

1                                   A bill to be entitled  
2           An act relating to debts and debtors; amending  
3           s. 222.25, F.S.; providing that personal  
4           property of a specified value is exempt from  
5           legal process if the debtor does not receive a  
6           homestead exemption; providing limitations;  
7           amending s. 702.035, F.S.; permitting  
8           foreclosure notices to be published in certain  
9           newspapers that publish at least 5 days a week  
10          except during legal holidays; amending s.  
11          727.103, F.S.; redefining the terms "asset" and  
12          "assignee"; defining the term "claims bar  
13          date"; defining the term "consensual  
14          lienholder"; amending s. 727.104, F.S.;  
15          revising the assignment and schedule forms;  
16          providing forms for verification and acceptance  
17          under oath for assignments and schedules;  
18          amending s. 727.105, F.S.; authorizing a  
19          consensual lienholder only to enforce a  
20          security interest against the assets of an  
21          estate; amending s. 727.108, F.S.; revising and  
22          providing additional duties for the assignee;  
23          amending s. 727.109, F.S.; providing additional  
24          powers of the court; amending s. 727.110, F.S.;  
25          conforming cross-references; amending s.  
26          727.111, F.S.; requiring the assignee to give  
27          notice of the assignee's continued operation of  
28          the assignor's business; authorizing the  
29          assignee to take action as described in the  
30          notice by order of the court; requiring that  
31          notice be given to all consensual lienholders

1 and counsel; amending s. 727.112, F.S.;  
2 providing limitations on a claim for damages;  
3 amending s. 727.113, F.S.; authorizing a  
4 creditor of the assignor to file an objection  
5 to a claim; requiring an assignee to create a  
6 claims register; providing that an assignee or  
7 any creditor has standing to challenge any  
8 claim by another creditor; authorizing certain  
9 creditors to file a claim for an unsecured  
10 deficiency within a certain time; amending s.  
11 727.114, F.S.; providing that certain creditors  
12 are unsecured creditors for purpose of priority  
13 of distribution; revising the type and amount  
14 of claims receiving a priority distribution;  
15 providing that a subordination agreement is  
16 enforceable; providing that certain claims are  
17 subordinate to other claims; providing an  
18 exception for a claim for common stock;  
19 providing an effective date.  
20

21 Be It Enacted by the Legislature of the State of Florida:  
22

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

25 222.25 Other individual property of natural persons  
26 exempt from legal process.--The following property is exempt  
27 from attachment, garnishment, or other legal process:

28 (1) A debtor's interest, not to exceed \$1,000 in  
29 value, in a single motor vehicle as defined in s. 320.01.  
30  
31

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

4           (3) A debtor's interest in a refund or a credit  
5 received or to be received, or the traceable deposits in a  
6 financial institution of a debtor's interest in a refund or  
7 credit, pursuant to s. 32 of the Internal Revenue Code of  
8 1986, as amended. This exemption does not apply to a debt owed  
9 for child support or spousal support.

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

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

17           702.035 Legal notice concerning foreclosure  
18 proceedings.--Whenever a legal advertisement, publication, or  
19 notice relating to a foreclosure proceeding is required to be  
20 placed in a newspaper, it is the responsibility of the  
21 petitioner or petitioner's attorney to place such  
22 advertisement, publication, or notice. For counties with more  
23 than 1 million total population as reflected in the 2000 most  
24 ~~recent~~ Official Decennial Census of the United States Census  
25 Bureau as shown on the official website of the United States  
26 Census Bureau, any notice of publication required by this  
27 section shall be deemed to have been published in accordance  
28 with the law if the notice is published in a newspaper that  
29 has been entered as a periodical matter at a post office in  
30 the county in which the newspaper is published, is published a  
31 minimum of 5 days a week, exclusive of legal holidays, and has

1 | been in existence and published a minimum of 5 days a week,  
2 | exclusive of legal holidays, for 1 year or is a direct  
3 | successor to a newspaper that has been in existence for 1 year  
4 | that has been published a minimum of 5 days a week, exclusive  
5 | of legal holidays. The advertisement, publication, or notice  
6 | shall be placed directly by the attorney for the petitioner,  
7 | by the petitioner if acting pro se, or by the clerk of the  
8 | court. Only the actual costs charged by the newspaper for the  
9 | advertisement, publication, or notice may be charged as costs  
10 | in the action.

