



Civil Justice & Courts Policy Committee

**Tuesday, January 12, 2010
10:00 AM - 12:00 PM
REED HALL (102 HOB)**

ACTION PACKET

**Larry Cretul
Speaker**

**Carl J. Domino
Chair**

COMMITTEE MEETING REPORT
Civil Justice & Courts Policy Committee

1/12/2010 10:00:00AM

Location: Reed Hall (102 HOB)

Summary:

Civil Justice & Courts Policy Committee

Tuesday January 12, 2010 10:00 am

HB 47	Favorable	Yeas: 10	Nays: 0
HB 115	Favorable With Committee Substitute	Yeas: 8	Nays: 0
HB 125	Temporarily Deferred		
HB 327	Favorable	Yeas: 10	Nays: 0
HB 361	Favorable	Yeas: 11	Nays: 0
HB 409	Favorable With Committee Substitute	Yeas: 11	Nays: 0
HB 437	Favorable	Yeas: 7	Nays: 3
HB 449	Favorable	Yeas: 11	Nays: 0

Committee meeting was reported out: Tuesday, January 12, 2010 4:52:10PM

COMMITTEE MEETING REPORT
Civil Justice & Courts Policy Committee

1/12/2010 10:00:00AM

Location: Reed Hall (102 HOB)

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Carl Domino (Chair)	X		
Eric Eisnaugle			X
Adam M. Fetterman	X		
Anitere Flores	X		
James Frishe	X		
Audrey Gibson	X		
Eduardo Gonzalez	X		
Tom Grady	X		
Dave Murzin	X		
H. Marlene O'Toole	X		
Ralph Poppell	X		
Darren Soto	X		
Michael Weinstein	X		
Totals:	12	0	1

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COMMITTEE MEETING REPORT
Civil Justice & Courts Policy Committee

1/12/2010 10:00:00AM

Location: Reed Hall (102 HOB)

HB 47 : Court Actions Involving Families

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Eric Eisnaugle			X		
Adam M. Fetterman	X				
Anitere Flores	X				
James Frishe	X				
Audrey Gibson	X				
Eduardo Gonzalez	X				
Tom Grady	X				
Dave Murzin	X				
H. Marlene O'Toole	X				
Ralph Poppell	X				
Darren Soto				X	
Michael Weinstein			X		
Carl Domino (Chair)	X				
Total Yeas: 10		Total Nays: 0			

Appearances:

Court Actions Involving Families
 Brian Pitts - Information Only
 Justice 2 Jesus
 1119 Newton Ave. S
 St. Petersburg Florida 33705
 Phone: 727-897-9291

Committee meeting was reported out: Tuesday, January 12, 2010 4:52:10PM

COMMITTEE MEETING REPORT
Civil Justice & Courts Policy Committee

1/12/2010 10:00:00AM

Location: Reed Hall (102 HOB)

HB 115 : Residential Properties

Favorable With Committee Substitute

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Eric Eisnaugle			X		
Adam M. Fetterman	X				
Anitere Flores	X				
James Frishe	X				
Audrey Gibson	X				
Eduardo Gonzalez	X				
Tom Grady			X		
Dave Murzin			X		
H. Marlene O'Toole	X				
Ralph Poppell	X				
Darren Soto				X	
Michael Weinstein			X		
Carl Domino (Chair)	X				
Total Yeas: 8 Total Nays: 0					

Appearances:

Residential Properties
 Brian Pitts - Information Only
 Justice 2 Jesus
 1119 Newton Ave. S
 St. Petersburg Florida 33705
 Phone: 727-897-9291

Committee meeting was reported out: Tuesday, January 12, 2010 4:52:10PM

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 115 (2010)

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED — (Y/N)
ADOPTED AS AMENDED — (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT — (Y/N)
WITHDRAWN — (Y/N)
OTHER _____

*Adopted
w/out objection
1/12/10*

1 Council/Committee hearing bill: Civil Justice & Courts Policy
2 Committee

3 Representative(s) Fetterman offered the following:

4

5 **Amendment**

6 Remove line 759 and insert:

7 this subsection by appointing a receiver. Payments made
8 pursuant to this subsection by a tenant of assessments in lieu
9 of or as a credit against rent shall not be considered a breach
10 of any lease between the tenant and the unit owner nor serve as
11 cause for eviction or other action for failure to pay rent.
12 Under no circumstances shall the amount of assessments for which
13 a tenant is held responsible under this subsection exceed the
14 amount owed in rent to the unit owner.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 115 (2010)

Amendment No. 2

COUNCIL/COMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	_____	

*Adopted
w/out objection
1/12/10*

1 Council/Committee hearing bill: Civil Justice & Courts Policy
2 Committee

3 Representative(s) Fetterman offered the following:

4

5 **Amendment**

6 Remove lines 1970-1989 and insert:

7 the tenant discontinues tenancy in the home. The association
8 shall mail written notice to the parcel owner of the
9 association's demand that the tenant pay regular assessments to
10 the association. The tenant shall not be liable for increases in
11 the amount of the regular assessment due unless the tenant was
12 reasonably notified of the increase prior to the day that the
13 rent is due. The tenant shall be given a credit against rents
14 due to the parcel owner in the amount of assessments paid to the
15 association. The association shall, upon request, provide the
16 tenant with written receipts for payments made. The association
17 may issue notices under s. 83.56 and may sue for eviction under
18 ss. 83.59-83.625 as if the association were a landlord under
19 part II of chapter 83 should the tenant fail to pay an

