

1 A bill to be entitled
2 An act relating to government liens; amending s. 162.03,
3 F.S.; requiring certain fines or liens to be recorded in
4 order to constitute a property lien; authorizing counties
5 and municipalities to provide by ordinance that certain
6 property conditions are code violations subject to
7 enforcement actions; providing legislative findings;
8 preempting to the state laws relating to alienation of
9 property and foreclosure of mortgages and liens;
10 prohibiting local governments from imposing preconditions
11 or limitations on alienation of certain property or
12 foreclosure of certain mortgages or other liens;
13 prohibiting local governments from requiring lenders to
14 file or register certain properties; amending s. 162.06,
15 F.S.; specifying nonapplication of certain emergency
16 repair action requirements to certain enforcement
17 procedures; amending s. 162.07, F.S.; conforming a cross-
18 reference; amending s. 162.09, F.S.; specifying that
19 certain enforcement board actions do not create certain
20 obligations or liabilities for damages; requiring
21 ordinances assessing certain fines to include certain
22 criteria for certain purposes; authorizing code
23 enforcement boards to impose a special assessment against
24 property for certain purposes; providing special
25 assessment requirements; creating s. 162.091, F.S.;
26 providing authority and requirements for emergency repairs
27 to property by counties or municipalities under certain
28 circumstances; providing authority and requirements for

29 | assessing costs of such repairs; specifying that making
30 | such repairs does not create certain obligations or
31 | liabilities for damages; specifying that absence of notice
32 | does not invalidate certain actions; redesignating and
33 | amending s. 162.09(3), F.S., as s. 162.092, F.S.; revising
34 | authority and requirements for recording certain liens
35 | against property for certain fines and costs; providing
36 | for such liens to be liens upon personal property also;
37 | specifying a form for such recorded liens; providing for
38 | priority of such liens; revising requirements and
39 | procedures for enforcement of such liens; providing for
40 | preservation of such liens; providing limitations on fines
41 | or penalties under such liens; revising enforcement
42 | procedures for such liens; creating s. 162.093, F.S.;
43 | authorizing certain persons to enter certain property to
44 | make repairs; specifying nonapplication of trespass laws
45 | under such circumstances; amending s. 162.10, F.S.;
46 | revising provisions specifying the duration of liens;
47 | amending s. 162.11, F.S.; authorizing appeal of recorded
48 | liens; creating s. 162.14, F.S.; providing for
49 | severability of certain provisions; providing a
50 | legislative declaration; amending s. 222.01, F.S.;
51 | revising authority, requirements, and procedures for
52 | declaring and designating property as homestead property;
53 | authorizing certain additional persons to make such
54 | declarations; revising the form for a notice of homestead;
55 | amending s. 695.01, F.S.; revising requirements and
56 | procedures for recording conveyances to include

57 application to mortgages and liens; providing for validity
 58 of liens for improvements, services, fines, and penalties
 59 attaching to real property by certain entities; providing
 60 requirements and procedures; providing for priority of
 61 such liens; providing for superiority of certain
 62 provisions; providing for assignment of liens; providing
 63 for entitlement to receive an assignment of lien;
 64 providing for enforcement; providing severability;
 65 providing an effective date.

66
 67 Be It Enacted by the Legislature of the State of Florida:

68
 69 Section 1. Section 162.03, Florida Statutes, is amended to
 70 read:

71 162.03 Applicability.—

72 (1) Each county or municipality may by ordinance, ~~at its~~
 73 ~~option~~, create or abolish ~~by ordinance~~ local government code
 74 enforcement boards as provided in this chapter ~~herein~~.

75 (2) A charter county, a noncharter county, or a
 76 municipality may, by ordinance, adopt an alternate code
 77 enforcement system that gives code enforcement boards or special
 78 magistrates designated by the local governing body, or both, the
 79 authority to hold hearings and assess fines against violators of
 80 the respective county or municipal codes and ordinances. A
 81 special magistrate shall have the same status as an enforcement
 82 board under this chapter. References in this chapter to an
 83 enforcement board, except in s. 162.05, shall include a special
 84 magistrate if the context permits. Any fine or lien assessed by

85 such alternate code enforcement system must be recorded as
 86 provided in s. 162.092 before such fine or lien constitutes a
 87 lien on any real or personal property.

