

## ENROLLED

CS/HB 59, Engrossed 1

2011 Legislature

1                   A bill to be entitled  
2           An act relating to service of process; amending s. 30.231,  
3           F.S.; authorizing a sheriff to charge a fee for processing  
4           a writ of execution; authorizing a person to provide the  
5           sheriff with an electronic copy of a process for service;  
6           amending s. 48.031, F.S.; directing a process server to  
7           place required information on the first page of at least  
8           one of the processes served; requiring a process server to  
9           list all initial pleadings delivered and served along with  
10          the process on the return-of-service form; requiring the  
11          person issuing the process to file the return-of-service  
12          form with the court; granting authorized process servers  
13          unannounced access to specified residential areas where a  
14          defendant or witness resides or is known to be; amending  
15          s. 48.081, F.S.; authorizing a person attempting to serve  
16          process on the registered agent of a corporation to serve  
17          the process, in specified circumstances, on any employee  
18          of the registered agent during the first attempt at  
19          service even if the registered agent is temporarily absent  
20          from his or her office; amending s. 48.151, F.S.; revising  
21          the number of copies of process that must be served on  
22          statutory agents for certain persons; providing that  
23          records may be retained as paper or electronic copies;  
24          amending s. 48.21, F.S.; requiring a process server to  
25          sign the return-of-service form; authorizing an employee  
26          of a sheriff to sign a return-of-service form  
27          electronically; providing that the failure to sign a  
28          return-of-service form invalidates the service and

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29 | subjects the process server to a fine; amending s. 48.29,  
 30 | F.S.; directing a process server to place required  
 31 | information on the first page of at least one of the  
 32 | processes served; amending s. 624.423, F.S.; reducing the  
 33 | number of copies to be served on the Chief Financial  
 34 | Officer or an assistant as process agent of an insurer;  
 35 | providing that records may be retained as paper or  
 36 | electronic copies; providing an effective date.

37 |

38 | Be It Enacted by the Legislature of the State of Florida:

39 |

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

42 | 30.231 Sheriffs' fees for service of summons, subpoenas,  
 43 | and executions.—

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

47 | (d) Executions:

48 | 1. Forty dollars for processing ~~docketing and indexing~~  
 49 | each writ of execution, regardless of the number of persons  
 50 | involved.

51 | 2. Fifty dollars for each levy.

52 | a. A levy is considered made when any property or any  
 53 | portion of the property listed or unlisted in the instructions  
 54 | for levy is seized, or upon demand of the sheriff the writ is  
 55 | satisfied by the defendant in lieu of seizure. Seizure requires  
 56 | that the sheriff take actual possession, if practicable, or,

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57 | alternatively, constructive possession of the property by order  
58 | of the court.

59 |       b. When the instructions are for levy upon real property,  
60 | a levy fee is required for each parcel described in the  
61 | instructions.

62 |       c. When the instructions are for levy based upon personal  
63 | property, one fee is allowed, unless the property is seized at  
64 | different locations, conditional upon all of the items being  
65 | advertised collectively and the sale being held at a single  
66 | location. However, if the property seized cannot be sold at one  
67 | location during the same sale as advertised, but requires  
68 | separate sales at different locations, the sheriff is then  
69 | authorized to impose a levy fee for the property and sale at  
70 | each location.

71 |       3. Forty dollars for advertisement of sale under process.

72 |       4. Forty dollars for each sale under process.

73 |       5. Forty dollars for each deed, bill of sale, or  
74 | satisfaction of judgment.

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

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85 served.

86 Section 2. Subsection (5) of section 48.031, Florida  
 87 Statutes, is amended, and subsection (7) is added to that  
 88 section, to read:

89 48.031 Service of process generally; service of witness  
 90 subpoenas.—

91 (5) A person serving process shall place, on the first  
 92 page of at least one of the processes ~~copy~~ served, the date and  
 93 time of service and his or her identification number and  
 94 initials for all service of process. The person serving process  
 95 shall list on the return-of-service form all initial pleadings  
 96 delivered and served along with the process. The person issuing  
 97 the process shall file the return-of-service form with the  
 98 court.

99 (7) A gated residential community, including a condominium  
 100 association or a cooperative, shall grant unannounced entry into  
 101 the community, including its common areas and common elements,  
 102 to a person who is attempting to serve process on a defendant or  
 103 witness who resides within or is known to be within the  
 104 community.

