

Bill No. CS for CS for SB 1712

Barcode 932604

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

.
. .
. .
. .
. .
. .

Senator Crist moved the following amendment:

Senate Amendment (with title amendment)

On page 2, line 30, through
page 12, line 3, delete those lines

insert:

(e) Fees under this subsection chargeable to the State of Florida or its agencies shall be those fees as formerly provided in this subsection as it existed on June 30, 2007.

(4) All fees collected under paragraphs (1)(a), (b), (c), and (d) shall be nonrefundable and shall be earned when each original request or service of process is made, ~~and no additional fees shall be required for alias and pluries documents when service was not effected on the original document in that county by that sheriff.~~

Section 2. Subsection (1) of section 48.021, Florida Statutes, is amended to read:

48.021 Process; by whom served.--

(1) All process shall be served by the sheriff of the county where the person to be served is found, except that

Bill No. CS for CS for SB 1712

Barcode 932604

1 initial nonenforceable civil process, criminal witness
 2 subpoenas, and criminal summonses may be served by a special
 3 process server appointed by the sheriff as provided for in
 4 this section or by a certified process server as provided for
 5 in ss. 48.25-48.31. Civil witness subpoenas may be served by
 6 any person authorized by rules of civil procedure.

7 Section 3. Subsection (2) of section 56.041, Florida
 8 Statutes, is amended to read:

9 56.041 Executions; collection and return.--

10 (2) All unsatisfied executions in the hands of the
 11 sheriff docketed before October 1, 2001, or 20 years after the
 12 date of issuance of final judgment upon which the execution
 13 was issued may be returned~~7~~ to the court issuing the
 14 execution, ~~20 years after the date of issuance of final~~
 15 ~~judgment upon which the execution was issued~~. Upon such
 16 return, the clerk of the court of issuance shall provide a
 17 receipt~~7~~ to the sheriff submitting the return~~7~~ acknowledging
 18 the return of the unsatisfied execution.

19 Section 4. Section 56.21, Florida Statutes, is amended
 20 to read:

21 56.21 Execution sales; notice.--Notice of all sales
 22 under execution shall be given by advertisement once each week
 23 for 4 successive weeks in a newspaper published in the county
 24 in which the sale is to take place. The time of such notice
 25 may be shortened in the discretion of the court from which the
 26 execution issued, upon affidavit that the property to be sold
 27 is subject to decay and will not sell for its full value if
 28 held until date of sale. On or before the date of the first
 29 publication or posting of the notice of sale, a copy of the
 30 notice of sale shall be furnished by the sheriff by certified
 31 mail to the attorney of record of the judgment debtor, or to

Bill No. CS for CS for SB 1712

Barcode 932604

1 the judgment debtor at the judgment debtor's last known
 2 address if the judgment debtor does not have an attorney of
 3 record. Such copy of the notice of sale shall be mailed even
 4 though a default judgment was entered. When levying upon real
 5 or personal property, a notice of such levy and execution sale
 6 and a copy of the affidavit required by s. 56.27(4) shall be
 7 sent by the sheriff to the attorneys of record of all judgment
 8 creditors, or to all judgment creditors who do not have an
 9 attorney of record, who have acquired a judgment lien as
 10 provided in s. 55.10(1) and (2), s. 55.202, or s. 55.204(3),
 11 and whose liens have not lapsed at the time of levy, at the
 12 address listed in the judgment lien certificate, or, if
 13 amended, in any amendment to the judgment lien certificate,
 14 and to all secured creditors who have filed financing
 15 statements as provided in part V of chapter 679 in the name of
 16 the judgment debtor reflecting a security interest in property
 17 of the kind to be sold at the execution sale at the address
 18 listed in the financing statement, or, if amended, in any
 19 amendment to the financing statement. Such notice shall be
 20 made in the same manner as notice is made to any judgment
 21 debtor under this section. When levying upon real property,
 22 notice of such levy and execution sale and affidavit required
 23 by s. 56.27(4) shall be made to the property owner of record
 24 in the same manner as notice is made to any judgment debtor
 25 pursuant to this section. When selling real or personal
 26 property, the sale date shall not be earlier than 30 days
 27 after the date of the first advertisement.

