administer the estate in accordance
 164 with the provisions of chapter 727, Florida Statutes, and shall
 165 liquidate the assets of the estate with reasonable dispatch and
 166 convert the estate into money, collect all claims and demands
 167 hereby assigned as may be collectible, and pay and discharge all

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168 reasonable expenses, costs, and disbursements in connection with
169 the execution and administration of this assignment from the
170 proceeds of such liquidations and collections.

171 The assignee shall then pay and discharge in full, to the
172 extent that funds are available in the estate after payment of
173 administrative expenses, costs, and disbursements, all of the
174 debts and liabilities now due from the assignor, including
175 interest on such debts and liabilities. If funds of the estate
176 shall not be sufficient to pay such debts and liabilities in
177 full, then the assignee shall pay from funds of the estate such
178 debts and liabilities, on a pro rata basis and in proportion to
179 their priority as set forth in s. 727.114, Florida Statutes.

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

183 To accomplish the purposes of this assignment, the assignor
184 hereby appoints the assignee its true and lawful attorney,
185 irrevocable, with full power and authority to do all acts and
186 things which may be necessary to execute the assignment hereby
187 created; to demand and recover from all persons all assets of
188 the estate; to sue for the recovery of such assets; to execute,
189 acknowledge, and deliver all necessary deeds, instruments, and
190 conveyances; and to appoint one or more attorneys under her or
191 him to assist the assignee in carrying out her or his duties
192 hereunder.

193 The assignor hereby authorizes the assignee to sign the
194 name of the assignor to any check, draft, promissory note, or
195 other instrument in writing which is payable to the order of the

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196 assignor, or to sign the name of the assignor to any instrument
197 in writing, whenever it shall be necessary to do so, to carry
198 out the purpose of this assignment.

199 The assignee hereby accepts the trust created by the
200 assignment, and agrees with the assignor that the assignee will
201 faithfully and without delay carry out her or his duties under
202 the assignment.

Assignor

Assignee

STATE OF FLORIDA
COUNTY OF _____

STATE OF FLORIDA
COUNTY OF _____

207 The foregoing assignment was acknowledged before me this
208 ____ day of ____, (year) , by ____, as assignor, and by
209 ____, 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 _____

216 Type of Identification Produced _____

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

224 (d) The schedules shall be in substantially the following
 225 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

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.

I. Nonexempt Property

Description and Location	Liquidation Value at Date of Assignment
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1. Legal description and street address of real estate, including leasehold interests:
2. Fixtures:
3. Cash and bank accounts:
4. Inventory:
5. Accounts receivable:
6. Equipment:
7. Prepaid expenses, including deposits, insurance, rents, and utilities:
8. Other, including loans to third parties, claims, and choses in action:

II. Exempt Property

Description and Location	Liquidation Value at Date of
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Assignment

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(e) The assignment and schedules shall be duly verified upon oath by the assignor, and accepted by the assignee under oath, in substantially the following form:-

VERIFICATION OF ASSIGNMENT
AND SCHEDULES BY ASSIGNOR

The undersigned, [Name], [Position with Assignor] of [Assignor], hereby verifies the Assignment (the "Assignment") of all of its rights, title and interest in and to all of its assets, as indicated on the attached Schedules to that certain Assignment as filed with this Court on _____, and further verifies each of the facts set forth in the Schedules annexed to the Assignment to the best of my knowledge and belief.

[Name], [Position with Assignor]

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

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

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NOTARY PUBLIC,
STATE OF FLORIDA AT LARGE

Print Name: _____

Commission No: _____

Commission Expires: _____

Personally known
or Produced Identification
Type of Identification Produced

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 [])

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321
 322 Sworn to and subscribed before me this _____ day of _____ .

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 325 _____

326 NOTARY PUBLIC,
 327 STATE OF FLORIDA AT LARGE

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 329 Print Name: _____

330 Commission No: _____

331 Commission Expires: _____

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 333 Personally known _____

334 or Produced Identification _____

335 Type of Identification Produced _____

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337 Section 5. Section 727.105, Florida Statutes, is amended
 338 to read:

339 727.105 Proceedings against assignee.--No proceeding may
 340 be commenced against the assignee except as provided in this
 341 chapter, but nothing contained herein shall affect any action or
 342 proceeding by a governmental unit to enforce such governmental
 343 unit's police or regulatory power. Except in the case of a
 344 consensual lienholder ~~secured creditor~~ enforcing its rights in
 345 personal property or real property collateral ~~under chapter 679,~~
 346 there shall be no levy, execution, attachment, or the like in
 347 respect of any judgment against assets of the estate, ~~other than~~

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348 ~~real property,~~ in the possession, custody, or control of the
 349 assignee.

