

1 A bill to be entitled
 2 An act relating to garnishment; amending s. 77.041, F.S.;
 3 increasing the amount of wages of a head of family that is
 4 exempt from garnishment; amending s. 222.11, F.S.;
 5 increasing the amount of wages of a head of family that is
 6 exempt from garnishment; providing a form that must be
 7 used for an agreement to waive the exemption from
 8 garnishment; providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Subsection (1) of section 77.041, Florida
 13 Statutes, is amended to read:

14 77.041 Notice to individual defendant for claim of
 15 exemption from garnishment; procedure for hearing.—

16 (1) Upon application for a writ of garnishment by a
 17 plaintiff, if the defendant is an individual, the clerk of the
 18 court shall attach to the writ the following "Notice to
 19 Defendant":

20 NOTICE TO DEFENDANT OF RIGHT AGAINST
 21 GARNISHMENT OF WAGES, MONEY,
 22 AND OTHER PROPERTY

23 The Writ of Garnishment delivered to you with this Notice
 24 means that wages, money, and other property belonging to you
 25 have been garnished to pay a court judgment against you.
 26 HOWEVER, YOU MAY BE ABLE TO KEEP OR RECOVER YOUR WAGES, MONEY,
 27 OR PROPERTY. READ THIS NOTICE CAREFULLY.

28 State and federal laws provide that certain wages, money,

29 and property, even if deposited in a bank, savings and loan, or
30 credit union, may not be taken to pay certain types of court
31 judgments. Such wages, money, and property are exempt from
32 garnishment. The major exemptions are listed below on the form
33 for Claim of Exemption and Request for Hearing. This list does
34 not include all possible exemptions. You should consult a lawyer
35 for specific advice.

36 TO KEEP YOUR WAGES, MONEY, AND OTHER PROPERTY FROM BEING
37 GARNISHED, OR TO GET BACK ANYTHING ALREADY TAKEN, YOU MUST
38 COMPLETE A FORM FOR CLAIM OF EXEMPTION AND REQUEST FOR HEARING
39 AS SET FORTH BELOW AND HAVE THE FORM NOTARIZED. YOU MUST FILE
40 THE FORM WITH THE CLERK'S OFFICE WITHIN 20 DAYS AFTER THE DATE
41 YOU RECEIVE THIS NOTICE OR YOU MAY LOSE IMPORTANT RIGHTS. YOU
42 MUST ALSO MAIL OR DELIVER A COPY OF THIS FORM TO THE PLAINTIFF
43 AND THE GARNISHEE AT THE ADDRESSES LISTED ON THE WRIT OF
44 GARNISHMENT.

45 If you request a hearing, it will be held as soon as
46 possible after your request is received by the court. The
47 plaintiff must file any objection within 3 business days if you
48 hand delivered to the plaintiff a copy of the form for Claim of
49 Exemption and Request for Hearing or, alternatively, 8 business
50 days if you mailed a copy of the form for claim and request to
51 the plaintiff. If the plaintiff files an objection to your Claim
52 of Exemption and Request for Hearing, the clerk will notify you
53 and the other parties of the time and date of the hearing. You
54 may attend the hearing with or without an attorney. If the
55 plaintiff fails to file an objection, no hearing is required,
56 the writ of garnishment will be dissolved and your wages, money,

57 | or property will be released.
 58 | YOU SHOULD FILE THE FORM FOR CLAIM OF EXEMPTION IMMEDIATELY TO
 59 | KEEP YOUR WAGES, MONEY, OR PROPERTY FROM BEING APPLIED TO THE
 60 | COURT JUDGMENT. THE CLERK CANNOT GIVE YOU LEGAL ADVICE. IF YOU
 61 | NEED LEGAL ASSISTANCE YOU SHOULD SEE A LAWYER. IF YOU CANNOT
 62 | AFFORD A PRIVATE LAWYER, LEGAL SERVICES MAY BE AVAILABLE.
 63 | CONTACT YOUR LOCAL BAR ASSOCIATION OR ASK THE CLERK'S OFFICE
 64 | ABOUT ANY LEGAL SERVICES PROGRAM IN YOUR AREA.