28 Section 5. Subsections (1), (2), and (4) of section
 29 56.27, Florida Statutes, are amended to read:

30 56.27 Executions; payment of money collected.--

31 (1) All money received under executions shall be paid,

Bill No. CS for CS for SB 1712

Barcode 932604

1 in the order prescribed, to the following: the sheriff, for
 2 costs; the levying creditor in the amount of \$500 as
 3 liquidated expenses; ~~and if the levy is upon real property,~~
 4 ~~the first~~ priority lienholder under s. 55.10(1) and (2),
 5 ~~55.10; and if the levy is upon personal property, the first~~
 6 ~~priority lienholder under~~ s. 55.202, s. 55.204(3), or s.
 7 55.208(2), as set forth in an affidavit required by subsection
 8 (4), or his or her attorney, in satisfaction of the judgment
 9 lien, ~~if provided that~~ the judgment lien has not lapsed at the
 10 time of the levy. The receipt of the attorney shall be a
 11 release of the officer paying the money to him or her. ~~If when~~
 12 the name of more than one attorney appears in the court file,
 13 the money shall be paid to the attorney who originally
 14 commenced the action or who made the original defense unless
 15 the file shows that another attorney has been substituted.

16 (2) ~~If when~~ property sold under execution brings more
 17 than the amount needed to satisfy the provisions of subsection
 18 (1), the surplus shall be paid in the order of priority to any
 19 judgment lienholders whose judgment liens have not lapsed.
 20 Priority of liens on personal property shall be based on the
 21 effective date of the judgment lien acquired under s. 55.202,
 22 s. 55.204(3), or s. 55.208(2), as set forth in an affidavit
 23 required under subsection (4). Priority of liens on real
 24 property shall be based on the effective date of the judgment
 25 lien acquired under s. 55.10(1) and (2), as set forth in an
 26 affidavit required under subsection (4). If there is a surplus
 27 after all valid judgment liens and execution liens have been
 28 satisfied, the surplus must be paid to the defendant.

29 (4) Before the date of the first publication or
 30 posting of the notice of sale provided for under s. 56.21, at
 31 the time of the levy request to the sheriff, the levying

Bill No. CS for CS for SB 1712

Barcode 932604

1 creditor shall deliver to the sheriff an affidavit setting
2 forth the following as to the judgment debtor:

3 (a) For a personal property levy, an attestation by
4 ~~that~~ the levying creditor or the creditor's attorney of record
5 that he or she has reviewed the database or judgment lien
6 records established in accordance with ss. 55.201-55.209 and
7 that the information contained in the affidavit based on that
8 review is true and correct. For a real property levy in
9 accordance with s. 55.10(1) and (2), an attestation by the
10 levying creditor or his or her attorney of record that he or
11 she has reviewed the records of the clerk of court of the
12 county where the property is situated, or that he or she has
13 performed a title search, and that the information contained
14 in the affidavit based on that review or title search is true
15 and correct.†

16 (b) The information required under s. 55.203(1) and
17 (2) for each judgment lien certificate indexed under the name
18 of the judgment debtor as to each judgment creditor; the file
19 number assigned to the record of the original and, if any, the
20 second judgment lien; and the date of filing for each judgment
21 lien certificate under s. 55.202 or s. 55.204(3). For real
22 property, the information contained in the certified copy of
23 recordation of lien pursuant to s. 55.10(1) and (2) for each
24 lien recorded on real property.† and

25 (c) A statement that the levying creditor either does
26 not have any other levy in process or, if another levy is in
27 process, the levying creditor believes in good faith that the
28 total value of the property under execution does not exceed
29 the amount of outstanding judgments.