105 Section 3. Paragraph (a) of subsection (3) of section  
 106 48.081, Florida Statutes, is amended to read:

107 48.081 Service on corporation.—

108 (3) (a) As an alternative to all of the foregoing, process  
 109 may be served on the agent designated by the corporation under  
 110 s. 48.091. However, if service cannot be made on a registered  
 111 agent because of failure to comply with s. 48.091, service of  
 112 process shall be permitted on any employee at the corporation's

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113 principal place of business or on any employee of the registered  
 114 agent. A person attempting to serve process pursuant to this  
 115 paragraph may serve the process on any employee of the  
 116 registered agent during the first attempt at service even if the  
 117 registered agent is temporarily absent from his or her office.

118 Section 4. Subsection (1) of section 48.151, Florida  
 119 Statutes, is amended, and subsection (6) is added to that  
 120 section, to read:

121 48.151 Service on statutory agents for certain persons.—

122 (1) When any law designates a public officer, board,  
 123 agency, or commission as the agent for service of process on any  
 124 person, firm, or corporation, service of process thereunder  
 125 shall be made by leaving one copy ~~two copies~~ of the process with  
 126 the public officer, board, agency, or commission or in the  
 127 office thereof, or by mailing one copy ~~said copies~~ to the public  
 128 officer, board, agency, or commission. The public officer,  
 129 board, agency, or commission so served shall retain a record  
 130 ~~file one copy in his or her or its records~~ and promptly send the  
 131 ~~other~~ copy served, by registered or certified mail, to the  
 132 person to be served as shown by his or her or its records. Proof  
 133 of service on the public officer, board, agency, or commission  
 134 shall be by a notice accepting the process which shall be issued  
 135 by the public officer, board, agency, or commission promptly  
 136 after service and filed in the court issuing the process. The  
 137 notice accepting service shall state the date upon which the  
 138 copy of the process was mailed by the public officer, board,  
 139 agency, or commission to the person being served and the time  
 140 for pleading prescribed by the rules of procedure shall run from

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141 | this date. The service is valid service for all purposes on the  
 142 | person for whom the public officer, board, agency, or commission  
 143 | is statutory agent for service of process.

144 | (6) For purposes of this section, records may be retained  
 145 | as paper or electronic copies.

146 | Section 5. Section 48.21, Florida Statutes, is amended to  
 147 | read:

148 | 48.21 Return of execution of process.—

149 | (1) Each person who effects service of process shall note  
 150 | on a return-of-service form attached thereto, the date and time  
 151 | when it comes to hand, the date and time when it is served, the  
 152 | manner of service, the name of the person on whom it was served  
 153 | and, if the person is served in a representative capacity, the  
 154 | position occupied by the person. The return-of-service form must  
 155 | be signed by the person who effects the service of process.

156 | However, a person employed by a sheriff who effects the service  
 157 | of process may sign the return-of-service form using an  
 158 | electronic signature certified by the sheriff.

159 | (2) A failure to state the ~~foregoing~~ facts or to include  
 160 | the signature required by subsection (1) invalidates the  
 161 | service, but the return is amendable to state the facts or to  
 162 | include the signature ~~truth~~ at any time on application to the  
 163 | court from which the process issued. On amendment, service is as  
 164 | effective as if the return had originally stated the omitted  
 165 | facts or included the signature. A failure to state all the  
 166 | facts in or to include the signature on the return shall subject  
 167 | the person effecting service to a fine not exceeding \$10, in the  
 168 | court's discretion.

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169 Section 6. Subsection (6) of section 48.29, Florida  
 170 Statutes, is amended to read:

171 48.29 Certification of process servers.—

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

177 Section 7. Subsection (1) of section 624.423, Florida  
 178 Statutes, is amended to read:

179 624.423 Serving process.—

180 (1) Service of process upon the Chief Financial Officer as  
 181 process agent of the insurer (under s. 624.422) shall be made by  
 182 serving a copy ~~copies in triplicate~~ of the process upon the  
 183 Chief Financial Officer or upon her or his assistant, deputy, or  
 184 other person in charge of her or his office. Upon receiving such  
 185 service, the Chief Financial Officer shall retain a record ~~file~~  
 186 ~~one copy in her or his office, return one copy with her or his~~  
 187 ~~admission of service,~~ and promptly forward one copy of the  
 188 process by registered or certified mail to the person last  
 189 designated by the insurer to receive the same, as provided under  
 190 s. 624.422(2). For purposes of this section, records may be  
 191 retained as paper or electronic copies.

192 Section 8. This act shall take effect July 1, 2011.