

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Seiler offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 97-179 and insert:

5 sheriff to the attorneys of record of all judgment creditors and
6 other lienholders, or to all judgment creditors and other
7 lienholders who do not have an attorney of record, who have
8 acquired a ~~judgment~~ lien as provided in s. 55.10(1) and (2), s.
9 55.202, ~~or~~ s. 55.204(3), or s. 695.01, and whose liens have not
10 lapsed at the time of levy, at the address listed in the
11 judgment lien certificate or other recorded liens, or, if
12 amended, in any amendment thereto ~~to the judgment lien~~
13 ~~certificate~~, and to all secured creditors who have filed
14 financing statements as provided in part V of chapter 679 in the
15 name of the judgment debtor reflecting a security interest in
16 property of the kind to be sold at the execution sale at the
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17 address listed in the financing statement, or, if amended, in
18 any amendment to the financing statement. Such notice shall be
19 made in the same manner as notice is made to any judgment debtor
20 under this section. When levying upon real property, notice of
21 such levy and execution sale and affidavit required by s.
22 56.27(4) shall be made to the property owner of record in the
23 same manner as notice is made to any judgment debtor pursuant to
24 this section and shall be made to each person holding a mortgage
25 or other lien against the real property as disclosed by the
26 affidavit. When selling real or personal property, the sale date
27 shall not be earlier than 30 days after the date of the first
28 advertisement.

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

31 56.27 Executions; payment of money collected.--

32 (1) All money received under executions shall be paid, in
33 the order prescribed, to the following: the sheriff, for costs;
34 the levying creditor in the amount of \$500 as liquidated
35 expenses; ~~and if the levy is upon real property, the first~~
36 ~~priority lienholder under s. 55.10(1) and (2), s. 55.10, and if~~
37 ~~the levy is upon personal property, the first priority~~
38 ~~lienholder under s. 55.202, s. 55.204(3), or s. 55.208(2), as~~
39 set forth in an affidavit required by subsection (4), or his or
40 her attorney, in satisfaction of the judgment lien, if provided
41 ~~that~~ the judgment lien has not lapsed at the time of the levy.
42 The receipt of the attorney shall be a release of the officer
43 paying the money to him or her. If ~~When~~ the name of more than
44 one attorney appears in the court file, the money shall be paid

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45 to the attorney who originally commenced the action or who made
46 the original defense unless the file shows that another attorney
47 has been substituted.

48 (2)(a) ~~If~~ When property sold under execution brings more
49 than the amount needed to satisfy the provisions of subsection
50 (1), the surplus shall be paid in the order of priority to any
51 judgment lienholders whose judgment liens have not lapsed,
52 unless the affidavit required by subsection (4) discloses that
53 the property is also subject to any recorded mortgage, financing
54 statement, tax warrant, or other lien, other than a judgment
55 lien, that is junior in priority to the levying creditor's
56 judgment lien. For the purpose of the sheriff's distribution of
57 the surplus to judgment lienholders under this paragraph,
58 priority of judgment liens on personal property shall be based
59 on the effective date of the judgment lien acquired under s.
60 55.202, s. 55.204(3), or s. 55.208(2), and priority of judgment
61 liens on real property shall be based on the effective date of
62 the judgment lien acquired under s. 55.10(1) and (2), as set
63 forth in an affidavit required under subsection (4). If there is
64 a surplus after all valid judgment liens and execution liens
65 have been satisfied under this paragraph, the surplus must be
66 paid to the owner of the property sold defendant.

67 (b) If the affidavit required by subsection (4) discloses
68 that the property is also subject to any recorded mortgage,
69 financing statement, tax warrant, or other lien, other than a
70 judgment lien, that is junior in priority to the levying
71 creditor's judgment lien, any surplus from the sale of the
72 property shall be paid over to the registry of the court from

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73 which the execution issued for further proceedings to determine
74 the priority in which such surplus shall be distributed among
75 judgment lienholders, other lienholders, and the owner of the
76 property sold.

77 (4) Before the date of the first publication or posting of
78 the notice of sale provided for under s. 56.21, at the time of
79 the levy request to the sheriff, the levying creditor shall
80 deliver to the sheriff an affidavit setting forth all of the
81 following as to the judgment debtor:

82 (a) For a personal property levy, an attestation by ~~that~~
83 the levying creditor or the creditor's attorney of record that
84 he or she has reviewed the database or judgment lien records
85 established in accordance with ss. 55.201-55.209 and that the
86 information contained in the affidavit based on that review is
87 true and correct. For real property levy in accordance with s.
88 55.10(1) and (2), an attestation by the levying creditor or his
89 or her attorney of record that he or she has reviewed the
90 records of the clerk of court of the county where the property
91 is situated, or that he or she has performed a title search, and
92 that the information contained in the affidavit, including a
93 disclosure of all judgment liens, mortgages, financing
94 statements, tax warrants, and other liens against the real
95 property, based on that review or title search is true and
96 correct.†

97 (b) The information required under s. 55.203(1) and (2)
98 for each judgment lien certificate indexed under the name of the
99 judgment debtor as to each judgment creditor; the file number
100 assigned to the record of the original and, if any, the second
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101 judgment lien; and the date of filing for each judgment lien
102 certificate under s. 55.202 or s. 55.204(3). For each judgment
103 lien recorded on real property, the information contained in the
104 certified copy of recordation of lien pursuant to s. 55.10(1)
105 and (2), and for each other lien recorded on real property, the
106 name and address of the lienholder as shown in the copy of the
107 recorded lien disclosed by the title search. ~~and~~

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

111 Remove lines 12-22 and insert:

112 F.S.; requiring the submission of an affidavit before
113 levying a judgment upon real property; requiring the
114 sheriff to furnish to the judgment debtor or
115 lienholder or the debtor's or lienholder's attorney of
116 record a copy of the notice of sale, notice of levy,
117 and affidavit within a specified period before
118 execution of a sale or levy; requiring a notice of
119 levy and execution to be made to each person holding a
120 mortgage or other lien against the real property;
121 amending s. 56.27, F.S.; requiring that priority of
122 liens on real property be based on the effective date
123 of the judgment lien for a specified purpose unless an
124 affidavit discloses that the property is subject to a
125 recorded mortgage, financing statement, tax warrant,
126 or other lien that is junior in priority to the
127 judgment lien; requiring a levying creditor to deliver
128 to the sheriff at the time of the levy request an

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129 affidavit setting forth certain information and
130 attestations; requiring certain information to be
131 contained in the certified copy of recordation of
132 lien; providing for a determination of priority for
133 distribution of surplus from execution sales;