88 (3) In addition to any other matters addressed in its code
 89 of ordinances, each county or municipality may by ordinance
 90 provide that the failure to repair a property that falls into
 91 disrepair, becomes uninhabitable, or creates a danger to public
 92 health, safety, or welfare is in violation of its code of
 93 ordinances and subject to enforcement action pursuant to this
 94 chapter.

95 (4) The Legislature finds that alienation of property and
 96 foreclosure of mortgages and liens are areas of the law that
 97 have been preempted to the state by the laws of this state and
 98 the Florida Rules of Court. A local government may not by
 99 ordinance or otherwise impose any preconditions or limitations
 100 on the alienation of property or the foreclosure of mortgages or
 101 other liens, other than with regard to property, mortgages, or
 102 liens owned or held by the local government. Any such ordinance
 103 or other enactment is void and has no force or effect.

104 (5) A local government, including a local government with
 105 home rule powers, may not require lenders to file or register
 106 abandoned, vacant, or foreclosed properties or properties in
 107 default.

108 Section 2. Subsection (4) of section 162.06, Florida
 109 Statutes, is amended to read:

110 162.06 Enforcement procedure.—

111 (4) If the code inspector has reason to believe a
 112 violation or the condition causing the violation presents a

113 | serious threat to the public health, safety, and welfare or if
 114 | the violation is irreparable or irreversible in nature, the code
 115 | inspector shall make a reasonable effort to notify the violator
 116 | and may immediately notify the enforcement board and request a
 117 | hearing. This subsection does not apply to any action taken
 118 | pursuant to s. 162.091.

119 | Section 3. Subsection (2) of section 162.07, Florida
 120 | Statutes, is amended to read:

121 | 162.07 Conduct of hearing.—

122 | (2) Each case before an enforcement board shall be
 123 | presented by the local governing body attorney or by a member of
 124 | the administrative staff of the local governing body. If the
 125 | local governing body prevails in prosecuting a case before the
 126 | enforcement board, it shall be entitled to recover all costs
 127 | incurred in prosecuting the case before the board and such costs
 128 | may be included in the lien authorized under s. 162.092
 129 | ~~162.09(3)~~.

130 | Section 4. Subsections (1) and (2) of section 162.09,
 131 | Florida Statutes, are amended to read:

132 | 162.09 Administrative fines; costs of repair; ~~liens~~.—

133 | (1) An enforcement board, upon notification by the code
 134 | inspector that an order of the enforcement board has not been
 135 | complied with by the set time or upon finding that a repeat
 136 | violation has been committed, may order the violator to pay a
 137 | fine in an amount specified in this section for each day the
 138 | violation continues past the date set by the enforcement board
 139 | for compliance or, in the case of a repeat violation, for each
 140 | day the repeat violation continues, beginning with the date the

141 repeat violation is found to have occurred by the code
 142 inspector. In addition, if the violation is a violation
 143 described in s. 162.06(4), the enforcement board shall notify
 144 the local governing body, which may make all reasonable repairs
 145 ~~which are~~ required to bring the property into compliance and
 146 charge the violator with the reasonable cost of the repairs
 147 along with the fine assessed ~~imposed~~ pursuant to this section.

148 (2) The making of any such repairs does not create a
 149 continuing obligation on the part of the local governing body to
 150 make further repairs or to maintain the property and does not
 151 create any liability against the local governing body, or any
 152 person engaged by the local governing body to make such repairs,
 153 for any damages to the property or for any special, punitive, or
 154 consequential damages resulting from or arising in the course of
 155 making such repairs if such repairs were completed in good
 156 faith. If a finding of a violation or a repeat violation has
 157 been made as provided in this part, a hearing shall not be
 158 necessary for issuance of the order imposing the fine. If, after
 159 due notice and hearing, a code enforcement board finds a
 160 violation to be irreparable or irreversible in nature, it may
 161 order the violator to pay a fine as specified in paragraph
 162 (3) ~~(2)~~ (a).

