

House Bill No. 601

An act relating to judgments and liens; amending s. 55.201, F.S.; conforming terminology; amending s. 55.202, F.S.; clarifying enforceable judgments subject to law; amending s. 55.203, F.S.; providing for electronic filing of liens, assessments, warrants, and judgments directly into database; amending s. 55.204, F.S.; clarifying content of judgment lien certificates; conforming terminology and clarifying filekeeping of judgment lien files by the Department of State; providing that filing of a judgment lien certificate does not extend the life of a judgment, order, decree, or warrant; amending s. 55.205, F.S.; clarifying the effect of judgment liens upon buyers who buy without notice as defined in s. 678.1051, F.S.; providing an exemption for fraudulent conveyances; amending s. 55.206, F.S.; conforming terminology regarding amendments of judgment lien files; amending s. 55.207, F.S.; conforming terminology regarding correction of judgment lien files; amending s. 55.208, F.S.; conforming terminology regarding effect of filed judgment liens on writs of execution previously delivered to sheriffs; amending s. 55.209, F.S.; clarifying provisions regarding processing fees of judgment lien filing; amending s. 55.604, F.S.; eliminating requirement to file foreign judgments with the Department of State; amending s. 55.605, F.S.; eliminating requirements that the Secretary of State maintain a list of foreign jurisdictions recognizing judgments; amending s. 56.21, F.S.; clarifying provisions regarding execution sales; amending s. 56.27, F.S.; clarifying provisions regarding execution and payments thereunder; amending s. 77.01, F.S.; providing that certain debts related to negotiable instruments are not subject to garnishment; amending s. 77.041, F.S.; providing that only individuals subject to garnishment must be provided a "Notice to Defendant"; amending s. 678.1051, F.S.; providing that a judgment lien certificate does not constitute an adverse claim against a financial asset; amending s. 713.901, F.S., the Florida Uniform Federal Lien Registration Act; providing procedures for filing documentation relating to federal liens; providing an effective date.

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

Section 1. Section 55.201, Florida Statutes, is amended to read:

55.201 Central database of judgment liens on personal property.—The Department of State shall maintain a database of judgment lien files ~~records~~ established in accordance with ss. 55.201-55.209.

Section 2. Section 55.202, Florida Statutes, is amended to read:

55.202 Judgments, orders, and decrees; lien on personal property.—

(1) A judgment lien securing the unpaid amount of any money judgment may be acquired by the holder of a judgment ~~entered by~~:

(a) Enforceable in this state under its laws or the laws of the United States A court of this state;

~~(b) A court of the United States having jurisdiction in this state;~~

~~(c) A court of the United States or any other state to the extent enforceable under the Florida Enforcement of Foreign Judgments Act, ss. 55.501-55.509;~~

~~(d) A foreign state as defined in the Uniform Out-of-country Foreign Money-Judgment Recognition Act, ss. 55.601-55.607, from the time and to the extent enforceable thereunder;~~

~~(b)(e) Entered by an issuing tribunal with respect to a support order being enforced in this state pursuant to chapter 88; or~~

~~(c)(f) Enforceable by operation of law pursuant to s. 61.14(6).~~

(2) A judgment lien may be acquired on a the judgment debtor's interest in all personal property in this state subject to execution under s. 56.061 in ~~this state~~, other than fixtures, money, negotiable instruments, and mortgages.

(a) A judgment lien is acquired by filing recording a judgment lien certificate in accordance with s. 55.203 with the Department of State after the judgment has become final and if no stay of the judgment or its enforcement is then in effect ~~at the time the certificate is filed~~.

(b) For any tax lien, warrant, or assessment, or judgment collected by the Department of Revenue granted by law to the state or any of the political subdivisions for any tax enumerated in s. 72.011, a judgment lien may be acquired by filing the judgment lien certificate information recording the lien or warrant with the Department of State in accordance with s. 55.202(5).