350 Section 6. Section 727.108, Florida Statutes, is amended
 351 to read:

352 727.108 Duties of assignee.--The assignee shall:

353 (1) Collect and reduce to money the assets of the estate,
 354 whether by suit in any court of competent jurisdiction or by
 355 public or private sale, including, but not limited to,
 356 prosecuting any tort claims or causes of action that were
 357 previously held by the assignor, regardless of any generally
 358 applicable law concerning the nonassignability of tort claims or
 359 causes of action.

360 (a) In respect of the estate's claims and causes of
 361 action, the assignee may prosecute such claims or causes of
 362 action as provided in this subsection or sell and assign, in
 363 whole or in part, such claims or causes of action to another
 364 person or entity on such terms as the assignee determines are in
 365 the best interest of the estate pursuant to s. 727.111(4).

366 (b) In an action in any court by the assignee, or the
 367 first immediate transferee of the assignee, other than an
 368 affiliate or insider of the assignor, against any defendant to
 369 assert a claim or chose in action of the estate, the claim shall
 370 not be subject to, and any remedy shall not be limited by, any
 371 defense based on the assignor's acquiescence, cooperation, or
 372 participation in the wrongful act by the defendant which forms
 373 the basis of such claim or chose in action.→

374 (2) Within 30 days after the filing date, examine the
 375 assignor, under oath, concerning the acts, conduct, assets,

376 liabilities, and financial condition of the assignor or any
 377 matter related to the assignee's administration of the estate,
 378 unless excused by the court for good cause shown.†

379 (3) Give notice to creditors of all matters concerning the
 380 administration of the estate, pursuant to the provisions of s.
 381 727.111.†

382 (4) Conduct the business of the assignor for a limited
 383 period not to exceed 14 calendar days if in the best interest of
 384 the estate, or for a longer period ~~periods,~~ if in the best
 385 interest of the estate, upon notice and until such time as an
 386 objection, if any, is sustained by the court, provided that the
 387 assignee shall not operate the business of the assignor for a
 388 period of longer than 45 calendar days without a court order
 389 authorizing such operation if an objection by a party in
 390 interest is interposed to the assignee's motion for authority to
 391 operate the assignor's business. ~~authorization of the court,~~

392 (5) To the extent reasonable in the exercise of the
 393 assignee's business judgment, reject an unexpired lease of
 394 nonresidential real property or of personal property under which
 395 the assignor is the lessee.

396 (6) ~~(5)~~ To the extent reasonable and necessary, pay
 397 administrative expenses of the estate, subject, however, to s.
 398 727.114 (1) (a).†

399 (7) ~~(6)~~ To the extent necessary, employ at the expense of
 400 the estate one or more appraisers, auctioneers, accountants,
 401 attorneys, or other professional persons, to assist the assignee
 402 in carrying out his or her duties under this chapter.†

403 (8)~~(7)~~ Keep regular accounts and furnish such information
 404 concerning the estate as may be reasonably requested by
 405 creditors or other parties in interest.†

406 (9)~~(8)~~ File with the court an interim report of receipts
 407 and disbursements within 6 months after the filing date unless
 408 excused by the court or unless the estate has been sooner
 409 distributed in full.†

410 (10)~~(9)~~ Examine the validity and priority of all claims
 411 against the estate.†

412 (11)~~(10)~~ Abandon assets to duly perfected secured or lien
 413 creditors, where, after due investigation, he or she determines
 414 that the estate has no equity in such assets or such assets are
 415 burdensome to the estate or are of inconsequential value and
 416 benefit to the estate.†

417 (12)~~(11)~~ Pay dividends and secured or priority claims as
 418 often as is compatible with the best interests of the estate and
 419 close the estate as expeditiously as possible.†~~and~~

420 (13)~~(12)~~ File with the court a final report of all
 421 receipts and disbursements and file an application for his or
 422 her discharge pursuant to the provisions of s. 727.116.

