

By the Committee on Judiciary; and Senator Margolis

590-02843-11

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1 A bill to be entitled
2 An act relating to service of process; amending s.
3 30.231, F.S.; authorizing a sheriff to charge a fee
4 for processing a writ of execution; authorizing a
5 person to provide the sheriff with an electronic copy
6 of a process for service; amending s. 48.031, F.S.;
7 directing a process server to place required
8 information on the first page of at least one of the
9 processes served; requiring a process server to list
10 all initial pleadings delivered and served along with
11 the process on the return-of-service form; requiring
12 the person issuing the process to file the return-of-
13 service form with the court; granting authorized
14 process servers unannounced access to specified
15 residential areas where a defendant or witness resides
16 or is known to be; amending s. 48.081, F.S.;
17 authorizing a person attempting to serve process on
18 the registered agent of a corporation to serve the
19 process, in specified circumstances, on any employee
20 of the registered agent during the first attempt at
21 service even if the registered agent is temporarily
22 absent from his or her office; amending s. 48.21,
23 F.S.; requiring a process server to sign the return-
24 of-service form; authorizing an employee of a sheriff
25 to sign a return-of-service form electronically;
26 providing that the failure to sign a return-of-service
27 form invalidates the service and subjects the process
28 server to a fine; amending s. 48.29, F.S.; directing a
29 process server to place required information on the

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30 first page of at least one of the processes served;
31 providing an effective date.

32
33 Be It Enacted by the Legislature of the State of Florida:

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35 Section 1. Paragraph (d) of subsection (1) and subsection
36 (3) of section 30.231, Florida Statutes, are amended to read:

37 30.231 Sheriffs' fees for service of summons, subpoenas,
38 and executions.—

39 (1) The sheriffs of all counties of the state in civil
40 cases shall charge fixed, nonrefundable fees for docketing and
41 service of process, according to the following schedule:

42 (d) Executions:

43 1. Forty dollars for processing ~~docketing and indexing~~ each
44 writ of execution, regardless of the number of persons involved.

45 2. Fifty dollars for each levy.

46 a. A levy is considered made when any property or any
47 portion of the property listed or unlisted in the instructions
48 for levy is seized, or upon demand of the sheriff the writ is
49 satisfied by the defendant in lieu of seizure. Seizure requires
50 that the sheriff take actual possession, if practicable, or,
51 alternatively, constructive possession of the property by order
52 of the court.

53 b. When the instructions are for levy upon real property, a
54 levy fee is required for each parcel described in the
55 instructions.

56 c. When the instructions are for levy based upon personal
57 property, one fee is allowed, unless the property is seized at
58 different locations, conditional upon all of the items being

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59 advertised collectively and the sale being held at a single
60 location. However, if the property seized cannot be sold at one
61 location during the same sale as advertised, but requires
62 separate sales at different locations, the sheriff is then
63 authorized to impose a levy fee for the property and sale at
64 each location.

65 3. Forty dollars for advertisement of sale under process.

66 4. Forty dollars for each sale under process.

67 5. Forty dollars for each deed, bill of sale, or
68 satisfaction of judgment.

69 (3) ~~It shall be the responsibility of~~ The party requesting
70 service of process must ~~to~~ furnish to the sheriff the original
71 process, or a certified copy of the process, or an electronic
72 copy of the process, which was signed and certified by the clerk
73 of court, and sufficient copies to be served on the parties
74 receiving the service of process. The party requesting service
75 of process shall provide the sheriff with the best known address
76 where the person may be served. Failure to perfect service at
77 the address provided does not excuse the sheriff from his or her
78 duty to exercise due diligence in locating the person to be
79 served.

80 Section 2. Subsection (5) of section 48.031, Florida
81 Statutes, is amended, and subsection (7) is added to that
82 section, to read:

83 48.031 Service of process generally; service of witness
84 subpoenas.—

85 (5) A person serving process shall place, on the first page
86 of at least one of the processes ~~copy~~ served, the date and time
87 of service and his or her identification number and initials for

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88 all service of process. The person serving process shall list on
89 the return-of-service form all initial pleadings delivered and
90 served along with the process. The person issuing the process
91 shall file the return-of-service form with the court.

92 (7) A gated residential community, including a condominium
93 association or a cooperative, shall grant unannounced entry into
94 the community, including its common areas and common elements,
95 to a person who is attempting to serve process on a defendant or
96 witness who resides within or is known to be within the
97 community.

98 Section 3. Paragraph (a) of subsection (3) of section
99 48.081, Florida Statutes, is amended to read:

100 48.081 Service on corporation.—

101 (3) (a) As an alternative to all of the foregoing, process
102 may be served on the agent designated by the corporation under
103 s. 48.091. However, if service cannot be made on a registered
104 agent because of failure to comply with s. 48.091, service of
105 process shall be permitted on any employee at the corporation's
106 principal place of business or on any employee of the registered
107 agent. A person attempting to serve process pursuant to this
108 paragraph may serve the process on any employee of the
109 registered agent during the first attempt at service even if the
110 registered agent is temporarily absent from his or her office.

111 Section 4. Section 48.21, Florida Statutes, is amended to
112 read:

113 48.21 Return of execution of process.—

114 (1) Each person who effects service of process shall note
115 on a return-of-service form attached thereto, the date and time
116 when it comes to hand, the date and time when it is served, the

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117 manner of service, the name of the person on whom it was served
118 and, if the person is served in a representative capacity, the
119 position occupied by the person. The return-of-service form must
120 be signed by the person who effects the service of process.
121 However, a person employed by a sheriff who effects the service
122 of process may sign the return-of-service form using an
123 electronic signature certified by the sheriff.

124 (2) A failure to state the ~~foregoing~~ facts or to include
125 the signature required by subsection (1) invalidates the
126 service, but the return is amendable to state the facts or to
127 include the signature ~~truth~~ at any time on application to the
128 court from which the process issued. On amendment, service is as
129 effective as if the return had originally stated the omitted
130 facts or included the signature. A failure to state all the
131 facts in or to include the signature on the return shall subject
132 the person effecting service to a fine not exceeding \$10, in the
133 court's discretion.

134 Section 5. Subsection (6) of section 48.29, Florida
135 Statutes, is amended to read:

136 48.29 Certification of process servers.—

137 (6) A certified process server shall place the information
138 required ~~provided~~ in s. 48.031(5) on the first page of at least
139 one of the processes ~~copy~~ served. Return of service shall be
140 made by a certified process server on a form which has been
141 reviewed and approved by the court.

142 Section 6. This act shall take effect July 1, 2011.