(c) Except as provided in s. 55.208, the effective date of a judgment lien is the date, including the time of day, of filing. Although A judgment lien is effective as of the date of recording, but no lien attaches to property, and a creditor does not become a lien creditor as to liens under chapter 679, until the debtor acquires an interest in the property, priority among competing judgment liens is determined in order of filing date and time.

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

(3) Except as otherwise provided in s. 55.208, the priority of a judgment lien acquired in accordance with this section or s. 55.204(3) is established at the date and time the judgment lien is filed recorded. ~~Such judgment lien is deemed recorded as of its effective date as provided in this section or s. 55.204(3).~~

(4) As used in ss. 55.201-55.209, the terms "holder of a judgment" and "judgment creditor" include the Department of Revenue with respect to a

judgment being enforced by the Department of Revenue as the state IV-D agency.

(5) Liens, assessments, warrants, or judgments filed pursuant to paragraph (2)(b) administered by or secured on behalf of any state agency or political subdivision of the state may be filed directly into the central database by the Department of Revenue such agency or subdivision through electronic or information data exchange programs approved by the Department of State. Such filings must contain the information set forth in s. 55.203(1).

Section 3. Section 55.203, Florida Statutes, is amended to read:

55.203 Judgment lien certificate; content, recording, and indexing.—

(1) An original judgment lien certificate, ~~as provided in s. 55.202,~~ must include:

(a) The legal name of each judgment debtor and, if a recorded legal entity, the registered name and document filing number as shown in the records of the Department of State.

(b) ~~The last known address and social security number, federal identification number, or, in the instance in which the judgment creditor is a state agency or a political subdivision of the state, a taxpayer or other distinct identification number of each judgment debtor, except that in cases of default judgment, the social security number must be included only if known, or federal employer identification number of each judgment debtor~~ if shown on the judgment itself.

(c) The legal name of the judgment creditor and, if a recorded legal entity, the registered name and document filing number as shown in the records of the Department of State, and the name of the judgment creditor's attorney or duly authorized representative, if any.

(d) ~~The address and social security number or federal employer identification number~~ of the judgment creditor.

(e) The identity of the court which entered the judgment and the case number and the date the written judgment was entered.

(f) The amount due on the money judgment and the applicable interest rate.

(g) The signature of the judgment creditor or the judgment creditor's attorney or duly authorized representative.

(h) With respect to a lien acquired ~~created~~ by a delivery of a writ of execution to a sheriff prior to October 1, 2001, an affidavit by the judgment creditor which attests that the person or entity possesses any documentary evidence of the date of delivery of the writ, and a statement of that date or a certification by the sheriff of the date as provided in s. 30.17(4).

(2) A second judgment lien certificate, as provided in s. 55.204(3), must include the information required in subsection (1) and must state the file number assigned to the file record of the original judgment lien certificate, the money amount remaining unpaid, and the interest accrued thereon.

(3) An amendment, as provided in s. 55.206, or a correction statement, as provided in s. 55.207, must state the file number of the judgment lien file record to which the amendment or correction statement relates and must state the action, change, or statement to be added.

(4) The Department of State shall examine, for compliance with ss. 55.201-55.209, each document submitted for filing recording and shall accept or reject the document accordingly. For each judgment lien certificate filed recorded, the department shall:

- (a) Create a file record.
- (b) Assign a unique file number to the record.
- (c) Include the date and time of filing of the judgment lien certificate.
- (d) Maintain the file record in a database accessible to the public via the Internet.
- (e) Index the judgment lien certificate according to the name of each judgment debtor.
- (f) Index all subsequently filed documents relating to an original judgment lien certificate in a manner that associates them to the original judgment lien certificate.

(5) ~~The validity of A judgment lien certificate substantially satisfying the requirements of this section is effective even if it has minor errors or omissions that make the filing recorded under this section may not be defeated by technical or clerical errors made in good faith which are not seriously misleading, nor may any claim of estoppel be based on such errors.~~

(6) The Department of State shall prescribe mandatory forms of all documents to be filed under this section.

