

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           requiring that a claim of exemption be under oath;  
 7           increasing the period of time in which a plaintiff may  
 8           file a claim answering a defendant's claim of  
 9           exemption; repealing s. 222.12, F.S., relating to  
 10          proceedings for claims of exemption from garnishment;  
 11          providing an effective date.

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 13 Be It Enacted by the Legislature of the State of Florida:

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

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

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

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

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

29 | HOWEVER, YOU MAY BE ABLE TO KEEP OR RECOVER YOUR WAGES, MONEY,  
 30 | OR PROPERTY. READ THIS NOTICE CAREFULLY.

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

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

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

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

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

75 | CLAIM OF EXEMPTION AND  
 76 | REQUEST FOR HEARING

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

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

80 |  
 .... a. I provide more than one-half of the  
 support for a child or other dependent and

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have net earnings of \$750 or less per week.

.... 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.

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

96 Address: .....

97 Telephone number:.....

98 I CERTIFY UNDER OATH AND PENALTY OF PERJURY that a copy of this  
99 CLAIM OF EXEMPTION AND REQUEST FOR HEARING has been furnished by  
100 hand delivery or U.S. Mail (circle one) on \_\_\_\_\_ (insert date)  
101 , to: \_\_\_\_\_ (insert names and addresses of Plaintiff or  
102 Plaintiff's attorney and of Garnishee or Garnishee's attorney to  
103 whom this document was furnished) \_\_\_\_\_ .

104

105 I FURTHER CERTIFY UNDER OATH AND PENALTY OF PERJURY that the  
106 statements made in this request are true to the best of my  
107 knowledge and belief.

108 .....

109 Defendant's signature

110 Date.....

111 STATE OF FLORIDA

112 COUNTY OF

113 Sworn and subscribed to before me this ..... day of ... (month

114 and year)..., by ... (name of person making statement)...

115 Notary Public/Deputy Clerk

116 Personally Known .....OR Produced Identification....

117 Type of Identification Produced.....

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

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

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