

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>      </u>	

1 Committee/Subcommittee hearing bill: Civil Justice & Property  
 2 Rights Subcommittee  
 3 Representative Benjamin offered the following:

**Amendment (with title amendment)**

6 Remove lines 61-339 and insert:  
7 negotiable instruments, and mortgages.

8 (a) For payment intangibles and accounts and the proceeds  
9 thereof:

10 1. The rights of a judgment lienholder under this section  
11 are subject to the rights under chapter 679 of a secured party,  
12 as defined in s. 679.1021(1), who has a prior filed financing  
13 statement encumbering such payment intangibles or accounts and  
14 the proceeds thereof.

15 2. This section does not affect the obligation under s.  
16 679.607(1) of an account debtor as defined in s. 679.1021(1),

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17 except as the rights and obligations under this paragraph are  
18 otherwise adjudicated under applicable law in a legal proceeding  
19 to which the secured party and account debtor are joined as  
20 parties.

21 (b) A judgment lien is acquired by filing a judgment lien  
22 certificate in accordance with s. 55.203 with the Department of  
23 State after the judgment has become final and if the time to  
24 move for rehearing has lapsed, no motion for rehearing is  
25 pending, and no stay of the judgment or its enforcement is then  
26 in effect. A court may authorize, for cause shown, the filing of  
27 a judgment lien certificate before a judgment has become final  
28 when the court has authorized the issuance of a writ of  
29 execution in the same matter. A judgment lien certificate not  
30 filed in compliance with this subsection is permanently void and  
31 of no effect.

32 (c)~~(b)~~ For any lien, warrant, assessment, or judgment  
33 collected by the Department of Revenue, a judgment lien may be  
34 acquired by filing the judgment lien certificate information or  
35 warrant with the Department of State in accordance with  
36 subsection (5).

37 (d)~~(e)~~ Except as provided in s. 55.208, the effective date  
38 of a judgment lien is the date, including the time of day, of  
39 filing. Although no lien attaches to property, and a creditor  
40 does not become a lien creditor as to liens under chapter 679,  
41 until the debtor acquires an interest in the property, priority

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42 among competing judgment liens is determined in order of filing  
43 date and time.

44 ~~(e)-(d)~~ Except as provided in s. 55.204(3), a judgment  
45 creditor may file only one effective judgment lien certificate  
46 based upon a particular judgment.

47 (5) Liens, assessments, warrants, or judgments filed  
48 pursuant to paragraph (2)(c) ~~(2)(b)~~ may be filed directly into  
49 the central database by the Department of Revenue, or its  
50 designee as determined by its executive director, through  
51 electronic or information data exchange programs approved by the  
52 Department of State. Such filings must contain the information  
53 set forth in s. 55.203(1).

54 Section 3. Subsection (1) of section 55.205, Florida  
55 Statutes, is amended, and subsections (5), (6), and (7) are  
56 added to that section, to read:

57 55.205 Effect of judgment lien.—

58 (1) A judgment creditor who has not acquired a judgment  
59 lien as provided in s. 55.202 or whose lien has lapsed may  
60 nevertheless proceed against the judgment debtor's property  
61 through any appropriate judicial process. Such judgment creditor  
62 proceeding by writ of execution acquires a lien as of the time  
63 of levy and only on the property levied upon. ~~Except as provided~~  
64 ~~in s. 55.208, such judgment creditor takes subject to the claims~~  
65 ~~and interest of priority judgment creditors.~~

66 (5)(a) If the judgment debtor's personal property, to the

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67 extent not exempt from execution, includes a motor vehicle or a  
68 vessel for which a Florida certificate of title has been issued,  
69 a judgment lien acquired under this section on such property not  
70 yet noted on the certificate of title is valid and enforceable  
71 against the judgment debtor. However, such judgment lien is not  
72 enforceable against creditors or subsequent purchasers of such  
73 property for valuable consideration whose interests have been  
74 noted on the certificate of title as provided in s. 319.27.

75 (b) A judgment lienholder may obtain an order instructing  
76 the Department of Highway Safety and Motor Vehicles to note the  
77 lien on the certificate of title through a court of competent  
78 jurisdiction conducting proceedings supplementary to execution  
79 under s. 56.29(6) (b).