11 |           Section 3. Section 727.103, Florida Statutes, is  
12 | amended to read:

13 |           727.103 Definitions.--As used in this chapter, unless  
14 | the context requires a different meaning, the term:

15 |           (1) "Asset" means a legal or equitable interest of the  
16 | assignor in property, which includes ~~shall include~~ anything  
17 | that may be the subject of ownership, whether real or  
18 | personal, tangible or intangible, including claims and causes  
19 | of action, whether arising by contract or in tort, wherever  
20 | located, and by whomever held at the date of the assignment,  
21 | except property exempt by law from forced sale.

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

27 |           (3) "Assignor" means the person or entity that ~~which~~  
28 | has executed and delivered the assignment to the assignee.

29 |           (4) "Assignment" means an assignment for the benefit  
30 | of creditors made under this chapter.

31 |

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

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

8        ~~(6)(5)~~ "Court" means the circuit court where the  
9 petition is filed in accordance with s. 727.104(2).

10        ~~(7)(6)~~ "Creditor" means any person having a claim  
11 against the assignor, whether such claim is contingent,  
12 liquidated, unliquidated, or disputed.

13        ~~(8)(7)~~ "Estate" means all of the assets of the  
14 assignor.

15        ~~(9)(8)~~ "Filing date" means the date upon which the  
16 original petition is filed in accordance with s. 727.104(2).

17        ~~(10)(9)~~ "Lien" means a charge against or an interest  
18 in property to secure payment of a debt or performance of an  
19 obligation, and includes a security interest created by  
20 agreement, a judicial lien obtained by legal or equitable  
21 process or proceedings, a common-law lien, or a statutory  
22 lien.

23        ~~(11)(10)~~ "Liquidation value" means the value in cash  
24 obtainable upon a forced sale of assets after payment of valid  
25 liens encumbering said assets.

26        ~~(12)(11)~~ "Petition" means the initial document filed  
27 with the court, as set forth in s. 727.104(2), establishing  
28 the court's jurisdiction under this chapter.

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

31        727.104 Commencement of proceedings.--

1           (1)(a) An irrevocable assignment and schedules shall  
2 be made in writing, containing the name and address of the  
3 assignor and assignee and providing for an equal distribution  
4 of the estate according to the priorities set forth in s.  
5 727.114.

6           (b) The assignment shall be in substantially the  
7 following form:

8  
9   ASSIGNMENT

10  
11 ASSIGNMENT, made this .... day of ....., ...(year)...., between  
12 ....., with a principal place of business at ....., hereinafter  
13 "assignor," and ....., whose address is ....., hereinafter  
14 "assignee."

15           WHEREAS, the assignor has been engaged in the business  
16 of .....

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

22           NOW, THEREFORE, the assignor, in consideration of the  
23 assignee's acceptance of this assignment, and for other good  
24 and valuable consideration, hereby grants, assigns, conveys,  
25 transfers, and sets over, unto the assignee, her or his  
26 successors and assigns, all of its assets, except such assets  
27 as are exempt by law from levy and sale under an execution,  
28 including, but not limited to, all real property, fixtures,  
29 goods, stock, inventory, equipment, furniture, furnishings,  
30 accounts receivable, bank deposits, cash, promissory notes,  
31 cash value and proceeds of insurance policies, claims and

1 demands belonging to the assignor, and all books, records, and  
2 electronic data pertaining to all such assets, wherever such  
3 assets may be located, hereinafter the "estate," as which  
4 assets are, to the best knowledge and belief of the assignor,  
5 set forth on Schedule B annexed hereto.

