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1                   A bill to be entitled  
2           An act relating to garnishment; amending s. 77.04,  
3           F.S.; authorizing an employee or agent of a business  
4           entity to answer a writ of garnishment on behalf of  
5           the entity; amending s. 77.041, F.S.; revising "Notice  
6           to Defendant" provided by the clerk of court in a  
7           garnishment proceeding; providing that a defendant in  
8           a garnishment proceeding may provide notice of a  
9           garnishment exemption and request for hearing to the  
10          plaintiff's or the garnishee's attorney; extending the  
11          time allowed for the plaintiff or the plaintiff's  
12          attorney to respond to the defendant's claim of  
13          exemption and request for hearing; providing response  
14          procedures of the clerk of court and the plaintiff's  
15          attorney when the plaintiff's attorney is served with  
16          a notice of garnishment exemption and request for  
17          hearing; requiring the defendant to certify under oath  
18          and penalty of perjury that he or she provided notice  
19          of the garnishment exemption claim and request for  
20          hearing to the plaintiff, the garnishee, or their  
21          respective attorneys in order to obtain a hearing;  
22          repealing s. 222.12, F.S., relating to proceedings for  
23          exemption; providing an effective date.

24  
25   Be It Enacted by the Legislature of the State of Florida:

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27           Section 1. Section 77.04, Florida Statutes, is amended to  
28   read:

29           77.04 Writ; form.—The writ shall require the garnishee to

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30 serve an answer ~~to it~~ on the plaintiff within 20 days after  
31 service of the writ stating whether the garnishee ~~he or she~~ is  
32 indebted to the defendant at the time of the answer, or was  
33 indebted at the time of service of the writ, plus up to  
34 ~~sufficient time not to exceed~~ 1 business day for the garnishee  
35 to act expeditiously on the writ, or at any time between such  
36 times; ~~and~~ in what sum and what tangible or intangible personal  
37 property of defendant the garnishee has in his or her possession  
38 or control at the time of his or her answer, or had at the time  
39 of the service of the writ, or at any time between such times;  
40 and whether the garnishee knows of any other person indebted to  
41 defendant, or who may have any of the property of defendant in  
42 his or her possession or control. The writ shall state the  
43 amount named in plaintiff's motion. If the garnishee is a  
44 business entity, an authorized employee or agent of the entity  
45 may execute, file, and serve the answer on behalf of the entity.

46 Section 2. Subsections (1) and (3) of section 77.041,  
47 Florida Statutes, are amended to read:

48 77.041 Notice to individual defendant for claim of  
49 exemption from garnishment; procedure for hearing.—

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

54

55 NOTICE TO DEFENDANT OF RIGHT AGAINST  
56 GARNISHMENT OF WAGES, MONEY,  
57 AND OTHER PROPERTY

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

64           State and federal laws provide that certain wages, money,  
65 and property, even if deposited in a bank, savings and loan, or  
66 credit union, may not be taken to pay certain types of court  
67 judgments. Such wages, money, and property are exempt from  
68 garnishment. The major exemptions are listed below on the form  
69 for Claim of Exemption and Request for Hearing. This list does  
70 not include all possible exemptions. You should consult a lawyer  
71 for specific advice.

72           IF AN EXEMPTION FROM GARNISHMENT APPLIES TO YOU AND  
73 YOU WANT TO KEEP YOUR WAGES, MONEY, AND OTHER PROPERTY  
74 FROM BEING GARNISHED, OR TO RECOVER ~~GET BACK~~ ANYTHING  
75 ALREADY TAKEN, YOU MUST COMPLETE A FORM FOR CLAIM OF  
76 EXEMPTION AND REQUEST FOR HEARING AS SET FORTH BELOW  
77 AND HAVE THE FORM NOTARIZED. IF YOU HAVE A VALID  
78 EXEMPTION, YOU MUST FILE THE FORM WITH THE CLERK'S  
79 OFFICE WITHIN 20 DAYS AFTER THE DATE YOU RECEIVE THIS  
80 NOTICE OR YOU MAY LOSE IMPORTANT RIGHTS. YOU MUST ALSO  
81 MAIL OR DELIVER A COPY OF THIS FORM TO THE PLAINTIFF  
82 OR THE PLAINTIFF'S ATTORNEY AND THE GARNISHEE OR THE  
83 GARNISHEE'S ATTORNEY AT THE ADDRESSES LISTED ON THE  
84 WRIT OF GARNISHMENT. NOTE THAT THE FORM REQUIRES YOU  
85 TO COMPLETE A CERTIFICATION THAT YOU MAILED OR HAND  
86 DELIVERED COPIES TO THE PLAINTIFF OR THE PLAINTIFF'S  
87 ATTORNEY AND THE GARNISHEE OR THE GARNISHEE'S

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ATTORNEY.

If you request a hearing, it will be held as soon as possible after your request is received by the court. The plaintiff or the plaintiff's attorney must file any objection within 8 ~~3~~ business days if you hand delivered to the plaintiff or the plaintiff's attorney a copy of the form for Claim of Exemption and Request for Hearing or, alternatively, 14 ~~8~~ business days if you mailed a copy of the form for claim and request to the plaintiff or the plaintiff's attorney. If the plaintiff or the plaintiff's attorney files an objection to your Claim of Exemption and Request for Hearing, the clerk will notify you and the other parties of the time and date of the hearing. You may attend the hearing with or without an attorney. If the plaintiff or the plaintiff's attorney fails to file an objection, no hearing is required, the writ of garnishment will be dissolved and your wages, money, or property will be released.

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

CLAIM OF EXEMPTION AND  
REQUEST FOR HEARING

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

- .... 1. Head of family wages. (Check either ~~You must check~~ 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.
  - .... 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.

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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:

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Address: .....

Telephone number:.....

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I CERTIFY UNDER OATH AND PENALTY OF PERJURY that a copy of this CLAIM OF EXEMPTION AND REQUEST FOR HEARING has been furnished by (circle one)United States mail or hand delivery 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 furnished)....

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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.

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153 .....  
154 Defendant's signature  
155 Date.....

156  
157 STATE OF FLORIDA  
158 COUNTY OF

159  
160 Sworn and subscribed to before me this ..... day of ... (month  
161 and year)..., by ... (name of person making statement)...  
162 Notary Public/Deputy Clerk  
163 Personally Known .....OR Produced Identification....  
164 Type of Identification Produced.....

165  
166 (3) Upon the filing by a defendant of a sworn claim of  
167 exemption and request for hearing, a hearing will be held as  
168 soon as is practicable to determine the validity of the claimed  
169 exemptions. If the plaintiff or the plaintiff's attorney does  
170 not file a sworn written statement that answers ~~contests~~ the  
171 defendant's claim of exemption within 8 ~~3~~ business days after  
172 hand delivering the claim and request or, alternatively, 14 ~~8~~  
173 business days~~7~~, if the claim and request were served by mail, no  
174 hearing is required and the clerk must automatically dissolve  
175 the writ and notify the parties of the dissolution by mail.

176 Section 3. Section 222.12, Florida Statutes, is repealed.  
177 Section 4. This act shall take effect July 1, 2013.