423 Section 7. Section 727.109, Florida Statutes, is amended
 424 to read:

425 727.109 Power of the court.--The court shall have power
 426 to:

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

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

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

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

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

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

446 (7) Upon notice as provided pursuant to s. 727.111 to all
 447 creditors and consensual lienholders, hear and determine a
 448 motion made by the assignee for approval of a proposed sale of
 449 assets of the estate other than in the ordinary course of
 450 business, or the compromise or settlement of a controversy, and
 451 enter an order granting such motion notwithstanding the lack of
 452 objection to such motion if the assignee reasonably believes
 453 that such order is necessary to proceed with the action
 454 contemplated by the motion.

455 (8) ~~(6)~~ Hear and determine any of the following actions
 456 brought by the assignee, which she or he is hereby empowered to
 457 maintain:

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

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

464 (c) Avoid any conveyance or transfer void or voidable by
 465 law.~~+~~

466 (9)~~(7)~~ Approve the assignee's final report and interim and
 467 final distributions to creditors.~~+~~

468 (10)~~(8)~~ Approve reasonable fees and the reimbursement of
 469 expenses for the assignee and all professional persons retained
 470 by the assignee, upon objection of a party in interest or upon
 471 the court's own motion.~~+~~

472 (11)~~(9)~~ Hear and determine any motion brought by a party
 473 in interest or by the court to close the estate after the
 474 passage of 1 year from the date of filing of the petition.~~+~~

475 (12)~~(10)~~ Discharge the assignee and the assignee's surety
 476 from liability upon matters included in the assignee's final
 477 report.~~+~~

478 (13)~~(11)~~ Reopen estates for cause shown.~~+~~

479 (14)~~(12)~~ Punish by contempt any failure to comply with the
 480 provisions of this chapter or any order of the court made
 481 pursuant to this chapter.~~+~~~~and~~

482 (15)~~(13)~~ Exercise such other and further powers as are
 483 necessary to enforce or carry out the provisions of this
 484 chapter.

485 Section 8. Subsection (1) of section 727.110, Florida
 486 Statutes, is amended to read:

487 727.110 Actions by assignee and other parties in
 488 interest.--

489 (1) All matters requiring court authorization under this
 490 chapter shall be brought by motion, except for the following
 491 matters, which shall be brought by supplemental proceeding, as
 492 provided in subsection (2):

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

495 (b) An action by the assignee to determine the validity,
 496 priority, or extent of a lien or other interest in property or
 497 to subordinate or avoid an unperfected security interest under
 498 s. 727.109 (8) ~~(6)~~ (b); and

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

501 Section 9. Subsections (4) and (8) of section 727.111,
 502 Florida Statutes, are amended to read:

503 727.111 Notice.--

504 (4) The assignee shall give the assignor and all creditors
 505 not less than 20 days' notice by mail of a proposed sale of
 506 assets of the estate other than in the ordinary course of
 507 business, the assignee's continued operation of the assignor's
 508 business for a period of longer than 14 calendar days, the
 509 compromise or settlement of a controversy, and the payment of
 510 fees and expenses to the assignee and to professional persons
 511 employed by the assignee pursuant to s. 727.108 (7) ~~(6)~~. Any and
 512 all objections to the proposed action must be filed and served

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513 upon the assignee and the assignee's attorney, if any, not less
514 than 3 days before the date of the proposed action. The notice
515 shall include a description of the proposed action to be taken
516 and the date of the proposed action, and shall set forth the
517 date and place for the hearing at which any objections shall be
518 heard. If no objections are timely filed and served, the
519 assignee may take such action as described in the notice without
520 further order of the court or may obtain an order of the court
521 granting such motion if the assignee reasonably believes that
522 such order is necessary to proceed with the action contemplated
523 by the motion.

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

529 Section 10. Subsections (6) and (7) are added to section
530 727.112, Florida Statutes, to read:

531 727.112 Proof of claim.--

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

535 (a) The rent reserved by such lease, without acceleration,
536 for the greater of 1 year, or 15 percent of the remaining term
537 of such lease, following the earlier of the date of assignment
538 or the date on which such lessor repossessed or the lessee
539 surrendered the leased property.

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

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

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

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

549 (a) The compensation provided by such contract, without
550 acceleration, for 1 year following the earlier of the date of
551 assignment or the date on which the assignor or assignee, as
552 applicable, directed the employee to terminate, or such employee
553 terminated, performance under such contract.