6 The assignee shall take possession of, and protect and  
7 preserve, all such assets and administer the estate in  
8 accordance with the provisions of chapter 727, Florida  
9 Statutes, and shall liquidate the assets of the estate with  
10 reasonable dispatch and convert the estate into money, collect  
11 all claims and demands hereby assigned as may be collectible,  
12 and pay and discharge all reasonable expenses, costs, and  
13 disbursements in connection with the execution and  
14 administration of this assignment from the proceeds of such  
15 liquidations and collections.

16 The assignee shall then pay and discharge in full, to  
17 the extent that funds are available in the estate after  
18 payment of administrative expenses, costs, and disbursements,  
19 all of the debts and liabilities now due from the assignor,  
20 including interest on such debts and liabilities. If funds of  
21 the estate shall not be sufficient to pay such debts and  
22 liabilities in full, then the assignee shall pay from funds of  
23 the estate such debts and liabilities, on a pro rata basis and  
24 in proportion to their priority as set forth in s. 727.114,  
25 Florida Statutes.

26 ~~If in the event that~~ all debts and liabilities are paid  
27 in full, any funds of the estate remaining shall be returned  
28 to the assignor.

29 To accomplish the purposes of this assignment, the  
30 assignor hereby appoints the assignee its true and lawful  
31 attorney, irrevocable, with full power and authority to do all

1 acts and things which may be necessary to execute the  
2 assignment hereby created; to demand and recover from all  
3 persons all assets of the estate; to sue for the recovery of  
4 such assets; to execute, acknowledge, and deliver all  
5 necessary deeds, instruments, and conveyances; and to appoint  
6 one or more attorneys under her or him to assist the assignee  
7 in carrying out her or his duties hereunder.

8           The assignor hereby authorizes the assignee to sign the  
9 name of the assignor to any check, draft, promissory note, or  
10 other instrument in writing which is payable to the order of  
11 the assignor, or to sign the name of the assignor to any  
12 instrument in writing, whenever it shall be necessary to do  
13 so, to carry out the purpose of this assignment.

14           The assignee hereby accepts the trust created by the  
15 assignment, and agrees with the assignor that the assignee  
16 will faithfully and without delay carry out her or his duties  
17 under the assignment.

18  
19 .....  
20 Assignor

21  
22 .....  
23 Assignee

24  
25 STATE OF FLORIDA  
26 COUNTY OF .....

27  
28           The foregoing assignment was acknowledged before me  
29 this .... day of ....., ...(year)..., by ....., as assignor, and  
30 by ....., as assignee, for the purposes therein expressed.



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

4  
5                   Personally Known .... OR Produced Identification ....

6  
7                   Type of Identification Produced.....

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9  
10                  (c) The assignment shall have annexed thereto as  
11 Schedule A a true list of all of the assignor's known  
12 creditors, their mailing addresses, the amount and nature of  
13 their claims, and whether their claims are disputed; and as  
14 Schedule B a true list of all assets of the estate, including  
15 the estimated liquidation value of the assets, their location,  
16 and, if real property, a legal description thereof, as of the  
17 date of the assignment.

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

20  
21   SCHEDULE A--CREDITOR LIST

22  
23 1. List all secured creditors showing:

				Whether or
24				not disputed
25	Name	Address	Amount	Collateral
26				

27 2. List all wages owed showing:

				Whether or
28				not disputed
29	Name	Address	Amount	
30				

31 3. Consumer deposits:

1				Whether or
2	Name	Address	Amount	not disputed
3				
4	4. List all taxes owed showing:			
5				Whether or
6	Name	Address	Amount	not disputed
7				
8	5. List all unsecured claims showing:			
9				Whether or
10	Name	Address	Amount	not disputed
11				
12	6. List all owners or shareholders showing:			
13				
14	Name	Address		Percent of Ownership
15				
16	<u>7. List all pending litigation and opposing counsel of</u>			
17	<u>record:</u>			
18				
19	<u>Style</u>	<u>Parties</u>		<u>Opposing Counsel of Record</u>
20				
21	SCHEDULE B--LIST OF ASSETS			
22				
23	List each category of assets and for each give approximate			
24	value obtainable for the asset on the date of assignment, and			
25	address where asset is located.			
26				
27	I. Nonexempt Property			
28				
29	Description and			Liquidation Value
30	Location			at Date of Assignment
31				