Section 4. Section 55.204, Florida Statutes, is amended to read:

55.204 Duration and continuation of judgment lien; destruction of records.—

(1) Except as provided in this section, a judgment lien acquired under s. 55.202 lapses and becomes invalid 5 years after the date of filing recording the judgment lien certificate.

(2) Liens securing the payment of child support or tax obligations as set forth in s. 95.091(1)(b) shall not lapse until 20 years after the date of the original filing of the warrant or other document required by law to establish a lien. No second lien based on the original filing may be obtained.

(3) At any time within 6 months before or 6 months after the scheduled lapse of a judgment lien under subsection (1), the judgment creditor may acquire a second judgment lien by filing recording a new judgment lien certificate. The effective date of the second judgment lien is becomes effective on the date of lapse of the original judgment lien or on the date and time on which the judgment lien certificate is filed recorded, whichever is later. ~~The second judgment lien is deemed recorded on its effective date.~~ The second judgment lien is deemed a new judgment lien and not a continuation of the original judgment lien. The second judgment lien permanently lapses and becomes invalid 5 years after its filing effective date, and no additional liens based on the original judgment or any judgment based on the original judgment may be acquired ~~obtained~~.

(4) A judgment lien continues only as to itemized property for an additional 90 days after lapse of the lien. Such judgment lien will continue only if:

(a) The property had been itemized and its location described with sufficient particularity in the instructions for levy;

(b) The levy had been delivered to the sheriff prior to the date of lapse of the lien to permit the sheriff to act; and

(c) The property was located in the county in which the sheriff has jurisdiction at the time of delivery of the instruction for levy. Subsequent removal of the property does not defeat the lien. A court may order continuation of the lien beyond the 90-day period on a showing that extraordinary circumstances have prevented levy.

(5) The date of lapse of a judgment lien whose enforceability has been temporarily stayed or enjoined as a result of any legal or equitable proceeding is tolled until 30 days after the stay or injunction is terminated.

(6) The Department of State shall maintain each judgment lien file record and all information contained therein for a minimum of 1 year after the judgment lien lapses in accordance with this section.

(7) Nothing in this section shall be construed to extend the life of a judgment lien beyond the time that the underlying judgment, order, decree, or warrant otherwise expires or becomes invalid pursuant to law.

Section 5. Section 55.205, Florida Statutes, is amended to read:

55.205 Effect of judgment lien.—

(1) A valid judgment lien gives the judgment creditor the right to proceed against take possession of the property of the debtor subject to levy through writ of execution, garnishment, or other judicial process. A judgment creditor who has not acquired recorded a judgment lien as provided in s. 55.202 certificate in accordance with s. 55.203 or whose lien has lapsed may nevertheless proceed against take possession of the judgment debtor's property through such other judicial process. Such A judgment creditor proceeding by writ of execution acquires ~~obtains~~ a lien as of the time of levy and only on

the property levied upon. Except as provided in s. 55.208, such judgment creditor takes subject to the claims and interest of priority judgment creditors.

(2) A buyer in the ordinary course of business as defined in s. 671.201(9) takes free of a judgment lien acquired as provided in s. 55.202 or s. 55.204 ~~created under this section~~ even though the buyer knows of its existence. A valid security interest as defined in chapter 679 in after-acquired property of the judgment debtor which is perfected before the debtor acquires an interest in the property prior to the effective date of a judgment lien takes priority over the judgment lien on the after-acquired property.