163 (3) ~~(2)~~ (a) A fine assessed ~~imposed~~ pursuant to this section
 164 shall not exceed \$250 per day for a first violation and shall
 165 not exceed \$500 per day for a repeat violation, and, in
 166 addition, may include all costs of repairs pursuant to
 167 subsection (1) and s. 162.091. However, if a code enforcement
 168 board finds the violation to be irreparable or irreversible in

HB 1069

2010

169 nature, the board ~~it~~ may assess ~~impose~~ a fine not to exceed
 170 \$5,000 per violation.

171 (b) In determining the amount of the fine, if any, the
 172 enforcement board shall consider the following factors:

- 173 1. The gravity of the violation;
- 174 2. Any actions taken by the violator to correct the
 175 violation; and
- 176 3. Any previous violations committed by the violator.

177 (c) An enforcement board may reduce a fine assessed
 178 ~~imposed~~ pursuant to this section.

179 (d) A county or a municipality having a population equal
 180 to or greater than 50,000 may adopt, by a vote of at least a
 181 majority plus one of the entire governing body of the county or
 182 municipality, an ordinance that gives code enforcement boards or
 183 special magistrates, or both, authority to assess ~~impose~~ fines
 184 in excess of the limits set forth in paragraph (a). Such fines
 185 shall not exceed \$1,000 per day per violation for a first
 186 violation, \$5,000 per day per violation for a repeat violation,
 187 and ~~up to~~ \$15,000 per violation if the code enforcement board or
 188 special magistrate finds the violation to be irreparable or
 189 irreversible in nature. Any ordinance assessing such fines must
 190 include criteria to be considered by the enforcement board or
 191 special magistrate in determining the amount of the fines,
 192 including, but not limited to, those factors set forth in
 193 paragraph (b).

194 (4) (a) In addition to any ~~such~~ fines assessed, a code
 195 enforcement board or special magistrate may impose a special
 196 assessment against the property on which the violation exists

197 ~~additional fines~~ to cover:

198 1. All costs incurred by the local government in:

199 a. Making any emergency repairs pursuant to s. 162.091.

200 b. Making any repairs ordered by the local governing body

201 or the enforcement board pursuant to this section.

202 c. Identifying and notifying the parties to be notified.

203 d. Recording the copy of the lien and any releases

204 thereof.

205 2. Reasonable charges for direct costs incurred in:

206 a. Enforcing the violation of codes giving rise to the

207 need for the repairs.

208 b. Making subsequent inspections to confirm repairs have

209 been completed enforcing its codes and all costs of repairs

210 pursuant to subsection (1). Any ordinance imposing such fines

211 shall include criteria to be considered by the code enforcement

212 board or special magistrate in determining the amount of the

213 fines, including, but not limited to, those factors set forth in

214 paragraph (b).

215 (b) The special assessment shall be set forth as an amount

216 separate from any fines assessed and shall specifically state

217 that the cost assessment portion constitutes a lien on such

218 property equal in priority to real property taxes as set forth

219 in s. 162.092.

220 Section 5. Section 162.091, Florida Statutes, is created

221 to read:

222 162.091 Emergency repairs; costs of repairs.—

223 (1) A county or municipal official may institute any

224 emergency repairs necessary or appropriate to mitigate a

225 violation of the county's or municipality's code of ordinances
 226 that presents a serious threat to the public health, safety, or
 227 welfare if:

228 (a) The code enforcement board is not scheduled to meet
 229 within the next 48 hours.

230 (b) The local governing body has delegated the authority
 231 to institute emergency repairs to that official.

232 (c) The code inspector has made a reasonable effort to
 233 notify the owner of record of the property on which the
 234 violation exists and the holder or servicer of the first
 235 mortgage on such property.

236 (2) The official instituting emergency repairs shall
 237 advise the code enforcement board of all costs incurred in
 238 making the emergency repairs and any costs of identifying and
 239 notifying the parties required to be notified. The code
 240 enforcement board shall review such costs and, if the board
 241 deems the costs to be reasonable under the circumstances, cause
 242 such costs to be assessed pursuant to s. 162.09.

243 (3) The making of any such repairs by the official does
 244 not create a continuing obligation on the part of the local
 245 governing body to make further repairs or to maintain the
 246 property and does not create any liability against the local
 247 governing body, or any person engaged by the local governing
 248 body to make such repairs, for any damages to the property or
 249 for any special, punitive, or consequential damages resulting
 250 from or arising in the course of making such repairs.