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

12  
13 II. Exempt Property

15 Description and		Liquidation Value
16 Location		at Date of Assignment

17  
18 (e) The assignment and schedules shall be duly  
19 verified upon oath by the assignor, and accepted by the  
20 assignee under oath in substantially the following form:-

21  
22 VERIFICATION OF ASSIGNMENT  
23 AND SCHEDULES BY ASSIGNOR  
24

25 The undersigned, (name), (position with assignor) of  
26 (assignor), hereby verifies the Assignment of all of its  
27 rights, title, and interest in and to all of its assets, as  
28 indicated on the attached Schedules to that Assignment as  
29 filed with this Court on (date), and further verifies each of  
30 the facts set forth in the Schedules annexed to the Assignment  
31 to the best of my knowledge and belief.

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\_\_\_\_\_  
Name, Position with Assignor

STATE OF FLORIDA  
COUNTY OF .....

Sworn to and subscribed before me this .... day of  
....., ...(year).....

...(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.....

ACCEPTANCE BY ASSIGNEE

The undersigned, (assignee), the Assignee herein, duly  
acknowledges that the Assignee accepts delivery of the  
assignment and that he or she will duly perform the duties  
imposed upon the Assignee pursuant to chapter 727, Florida  
Statutes.

\_\_\_\_\_  
Assignee

STATE OF FLORIDA  
COUNTY OF .....

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

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Sworn to and subscribed before me this .... day of  
....., ...(year)....

...(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.....

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

727.105 Proceedings against assignee.--~~Proceedings~~ ~~no proceeding~~ may not be commenced against the assignee except as provided in this chapter, but nothing contained in this chapter affects herein shall affect any action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power. Except in the case of a consensual lienholder secured creditor enforcing its rights in personal property or real property collateral under chapter 679, there shall be no levy, execution, attachment, or the like in respect of any judgment against assets of the estate, ~~other than real property~~, in the possession, custody, or control of the assignee.

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

727.108 Duties of assignee.--The assignee shall:

(1) Collect and reduce to money the assets of the estate, whether by suit in any court of competent jurisdiction

1 or by public or private sale, including, but not limited to,  
2 prosecuting any tort claims or causes of action which were  
3 previously held by the assignor, regardless of any generally  
4 applicable law concerning the nonassignability of tort claims  
5 or causes of action, and;

6 (a) With respect to the estate's claims and causes of  
7 action, the assignee may prosecute such claims or causes of  
8 action as provided in this section or sell and assign, in  
9 whole or in part, such claims or causes of action to another  
10 person or entity on the terms that the assignee determines are  
11 in the best interest of the estate under to s. 727.111(4); and

12 (b) In an action in any court by the assignee or the  
13 first immediate transferee of the assignee, other than an  
14 affiliate or insider of the assignor, against a defendant to  
15 assert a claim or chose in action of the estate, the claim is  
16 not subject to, and any remedy may not be limited by, a  
17 defense based on the assignor's acquiescence, cooperation, or  
18 participation in the wrongful act by the defendant which forms  
19 the basis of the claim or chose in action.†

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

25 (3) Give notice to creditors of all matters concerning  
26 the administration of the estate, pursuant to ~~the provisions~~  
27 ~~of~~ s. 727.111.†

28 (4) Conduct the business of the assignor for a limited  
29 period that may not exceed 14 calendar days, if in the best  
30 interest of the estate, or for a longer period limited  
31 ~~periods,~~ if, in the best interest of the estate, upon notice

1 and until such time as an objection, if any, is sustained by  
2 the court; however, the assignee may not operate the business  
3 of the assignor for longer than 45 calendar days without a  
4 court order authorizing such operation if an objection by a  
5 party in interest is interposed to the assignee's motion for  
6 authority to operate the assignor's business. ~~authorization of~~  
7 ~~the court;~~

8 (5) To the extent reasonable in the exercise of the  
9 assignee's business judgment, reject an unexpired lease of  
10 nonresidential real property or of personal property under  
11 which the assignor is the lessee.

