

By Senator Berman

31-00573C-21

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1 A bill to be entitled
2 An act relating to waivers of exemptions of applicable
3 assets; creating s. 222.105, F.S.; providing that
4 certain exemptions of certain assets may not be waived
5 unless certain conditions are met; specifying
6 references that are insufficient to pledge a security
7 interest in certain assets or to waive certain
8 protections; defining the term "applicable assets";
9 amending s. 679.1081, F.S.; providing that a
10 description of certain accounts and entitlements by
11 certain type of collateral is insufficient; providing
12 applicability; providing an effective date.

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

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16 Section 1. Section 222.105, Florida Statutes, is created to
17 read:

18 222.105 Waiver of exemptions; requirements.—

19 (1) The exemptions set forth in this chapter with respect
20 to applicable assets may not be waived unless the person who is
21 entitled to such exemption has specifically pledged a security
22 interest in the applicable asset in a security agreement, as
23 defined in s. 679.1021, that identifies the asset by specific
24 reference to the applicable asset.

25 (2) The following references in a security agreement
26 purporting to pledge a security interest are insufficient to
27 pledge applicable assets or to waive the protections afforded to
28 applicable assets by this chapter:

29 (a) All of a person's "assets and rights, wherever located,

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30 whether now owned or after acquired, and all proceeds thereof,"
31 or other words of similar import, including, but not limited to,
32 those described in s. 679.1081(3); or

33 (b) References only to the type of collateral, as described
34 in s. 679.1081(5).

35 (3) For purposes of this section, "applicable assets" means
36 those assets described in ss. 222.13-222.16, s. 222.18, and ss.
37 222.201-222.22.

38 Section 2. Subsection (5) of section 679.1081, Florida
39 Statutes, is amended to read:

40 679.1081 Sufficiency of description.—

41 (5) A description only by type of collateral defined in
42 this chapter is an insufficient description of:

43 (a) A commercial tort claim;

44 (b) In a consumer transaction, consumer goods, a security
45 entitlement, a securities account, or a commodity account; ~~or~~

46 (c) An account consisting of a right to payment of a
47 monetary obligation for the sale of real property that is the
48 debtor's homestead under the laws of this state; or—

49 (d) Accounts and other entitlements set forth in ss.
50 222.13-222.16, s. 222.18, and ss. 222.201-222.22.

51 Section 3. This act applies to security interests created
52 after the effective date of this act.

53 Section 4. This act shall take effect October 1, 2021.