251 (4) The failure or inability to notify any parties under
 252 this section does not invalidate any action taken pursuant this

253 section or the assessment of costs incurred in connection with
 254 such action.

255 Section 6. Subsection (3) of section 162.09, Florida
 256 Statutes, is designated as section 162.092, Florida Statutes,
 257 and amended to read:

258 162.092 Liens.-

259 (1)(3) A lien for certified copy of an order imposing a
 260 fine, for ~~or~~ a cost assessment alone, or for a fine plus a cost
 261 assessment, which lien identifies the owner and contains a valid
 262 legal description and the tax or parcel identification number
 263 applicable as of the date of assessment ~~repair costs~~, may be
 264 recorded in the official ~~public~~ records as defined in s. 28.222
 265 and thereafter shall constitute a lien against the land on which
 266 the violation exists ~~and upon any other real or personal~~
 267 property owned by the violator. Upon recording notice of the
 268 lien in the central database of judgment liens on personal
 269 property maintained by the Department of State in accordance
 270 with ss. 55.201-55.209, such lien shall also constitute a lien
 271 upon any personal property owned by the violator. The obligation
 272 to pay any fines or assessments shall also be a personal
 273 obligation of the owner of the property at the time the owner of
 274 the property was notified of the violation and the fine, cost,
 275 or fine plus cost was assessed.

276 (2) The recorded lien may be in substantially the
 277 following form and must include the information and the warning
 278 contained in the following form:

279
 280 WARNING!

281 THIS LEGAL DOCUMENT REFLECTS THAT A GOVERNMENT LIEN HAS BEEN
 282 PLACED ON THE REAL PROPERTY LISTED HEREIN. THIS LIEN MAY REMAIN
 283 VALID FOR TWENTY (20) YEARS FROM THE DATE OF RECORDING AND SHALL
 284 EXPIRE AND BECOME VOID THEREAFTER UNLESS LEGAL PROCEEDINGS HAVE
 285 BEEN COMMENCED TO FORECLOSE THIS LIEN AND A LIS PENDENS HAS BEEN
 286 RECORDED IN THE OFFICIAL RECORDS.

287
 288 GOVERNMENTAL LIEN

289 (SECTIONS 162.09, 162.091, & 162.092, FLORIDA STATUTES)

290
 291 STATE OF FLORIDA

292 COUNTY OF _____

293
 294 Before me, the undersigned notary public, personally appeared
 295 ...(Name/Title)..., who was duly sworn and says that the
 296 ...(Governmental Entity)..., whose address is _____,
 297 assesses a lien, which is equal in priority to real property
 298 taxes, against the below described real property pursuant to
 299 ...(Ordinance/Statute Number)... for the following costs which
 300 it has incurred:

301 1. Emergency repairs pursuant to section 162.091, Florida
 302 Statutes: \$ _____

303 2. Repairs ordered by the local governing body or the
 304 enforcement board: \$ _____

305 3. Costs of identifying or notifying the
 306 parties: \$ _____

307 4. Cost of recording the copy of the lien and proposed
 308 releases: \$ _____

HB 1069

2010

309 5. Direct cost of enforcing the violation of codes giving
 310 rise to the need for the repair: \$ _____

311 6. Direct cost of making subsequent inspections to confirm
 312 repairs have been made: \$ _____

313 TOTAL: \$ _____

314
 315 The total amount shall constitute a lien on the owner's
 316 property, notwithstanding any homestead protections provided by
 317 Article X, Section 4(a) of the State Constitution.

318
 319 The following fine pursuant to ...(Ordinance/Statute Number)...
 320 shall constitute a lien on the owner's property subject to the
 321 provisions of Article X, Section 4(a) of the State Constitution
 322 on the following described real property in _____ County,
 323 Florida:

324 First Violation: \$ _____ per day commencing ...(Date)...

325 Repeat Violation: \$ _____ per day commencing ...(Date)...

326 Property Legal Description:

327
 328 [Must include full legal description of property, not
 329 abbreviated description from tax rolls]

330
 331 Parcel I.D. Number:

332 owned by ...(Name of Owner)... whose address is shown as
 333 _____ in the tax rolls of _____ County, Florida. A
 334 copy of the notification of a violation of ...(Ordinance/Statute
 335 Number)... was ...(Sent by Certified Mail/Posted)... on
 336 ...(Date)....