80 (6) A judgment lien acquired under s. 55.202 may be  
81 enforced only through judicial process, including attachment  
82 under chapter 76; execution under chapter 56; garnishment under  
83 chapter 77; a charging order under s. 605.0503, s. 620.1703, or  
84 s. 620.8504; or proceedings supplementary to execution under s.  
85 56.29. A holder of a judgment lien acquired pursuant to this  
86 chapter may not enforce his or her rights under this section  
87 through self-help repossession or replevin without the express  
88 consent of the judgment debtor in a record authenticated after  
89 default.

90 (7) Notwithstanding the attachment of a judgment lien  
91 acquired under s. 55.202 to payment intangibles or accounts and

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92 the proceeds thereof, the account debtor may, absent receipt of  
93 notice under s. 679.607(1)(a) from a secured party, discharge  
94 the account debtor's obligation to pay payment intangibles or  
95 accounts or the proceeds thereof by paying the judgment debtor  
96 until, but not after, the account debtor is served by process  
97 with a complaint or petition by the judgment creditor seeking  
98 judicial relief with respect to the payment intangibles or  
99 accounts. Thereafter, the account debtor may discharge the  
100 account debtor's obligation to pay payment intangibles or  
101 accounts or the proceeds thereof under this section only in  
102 accordance with a final order or judgment issued in such  
103 judicial process that complies with this section.

104 Section 4. Section 55.208, Florida Statutes, is amended to  
105 read:

106 55.208 Effect of prior liens on payment intangibles and  
107 accounts; effect of filed judgment lien on writs of execution  
108 previously delivered to a sheriff.—

109 (1) A judgment lien under s. 55.202 existing before  
110 October 1, 2022, becomes enforceable and perfected as of October  
111 1, 2022, as to payment intangibles and accounts and the proceeds  
112 thereof of a judgment debtor under s. 55.202(2). Any security  
113 interest or lien on payment intangibles or accounts and the  
114 proceeds thereof of a judgment debtor which is enforceable and  
115 perfected before October 1, 2022, continues to have the same  
116 rights and priority as existed before October 1, 2022, and may

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117 ~~not be primed as to payment intangibles or accounts by a~~  
118 ~~judgment lien certificate filed before October 1, 2022 Any lien~~  
119 ~~created by a writ of execution which has been delivered to the~~  
120 ~~sheriff of any county before October 1, 2001, remains in effect~~  
121 ~~for 2 years thereafter as to any property of the judgment debtor~~  
122 ~~located in that county before October 1, 2001, and remaining~~  
123 ~~within that county after that date. As to any property of the~~  
124 ~~judgment debtor brought into the county on or after October 1,~~  
125 ~~2001, such writs create no lien, inchoate or otherwise.~~

126 (2) If a judgment creditor who has delivered a writ of  
127 execution to a sheriff in any county prior to October 1, 2001,  
128 properly files a judgment lien certificate with the Department  
129 of State by October 1, 2003, the resulting judgment lien is  
130 deemed filed on the date the writ was delivered to the sheriff  
131 as to all property of the judgment debtor subject to execution  
132 in this state under s. 56.061 which is located in that county on  
133 October 1, 2001, and that remains continuously in that county  
134 thereafter. Priority of such judgment liens is determined as of  
135 the effective date they are considered to have been filed. As to  
136 all other property of the judgment debtor, the effective date of  
137 the judgment lien is as provided in s. 55.202. The duration of  
138 all judgment liens is as provided in s. 55.204.

139 (3) If a judgment creditor who has delivered a writ of  
140 execution to a sheriff in any county before October 1, 2001,  
141 does not properly file a judgment lien certificate with the

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142 Department of State by October 1, 2003, such writ is considered  
143 to have been abandoned and to be of no effect after October 1,  
144 2003.

145 Section 5. Subsection (1) of section 55.209, Florida  
146 Statutes, is amended to read:

147 55.209 Department of State; processing fees,  
148 responsibilities.—

149 (1) Except for liens, assessments, warrants, or judgments  
150 filed electronically as provided in s. 55.202(2)(c) ~~s.~~  
151 ~~55.202(2)(b)~~, the Department of State shall collect the  
152 following nonrefundable processing fees for all documents filed  
153 in accordance with ss. 55.201-55.209:

154 (a) For any judgment lien certificate or other documents  
155 permitted to be filed, \$20.

