

1 A bill to be entitled
 2 An act relating to claims of exemption from
 3 garnishment; amending s. 77.041, F.S.; revising the
 4 contents of a notice to defendants of rights against
 5 garnishment of wages, money, and other property;
 6 increasing the period of time in which a plaintiff may
 7 file a claim contesting a defendant's claim of
 8 exemption; repealing s. 222.12, F.S., relating to
 9 proceedings for claims of exemption from garnishment;
 10 providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Subsections (1) and (3) of section 77.041,
 15 Florida Statutes, are amended to read:

16 77.041 Notice to individual defendant for claim of
 17 exemption from garnishment; procedure for hearing.—

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

22 NOTICE TO DEFENDANT OF RIGHT AGAINST
 23 GARNISHMENT OF WAGES, MONEY,
 24 AND OTHER PROPERTY

25 The Writ of Garnishment delivered to you with this Notice
 26 means that wages, money, and other property belonging to you
 27 have been garnished to pay a court judgment against you.

28 HOWEVER, YOU MAY BE ABLE TO KEEP OR RECOVER YOUR WAGES, MONEY,

29 | OR PROPERTY. READ THIS NOTICE CAREFULLY.

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

38 | IF AN EXEMPTION FROM GARNISHMENT APPLIES TO YOU AND YOU WANT TO
 39 | KEEP YOUR WAGES, MONEY, AND OTHER PROPERTY FROM BEING GARNISHED,
 40 | OR TO GET BACK ANYTHING ALREADY TAKEN, YOU MUST COMPLETE A FORM
 41 | FOR CLAIM OF EXEMPTION AND REQUEST FOR HEARING AS SET FORTH
 42 | BELOW AND HAVE THE FORM NOTARIZED. IF YOU HAVE A VALID
 43 | EXEMPTION, YOU MUST FILE THE FORM WITH THE CLERK'S OFFICE WITHIN
 44 | 20 DAYS AFTER THE DATE YOU RECEIVE THIS NOTICE OR YOU MAY LOSE
 45 | IMPORTANT RIGHTS. YOU MUST ALSO MAIL OR DELIVER A COPY OF THIS
 46 | FORM TO THE PLAINTIFF OR THE PLAINTIFF'S ATTORNEY AND THE
 47 | GARNISHEE OR THE GARNISHEE'S ATTORNEY AT THE ADDRESSES LISTED ON
 48 | THE WRIT OF GARNISHMENT. NOTE THAT THE FORM REQUIRES YOU TO
 49 | COMPLETE A CERTIFICATION THAT YOU MAILED COPIES TO THE PLAINTIFF
 50 | OR THE PLAINTIFF'S ATTORNEY AND GARNISHEE OR THE GARNISHEE'S
 51 | ATTORNEY.

52 | If you request a hearing, it will be held as soon as
 53 | possible after your request is received by the court. The
 54 | plaintiff must file any objection within 8 ~~3~~ business days if
 55 | you hand delivered to the plaintiff or the plaintiff's attorney
 56 | a copy of the form for Claim of Exemption and Request for

57 | Hearing or, alternatively, 14 & business days if you mailed a
 58 | copy of the form for claim and request to the plaintiff or the
 59 | plaintiff's attorney. If the plaintiff files an objection to
 60 | your Claim of Exemption and Request for Hearing, the clerk will
 61 | notify you and the other parties of the time and date of the
 62 | hearing. You may attend the hearing with or without an attorney.
 63 | If the plaintiff fails to file an objection, no hearing is
 64 | required, the writ of garnishment will be dissolved, and your
 65 | wages, money, or property will be released.

66 | IF YOU HAVE A VALID EXEMPTION, YOU SHOULD FILE THE FORM FOR
 67 | CLAIM OF EXEMPTION IMMEDIATELY TO KEEP YOUR WAGES, MONEY, OR
 68 | PROPERTY FROM BEING APPLIED TO THE COURT JUDGMENT. THE CLERK
 69 | CANNOT GIVE YOU LEGAL ADVICE. IF YOU NEED LEGAL ASSISTANCE, YOU
 70 | SHOULD SEE A LAWYER. IF YOU CANNOT AFFORD A PRIVATE LAWYER,
 71 | LEGAL SERVICES MAY BE AVAILABLE. CONTACT YOUR LOCAL BAR
 72 | ASSOCIATION OR ASK THE CLERK'S OFFICE ABOUT ANY LEGAL SERVICES
 73 | PROGRAM IN YOUR AREA.

74 | CLAIM OF EXEMPTION AND
 75 | REQUEST FOR HEARING

76 | I claim exemptions from garnishment under the following
 77 | categories as checked:

78 | 1. Head of family wages. (~~You must~~ Check
 79 | either a. or b. below if applicable.)

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

80
81
82
83
84
85
86
87
88
89

- b. I provide more than one-half of the support for a child or other dependent, have net earnings of more than \$750 per week, but have not agreed in writing to have my wages garnished.
- 2. Social Security benefits.
- 3. Supplemental Security Income benefits.
- 4. Public assistance (welfare).
- 5. Workers' Compensation.
- 6. Reemployment assistance or unemployment compensation.
- 7. Veterans' benefits.
- 8. Retirement or profit-sharing benefits or pension money.
- 9. Life insurance benefits or cash surrender value of a life insurance policy or proceeds of annuity contract.
- 10. Disability income benefits.

90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113

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

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

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

Address:

Telephone number:.....

I CERTIFY UNDER OATH AND PENALTY OF PERJURY that a copy of this CLAIM OF EXEMPTION AND REQUEST FOR HEARING has been furnished by U.S. Mail on (insert date) , to: (insert names and addresses of Plaintiff or Plaintiff's attorney and of Garnishee or Garnishee's attorney to whom this document was mailed) .

I FURTHER CERTIFY UNDER OATH AND PENALTY OF PERJURY that 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)...

114 Notary Public/Deputy Clerk
 115 Personally KnownOR Produced Identification....
 116 Type of Identification Produced.....

117 (3) Upon the filing by a defendant of a claim of exemption
 118 and request for hearing, a hearing will be held as soon as is
 119 practicable to determine the validity of the claimed exemptions.
 120 If the plaintiff does not file a sworn written statement that
 121 contests the defendant's claim of exemption within 8 ~~3~~ business
 122 days after hand delivering the claim and request or,
 123 alternatively, 14 ~~8~~ business days~~7~~, if the claim and request were
 124 served by mail, no hearing is required and the clerk must
 125 automatically dissolve the writ and notify the parties of the
 126 dissolution by mail.

127 Section 2. Section 222.12, Florida Statutes, is repealed.

128 Section 3. This act shall take effect July 1, 2013.