(3) An individual buyer of goods for personal, family, or household use who buys the goods from a seller who held the goods for personal, family, or household use, and who pays value without knowledge that the goods are subject to a judgment lien, is entitled, to the extent of the value paid, to a lien on the goods superior to the judgment lien. If the buyer has made improvements to the goods, or other reasons justify doing so, a court may adjust the amount secured by the lien as the equities may require. This subsection shall not apply to:

(a) A transfer to a relative or an insider of the judgment debtor, as such are defined at s. 726.102;

(b) A fraudulent transfer, as defined by s. 726.105, s. 726.106, or 11 U.S.C. 548;

(c) A fraudulent asset conversion as defined by s. 222.30;

(d) Twenty-five percent of the transfer of goods by a judgment debtor the value of which, in the aggregate, exceeds \$10,000;

(e) Fifty percent of the transfer of goods by a judgment debtor the value of which, in the aggregate, exceeds \$20,000;

(f) Seventy-five percent of the transfer of goods by a judgment debtor the value of which, in the aggregate, exceeds \$25,000; or

(g) Any transfer of goods by a judgment debtor the value of which, in the aggregate, exceeds \$30,000.

(4) A buyer of stock in a corporation takes free of a judgment lien hereunder if the buyer pays value in good faith without notice as defined in s. 678.1051.

Section 6. Section 55.206, Florida Statutes, is amended to read:

55.206 Amendment of judgment lien ~~file record~~; termination, partial release, assignment, continuation, tolling, correction.—

(1) An amendment to a judgment lien acquired as provided under s. 55.202 may be filed recorded by or on behalf of the judgment creditor of record, which may provide for:

- (a) The termination, partial release, or assignment of the judgment creditor's interest in a judgment lien;
- (b) The continuation and termination of the continuation of a judgment lien, as provided in s. 55.204(4);
- (c) The tolling and termination of the tolling of a lapse of a judgment lien, as provided in s. 55.204(5); or
- (d) The correction or change of any other information provided in the ~~record of a judgment lien~~ file.

(2) Within 30 days following receipt of a written demand by a judgment debtor after the obligation underlying a judgment lien has been fully or partially released, the judgment lienholder must deliver to the judgment debtor a written statement indicating that there is no longer a claim for a lien on the personal property of the judgment debtor or that the judgment lien has been partially released and setting forth the value of the lien remaining unpaid as of the date of the statement. A statement signed by an assignee must include or be accompanied by a separate written acknowledgement of assignment signed by or for the benefit of the judgment creditor of record. If the judgment lienholder fails to deliver such a statement within 30 days after proper written demand therefor, the judgment lienholder is liable to the judgment debtor for \$100, and for any actual or consequential damages, including reasonable attorney's fees, caused by such failure to the judgment debtor.

(3) The judgment debtor, the judgment creditor, or assignee may file such statement with the Department of State.

Section 7. Section 55.207, Florida Statutes, is amended to read:

55.207 Correction of judgment lien file ~~record~~.—

(1) A person may file with the Department of State a correction statement with respect to a judgment lien file ~~record~~, as provided in s. 55.203, indexed under any ~~the~~ person's name, if the person believes that the file ~~record~~ is inaccurate or that the judgment lien certificate was wrongfully filed.

(2) A correction statement must:

(a) State the judgment debtor named and the file number assigned to the judgment lien file ~~record~~ to which the correction statement relates;

(b) Indicate that it is a correction statement;

(c) Provide the basis for the person's belief that the judgment lien certificate was wrongfully filed or the file ~~record~~ is inaccurate; and

(d) Indicate the manner in which the person believes the file ~~record~~ should be corrected to cure any inaccuracy.

(3) The department shall ensure that a correction statement is indexed and available in the same manner as any filed ~~recorded~~ lien certificate in the central database of judgment lien files ~~records~~.

(4) The filing of a correction statement does not affect the effectiveness of the judgment lien or other filing ~~filed record~~.

Section 8. Section 55.208, Florida Statutes, is amended to read:

55.208 Effect of filed ~~recorded~~ judgment lien on writs of execution previously delivered to a sheriff.—

(1) Any lien created by a writ of execution which has been delivered to the sheriff of any county before October 1, 2001, remains in effect for 2 years thereafter as to any property of the judgment debtor located in that county before October 1, 2001, and remaining within that county after that date. As to any property of the judgment debtor brought into the county on or after October 1, 2001, such writs create no lien, inchoate or otherwise.