12 ~~(6)(5)~~ To the extent reasonable and necessary, pay  
13 administrative expenses of the estate, subject, however, to s.  
14 727.114(1).~~;~~

15 ~~(7)(6)~~ To the extent necessary, employ at the expense  
16 of the estate one or more appraisers, auctioneers,  
17 accountants, attorneys, or other professional persons, to  
18 assist the assignee in carrying out his or her duties under  
19 this chapter.~~;~~

20 ~~(8)(7)~~ Keep regular accounts and furnish such  
21 information concerning the estate as may be reasonably  
22 requested by creditors or other parties in interest.~~;~~

23 ~~(9)(8)~~ File with the court an interim report of  
24 receipts and disbursements within 6 months after the filing  
25 date unless excused by the court or unless the estate has been  
26 sooner distributed in full.~~;~~

27 ~~(10)(9)~~ Examine the validity and priority of all  
28 claims against the estate.~~;~~

29 ~~(11)(10)~~ Abandon assets to duly perfected secured or  
30 lien creditors, where, after due investigation, he or she  
31 determines that the estate has no equity in such assets or

1 such assets are burdensome to the estate or are of  
2 inconsequential value and benefit to the estate.†

3 ~~(12)~~(11) Pay dividends and secured or priority claims  
4 as often as is compatible with the best interests of the  
5 estate and close the estate as expeditiously as possible.† ~~and~~

6 ~~(13)~~(12) File with the court a final report of all  
7 receipts and disbursements and file an application for his or  
8 her discharge pursuant to ~~the provisions of~~ s. 727.116.

9 Section 7. Section 727.109, Florida Statutes, is  
10 amended to read:

11 727.109 Power of the court.--The court shall have  
12 power to:

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

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

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

20 (4) Allow or disallow claims against the estate and  
21 determine their priority and establish a deadline, upon motion  
22 by the assignee, for the filing of all claims against the  
23 assignment estate arising on or after the date on which the  
24 assignor's petition for assignment was filed with the court.  
25 The deadline may not occur less than 30 days before notice is  
26 received by mail of the order establishing the deadline.†

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

29 (6) Authorize the assignee to reject an unexpired  
30 lease of nonresidential real property or of personal property

31



1 under which the assignor is the lessee pursuant to s.  
2 727.108(5).

3 (7) Upon notice as provided under s. 727.111 to all  
4 creditors and consensual lienholders, hear and determine a  
5 motion brought by the assignee for approval of a proposed sale  
6 of assets of the estate other than in the ordinary course of  
7 business, or the compromise or settlement of a controversy,  
8 and enter an order granting such motion notwithstanding the  
9 lack of objection if the assignee reasonably believes that  
10 such order is necessary to proceed with the action  
11 contemplated by the motion.

12 (8)(6) Hear and determine any of the following actions  
13 brought by the assignee, which she or he is ~~hereby~~ empowered  
14 to maintain:

15 (a) Enforce the turnover of assets of the estate  
16 pursuant to s. 727.106.+

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

21 (c) Avoid any conveyance or transfer void or voidable  
22 by law.+

23 (9)(7) Approve the assignee's final report and interim  
24 and final distributions to creditors.+

25 (10)(8) Approve reasonable fees and the reimbursement  
26 of expenses for the assignee and all professional persons  
27 retained by the assignee, upon objection of a party in  
28 interest or upon the court's own motion.+

29 (11)(9) Hear and determine any motion brought by a  
30 party in interest or by the court to close the estate after  
31

1 the passage of 1 year from the date of filing of the  
2 petition.;

3 ~~(12)(10)~~ Discharge the assignee and the assignee's  
4 surety from liability upon matters included in the assignee's  
5 final report.;

6 ~~(13)(11)~~ Reopen estates for cause shown.;

7 ~~(14)(12)~~ Punish by contempt any failure to comply with  
8 the provisions of this chapter or any order of the court made  
9 pursuant to this chapter.; ~~and~~

10 ~~(15)(13)~~ Exercise any ~~such~~ other ~~and further~~ powers  
11 that as are necessary to enforce or carry out the provisions  
12 of this chapter.