30 Section 6. Paragraph (a) of subsection (8) of section
31 741.30, Florida Statutes, is amended to read:

Bill No. CS for CS for SB 1712

Barcode 932604

1 741.30 Domestic violence; injunction; powers and
 2 duties of court and clerk; petition; notice and hearing;
 3 temporary injunction; issuance of injunction; statewide
 4 verification system; enforcement.--

5 (8)(a)1. The clerk of the court shall furnish a copy
 6 of the petition, financial affidavit, Uniform Child Custody
 7 Jurisdiction and Enforcement Act affidavit, if any, notice of
 8 hearing, and temporary injunction, if any, to the sheriff or a
 9 law enforcement agency of the county where the respondent
 10 resides or can be found, who shall serve it upon the
 11 respondent as soon thereafter as possible on any day of the
 12 week and at any time of the day or night. When requested by
 13 the sheriff, the clerk of court may transmit a facsimile copy
 14 of an injunction that has been certified by the clerk of
 15 court, and this facsimile copy may be served in the same
 16 manner as a certified copy. Upon receiving a facsimile copy,
 17 the sheriff must verify receipt with the sender before
 18 attempting to serve it upon the respondent. In addition, if
 19 the sheriff is in possession of an injunction for protection
 20 that has been certified by the clerk of court, the sheriff may
 21 transmit a facsimile copy of that injunction to a law
 22 enforcement officer who shall serve it in the same manner as a
 23 certified copy. The clerk of the court shall be responsible
 24 for furnishing to the sheriff such information on the
 25 respondent's physical description and location as is required
 26 by the department to comply with the verification procedures
 27 set forth in this section. Notwithstanding any other provision
 28 of law to the contrary, the chief judge of each circuit, in
 29 consultation with the appropriate sheriff, may authorize a law
 30 enforcement agency within the jurisdiction to effect service.

31 A law enforcement agency serving injunctions pursuant to this

Bill No. CS for CS for SB 1712

Barcode 932604

1 section shall use service and verification procedures
2 consistent with those of the sheriff.

3 2. When an injunction is issued, if the petitioner
4 requests the assistance of a law enforcement agency, the court
5 may order that an officer from the appropriate law enforcement
6 agency accompany the petitioner and assist in placing the
7 petitioner in possession of the dwelling or residence, or
8 otherwise assist in the execution or service of the
9 injunction. A law enforcement officer shall accept a copy of
10 an injunction for protection against domestic violence,
11 certified by the clerk of the court, from the petitioner and
12 immediately serve it upon a respondent who has been located
13 but not yet served.

14 3. All orders issued, changed, continued, extended, or
15 vacated subsequent to the original service of documents
16 enumerated under subparagraph 1., shall be certified by the
17 clerk of the court and delivered to the parties at the time of
18 the entry of the order. The parties may acknowledge receipt of
19 such order in writing on the face of the original order. In
20 the event a party fails or refuses to acknowledge the receipt
21 of a certified copy of an order, the clerk shall note on the
22 original order that service was effected. If delivery at the
23 hearing is not possible, the clerk shall mail certified copies
24 of the order to the parties at the last known address of each
25 party. Service by mail is complete upon mailing. When an order
26 is served pursuant to this subsection, the clerk shall prepare
27 a written certification to be placed in the court file
28 specifying the time, date, and method of service and shall
29 notify the sheriff.

30

31 If the respondent has been served previously with the

Bill No. CS for CS for SB 1712

Barcode 932604

1 temporary injunction and has failed to appear at the initial
2 hearing on the temporary injunction, any subsequent petition
3 for injunction seeking an extension of time may be served on
4 the respondent by the clerk of the court by certified mail in
5 lieu of personal service by a law enforcement officer.