156 (b) For the certification of any filed document, \$10.

157 (c) For copies of judgment lien documents which are  
158 produced by the Department of State, \$1 per page or part  
159 thereof. However, no charge may be collected for copies provided  
160 in an online electronic format via the Internet.

161 (d) For indexing a judgment lien by multiple judgment  
162 debtor names, \$5 per additional name.

163 (e) For each additional facing page attached to a judgment  
164 lien certificate or document permitted to be filed, \$5.

165 Section 6. Subsection (6) of section 56.29, Florida  
166 Statutes, is amended to read:

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167 56.29 Proceedings supplementary.—

168 (6)(a) The court may order any property of the judgment  
169 debtor, not exempt from execution, or any property, debt, or  
170 other obligation due to the judgment debtor, in the hands of or  
171 under the control of any person subject to the Notice to Appear,  
172 to be levied upon and applied toward the satisfaction of the  
173 judgment debt. The court may enter any orders, judgments, or  
174 writs required to carry out the purpose of this section,  
175 including those orders necessary or proper to subject property  
176 or property rights of any judgment debtor to execution, and  
177 including entry of money judgments as provided in ss. 56.16-  
178 56.19 against any person to whom a Notice to Appear has been  
179 directed and over whom the court obtained personal jurisdiction  
180 irrespective of whether such person has retained the property,  
181 subject to applicable principles of equity, and in accordance  
182 with chapters 76 and 77 and all applicable rules of civil  
183 procedure. Sections 56.16-56.20 apply to any order issued under  
184 this subsection.

185 (b) If the personal property of the judgment debtor  
186 includes a motor vehicle or a vessel that is nonexempt to any  
187 extent from execution and for which a Florida certificate of  
188 title has been issued, on presentation of a copy of a valid  
189 judgment lien certificate acquired under s. 55.202, the court  
190 must order the Department of Highway Safety and Motor Vehicles  
191 to note the liens of the judgment creditor on the certificate of



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192 title and in the records of the department.

193 Section 7. Subsections (2) and (4) and paragraphs (a) and  
194 (b) of subsection (5) of section 319.24, Florida Statutes, are  
195 amended to read:

196 319.24 Issuance in duplicate; delivery; liens and  
197 encumbrances.—

198 (2) A duly authorized person shall sign the original  
199 certificate of title and each corrected certificate and, if  
200 there are no liens or encumbrances on the motor vehicle or  
201 mobile home, as shown in the records of the department or as  
202 shown in the application, shall deliver the certificate to the  
203 applicant or to another person as directed by the applicant or  
204 person, agent, or attorney submitting such application. The  
205 motor vehicle dealer license number must be submitted to the  
206 department when a dealer applies for or receives a duplicate  
207 title. The current odometer reading must be submitted on an  
208 application for a duplicate title. If there are one or more  
209 liens or encumbrances on the motor vehicle or mobile home, the  
210 certificate shall be delivered by the department to the first  
211 lienholder as shown by department records or to the owner as  
212 indicated in the notice of lien filed by the first lienholder  
213 pursuant to s. 319.27. If the notice of lien filed by the first  
214 lienholder indicates that the certificate should be delivered to  
215 the first lienholder, the department shall deliver to the first  
216 lienholder, along with the certificate, a form to be

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217 subsequently used by the lienholder as a satisfaction. If the  
218 notice of lien filed by the first lienholder directs the  
219 certificate of title to be delivered to the owner, then, upon  
220 delivery of the certificate of title by the department to the  
221 owner, the department shall deliver to the first lienholder  
222 confirmation of the receipt of the notice of lien and the date  
223 the certificate of title was issued to the owner at the owner's  
224 address shown on the notice of lien and a form to be  
225 subsequently used by the lienholder as a satisfaction. If the  
226 application for certificate shows the name of a first lienholder  
227 different from the name of the first lienholder as shown by the  
228 records of the department or if the application does not show  
229 the name of a judgment lienholder as shown by the records of the  
230 department, the certificate shall not be issued to any person  
231 until after all parties who appear to hold a lien and the  
232 applicant for the certificate have been notified of the conflict  
233 in writing by the department by certified mail. If the parties  
234 do not amicably resolve the conflict within 10 days from the  
235 date such notice was mailed, then the department shall serve  
236 notice in writing by certified mail on all persons appearing to  
237 hold liens on that particular vehicle, including the applicant  
238 for the certificate, to show cause within 15 days from the date  
239 the notice is mailed why it should not issue and deliver the  
240 certificate to the person indicated in the notice of lien filed  
241 by the lienholder whose name appears in the application as the

