

By Senator Simmons

10-00660-16

20161042__

1 A bill to be entitled
2 An act relating to judgment debts; creating s. 56.001,
3 F.S.; defining terms; amending ss. 56.011, 56.021,
4 56.041, 56.071, 56.09, 56.10, 56.12, 56.15, F.S.;
5 conforming provisions to changes made by the act;
6 making technical changes; amending s. 56.16, F.S.;
7 specifying the parties who may obtain possession of
8 property that is being levied on; conforming
9 provisions to changes made by the act; making
10 technical changes; amending s. 56.18, F.S.; revising
11 the circumstances under which third-party claims must
12 be taken to trial; conforming provisions to changes
13 made by the act; amending ss. 56.19, 56.20, 56.22,
14 56.26, 56.27, and 56.28, F.S.; conforming provisions
15 to changes made by the act; making technical changes;
16 amending s. 56.29, F.S.; conforming provisions to
17 changes made by the act; making technical changes;
18 revising the legal procedure for proceedings
19 supplementary to execution; requiring the judgment
20 creditor to describe certain property in a motion and
21 supplemental affidavit; requiring the court to issue a
22 notice to appear by a certain date; providing
23 requirements for such notice and responding affidavit;
24 specifying the persons against whom a court may enter
25 an order, a judgment, or a writ under certain
26 circumstances; providing applicability; authorizing
27 the court to preside over claims concerning the
28 judgment debtor's assets and to enter certain orders
29 and judgments; prescribing certain duties to the clerk

10-00660-16

20161042__

30 of the court relating to supplemental proceedings;
31 creating s. 56.30, F.S.; providing additional
32 discovery in proceedings supplementary; specifying the
33 procedure for additional discovery; providing an
34 effective date.

35
36 Be It Enacted by the Legislature of the State of Florida:

37
38 Section 1. Section 56.001, Florida Statutes, is created to
39 read:

40 56.001 Definitions.—As used in this chapter, the term:

41 (1) "Claimant" means a person, other than a judgment
42 debtor, who makes a claim against property that is subject to a
43 levy.

44 (2) "Corporate judgment debtor" means a person who is a
45 judgment debtor, not including an individual, an estate, or a
46 trust other than a business trust.

47 (3) "Judgment creditor" means the holder of an unsatisfied
48 judgment, order, or decree for the payment of money, including a
49 transferee or surety, who has the right to control and collect
50 the judgment under s. 55.13.

51 (4) "Judgment debtor" means a person who is liable for a
52 judgment, an order, or a decree subject to execution under this
53 chapter.

54 (5) "Levying creditor" means a judgment creditor who levies
55 on property.

56 (6) "Relative" means an individual related within the third
57 degree of consanguinity, a spouse or an individual related to
58 the spouse within the third degree of consanguinity, or an

10-00660-16

20161042__

59 individual adopted within the third degree of consanguinity.

60 Section 2. Section 56.011, Florida Statutes, is amended to
61 read:

62 56.011 Executions; capias ad satisfaciendum abolished.~~In~~
63 ~~no case shall~~ A capias ad satisfaciendum may not be issued upon
64 a judgment, and a person may not ~~nor shall the body of any~~
65 ~~defendant~~ be subject to arrest or confinement for the payment of
66 money, except ~~it be~~ for the payment of fines imposed by a lawful
67 authority.

68 Section 3. Section 56.021, Florida Statutes, is amended to
69 read:

70 56.021 Executions; issuance and return, alias, etc.~~When~~
71 ~~issued,~~ An execution is valid and effective during the life of
72 the judgment, order, or decree on which it is issued. When the
73 execution is fully paid, the executing officer ~~executing it~~
74 shall make his or her return and file it in the court that ~~which~~
75 issued the execution. If the execution is lost or destroyed, the
76 party entitled to the execution ~~thereto~~ may have an alias,
77 pluries, or other copies made after proving ~~on making proof of~~
78 such loss or destruction by affidavit and filing the affidavit
79 ~~it~~ in the court that issued ~~issuing~~ the execution.