6 Section 7. Paragraph (a) of subsection (8) of section
7 784.046, Florida Statutes, is amended to read:

8 784.046 Action by victim of repeat violence, sexual
9 violence, or dating violence for protective injunction; powers
10 and duties of court and clerk of court; filing and form of
11 petition; notice and hearing; temporary injunction; issuance;
12 statewide verification system; enforcement.--

13 (8)(a)1. The clerk of the court shall furnish a copy
14 of the petition, notice of hearing, and temporary injunction,
15 if any, to the sheriff or a law enforcement agency of the
16 county where the respondent resides or can be found, who shall
17 serve it upon the respondent as soon thereafter as possible on
18 any day of the week and at any time of the day or night. When
19 requested by the sheriff, the clerk of court may transmit a
20 facsimile copy of an injunction that has been certified by the
21 clerk of court, and this facsimile copy may be served in the
22 same manner as a certified copy. Upon receiving a facsimile
23 copy, the sheriff must verify receipt with the sender before
24 attempting to serve it upon the respondent. In addition, if
25 the sheriff is in possession of an injunction for protection
26 that has been certified by the clerk of court, the sheriff may
27 transmit a facsimile copy of that injunction to a law
28 enforcement officer who shall serve it in the same manner as a
29 certified copy. The clerk of the court shall be responsible
30 for furnishing to the sheriff such information on the
31 respondent's physical description and location as is required

Bill No. CS for CS for SB 1712

Barcode 932604

1 by the department to comply with the verification procedures
 2 set forth in this section. Notwithstanding any other provision
 3 of law to the contrary, the chief judge of each circuit, in
 4 consultation with the appropriate sheriff, may authorize a law
 5 enforcement agency within the chief judge's jurisdiction to
 6 effect this type of service and to receive a portion of the
 7 service fee. No person shall be authorized or permitted to
 8 serve or execute an injunction issued under this section
 9 unless the person is a law enforcement officer as defined in
 10 chapter 943.

11 2. When an injunction is issued, if the petitioner
 12 requests the assistance of a law enforcement agency, the court
 13 may order that an officer from the appropriate law enforcement
 14 agency accompany the petitioner and assist in the execution or
 15 service of the injunction. A law enforcement officer shall
 16 accept a copy of an injunction for protection against repeat
 17 violence, sexual violence, or dating violence, certified by
 18 the clerk of the court, from the petitioner and immediately
 19 serve it upon a respondent who has been located but not yet
 20 served.

21 Section 8. This act shall take effect July 1, 2007.
 22
 23

24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 On page 1, line 5, through
 27 page 2, line 10, delete those lines

28
 29 and insert:

30 process; deleting prohibition on additional
 31 fees for certain documents; exempting state

Bill No. CS for CS for SB 1712

Barcode 932604

1 agencies from the increased fees; amending s.
2 48.021, F.S.; providing that criminal witness
3 subpoenas and criminal summonses may be served
4 by a special process server appointed by the
5 local sheriff or by a certified process server;
6 amending s. 56.041, F.S.; providing that all
7 unsatisfied executions in the possession of the
8 sheriff docketed before October 1, 2001, may be
9 returned to the issuing court; amending s.
10 56.21, F.S.; requiring the submission of an
11 affidavit before levying a judgment upon real
12 property; requiring the sheriff to furnish to
13 the judgment debtor or the debtor's attorney of
14 record a copy of the notice of sale, notice of
15 levy, and affidavit within a specified period
16 before execution of a sale or levy; amending s.
17 56.27, F.S.; requiring that priority of liens
18 on real property be based on the effective date
19 of the judgment lien; requiring a levying
20 creditor to deliver to the sheriff at the time
21 of the levy request an affidavit setting forth
22 certain information and attestations; amending
23 ss. 741.30 and 784.046, F.S., relating to
24 service of process in cases of domestic
25 violence or sexual abuse; authorizing clerks of
26 court to transmit facsimile copies of
27 previously certified injunctions to sheriffs
28 upon request; requiring sheriffs to verify
29 receipt of facsimile copies of injunctions with
30 clerks of court before attempting service;
31 authorizing law enforcement officers to serve

Bill No. CS for CS for SB 1712

Barcode 932604

1 facsimile copies of injunctions in the same
2 manner as certified copies;

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31