

2013592er

1
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:
26

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

2013592er

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
58

2013592er

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

2013592er

88 ATTORNEY.

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

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

114
115 CLAIM OF EXEMPTION AND
116 REQUEST FOR HEARING

2013592er

117
118 I claim exemptions from garnishment under the following
119 categories as checked:
.... 1. Head of family wages. (Check either ~~You must check~~ a. or
b. below, if applicable.)
120
.... 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.
121
.... 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.
122
.... 2. Social Security benefits.
123
.... 3. Supplemental Security Income benefits.
124
.... 4. Public assistance (welfare).
125
.... 5. Workers' Compensation.
126
.... 6. Reemployment assistance or unemployment compensation.
127
.... 7. Veterans' benefits.
128
.... 8. Retirement or profit-sharing benefits or pension money.
129

2013592er

.... 9. Life insurance benefits or cash surrender value of a
life insurance policy or proceeds of annuity contract.

.... 10. Disability income benefits.

.... 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
(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)....

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.

2013592er

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 KnownOR 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.