80 Section 4. Subsection (1) of section 56.041, Florida
81 Statutes, is amended to read:

82 56.041 Executions; collection and return.-

83 (1) An execution is ~~All executions shall be~~ returnable
84 after satisfaction ~~when satisfied,~~ and the officer ~~officers~~ to
85 whom a satisfaction is ~~they are~~ delivered shall collect the
86 amount of the satisfaction ~~amounts thereof~~ as soon as possible
87 and shall furnish the judgment debtor ~~defendant~~ with a

10-00660-16

20161042__

88 satisfaction of judgment. All receipts must ~~shall~~ be endorsed on
89 the execution.

90 Section 5. Section 56.071, Florida Statutes, is amended to
91 read:

92 56.071 Executions on equities of redemption; discovery of
93 value.—On motion made by the person party causing a levy to be
94 made on an equity of redemption, the court from which the
95 execution issued shall order the mortgagor, the mortgagee, and
96 all other persons interested in the mortgaged property levied on
97 to appear and be examined about the amount remaining due on the
98 mortgage, the amount that has been paid, the person party to
99 whom payment has been made ~~that amount has been paid~~, and the
100 date on which payment was made ~~when that amount was paid~~ so that
101 the value of the equity of redemption may be ascertained before
102 the property is sold. The court may appoint a general or special
103 magistrate to conduct the examination. This section applies
104 ~~shall also apply~~ to interests in personal property ~~the interest~~
105 ~~of~~ and personal property in the possession of a vendee under a
106 retained title contract or conditional sales contract.

107 Section 6. Section 56.09, Florida Statutes, is amended to
108 read:

109 56.09 Executions against corporate judgment debtors
110 ~~corporations~~; generally.—A judgment creditor ~~On any judgment~~
111 ~~against a corporation plaintiff~~ may have an execution levied on
112 ~~the current money,~~ as well as on the goods and chattels, and
113 lands and tenements of a corporate judgment debtor ~~said~~
114 ~~corporation.~~

115 Section 7. Section 56.10, Florida Statutes, is amended to
116 read:

10-00660-16

20161042__

117 56.10 Executions against corporate judgment debtors
118 ~~corporations~~; receivership.—If an execution cannot be satisfied
119 in whole or in part due to the corporate judgment debtor's ~~for~~
120 lack of property ~~of the defendant corporation subject to levy~~
121 ~~and sale, on motion of the judgment creditor~~ the circuit court
122 with jurisdiction over the corporate judgment debtor in chancery
123 ~~within whose circuit such corporation is or has been doing~~
124 ~~business, or in which any of its effects are found, may, on~~
125 motion of the judgment creditor, seize ~~sequester~~ the property,
126 things in action, or goods and chattels of the corporate
127 judgment debtor corporation for the purpose of enforcing the
128 judgment, and may appoint a receiver for the corporate judgment
129 debtor corporation. An appointed A receiver ~~so appointed~~ is
130 subject to the rules prescribed by law for receivers of the
131 property of other judgment debtors, and. his or her authority
132 extends statewide ~~power shall extend throughout the state.~~

133 Section 8. Section 56.12, Florida Statutes, is amended to
134 read:

135 56.12 Executions; levy, forthcoming bond.—If a judgment
136 debtor defendant in execution wishes ~~wants~~ to retake possession
137 of any property levied on, the judgment debtor ~~he or she~~ may do
138 so by executing a bond with surety, subject to approval ~~to be~~
139 ~~approved~~ by an ~~the~~ officer, in favor of the judgment creditor
140 for plaintiff in a sum double the value of the property retaken,
141 as determined ~~fixed~~ by the officer holding the execution, and
142 conditioned on that the availability of the property ~~will be~~
143 ~~forthcoming~~ on the day of sale stated in the bond.