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242 first lienholder without showing any lien or liens as  
243 outstanding other than those appearing in the application or  
244 those which may have been filed subsequent to the filing of the  
245 application for the certificate. If, within the 15-day period,  
246 any person other than the lienholder shown in the application or  
247 a party filing a subsequent lien, in answer to such notice to  
248 show cause, appears in person or by a representative, or  
249 responds in writing, and files a written statement under oath  
250 that his or her lien on that particular vehicle is still  
251 outstanding, the department shall not issue the certificate to  
252 anyone until after such conflict has been settled by the lien  
253 claimants involved or by a court of competent jurisdiction. If  
254 the conflict is not settled amicably within 10 days of the final  
255 date for filing an answer to the notice to show cause, the  
256 complaining party shall have 10 days to obtain a ruling, or a  
257 stay order, from a court of competent jurisdiction; if no ruling  
258 or stay order is issued and served on the department within the  
259 10-day period, it shall issue the certificate showing no liens  
260 except those shown in the application or thereafter filed to the  
261 original applicant if there are no liens shown in the  
262 application and none are thereafter filed, or to the person  
263 indicated in the notice of lien filed by the lienholder whose  
264 name appears in the application as the first lienholder if there  
265 are liens shown in the application or thereafter filed. A  
266 duplicate certificate or corrected certificate shall only show

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267 such lien or liens as were shown in the application and  
268 subsequently filed liens that may be outstanding.

269 (4)(a)1. If the owner of the motor vehicle or mobile home,  
270 as shown on the title certificate, or the director of the state  
271 child support enforcement program, or the director's designee,  
272 desires to place a second or subsequent lien or encumbrance  
273 against the motor vehicle or mobile home when the title  
274 certificate is in the possession of the first lienholder, the  
275 owner shall send a written request to the first lienholder by  
276 certified mail, and such first lienholder shall forward the  
277 certificate to the department for endorsement. If the title  
278 certificate is in the possession of the owner, the owner shall  
279 forward the certificate to the department for endorsement.

280 2. If the holder of a judgment lien acquired under s.  
281 55.202(2) on personal property of the owner desires to place a  
282 lien on the motor vehicle or a vessel, the judgment lienholder  
283 must send

284 -----

285 **T I T L E A M E N D M E N T**

286 Remove lines 5-34 and insert:

287 thereof are subject to judgment liens; providing construction;  
288 amending s. 55.205, F.S.; deleting a provision specifying the  
289 priority of certain judgment creditor liens; specifying the  
290 validity and enforceability of judgment liens against motor  
291 vehicles and vessels; providing a procedure for noting the lien

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292 on the certificate of title; specifying restrictions on the  
293 enforcement of judgment liens; specifying an account debtor's  
294 authority to discharge the account debtor's obligation to pay  
295 payment intangibles, accounts, or the proceeds thereof; amending  
296 s. 55.208, F.S.; providing construction relating to the effect  
297 of liens existing before a specified date on payment intangibles  
298 and accounts and the proceeds thereof; deleting an obsolete  
299 provision relating to judgment liens on writs of execution  
300 previously delivered to a sheriff; amending s. 55.209, F.S.;  
301 conforming a cross-reference; amending s. 56.29, F.S.; requiring  
302 a court, under certain circumstances, to order the Department of  
303 Highway Safety and Motor Vehicles to note certain liens on the  
304 certificate of title of certain motor vehicles or vessels and in  
305 the department's records; amending s. 319.24, F.S.; prohibiting  
306 the department from issuing a motor vehicle or mobile home  
307 certificate of title under certain circumstances; specifying  
308 procedures for a judgment lienholder to place a lien on motor  
309 vehicles or vessels; revising