HB 1069

2010

337
 338 Estoppel letters, additional information regarding this lien,
 339 and satisfactions of the lien are available by contacting
 340 ...(Name/Title)... at ...(Address)..., telephone number:
 341 ...(Telephone Number)....

342 ...(Governmental Entity)...
 343 By: ...(Name/Title)...

344 Sworn to (or affirmed) and subscribed before me this _____ day
 345 of _____, 20 _____ by ...(Name of Notary Public)....

346
 347 (SEAL)

348 _____
 349 ...(Signature of Notary Public)...

350 Personally Known OR Produced Identification
 351 Type of Identification Produced

352
 353 (3) The recorded lien for a cost assessment pursuant to s.
 354 162.09(4) or s. 162.091 constitutes a lien on such property
 355 equal in priority to real property taxes and is an obligation
 356 contracted for the improvement or repair of the property and an
 357 assessment within the meaning of s. 4, Art. X of the State
 358 Constitution. The cost assessment attaches and may be enforced
 359 without regard to whether the land on which the violation exists
 360 is the homestead of the owner of the property. Such lien is not
 361 eliminated by the foreclosure of any mortgage or lien
 362 subordinate to real property taxes and may not be prevented from
 363 attaching under the lis pendens provisions of s. 48.23.

364 (4) A lien for any fine or penalty assessed pursuant to

365 this chapter, and any accrual of interest on such fine or
 366 penalty, takes priority only as of the recordation of the lien,
 367 may be eliminated in a foreclosure of superior liens or
 368 mortgages, and is subject to the lis pendens provisions of s.
 369 48.23. The elimination of a lien for fines by foreclosure does
 370 not preclude a code enforcement board from assessing future
 371 violations against a subsequent owner of the property as to any
 372 uncorrected violations.

373 (5) Upon petition to the circuit court, the lien such
 374 ~~order~~ shall be enforceable in the same manner as a court
 375 judgment by the sheriffs of this state, including execution and
 376 levy against the property on which the violation exists or other
 377 real or personal property of the violator, but the lien such
 378 ~~order~~ shall not be deemed to be a court judgment except for
 379 enforcement purposes. A fine assessed ~~imposed~~ pursuant to this
 380 part shall continue to accrue until the violator comes into
 381 compliance or until judgment is rendered in a suit filed
 382 pursuant to this section, whichever occurs first. A lien arising
 383 from a fine assessed ~~imposed~~ pursuant to this section runs in
 384 favor of the local governing body. Within 30 days after payment,
 385 ~~and~~ the local governing body or authorized officer of the local
 386 governing body shall may execute and cause to be recorded a
 387 satisfaction or release of lien in each recording office where
 388 such lien was recorded ~~entered pursuant to this section.~~ After 3
 389 months from the filing of any such lien which remains unpaid,
 390 the enforcement board may authorize the local governing body
 391 attorney to foreclose on the lien or to sue to recover a money
 392 judgment for the amount of the lien plus accrued interest. A ~~No~~

HB 1069

2010

393 | lien for a fine assessed ~~created~~ pursuant to s. 162.09(3) may
 394 | not attach to or ~~the provisions of this part may~~ be foreclosed
 395 | on real property which is a homestead under s. 4, Art. X of the
 396 | State Constitution. The money judgment provisions of this
 397 | section shall not apply to real property or personal property
 398 | which is covered under s. 4(a), Art. X of the State
 399 | Constitution.

400 | Section 7. Section 162.093, Florida Statutes, is created
 401 | to read:

402 | 162.093 Trespass.—A code inspector, any government
 403 | official delegated authority to make emergency repairs, and any
 404 | municipal or county employee or other person engaged by the
 405 | local government to make repairs pursuant to ss. 162.09 and
 406 | 162.091 may enter privately owned properties, including, but not
 407 | limited to, fenced yards, vacant structures, and pool
 408 | enclosures, for purposes of making inspections and repairs as
 409 | authorized by this chapter. As provided in s. 810.12(5), laws
 410 | relating to trespass do not apply to such persons while
 411 | performing services within the scope of their employment.