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

(3) If a judgment creditor who has delivered a writ of execution to a sheriff in any county before October 1, 2001, does not properly file ~~record~~ a judgment lien certificate with the Department of State by October 1, 2003, such writ is considered to have been abandoned and to be of no effect after October 1, 2003.

Section 9. Section 55.209, Florida Statutes, is amended to read:

55.209 Department of State; processing fees, responsibilities.—

(1) Except for liens, assessments, warrants, or judgments filed electronically ~~by a state agency or a political subdivision of the state~~, as provided in s. 55.202(2)(b) ~~s. 55.202(6)~~, the Department of State shall collect the following nonrefundable processing fees for all documents filed ~~or recorded~~ in accordance with ss. 55.201-55.209:

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

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

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

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

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

(2) Unless otherwise provided by law, the Department of State may not conduct any search of the database established under s. 55.201 to determine the existence of any judgment lien ~~file record~~ or to perform any service other than in connection with those services for which payment of services are required under this section. The information maintained in the database is for public notice purposes only and the department may make no certification or determination of the validity of any judgment lien acquired under ss. 55.202 and 55.204(3).

Section 10. Subsections (6) and (8) of section 55.604, Florida Statutes, are amended to read:

55.604 Recognition and enforcement.—Except as provided in s. 55.605, a foreign judgment meeting the requirements of s. 55.603 is conclusive between the parties to the extent that it grants or denies recovery of a sum of money. Procedures for recognition and enforceability of a foreign judgment shall be as follows:

(6) Once an order recognizing the foreign judgment has been entered by a court of this state, the order and a copy of the judgment ~~shall be filed with the Department of State and~~ may be recorded in any other county of this state without further notice or proceedings, and shall be enforceable in the same manner as the judgment of a court of this state.

(8) A judgment lien on personal property is acquired only when a judgment lien certificate is filed in accordance with s. 55.203 ~~satisfying the requirements of s. 55.203 has been recorded~~ with the Department of State.

Section 11. Section 55.605, Florida Statutes, is amended to read:

55.605 Grounds for nonrecognition.—

(1) A foreign judgment is not conclusive if:

(a) The judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law.

(b) The foreign court did not have personal jurisdiction over the defendant.

(c) The foreign court did not have jurisdiction over the subject matter.

(2) A foreign judgment need not be recognized if:

(a) The defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him or her to defend.

(b) The judgment was obtained by fraud.

(c) The cause of action or claim for relief on which the judgment is based is repugnant to the public policy of this state.

(d) The judgment conflicts with another final and conclusive order.

(e) The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court.

(f) In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action.

(g) The foreign jurisdiction where judgment was rendered would not give recognition to a similar judgment rendered in this state. ~~For purposes of this paragraph, the Secretary of State shall establish and maintain a list of foreign jurisdictions where the condition specified in this paragraph has been found to apply.~~

Section 12. Section 56.21, Florida Statutes, is amended to read:

56.21 Execution sales; notice.—Notice of all sales under execution shall be given by advertisement once each week for 4 successive weeks in a newspaper published in the county in which the sale is to take place. The time of such notice may be shortened in the discretion of the court from which the execution issued, upon affidavit that the property to be sold is subject to decay and will not sell for its full value if held until date of sale. On or before the date of the first publication or posting of the notice of sale, a copy of the notice of sale shall be furnished by certified mail to the attorney of record of the judgment debtor, or to the judgment debtor at the judgment debtor's last known address if the judgment debtor does not have an attorney of record. Such copy of the notice of sale shall be mailed even though a default judgment was entered. When levying upon personal property, a notice of such levy and execution sale and a copy of the affidavit required by s. 56.27(4) shall be made by the levying creditor to the attorney of record of the judgment creditor or the judgment creditor who has acquired a judgment lien recorded a judgment lien certificate as provided in s. 55.202 or s. 55.204(3) at the address listed in the judgment lien certificate, or, if amended, in any amendment to the judgment lien certificate, and to all secured creditors who have filed financing statements as provided in s. 679.401 in the name of the judgment debtor reflecting a security interest in property of the kind to be sold at the execution sale at the address listed in the financing statement, or, if amended, in any amendment to the financing statement. Such notice shall be made in the same manner as notice is made to any judgment debtor under this section. When levying upon real property, notice of such levy and execution sale shall be made to the property owner of record in the same manner as notice is made to any judgment debtor