144 Section 9. Section 56.15, Florida Statutes, is amended to
145 read:

10-00660-16

20161042__

146 56.15 Executions; stay of illegal writs.—If an ~~any~~
 147 execution is issued ~~issues~~ illegally, the judgment debtor
 148 ~~defendant in execution~~ may obtain a stay by making and
 149 delivering an affidavit to the officer who has ~~having~~ the
 150 execution which states, ~~stating~~ the illegality and whether any
 151 part of the execution is due, with a bond with surety payable to
 152 the judgment creditor for plaintiff ~~in~~ double the amount of the
 153 execution or the part of which a stay is sought conditioned to
 154 pay the execution or part claimed to be illegal and any damages
 155 for delay if the affidavit is not well founded. On receipt of
 156 such affidavit and bond the officer shall stay proceedings on
 157 the execution and return the bond and affidavit to the court
 158 that issued ~~from which~~ the execution ~~issued~~. The court shall
 159 pass on the question of illegality as soon as possible. If the
 160 execution is adjudged illegal in any part, the court shall stay
 161 it as to the part but if it is adjudged legal in whole or in
 162 part, the court shall enter judgment against the principal and
 163 surety on such bond for the amount ~~of so much~~ of the execution
 164 as is adjudged to be legal and execution shall issue thereon.

165 Section 10. Section 56.16, Florida Statutes, is amended to
 166 read:

167 56.16 Executions; claims of third parties to property
 168 levied on.—If a any person, including the person issued a notice
 169 to appear but excluding other than the judgment debtor,
 170 ~~defendant in execution~~ claims any property levied on, the
 171 claimant ~~he or she~~ may obtain possession of the property by:

172 (1) Filing with the officer who has ~~having~~ the execution an
 173 affidavit, made by the claimant or the claimant's ~~himself or~~
 174 ~~herself, his or her~~ agent or attorney, which states that the

10-00660-16

20161042__

175 property ~~claimed~~ belongs to the claimant; ~~him or her~~ and

176 (2) by Furnishing the officer who has the execution a bond
177 with surety, subject to approval ~~be approved~~ by the officer, in
178 favor of the judgment creditor for plaintiff in double the value
179 of the goods claimed, as determined ~~the value is fixed~~ by the
180 officer, which is and conditioned on delivery of ~~to deliver~~ said
181 property on the demand of the said officer if the property ~~it~~ is
182 adjudged to be the property of the judgment debtor defendant in
183 ~~execution~~ and payment to the judgment creditor of pay plaintiff
184 all damages assessed found against the claimant, ~~him or her~~ if
185 it appears that the claim was made interposed for the purpose of
186 delay.

187 Section 11. Section 56.18, Florida Statutes, is amended to
188 read:

189 56.18 Executions; trial of claims of third persons.—As soon
190 as possible after the return, or after service of a notice to
191 appear, a jury, if not waived, shall be impaneled to try the
192 right of property. If a the verdict is issued in favor of the
193 judgment creditor plaintiff and it is found ~~appears~~ that the
194 claim brought pursuant to s. 56.16 was made interposed for the
195 purpose of delay, the judgment creditor plaintiff may be awarded
196 reasonable damages, not to exceed ~~exceeding~~ 20 percent of the
197 value of the property claimed. If the claimant files a sworn
198 affidavit ~~denies in writing under oath filed~~ at least 3 days
199 before the trial which denies, the correctness of the appraisal
200 ~~appraisement~~ of the value of the property by the officer levying
201 the execution, and a the verdict is issued in favor of the
202 judgment creditor plaintiff, the jury, if not waived, shall fix
203 the value of the individual items that are the subject of the

10-00660-16

20161042__

204 denial ~~each item thereof,~~ or the total value of the items
205 covered by such denial.

206 Section 12. Section 56.19, Florida Statutes, is amended to
207 read:

208 56.19 Judgments upon claims of third persons.—Upon the
209 verdict of the jury, the court shall enter a judgment deciding
210 the right of property. ~~and~~ If the verdict is for the judgment
211 creditor plaintiff, the court shall award ~~awarding~~ a recovery by
212 the judgment creditor plaintiff from the claimant defendant and
213 the claimant's his or her sureties, of the value ~~(as fixed by~~
214 ~~the officer,~~ or ~~as fixed by the jury if fixed by it)~~ of the such
215 ~~parts of the~~ property that as the jury determined was ~~may have~~
216 ~~found~~ subject to the execution which was delivered to the
217 claimant, any and ~~awarding separately such damages as the jury~~
218 ~~may have~~ awarded by the jury under s. 56.18, and ~~of~~ all costs
219 associated with attending the presentation and trial of the
220 claim. The value of such property shall be determined by the
221 jury, if the jury makes a determination of value, or, in the
222 absence of such a determination, by the officer who has the
223 execution.