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

15 727.110 Actions by assignee and other parties in  
16 interest.--

17 (1) All matters requiring court authorization under  
18 this chapter shall be brought by motion, except for the  
19 following matters, which shall be brought by supplemental  
20 proceeding, as provided in subsection (2):

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

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

27 (c) An action by the assignee to avoid any conveyance  
28 or transfer void or voidable by law under s. 727.109(8)(c) ~~s.~~  
29 ~~727.109(6)(c)~~.

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

1           727.111 Notice.--

2           (4) The assignee shall give the assignor and all  
3 creditors not less than 20 days' notice by mail of a proposed  
4 sale of assets of the estate other than in the ordinary course  
5 of business, the assignee's continued operation of the  
6 assignor's business for longer than 14 calendar days, the  
7 compromise or settlement of a controversy, and the payment of  
8 fees and expenses to the assignee and to professional persons  
9 employed by the assignee pursuant to s. 727.108(7) ~~s.~~  
10 ~~727.108(6)~~. Any ~~and all~~ objections to the proposed action must  
11 be filed and served upon the assignee and the assignee's  
12 attorney, if any, not less than 3 days before the date of the  
13 proposed action. The notice must ~~shall~~ include a description  
14 of the proposed action to be taken, ~~and~~ the date of the  
15 proposed action, and ~~shall set forth~~ the date and place for  
16 the hearing at which any objections will ~~shall~~ be heard. If  
17 ~~no~~ objections are not timely filed and served, the assignee  
18 may take ~~such~~ action as described in the notice without  
19 further order of the court or may obtain an order of the court  
20 granting such motion if the assignee reasonably believes that  
21 the order is necessary to proceed with the action contemplated  
22 by the motion.

23           (8) Wherever notice is required to be given under this  
24 chapter, a certificate of service of such notice shall be  
25 filed with the court and notice shall be given to all  
26 consensual lienholders and counsel who have filed a notice of  
27 appearance with the court or who are identified in the  
28 assignor's schedules.

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

31           727.112 Proof of claim.--

1       (6) If a claim for damages results from the assignee's  
 2 rejection of a lease of real property, the claim shall be  
 3 limited to:

4       (a) The rent reserved by such lease, without  
 5 acceleration, for the greater of 1 year or 15 percent of the  
 6 remaining term of the lease, following the earlier of the date  
 7 of assignment or the date on which the lessor repossessed, or  
 8 the lessee surrendered, the leased property; and

9       (b)1. Any unpaid rent due under the lease, without  
 10 acceleration, on the earlier of the dates specified in  
 11 paragraph (a);

12       2. Reasonable attorney's fees and costs incurred by  
 13 the lessor in connection with the lease; and

14       3. The lessor's reasonable costs incurred in reletting  
 15 the premises previously leased by the assignor.

16       (7) If a claim for damages results from the  
 17 termination of an employment contract, the claim shall be  
 18 limited to:

19       (a) The compensation provided by the contract, without  
 20 acceleration, for 1 year following the earlier of the date of  
 21 assignment or the date on which the assignor or assignee, as  
 22 applicable, directed the employee to terminate, or such  
 23 employee terminated, performance under the contract; and

24       (b) Any unpaid compensation due under the contract,  
 25 without acceleration, on the earlier of the dates specified in  
 26 paragraph (a).

27       Section 11. Section 727.113, Florida Statutes, is  
 28 amended to read:

29       727.113 Objections to claims.--

30       (1) At any time prior to the entry of an order  
 31 approving the assignee's final report, the assignee or any

1 party in interest, including another creditor of the assignor,  
2 may file with the court an objection to a claim, which  
3 objection ~~must~~ ~~shall~~ be in writing and ~~shall~~ set forth the  
4 nature of the objection. A copy of the objection, together  
5 with notice of hearing thereon, shall be mailed to the  
6 creditor at least 20 days prior to the hearing. All claims  
7 properly filed with the assignee and not disallowed by the  
8 court ~~shall~~ constitute all claims entitled to distribution  
9 from the estate.