pursuant to this section. When selling real or personal property, the sale date shall not be earlier than 30 days after the date of the first advertisement.

Section 13. Subsections (1) and (2) of section 56.27, Florida Statutes, are amended to read:

56.27 Executions; payment of money collected.—

(1) All money received under executions shall be paid, in the order prescribed, to the following: the sheriff, for costs; the levying creditor in the amount of \$500 as liquidated expenses; and the priority lienholder under s. 55.202, s. 55.204(3), or s. 55.208(2) ~~judgment lienholder having the earliest recorded judgment lien acquired under ss. 55.202 and 55.204(3),~~ as set forth in an affidavit required by subsection (4), or his or her attorney, in satisfaction of the judgment lien, provided that the judgment lien has not lapsed at the time of the levy. The receipt of the attorney shall be a release of the officer paying the money to him or her. When the name of more than one attorney appears in the court file, the money shall be paid to the attorney who originally commenced the action or who made the original defense unless the file shows that another attorney has been substituted.

(2) When property sold under execution brings more than the amount needed to satisfy the provisions of subsection (1), the surplus shall be paid in the order of priority to any judgment lienholders whose judgment liens have not lapsed. Priority shall be based on the effective date of the judgment lien acquired under s. 55.202, ~~or~~ s. 55.204(3), or s. 55.208(2), as set forth in an affidavit required under subsection (4). If there is a surplus after all valid judgment liens and execution liens have been satisfied, the surplus must be paid to the defendant.

Section 14. Section 77.01, Florida Statutes, is amended to read:

77.01 Right to garnishment.—Every person or entity who has sued to recover a debt or has recovered judgment in any court against any person or entity has a right to a writ of garnishment, in the manner hereinafter provided, to subject any debt due ~~or any debt under a negotiable instrument that will become due~~ to defendant by a third person or any debt not evidenced by a negotiable instrument that will become due absolutely through the passage of time only to the defendant by a third person, and any tangible or intangible personal property of defendant in the possession or control of a third person. The officers, agents, and employees of any companies or corporations are third persons in regard to the companies or corporations, and as such are subject to garnishment after judgment against the companies or corporations.

Section 15. Section 77.041, Florida Statutes, is amended to read:

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

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

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

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

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

TO KEEP YOUR WAGES, MONEY, AND OTHER PROPERTY FROM BEING GARNISHED, OR TO GET BACK ANYTHING ALREADY TAKEN, YOU MUST COMPLETE A FORM FOR CLAIM OF EXEMPTION AND REQUEST FOR HEARING AS SET FORTH BELOW AND HAVE THE FORM NOTARIZED. YOU MUST FILE THE FORM WITH THE CLERK'S OFFICE WITHIN 20 DAYS AFTER THE DATE YOU RECEIVE THIS NOTICE OR YOU MAY LOSE IMPORTANT RIGHTS. YOU MUST ALSO MAIL OR DELIVER A COPY OF THIS FORM TO THE PLAINTIFF AND THE GARNISHEE AT THE ADDRESSES LISTED ON THE WRIT OF GARNISHMENT.

If you request a hearing, it will be held as soon as possible after your request is received by the court. The plaintiff must file any objection within 2 business days if you hand delivered to the plaintiff a copy of the form for Claim of Exemption and Request for Hearing or, alternatively, 7 days if you mailed a copy of the form for claim and request to the plaintiff. If the plaintiff 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 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.