412 | Section 8. Section 162.10, Florida Statutes, is amended to
 413 | read:

414 | 162.10 Duration of lien.—A ~~No~~ lien provided under this
 415 | chapter may not ~~the Local Government Code Enforcement Boards Act~~
 416 | ~~shall~~ continue for a period longer than 20 years after the lien
 417 | ~~certified copy of an order imposing a fine~~ has been recorded,
 418 | unless within that time an action is commenced pursuant to s.
 419 | 162.092 ~~162.09(3)~~ in a court of competent jurisdiction and a lis
 420 | pendens is filed in the official records. In an action to

HB 1069

2010

421 foreclose on a lien or for a money judgment, the prevailing
 422 party is entitled to recover all costs, including a reasonable
 423 attorney's fee, that it incurs in the action. The local
 424 governing body shall be entitled to collect all costs incurred
 425 in recording and satisfying a valid lien. The continuation of
 426 the lien ~~effected~~ by the commencement of the action shall not be
 427 good against creditors or subsequent purchasers for valuable
 428 consideration without notice, unless a notice of lis pendens is
 429 recorded.

430 Section 9. Section 162.11, Florida Statutes, is amended to
 431 read:

432 162.11 Appeals.—An aggrieved party, including the local
 433 governing body, may appeal a recorded lien or a final
 434 administrative order of an enforcement board to the circuit
 435 court. Such an appeal shall not be a hearing de novo but shall
 436 be limited to appellate review of the record created before the
 437 enforcement board. An appeal shall be filed within 30 days after
 438 ~~of~~ the recording of the lien or execution of the order to be
 439 appealed.

440 Section 10. Section 162.14, Florida Statutes, is created
 441 to read:

442 162.14 Severability; legislative declaration.—If any
 443 provision of this chapter is held or declared to be
 444 unconstitutional, illegal, invalid, inoperative, ineffective,
 445 inapplicable, or void, such holding or declaration does not
 446 affect the other provisions of this chapter or the application
 447 of the other provisions of this chapter to any other
 448 circumstance. The Legislature declares that any provision of

449 this chapter held as such did not induce the enactment of the
 450 chapter and that without the inclusion of the provisions of this
 451 chapter held as such, the Legislature would have enacted the
 452 other provisions of this chapter.

453 Section 11. Section 222.01, Florida Statutes, is amended
 454 to read:

455 222.01 Designation of homestead by owner before levy.—

456 (1) Whenever any natural person residing in this state
 457 desires to avail himself or herself of the benefit of the
 458 provisions of the constitution and laws exempting property as a
 459 homestead from forced sale under any process of law, he or she
 460 may make a statement, in writing, containing a description of
 461 the real property, mobile home, or modular home claimed to be
 462 exempt and declaring that the real property, mobile home, or
 463 modular home is the homestead of the party in whose behalf such
 464 claim is being made. If relevant, such a statement may also be
 465 made by a subsequent owner, lienholder, or successor in interest
 466 of such property to a party who could have claimed the real
 467 property, mobile home, or modular home was homestead through the
 468 date his or her interest in the property was relinquished or
 469 conveyed. Such statement shall be signed by the person making it
 470 and shall be recorded in the circuit court.

471 (2) When a certified copy of a judgment under ~~has been~~
 472 ~~filed in the public records of a county pursuant to chapter 55,~~
 473 a code enforcement lien under chapter 162 other than a cost
 474 assessment lien under s. 162.09(4), or a lien for any other
 475 purpose imposed by a court or governmental body exists or has
 476 been filed in the official records of a county, a person who is

477 entitled to the benefit of the provisions of the State
 478 Constitution exempting real property as homestead, or a
 479 lienholder, subsequent owner, or successor in interest of such
 480 property, and who has a contract to sell or a commitment from a
 481 lender for a mortgage on the homestead may file a notice of
 482 homestead in the official ~~public~~ records of the county in which
 483 the homestead property is located in substantially the following
 484 form, with allowance for modifications if the notice is being
 485 given by a lienholder, subsequent owner, or successor in
 486 interest of such property:

487
 488 NOTICE OF HOMESTEAD

489
 490 To:... (Name and address of judgment creditor or lienholder as
 491 shown on recorded judgment or lien and name and address of any
 492 other person shown in the recorded judgment or lien to receive a
 493 copy of the Notice of Homestead)....

