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CHAMBER ACTION

Senate

House

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Floor: 1/AD/3R  
4/16/2008 11:45 AM

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1 Senator Crist moved the following **amendment**:

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

4 Delete line(s) 156-237,  
5 and insert:

6 of all judgment creditors and other lienholders, or to all  
7 judgment creditors and other lienholders who do not have an  
8 attorney of record, who have acquired a ~~judgment~~ lien as provided  
9 in s. 55.10(1) and (2), s. 55.202, ~~or s. 55.204(3)~~, or s. 695.01,  
10 and whose liens have not lapsed at the time of levy, at the  
11 address listed in the judgment lien certificate or other recorded  
12 liens, or, if amended, in any amendment thereto ~~to the judgment~~  
13 ~~lien 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  
17 address listed in the financing statement, or, if amended, in any



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18 amendment to the financing statement. Such notice shall be made  
19 in the same manner as notice is made to any judgment debtor under  
20 this section. When levying upon real property, notice of such  
21 levy and execution sale and affidavit required by s. 56.27(4)  
22 shall be made to the property owner of record in the same manner  
23 as notice is made to any judgment debtor pursuant to this  
24 section, and shall be made to each other person holding a  
25 mortgage or other lien against the real property as disclosed by  
26 the affidavit. When selling real or personal property, the sale  
27 date shall not be earlier than 30 days after the date of the  
28 first advertisement.

29 Section 1. 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 lienholder~~  
38 ~~under~~ s. 55.202, s. 55.204(3), or s. 55.208(2), as set forth in  
39 an affidavit required by subsection (4), or his or her attorney,  
40 in satisfaction of the judgment lien, if ~~provided that~~ the  
41 judgment lien has not lapsed at the time of the levy. The receipt  
42 of the attorney shall be a release of the officer paying the  
43 money to him or her. If ~~When~~ the name of more than one attorney  
44 appears in the court file, the money shall be paid to the  
45 attorney who originally commenced the action or who made the  
46 original defense unless the file shows that another attorney has  
47 been substituted.



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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, unless  
52 the affidavit required by subsection (4) discloses that the  
53 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 on  
59 the effective date of the judgment lien acquired under s. 55.202,  
60 s. 55.204(3), or s. 55.208(2), and priority of judgment liens on  
61 real property shall be based on the effective date of the  
62 judgment lien acquired under s. 55.10(1) and (2), as set forth in  
63 an affidavit required under subsection (4). If there is a surplus  
64 after all valid judgment liens and execution liens have been  
65 satisfied under this paragraph, the surplus must be paid to the  
66 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  
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.



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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 he  
84 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 a 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 records  
90 of the clerk of court of the county where the property is  
91 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) for  
98 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  
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) and  
105 (2), and for each other lien recorded on real property, the name



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106 and address of the lienholder as shown in the copy of the  
107 recorded lien disclosed by the title search. ~~and~~

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

111 And the title is amended as follows:

112 Delete line(s) 27,

113 and insert:

114 property; requiring the sheriff to furnish to the judgment  
115 debtor or lienholder or the debtor's or lienholder's  
116 attorney of record a copy of the notice of sale, notice of  
117 levy, and affidavit with a specified period before  
118 execution of a sale or levy; amending s. 56.27, F.S.;

119 requiring that priority of liens on real property be based  
120 on the effective date of the judgment lien for a specified  
121 purpose, unless an affidavit discloses that the property  
122 is subject to a recorded mortgage, financing statement,  
123 tax warrant or other lien that is junior in priority to  
124 the judgment lien; requiring a levying creditor to deliver  
125 the affidavit to the sheriff at the time of the levy  
126 request setting forth certain information and  
127 attestations; requiring certain information to be  
128 contained in the certified copy of recordation of lien;  
129 amending ss. 741.30 and 784.046, F.S.,