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

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

- 1. Head of family wages. (You must check a. or b. below.)
- a. I provide more than one-half of the support for a child or other dependent and have net earnings of \$500 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 \$500 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. 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.
- 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:.....

The statements made in this request are true to the best of my knowledge and belief.

.....
Defendant's signature
Date.....

STATE OF FLORIDA
COUNTY OF

Sworn and subscribed to before me this day of ...(month and year)..., by ...(name of person making statement)...

Notary Public/Deputy Clerk
Personally KnownOR Produced Identification....
Type of Identification Produced.....

(2) The plaintiff must mail, by first class, a copy of the writ of garnishment, a copy of the motion for writ of garnishment, and, if the defendant is an individual, the “Notice to Defendant” to the defendant’s last known address within 5 business days after the writ is issued or 3 business days after the writ is served on the garnishee, whichever is later. However, if such documents are returned as undeliverable by the post office, or if the last known address is not discoverable after diligent search, the plaintiff must mail, by first class, the documents to the defendant at the defendant’s place of employment. The plaintiff shall file in the proceeding a certificate of such service.

(3) Upon the filing by a defendant of a claim of exemption and request for hearing, a hearing will be held as soon as is practicable to determine the validity of the claimed exemptions. If the plaintiff does not file a sworn written statement that contests the defendant’s claim of exemption within 2 business days after hand delivering the claim and request or, alternatively, 7 business days, if the claim and request were served by mail, no hearing is required and the clerk must automatically dissolve the writ and notify the parties of the dissolution by mail.

Section 16. Subsection (5) of section 678.1051, Florida Statutes, is amended to read:

678.1051 Notice of adverse claim.—

(5) Filing of a financing statement under chapter 679 or a judgment lien certificate under chapter 55 is not notice of an adverse claim to a financial asset.

Section 17. Paragraph (a) of subsection (5) of section 713.901, Florida Statutes, and subsections (6) and (7) of that section are amended to read:

713.901 Florida Uniform Federal Lien Registration Act.—

(5) DUTIES OF FILING OFFICER.—

(a) If a notice of federal lien, a refile of a notice of federal lien, or a notice of revocation of any certificate described in paragraph (b) is presented to a filing officer who is:

1. The Secretary of State or his or her designee, the filing officer ~~he or she~~ shall cause the notice to be marked, held, and indexed in accordance with the provisions of s. 55.202 and 55.203 ~~s. 679.403(4)~~, as if the notice were a financing statement within the meaning of the Uniform Commercial Code.

2. Any other officer described in subsection (3), the filing officer ~~he or she~~ shall mark and index the notice or certificate in the same manner as other instruments filed for recording in the official records.

(6) FEES.—The charges or fees of the Secretary of State, with respect to a notice or certificate filed under this section, or for searching records with respect thereto, shall be the same as prescribed in s. ss. 15.091 and 679.402, ~~for filing and indexing financing statements or other writings under chapter~~

~~679, or for searching records with respect thereto.~~ The charges or fees of the clerks of the circuit court with respect to a notice or certificate filed under this section shall be the same as prescribed in s. 28.24, relating to instruments recorded in the official records.

(7) UNIFORMITY OF APPLICATION AND CONSTRUCTION.—This section shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this section among the states enacting it and to permit a filing officer, including the Secretary of State, who is now using a paper filing system to record notices of liens, certificates, and other notices affecting federal tax liens or other federal liens to use a filing system consisting of paper or an electronic or magnetic medium, or some combination thereof, as he or she considers appropriate, and to permit federal officials to file notices of liens upon real or personal property for obligations payable to the United States, and certificates and notices affecting those liens, under the filing system being maintained by the Secretary of State or the filing officer.

Section 18. This act shall take effect October 1, 2001.

Approved by the Governor June 1, 2001.

Filed in Office Secretary of State June 1, 2001.