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

556 Section 11. Section 727.113, Florida Statutes, is amended
557 to read:

558 727.113 Objections to claims.--

559 (1) At any time prior to the entry of an order approving
560 the assignee's final report, the assignee or any party in
561 interest, including another creditor of the assignor, may file
562 with the court an objection to a claim, which objection shall be
563 in writing and shall set forth the nature of the objection. A
564 copy of the objection, together with notice of hearing thereon,
565 shall be mailed to the creditor at least 20 days prior to the
566 hearing. All claims properly filed with the assignee and not

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567 disallowed by the court shall constitute all claims entitled to
568 distribution from the estate.

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

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

578 (4) A creditor whose claim is secured by a lien against
579 property of the estate shall have 60 days following the sale or
580 disposition of the property securing his or her claim to file a
581 claim for an unsecured deficiency, notwithstanding the passage
582 of the claims bar date. Notwithstanding the 60-day time period,
583 if such a creditor fails to file with the assignee a deficiency
584 claim within 10 days after the filing and service by mail of the
585 assignee's final report of all receipts and disbursements, such
586 creditor's deficiency claim shall be disallowed as untimely and
587 such creditor shall not be entitled to share in any distribution
588 made to holders of unsecured claims pursuant to s. 727.114(1)(f)
589 on account of such creditor's deficiency claim.

590 Section 12. Section 727.114, Florida Statutes, is amended
591 to read:

592 727.114 Priority of claims.--Allowed claims shall receive
593 distribution under this chapter in the following order of

594 priority and, with the exception of paragraph subsection (1) (a),
 595 on a pro rata basis:

596 (1) (a) Creditors with liens on assets of the estate, which
 597 liens are duly perfected pursuant to applicable law, shall
 598 receive the proceeds from the disposition of their collateral,
 599 less the reasonable, necessary expenses of preserving or
 600 disposing of such collateral to the extent of any benefit to
 601 such creditors. If and to the extent that such proceeds are less
 602 than the amount of a creditor's claim or a creditor's lien is
 603 avoided pursuant to s. 727.109(8)~~(6)~~(c), such a creditor shall
 604 be deemed to be an unsecured creditor for such deficiency
 605 pursuant to paragraph (f) subsection (6) of this section.

606 ~~(b)(2)~~ Expenses incurred during the administration of the
 607 estate, other than those expenses allowable under paragraph (a)
 608 ~~subsection (1)~~, including allowed fees and reimbursements of all
 609 expenses of the assignee and professional persons employed by
 610 the assignee under s. 727.108(6), and rent incurred by the
 611 assignee in occupying any premises in which the assets of the
 612 assignment estate are located or the business of the assignor is
 613 conducted, from and after the date of the assignment, through
 614 and until the earlier of the date on which the lease for such
 615 premises is rejected pursuant to an order of the court, or the
 616 date of termination of such lease pursuant to s. 727.108(6).

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

619 ~~(d)(4)~~ Claims for wages, salaries, or commissions,
 620 including vacation, severance, and sick leave pay, or
 621 contributions to an employee benefit plan earned by employees of

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622 the assignor individual within 180 90 days before ~~of~~ the filing
623 date or the cessation of the assignor's business, whichever
624 occurs first, but only to the extent of \$10,000 per individual
625 employee \$2,000.

626 (e)(5) Allowed unsecured claims, to the extent of \$2,225
627 \$900 for each individual, arising from the deposit with the
628 assignor before the filing date of money in connection with the
629 purchase, lease, or rental of property or the purchase of
630 services for personal, family, or household use by such
631 individuals that were not delivered or provided.

632 (f)(6) Unsecured claims.

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

636 (3) For the purpose of distribution under this chapter, a
637 claim arising from rescission of a purchase or sale of a
638 security of the assignor or of an affiliate of the assignor for
639 damages arising from the purchase or sale of such a security, or
640 for reimbursement or contribution allowed under this chapter on
641 account of such a claim, shall be subordinated to all claims or
642 interests that are senior to or equal to the claim or interest
643 represented by such security, except if such security is common
644 stock, such claim shall have the same priority as common stock.

645
646 ~~If all of the above classes have been paid in full, any residue~~
647 ~~shall be paid to the assignor.~~

648 Section 13. This act shall take effect July 1, 2007.