

1 A bill to be entitled

2 An act relating to protection of Florida residents from
3 unintentionally assigning, pledging, or waiving rights to assets
4 that are otherwise exempt from legal process; creating s.
5 222.105, Florida Statutes to provide requirement for specific
6 waivers of exemptions; providing an effective date.

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

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10 Section 1. Section 222.105, Florida Statutes, is created to
11 read:

12 222.105 - Requirement for specific waivers of exemptions.

13 (1) The exemptions set forth in Florida Statutes Chapter 222
14 cannot be waived unless the person who is entitled to such exemption
15 has specifically agreed otherwise in a writing described in this
16 section, or in Section 222.11. References in a ~~commercial instrument~~
17 writing purporting to pledge or encumber ~~to~~ all of a person's "assets
18 and rights, wherever located, whether now owned or after acquired, and
19 all proceeds thereof", or words of similar import, are insufficient to
20 pledge or encumber shall not include assets which are exempt under
21 Chapter 222 or to waive the protections afforded to such person and
22 their family by Chapter 222.

23 (2) ~~The Any~~ agreement to pledge assets which are exempt under
24 Chapter 222 or to waive ~~the~~ protections provided by ~~this~~
25 SectionChapter 222 must:

26 (a) Be written in the same language as the contract or
27 agreement to which the waiver relates;

28 (b) Be a separate document from the contract or agreement to
29 which the waiver relates;

30 (c) In the case of the exemption of wages from garnishment
31 described in Section 222.11, contain written agreement of the obligor
32 pursuant to the requirements of Section 222.11.

33 (de) In the case of an account described in Sections 222.21 or
34 222.22, refer to the name of the custodian of the account and the last
35 four digits of the account number;

36 (ed) In the case of an annuity contract or life insurance policy
37 described in Section 222.14, or the proceeds of life insurance
38 described in Section 222.13, or benefits under disability insurance
39 described in Section 222.18, refer to the name of the issuer or
40 insurer and the last four digits of the annuity or policy number;

41 (fe) In the case of other ~~individual~~ property described in
42 Section 222.25, refer specifically to the ~~individual~~ property; and

43 (gf) Contain the following language in at least 14-point type in
44 capital letters stating:

45 **WARNING - BY SIGNING THIS DOCUMENT YOU ARE PLEDGING YOUR**
46 **EXEMPT ASSETS OR WAIVING YOUR RIGHT TO PROTECT YOUR EXEMPT**
47 **ASSETS FROM ATTACHMENT, GARNISHMENT OR OTHER LEGAL PROCESS**
48 **IN FAVOR OF YOUR CREDITOR. THIS WILL CAUSE YOU TO FORFEIT**
49 **YOUR STATUTORY RIGHTS AND MAY CAUSE ADVERSE INCOME TAX**

50 **CONSEQUENCES - PLEASE CONSULT YOUR ATTORNEY OR TAX ADVISOR**
 51 **BEFORE SIGNING THIS FORM.**

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 53 FLORIDA LAW PROVIDES THAT YOUR RETIREMENT AND OTHER
 54 ACCOUNTS DESCRIBED IN FLORIDA STATUTES SECTIONS 222.21 AND
 55 222.22, ANNUITY CONTRACTS AND THE CASH SURRENDER VALUE OF
 56 LIFE INSURANCE POLICIES DESCRIBED IN FLORIDA STATUTES
 57 SECTION 222.14, THE PROCEEDS OF LIFE INSURANCE DESCRIBED IN
 58 SECTION 222.13, THE BENEFITS UNDER DISABILITY INSURANCE
 59 DESCRIBED IN SECTION 222.18, AND CERTAIN PERSONAL PROPERTY
 60 DESCRIBED IN FLORIDA STATUTES SECTION 222.25 ARE EXEMPT
 61 FROM ~~CREDITOR~~-ATTACHMENT, GARNISHMENT OR OTHER LEGAL
 62 PROCESS IN FAVOR OF YOUR CREDITORS. Initial _____

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 64 ADDITIONALLY, THE PLEDGE OF YOUR RETIREMENT AND OTHER
 65 ACCOUNTS DESCRIBED IN FLORIDA STATUTES SECTIONS 222.21 AND
 66 222.22, ANNUITY CONTRACTS AND THE CASH SURRENDER VALUE OF
 67 LIFE INSURANCE POLICIES DESCRIBED IN FLORIDA STATUTES
 68 SECTION 222.14 ~~IS LIKELY TO~~ MAY CAUSE IMMEDIATE FEDERAL
 69 (AND STATE, IF APPLICABLE) INCOME TAX CONSEQUENCES AND
 70 PENALTIES IN ADDITION TO SURRENDER CHARGES UNDER CERTAIN
 71 LIFE INSURANCE POLICIES AND ANNUITY CONTRACTS. **YOU ARE**
 72 **ADVISED TO SEEK THE ADVICE OF YOUR ATTORNEY OR TAX ADVISOR**
 73 **PRIOR TO ~~PLEDGING SUCH ASSETS AND~~ SIGNING BELOW.** Initial
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YOU CAN WAIVE THIS PROTECTION ONLY BY SIGNING THIS
DOCUMENT. DO NOT SIGN A BLANK DOCUMENT. BY INITIALING ABOVE
~~AND~~ SIGNING BELOW, AND UNDER EACH ASSET CATEGORY, YOU AGREE
TO WAIVE THE PROTECTION ~~FOR SUCH EXEMPTION~~ AS TO THE
FOLLOWING ASSETS (CIRCLE ALL APPLICABLE AND COMPLETE ALL
REQUIRED INFORMATION, OR WRITE "NOT APPLICABLE"):

RETIREMENT AND OTHER ACCOUNTS DESCRIBED IN SECTION 222.21
OR SECTION 222.22

NAME OF CUSTODIAN: _____

LAST FOUR DIGITS OF ACCOUNT NUMBER(S) : _____

OBLIGOR'S SIGNATURE: _____ DATE: _____

ANNUITY CONTRACT DESCRIBED IN SECTION 222.14

NAME OF ISSUER OF ANNUITY CONTRACT: _____

LAST FOUR DIGITS OF CONTRACT NUMBER(S) : _____

OBLIGOR'S SIGNATURE: _____ DATE: _____

LIFE INSURANCE POLICY DESCRIBED IN SECTION 222.14 (OR
PROCEEDS DESCRIBED IN SECTION 222.13)

NAME OF LIFE INSURANCE COMPANY: _____

LAST FOUR DIGITS OF POLICY NUMBER(S) : _____

OBLIGOR'S SIGNATURE: _____ DATE: _____

DISABILITY INSURANCE BENEFITS DESCRIBED IN SECTION 222.18

NAME OF INSURANCE COMPANY: _____

LAST FOUR DIGITS OF POLICY NUMBER(S) : _____

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OBLIGOR'S SIGNATURE: DATE:

PERSONAL PROPERTY DESCRIBED IN SECTION 222.25

LIST OF PROPERTY: _____

OBLIGOR'S SIGNATURE: DATE:

(Consumerobligor's Signature) (Date Signed)

I have ~~fully explained this document to the consumer~~
~~obligor and have given a copy of these signed document to~~
~~the consumer~~ obligor, and have requested that the obligor
review it before signing it. The document was completed
with the requisite information for every exempt asset
category above, or the words "not applicable" written in
the blank for the category ~~no blanks~~ before the
obligor~~consumer~~ signed the document.

(Creditor's Signature) (Date Signed)

Section 2. This act shall take effect upon becoming law.