494
 495 You are notified that the undersigned claims as homestead exempt
 496 from levy and execution under Section 4, Article X of the State
 497 Constitution, the following described property:

498
 499 ... (Legal description) ...

500
 501 The undersigned certifies, under oath, that he or she has
 502 applied for and received the homestead tax exemption as to the
 503 above-described property, that _____ is the tax identification
 504 parcel number of this property, and that the undersigned has

HB 1069

2010

505 | resided on this property continuously and uninterruptedly from
 506 | ... (date) ... to the date of this Notice of Homestead. Further,
 507 | the undersigned will either convey or mortgage the above-
 508 | described property pursuant to the following:

509 |
 510 | ... (Describe the contract of sale or loan commitment by date,
 511 | names of parties, date of anticipated closing, and amount. The
 512 | name, address, and telephone number of the person conducting the
 513 | anticipated closing must be set forth.) ...

514 |
 515 | The undersigned also certifies, under oath, that the lien or
 516 | judgment lien filed by you on ... (date) ... and recorded in
 517 | Official Records Book _____, Page _____, of the Public Records
 518 | of _____ County, Florida, does not constitute a valid lien
 519 | on the described property.

520 |
 521 | YOU ARE FURTHER NOTIFIED, PURSUANT TO SECTION 222.01 ET SEQ.,
 522 | FLORIDA STATUTES, THAT WITHIN 45 DAYS AFTER THE MAILING OF THIS
 523 | NOTICE YOU MUST FILE AN ACTION IN THE CIRCUIT COURT OF
 524 | _____ COUNTY, FLORIDA, FOR A DECLARATORY JUDGMENT TO
 525 | DETERMINE THE CONSTITUTIONAL HOMESTEAD STATUS OF THE SUBJECT
 526 | PROPERTY OR TO FORECLOSE YOUR LIEN OR JUDGMENT LIEN ON THE
 527 | PROPERTY AND RECORD A LIS PENDENS IN THE OFFICIAL ~~PUBLIC~~ RECORDS
 528 | OF THE COUNTY WHERE THE HOMESTEAD IS LOCATED. YOUR FAILURE TO SO
 529 | ACT WILL RESULT IN ANY BUYER OR LENDER, OR HIS OR HER SUCCESSORS
 530 | AND ASSIGNS, UNDER THE ABOVE-DESCRIBED CONTRACT OF SALE OR LOAN
 531 | COMMITMENT TO TAKE FREE AND CLEAR OF ANY LIEN OR JUDGMENT LIEN
 532 | YOU MAY HAVE ON THE PROPERTY.

HB 1069

2010

533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560

This _____ day of _____, 2____.

...(Signature of Owner)...

...(Printed Name of Owner)...

...(Owner's Address)...

Sworn to and subscribed before me by
_____ who is personally known to me or
produced _____ as identification, this
_____ day of _____, 2____.

Notary Public

(3) The clerk shall mail a copy of the notice of homestead to the judgment lienor or lienholder, by certified mail, return receipt requested, at the address shown in the most recent recorded lien, judgment, or accompanying affidavit, and to any other person designated in the most recent recorded lien, judgment, or accompanying affidavit to receive the notice of homestead, and shall certify to such service on the face of such notice and record the notice. Notwithstanding the use of certified mail, return receipt requested, service shall be deemed complete upon mailing.

(4) A lien ~~pursuant to chapter 55~~ of any lienor upon whom such notice is served, who fails to institute an action for a declaratory judgment to determine the constitutional homestead

HB 1069

2010

561 status of the property described in the notice of homestead or
562 to file an action to foreclose the lien or judgment lien,
563 together with the filing of a lis pendens in the official ~~public~~
564 records of the county in which the homestead is located, within
565 45 days after service of such notice shall be deemed as not
566 attaching to the property by virtue of its status as homestead
567 property:

568 (a) As to the interest of any buyer or lender, or his or
569 her successors or assigns, who takes under the contract of sale
570 or loan commitment described above within 180 days after the
571 filing in the official ~~public~~ records of the notice of
572 homestead; or

573 (b) As to the interest of any subsequent owner,
574 lienholder, or successor in interest of the property who filed a
575 notice under subsection (2).