65 | CLAIM OF EXEMPTION AND
 66 | REQUEST FOR HEARING

67 | I claim exemptions from garnishment under the following
 68 | categories as checked:
 69 |

_____ 1. Head of family wages. (You must check a.
 or b. below.)

70 | _____ a. I provide more than one-half of the
 support for a child or other dependent and
 have net earnings of \$750 ~~\$500~~ or less per
 week.

71 | _____ b. I provide more than one-half of the
 support for a child or other dependent, have
 net earnings of more than \$750 ~~\$500~~ per week,
 but have not agreed in writing to have my
 wages garnished.

72 |

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- 73 _____ 2. Social Security benefits.
- 74 _____ 3. Supplemental Security Income benefits.
- 75 _____ 4. Public assistance (welfare).
- 76 _____ 5. Workers' Compensation.
- 77 _____ 6. Unemployment Compensation.
- 78 _____ 7. Veterans' benefits.
- 79 _____ 8. Retirement or profit-sharing benefits or
pension money.
- 80 _____ 9. Life insurance benefits or cash surrender
value of a life insurance policy or proceeds
of annuity contract.
- 81 _____ 10. Disability income benefits.
- 82 _____ 11. Prepaid College Trust Fund or Medical
Savings Account.
- 83 _____ 12. Other exemptions as provided by law.
_____ (explain)

84 I request a hearing to decide the validity of my claim. Notice

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85 of the hearing should be given to me at:

86 Address: _____

87 Telephone number: _____

88 The statements made in this request are true to the best of my
89 knowledge and belief.

90 _____

91 Defendant's signature

92 Date _____

93 STATE OF FLORIDA

94 COUNTY OF

95 Sworn and subscribed to before me this _____ day of

96 ... (month and year) ..., by ... (name of person making

97 statement) ...

98 Notary Public/Deputy Clerk

99 Personally Known _____ OR Produced Identification _____

100 Type of Identification Produced _____

101 Section 2. Subsection (2) of section 222.11, Florida
102 Statutes, is amended to read:

103 222.11 Exemption of wages from garnishment.—

104 (2) (a) All of the disposable earnings of a head of family
105 whose disposable earnings are less than or equal to \$750 ~~\$500~~ a
106 week are exempt from attachment or garnishment.

107 (b) Disposable earnings of a head of a family, which are
108 greater than \$750 ~~\$500~~ a week, may not be attached or garnished
109 unless such person has agreed otherwise in writing. The
110 agreement to waive the protection provided by this paragraph

111 must:

112 1. Be in the same language as the contract or agreement to

113 which the waiver relates.

114 2. Be contained in a separate document attached to the
 115 contract or agreement.

116 3. Be in substantially the following form in at least 14-
 117 point type:

118
 119 IF YOU PROVIDE MORE THAN ONE-HALF OF THE SUPPORT FOR A
 120 CHILD OR OTHER DEPENDENT, ALL OR PART OF YOUR INCOME IS
 121 EXEMPT FROM GARNISHMENT UNDER FLORIDA LAW. YOU CAN WAIVE
 122 THIS PROTECTION ONLY BY SIGNING THIS DOCUMENT. BY SIGNING
 123 BELOW, YOU AGREE TO WAIVE THE PROTECTION FROM
 124 GARNISHMENT.

125
 126 ...(Consumer's Signature)... (Date Signed)...

127
 128 I have fully explained this document to the consumer.

129
 130 ...(Creditor's Signature)... (Date Signed)...

131
 132 ~~In no event shall~~ The amount attached or garnished may not
 133 exceed the amount allowed under the Consumer Credit Protection
 134 Act, 15 U.S.C. s. 1673.

135 (c) Disposable earnings of a person other than a head of
 136 family may not be attached or garnished in excess of the amount
 137 allowed under the Consumer Credit Protection Act, 15 U.S.C. s.
 138 1673.

139 Section 3. This act shall take effect October 1, 2010.