224 Section 13. Section 56.20, Florida Statutes, is amended to
225 read:

226 56.20 Executions on judgments against third-party third
227 ~~person~~ claimants.—If the execution issued on the judgment is not
228 paid, it shall be satisfied in the usual manner unless, on
229 demand of the officer holding it, the principal and surety in
230 the claim bond deliver the property released under the claim
231 bond to the officer and pay him or her the damages and costs
232 awarded to the judgment creditor plaintiff. If the property is

10-00660-16

20161042__

233 returned to the officer but damages and costs are not paid,
234 execution shall be enforced for the damages and costs. If part
235 of the property is returned to the officer, the execution shall
236 be enforced for the value, fixed as aforesaid, of that not
237 returned. All property returned shall be sold under the original
238 execution against the judgment debtor ~~original defendant~~.

239 Section 14. Section 56.22, Florida Statutes, is amended to
240 read:

241 56.22 Execution sales; time, date, and place of sale.—All
242 sales of property under legal process must ~~shall~~ take place at
243 the time, date, and place advertised in the notice of the
244 sheriff's sale on any day of the week except Saturday and Sunday
245 and must ~~shall~~ continue from day to day until such property is
246 disposed of. Property not effectively disposed of at the initial
247 sheriff's sale may be readvertised, as provided in s. 56.21,
248 upon receipt of an additional deposit to cover costs incurred in
249 connection with the maintenance of the property under legal
250 process. If ~~In the event~~ no additional deposit is received by
251 the sheriff, the property may be returned to the judgment debtor
252 ~~defendant~~; if the judgment debtor ~~defendant~~ refuses to accept
253 such property, the property may be returned to a third party,
254 such as a lienholder, upon presentation of a proper court order
255 directing such return. If none of the above can be accomplished,
256 such property shall be disposed of as unclaimed or abandoned.

257 Section 15. Section 56.26, Florida Statutes, is amended to
258 read:

259 56.26 Executions; mandamus to force levy and sale.—When an
260 officer holds an unsatisfied execution and refuses to levy on
261 property ~~liable thereunder and~~ on which it is his or her duty to

10-00660-16

20161042__

262 levy or having levied, refuses to advertise and sell the
263 property levied on, the judgment creditor ~~plaintiff in execution~~
264 is entitled to an alternative writ of mandamus requiring the
265 officer to levy such execution or advertise and sell the
266 property levied on, or both, as the case may be.

267 Section 16. Subsections (1) and (4) of section 56.27,
268 Florida Statutes, are amended to read:

269 56.27 Executions; payment of money collected.—

270 (1) All money received under executions shall be paid, in
271 the order prescribed, to the following: the sheriff, for costs;
272 the levying creditor in the amount of \$500 as liquidated
273 expenses; and the priority lienholder under s. 55.10(1) and (2),
274 s. 55.202, s. 55.204(3), or s. 55.208(2), as set forth in an
275 affidavit required by subsection (4), or the levying creditor's
276 ~~his or her~~ attorney, in satisfaction of the judgment lien, if
277 the judgment lien has not lapsed at the time of the levy. The
278 receipt of the attorney ~~is shall be~~ a release of the officer
279 paying the money to him or her. If the name of more than one
280 attorney appears in the court file, the money shall be paid to
281 the attorney who originally commenced the action or who made the
282 original defense unless the file shows that another attorney has
283 been substituted.