576
577 This subsection shall not act to prohibit a lien from attaching
578 to the real property described in the notice of homestead at
579 such time as the property loses its homestead status.

580 (5) As provided in s. 4, Art. X of the State Constitution,
581 this subsection shall not apply to:

582 (a) Liens and judgments for the payment of taxes and
583 assessments on real property.

584 (b) Liens and judgments for obligations contracted for the
585 purchase of real property.

586 (c) Liens and judgments for labor, services, or materials
587 furnished to repair or improve real property.

588 (d) Liens and judgments for other obligations contracted

589 for house, field, or other labor performed on real property.

590 Section 12. Section 695.01, Florida Statutes, is amended
591 to read:

592 695.01 Conveyances, mortgages, and liens to be recorded.-

593 (1) A ~~No~~ conveyance, transfer, or mortgage of real
594 property, ~~or of any interest in such property therein, and nor~~
595 any lease of real property for a term of 1 year or longer, is
596 not valid or shall be good and effectual in law or equity
597 against creditors or subsequent purchasers for a valuable
598 consideration and without notice, ~~unless the conveyance,~~
599 transfer, mortgage, interest, or lease is same be recorded in
600 the official records, as defined in s. 28.222, of the county in
601 which the property is located, and according to law; nor shall
602 any such instrument made or executed by virtue of any power of
603 attorney is not valid or be good or effectual in law or in
604 equity against creditors or subsequent purchasers for a valuable
605 consideration and without notice unless the power of attorney is
606 be recorded in the official records of the county in which the
607 property is located before the accruing of the right of such
608 creditor or subsequent purchaser. Grantees by quitclaim may not
609 be denied the status of a bona fide purchaser without notice
610 within the meaning of the recording acts solely based upon
611 having received title by a quitclaim deed.

612 (2) Liens for improvements, services, fines, or penalties
613 attaching to real property by any governmental entity, or any
614 other quasi-governmental entity authorized to assess, impose, or
615 create such liens, except liens for taxes, special assessments
616 levied and collected under the uniform method described in s.

617 197.3632, and utility services, are valid and effectual against
 618 creditors and subsequent purchasers for a valuable consideration
 619 only upon being recorded in the official records of the county
 620 in which the property is located and containing the name of the
 621 owner of record, a legally sufficient legal description of the
 622 property, and the tax or parcel identification number applicable
 623 to the property as of the date of assessment. The priority of a
 624 lien described in this subsection is based upon its order of
 625 recordation unless the recorded notice of such lien clearly
 626 states a higher priority and includes a citation to the statute
 627 or ordinance authorizing such higher priority. This section
 628 supersedes any conflicting home rule power provisions and any
 629 provisions granting authority under any act, ordinance, or order
 630 creating any governmental or quasi-governmental entity.

631 (3) Liens assessed, imposed, or created by any
 632 governmental or quasi-governmental entity may be assigned by
 633 assignment recorded in the official records of the county in
 634 which the property is located. Any person other than the present
 635 owner of the property involved who pays any such unsatisfied
 636 lien is entitled to receive an assignment of the lien and shall
 637 be subrogated to the rights of the governmental or quasi-
 638 governmental entity with respect to the enforcement of such
 639 lien, as permitted by law. Grantees by quitclaim, heretofore or
 640 ~~hereafter made, shall be deemed and held to be bona fide~~
 641 ~~purchasers without notice within the meaning of the recording~~
 642 ~~acts.~~

643 Section 13. If any provision of this act or the
 644 application thereof to any person or circumstance is held

HB 1069

2010

645 invalid, the invalidity shall not affect other provisions or
646 applications of the act which can be given effect without the
647 invalid provision or application, and to this end the provisions
648 of this act are declared severable.

649 Section 14. This act shall take effect July 1, 2010.