



446764

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/10/2010	.	
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	.	
	.	

The Committee on Commerce (Justice) recommended the following:

Senate Amendment (with title amendment)

Delete line 66

and insert:

Section 2. Subsection (1) of section 77.041, Florida Statutes, is amended to read:

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

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

NOTICE TO DEFENDANT OF RIGHT AGAINST



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14 GARNISHMENT OF WAGES, MONEY,
15 AND OTHER PROPERTY
16

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

22 State and federal laws provide that certain wages, money,
23 and property, even if deposited in a bank, savings and loan, or
24 credit union, may not be taken to pay certain types of court
25 judgments. Such wages, money, and property are exempt from
26 garnishment. The major exemptions are listed below on the form
27 for Claim of Exemption and Request for Hearing. This list does
28 not include all possible exemptions. You should consult a lawyer
29 for specific advice.

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

40 If you request a hearing, it will be held as soon as
41 possible after your request is received by the court. The
42 plaintiff must file any objection within 3 business days if you



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43 hand delivered to the plaintiff a copy of the form for Claim of
44 Exemption and Request for Hearing or, alternatively, 8 business
45 days if you mailed a copy of the form for claim and request to
46 the plaintiff. If the plaintiff files an objection to your Claim
47 of Exemption and Request for Hearing, the clerk will notify you
48 and the other parties of the time and date of the hearing. You
49 may attend the hearing with or without an attorney. If the
50 plaintiff fails to file an objection, no hearing is required,
51 the writ of garnishment will be dissolved and your wages, money,
52 or property will be released.

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

62 CLAIM OF EXEMPTION AND
63 REQUEST FOR HEARING

64
65 I claim exemptions from garnishment under the following
66 categories as checked:

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

.... 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.



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.... 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.

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.... 2. Social Security benefits.

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.... 3. Supplemental Security Income benefits.

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.... 4. Public assistance (welfare).

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.... 5. Workers' Compensation.

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.... 6. Unemployment Compensation.

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.... 7. Veterans' benefits.

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.... 8. Retirement or profit-sharing benefits or pension money.

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.... 9. Life insurance benefits or cash surrender value of a life insurance policy or proceeds of annuity contract.

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.... 10. Disability income benefits.

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.... 11. Prepaid College Trust Fund or Medical Savings Account.

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.... 12. Other exemptions as provided by law.
.....(explain)



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I request a hearing to decide the validity of my claim. Notice of the hearing should be given to me at:

Address:

Telephone number:.....

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

.....

Defendant's signature

Date.....

STATE OF FLORIDA

COUNTY OF

Sworn and subscribed to before me this day of ...(month and year)..., by ...(name of person making statement)...

Notary Public/Deputy Clerk

Personally KnownOR Produced Identification....

Type of Identification Produced.....

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

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

And the title is amended as follows:

Delete line 6

and insert:



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109 exemption from garnishment; amending s. 77.041, F.S.;

110 increasing the amount of wages of a head of family

111 that is exempt from garnishment; providing an

112 effective