284 (4) At the time of the levy request to the sheriff, before
285 the date of the first publication ~~or posting~~ of the notice of
286 sale provided for under s. 56.21, ~~at the time of the levy~~
287 ~~request to the sheriff,~~ the levying creditor shall deliver to
288 the sheriff an affidavit setting forth all of the following as
289 to the judgment debtor:

290 (a) For a personal property levy, an attestation by the

10-00660-16

20161042__

291 levying creditor or the levying creditor's attorney of record
292 that he or she has reviewed the database or judgment lien
293 records established in accordance with ss. 55.201-55.209 and
294 that the information contained in the affidavit based on that
295 review is true and correct. For a real property levy in
296 accordance with s. 55.10(1) and (2), an attestation by the
297 levying creditor or the levying creditor's ~~his or her~~ attorney
298 of record that he or she has reviewed the records of the clerk
299 of the court of the county where the property is situated, or
300 that he or she has performed or reviewed a title search, and
301 that the information contained in the affidavit, including a
302 disclosure of all judgment liens, mortgages, financing
303 statements, tax warrants, and other liens against the real
304 property, based on the ~~that~~ review or title search is true and
305 correct.

306 (b) The information required under s. 55.203(1) and (2) for
307 each judgment lien certificate indexed under the name of the
308 judgment debtor as to each judgment creditor; the file number
309 assigned to the record of the original and, if any, the second
310 judgment lien; and the date of filing for each judgment lien
311 certificate under s. 55.202 or s. 55.204(3). For each judgment
312 lien recorded on real property, the information contained in the
313 certified copy of recordation of lien under s. 55.10(1) and (2),
314 and for each other lien recorded on real property, the name and
315 address of the lienholder as shown in the copy of the recorded
316 lien disclosed by the title search.

317 (c) A statement that the levying creditor either does not
318 have any other levy in process or, if another levy is in
319 process, the levying creditor believes in good faith that the

10-00660-16

20161042__

320 total value of the property under execution does not exceed the
321 amount of outstanding judgments.

322 Section 17. Section 56.28, Florida Statutes, is amended to
323 read:

324 56.28 Executions; failure of officer to pay ~~over~~ moneys
325 collected.—If an ~~any~~ officer collecting money under execution
326 fails or refuses to pay it to the levying creditor or the
327 levying creditor's attorney of record ~~over~~ within 30 days after
328 it has been received by him or her, or within 10 days after a
329 demand by the levying creditor or the levying creditor's
330 ~~plaintiff or his or her~~ attorney of record made in writing and
331 delivered during regular business hours to the civil process
332 bureau, the officer is liable to pay the same and 20 percent
333 damages, to be recovered by motion in court.

334 Section 18. Section 56.29, Florida Statutes, is amended to
335 read:

336 56.29 Proceedings supplementary.—

337 (1) When a judgment creditor ~~any person or entity~~ holds an
338 unsatisfied judgment or judgment lien obtained under chapter 55,
339 the judgment holder or judgment lienholder may file a motion and
340 an affidavit ~~so stating,~~ identifying, ~~if applicable,~~ the issuing
341 court, the case number, and the unsatisfied amount of the
342 judgment or judgment lien, including accrued costs and interest,
343 and stating that the execution is valid and outstanding, and
344 ~~thereupon~~ the judgment creditor ~~holder or judgment lienholder~~ is
345 entitled to these proceedings supplementary to execution.

346 (2) The judgment creditor must describe in a motion and
347 supplemental affidavit any property of the judgment debtor which
348 is not exempt from execution, and any property, debt, or other

10-00660-16

20161042__

349 obligation due to the judgment debtor which may be applied
350 toward the satisfaction of the judgment. Such property of the
351 judgment debtor, debt, or other obligation due to the judgment
352 debtor in the custody or control of another person may be
353 applied to satisfy the judgment. The court shall issue a notice
354 to appear to direct such person to file an affidavit pursuant to
355 s. 56.16 by a date certain, which date may not be less than 7
356 business days after the date of service of the notice to appear,
357 stating why the property, debt, or other obligation in his or
358 her control should not be applied to satisfy the judgment. The
359 court may shorten the time for serving an affidavit for good
360 cause. The notice to appear must describe with reasonable
361 specificity the property, debt, or other obligation that may be
362 available to satisfy the judgment and must provide the person in
363 control of the judgment debtor's property, debt, or other
364 obligation the opportunity to present defenses, to pursue
365 discovery as provided under the rules of civil procedure, and to
366 have a jury trial, as provided in s. 56.18. A responding
367 affidavit must raise any fact or defense opposing application of
368 the property described in the notice to appear to satisfy the
369 judgment, including legal defenses, such as lack of personal
370 jurisdiction. Legal defenses need not be filed under oath but
371 must be served contemporaneously with the affidavit ~~On such~~
372 ~~plaintiff's motion the court shall require the defendant in~~
373 ~~execution to appear before it or a general or special magistrate~~
374 ~~at a time and place specified by the order in the county of the~~
375 ~~defendant's residence to be examined concerning his or her~~
376 ~~property.~~