10 (2) Following expiration of the claims bar date, the  
11 assignee shall create a register of all creditors that have  
12 filed claims against the assignor's estate and shall make the  
13 register available upon request to any creditor or other party  
14 in interest.

15 (3) The assignee, as well as any creditor or any party  
16 in interest, has standing to challenge the validity, extent,  
17 or priority of any claim filed by a creditor against the  
18 assignor's estate.

19 (4) A creditor whose claim is secured by a lien  
20 against property of the estate has 60 days following the sale  
21 or disposition of the property securing his or her claim to  
22 file a claim for an unsecured deficiency, notwithstanding the  
23 passage of the last date in which a proof of claim may be  
24 served upon the assignee set forth in s. 727.112(2). If such a  
25 creditor fails to file with the assignee a deficiency claim  
26 within 10 days after the filing and service by mail of the  
27 assignee's final report of all receipts and disbursements, the  
28 creditor's deficiency claim shall be disallowed as untimely  
29 and the creditor is not entitled to share in any distribution  
30 made to holders of unsecured claims under s. 727.114(1)(f) on  
31 account of its deficiency claim.

1           Section 12. Section 727.114, Florida Statutes, is  
2 amended to read:

3           727.114 Priority of claims.--Allowed claims shall  
4 receive distribution under this chapter in the following order  
5 of priority and, with the exception of paragraph (1)(a)  
6 ~~subsection (1)~~, on a pro rata basis:

7           (1)(a) Creditors with liens on assets of the estate,  
8 which liens are duly perfected pursuant to applicable law,  
9 shall receive the proceeds from the disposition of their  
10 collateral, less the reasonable, necessary expenses of  
11 preserving or disposing of such collateral to the extent of  
12 any benefit to such creditors. If and to the extent that such  
13 proceeds are less than the amount of a creditor's claim or a  
14 creditor's lien is avoided pursuant to s. 727.109(8)(c) ~~s.~~  
15 ~~727.109(6)(c)~~, such a creditor shall be deemed to be an  
16 unsecured creditor for such deficiency pursuant to paragraph  
17 (f) ~~subsection (6) of this section~~.

18           ~~(b)(2)~~ Expenses incurred during the administration of  
19 the estate, other than those expenses allowable under  
20 paragraph (a) ~~subsection (1)~~, including allowed fees and  
21 reimbursements of all expenses of the assignee and  
22 professional persons employed by the assignee under s.  
23 727.108(7), and rent incurred by the assignee in occupying any  
24 premises in which the assets of the assignment estate are  
25 located or the business of the assignor is conducted, from and  
26 after the date of the assignment, through and until the  
27 earlier of the date on which the lease for such premises is  
28 rejected pursuant to an order of the court or the date of  
29 termination of such lease ~~pursuant to s. 727.108(6)~~.

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1           ~~(c)(3)~~ Unsecured claims of governmental units for  
2 taxes ~~that which~~ accrued within 3 years before ~~prior to~~ the  
3 filing date.

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

11           ~~(e)(5)~~ Allowed unsecured claims, to the extent of  
12 \$2,225\$900 for each individual, arising from the deposit with  
13 the assignor before the filing date of money in connection  
14 with the purchase, lease, or rental of property or the  
15 purchase of services for personal, family, or household use by  
16 such individuals that were not delivered or provided.

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

18           (2) A subordination agreement is enforceable under  
19 this chapter to the same extent that such agreement is  
20 enforceable under applicable law.

21           (3) For the purpose of distributions under this  
22 chapter, a claim arising from rescission of a purchase or sale  
23 of a security of the assignor or of an affiliate of the  
24 assignor for damages arising from the purchase or sale of the  
25 security or for reimbursement or contribution allowed under  
26 this chapter on account of such a claim shall be subordinated  
27 to all claims or interests that are senior to or equal to the  
28 claim or interest represented by such security, except that if  
29 the security is common stock, the claim has the same priority  
30 as common stock.

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

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