377 (3) ~~The order shall be served in a reasonable time before~~

10-00660-16

20161042__

378 ~~the date of the examination in the manner provided for service~~
379 ~~of summons or may be served on such defendant or his or her~~
380 ~~attorney as provided for service of papers in the rules of civil~~
381 ~~procedure.~~

382 ~~(4) Testimony shall be under oath, shall be comprehensive~~
383 ~~and cover all matters and things pertaining to the business and~~
384 ~~financial interests of defendant which may tend to show what~~
385 ~~property he or she has and its location. Any testimony tending~~
386 ~~directly or indirectly to aid in satisfying the execution is~~
387 ~~admissible. A corporation must attend and answer by an officer~~
388 ~~who may be specified in the order. Examination of witnesses~~
389 ~~shall be as at trial and any party may call other witnesses.~~

390 ~~(5) The court may order any property of the judgment~~
391 ~~debtor, not exempt from execution, in the hands of any person,~~
392 ~~or any property, debt, or other obligation due to the judgment~~
393 ~~debtor, to be applied toward the satisfaction of the judgment~~
394 ~~debt. The court may entertain claims concerning the judgment~~
395 ~~debtor's assets brought under chapter 726 and enter any order or~~
396 ~~judgment, including a money judgment against any initial or~~
397 ~~subsequent transferee, in connection therewith, irrespective of~~
398 ~~whether the transferee has retained the property. Claims under~~
399 ~~chapter 726 are subject to the provisions of chapter 726 and~~
400 ~~applicable rules of civil procedure.~~

401 ~~(6)(a) When, within 1 year before the service of process on~~
402 ~~the judgment debtor him or her, the judgment debtor defendant~~
403 ~~has had title to, or paid the purchase price of, any personal~~
404 ~~property to which the judgment debtor's defendant's spouse, any~~
405 ~~relative, or any person on confidential terms with the judgment~~
406 ~~debtor defendant claims title and right of possession at the~~

10-00660-16

20161042__

407 ~~time of examination~~, the judgment debtor defendant has the
408 burden of proof to establish that such transfer or gift ~~from him~~
409 ~~or her~~ was not made to delay, hinder, or defraud creditors.

410 (b) When a ~~any~~ gift, transfer, assignment, or other
411 conveyance of personal property has been made or contrived by
412 the judgment debtor to delay, hinder, or defraud creditors, the
413 court shall declare ~~order~~ the gift, transfer, assignment, or
414 other conveyance to be void and direct the sheriff to take the
415 property to satisfy the execution. However, ~~This does not~~
416 ~~authorize seizure of~~ property exempted from levy and sale under
417 execution or property that ~~which~~ has passed to a bona fide
418 purchaser for value and without notice may not be seized under
419 this paragraph. Any person aggrieved by the levy or notice to
420 appear may proceed under ss. 56.16-56.20.

421 (4) ~~(7)~~ At any time, the court may refer the proceeding to a
422 general or special magistrate who may be directed to report
423 findings of law or fact, ~~or both~~. The general or special
424 magistrate has all the powers of the court ~~thereof~~, including
425 the power to issue a subpoena, and shall be paid the fees
426 provided by the court ~~law~~.

427 (5) ~~(8)~~ A party or a witness examined under this section
428 ~~these provisions~~ is not excused from answering a question on the
429 ground that the answer will tend to show him or her guilty of
430 the commission of a fraud, or prove that he or she has been a
431 party or privy to, or knowing of a conveyance, assignment,
432 transfer, or other disposition of property for any purpose, or
433 that the party or witness or another person claims to have title
434 as against the judgment debtor defendant or to hold property
435 derived from or through the judgment debtor defendant, or to be

10-00660-16

20161042__

436 discharged from the payment of a debt that ~~which~~ was due to the
437 judgment debtor ~~defendant~~ or to a person on ~~in his or her~~ behalf
438 of the judgment debtor. An answer cannot be used as evidence
439 against such ~~the~~ person ~~so answering~~ in any criminal proceeding.

440 (6)-(9) The court may order any property of the judgment
441 debtor which is not exempt from execution, or any property,
442 debt, or other obligation due to the judgment debtor, which is
443 in the possession or under the control of any person subject to
444 the notice to appear, to be levied on and applied toward the
445 satisfaction of the judgment debt. The court may enter any
446 orders, judgments, or writs required to carry out the purpose of
447 this section, including those orders necessary or proper to
448 subject property or property rights of any judgment debtor to
449 execution, and including entry of money judgments as provided in
450 ss. 56.16-56.19 against any person to whom a notice to appear
451 has been directed and over whom the court has obtained personal
452 jurisdiction, impleaded defendant irrespective of whether such
453 person ~~defendant~~ has retained the property, subject to ~~ss. 56.18~~
454 ~~and 56.19~~ and applicable principles of equity, and in accordance
455 with chapters 76 and 77 and applicable rules of civil procedure.
456 Sections 56.16-56.20 apply to any order issued under this
457 subsection.

458 (7)-(10) Any person who fails ~~failing~~ to obey an ~~any~~ order
459 issued under this section by a judge or general or special
460 magistrate or who fails ~~failing~~ to appear ~~attend~~ in response to
461 a subpoena ~~served on him or her~~ may be held in contempt.

462 (8)-(11) Costs for proceedings supplementary shall be taxed
463 against the judgment debtor ~~defendant~~ as well as all other
464 incidental costs determined to be reasonable and just by the

10-00660-16

20161042__

465 court including, but not limited to, docketing the execution,
466 sheriff's service fees, and court reporter's fees. Reasonable
467 attorney ~~attorney's~~ fees may be taxed against the judgment
468 debtor ~~defendant~~.

469 (9) The court may preside over claims concerning the
470 judgment debtor's assets brought under chapter 726 and enter any
471 order or judgment, including a money judgment against an initial
472 or subsequent transferee, in connection therewith, irrespective
473 of whether the transferee has retained the property. Claims
474 under chapter 726 brought under this section shall be initiated
475 by a supplemental complaint. The clerk of the court shall docket
476 a supplemental proceeding under the same case number assigned to
477 the original complaint filed by the judgment creditor, the case
478 number assigned to a domesticated judgment, and a distinct
479 supplemental proceeding number and shall assign it to the same
480 division and judge assigned to the original case or domesticated
481 judgment.

482 Section 19. Section 56.30, Florida Statutes, is created to
483 read:

484 56.30 Discovery in proceedings supplementary.-

485 (1) In addition to any other discovery allowed under the
486 rules of civil procedure, on the motion of the judgment
487 creditor, the court shall require the judgment debtor to appear
488 to be examined concerning property subject to execution by the
489 court or a general or special magistrate at a specified time and
490 place in the county of the judgment debtor's residence or
491 principal place of business. This examination may occur before
492 the issuance of a notice to appear.

493 (2) The order must be served within a reasonable time

10-00660-16

20161042__

494 before the date of the examination in the manner provided for
495 service of summons or may be served on the judgment debtor or
496 the judgment debtor's attorney of record.

497 (3) Testimony must be under oath and cover all matters
498 pertaining to the business and financial interests of the
499 judgment debtor which may identify property owned by the
500 judgment debtor and the location of such property. Any testimony
501 that directly or indirectly aids in satisfying the execution is
502 admissible. Testimony of a corporate judgment debtor must be
503 from a designee with knowledge or an identified officer or a
504 manager specified in the order. Examination of witnesses is as
505 at trial, and any party may call other witnesses to be examined
506 concerning property that may be subject to execution.

507 Section 20. This act shall take effect July 1, 2016.