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 115 (2010)

Amendment No. 2

20 assessment. However, the association shall not otherwise be
21 considered a landlord under chapter 83 and shall specifically
22 not have any duty under s. 83.51. The tenant shall not, by
23 virtue of payment of assessments, have any of the rights of a
24 parcel owner to vote in any election or to examine the books and
25 records of the association. A court may supersede the effect of
26 this subsection by appointing a receiver. Payments made pursuant
27 to this subsection by a tenant of assessments in lieu of or as a
28 credit against rent shall not be considered a breach of any
29 lease between the tenant and the parcel owner nor serve as cause
30 for eviction or other action for failure to pay rent. Under no
31 circumstances shall the amount of assessments for which a tenant
32 is held responsible under this subsection exceed the amount owed
33 in rent to the parcel owner.

COMMITTEE MEETING REPORT
Civil Justice & Courts Policy Committee

1/12/2010 10:00:00AM

Location: Reed Hall (102 HOB)

HB 125 : Rental Property Foreclosure or Short-sale Actions

Temporarily Deferred

Appearances:

Rental Property Foreclosure or Short-sale Actions/Bill & Amendment

Anthony DiMarco (Lobbyist) - Opponent

Florida Bankers Association

1001 Thomasville Road

Tallahassee Florida 32303

Phone: 850-224-2265

Committee meeting was reported out: Tuesday, January 12, 2010 4:52:10PM

COMMITTEE MEETING REPORT
Civil Justice & Courts Policy Committee

1/12/2010 10:00:00AM

Location: Reed Hall (102 HOB)

HB 327 : Community Associations

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Eric Eisnaugle			X		
Adam M. Fetterman	X				
Anitere Flores	X				
James Frishe	X				
Audrey Gibson	X				
Eduardo Gonzalez	X				
Tom Grady	X				
Dave Murzin	X				
H. Marlene O'Toole	X				
Ralph Poppell	X				
Darren Soto				X	
Michael Weinstein			X		
Carl Domino (Chair)	X				
Total Yeas: 10		Total Nays: 0			

Appearances:

Community Associations
 Brian Pitts - Information Only
 Justice 2 Jesus
 1119 Newton Ave. S
 St. Petersburg Florida 33705
 Phone: 727-897-9291

Community Associations
 Richard Pinsky (Lobbyist) - Proponent
 FL. Community Associations Manager's Alliance
 811 Forest Hill Blvd.
 West Palm Beach Florida
 Phone: 561-202-0990

Community Associations
 David Hart (Lobbyist) - Proponent
 Florida Home Builders Association
 201 East Park Avenue
 Tallahassee Florida 32301
 Phone: 850-224-4316

Committee meeting was reported out: Tuesday, January 12, 2010 4:52:10PM

COMMITTEE MEETING REPORT
Civil Justice & Courts Policy Committee

1/12/2010 10:00:00AM

Location: Reed Hall (102 HOB)

HB 361 : Trust Administration

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Eric Elsnaugle			X		
Adam M. Fetterman	X				
Anitere Flores				X	
James Frishe	X				
Audrey Gibson	X				
Eduardo Gonzalez	X				
Tom Grady	X				
Dave Murzin	X				
H. Marlene O'Toole	X				
Ralph Poppell	X				
Darren Soto	X				
Michael Weinstein	X				
Carl Domino (Chair)	X				
Total Yeas: 11 Total Nays: 0					

Committee meeting was reported out: Tuesday, January 12, 2010 4:52:10PM

COMMITTEE MEETING REPORT
Civil Justice & Courts Policy Committee

1/12/2010 10:00:00AM

Location: Reed Hall (102 HOB)

HB 409 : Garnishment

Favorable With Committee Substitute

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Eric Eisnaugle			X		
Adam M. Fetterman	X				
Anitere Flores	X				
James Frishe	X				
Audrey Gibson	X				
Eduardo Gonzalez	X				
Tom Grady	X				
Dave Murzin	X				
H. Marlene O'Toole	X				
Ralph Poppell	X				
Darren Soto	X				
Michael Weinstein			X		
Carl Domino (Chair)	X				
Total Yeas: 11		Total Nays: 0			

Appearances:

Garnishment
 Alice Vickers (Lobbyist) - Proponent
 Florida Legal Services
 2425 Torreya Drive
 Tallahassee Florida 32303
 Phone: 850-385-7900

Committee meeting was reported out: Tuesday, January 12, 2010 4:52:10PM

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 409 (2010)

Amendment No. 1

COUNCIL/COMMITTEE ACTION

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

Adopted w/out objection 1/12/10

1 Council/Committee hearing bill: Civil Justice & Courts Policy
2 Committee

3 Representative Soto offered the following:

4
5 **Amendment (with title amendment)**

6 Between lines 47-48, insert:

7 Section 2. Subsection (1) of section 77.041, Florida
8 Statutes, is amended to read:

9 77.041 Notice to individual defendant for claim of
10 exemption from garnishment; procedure for hearing.—

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

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

Amendment No. 1

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

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

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

40 If you request a hearing, it will be held as soon as
41 possible after your request is received by the court. The
42 plaintiff must file any objection within 3 business days if you
43 hand delivered to the plaintiff a copy of the form for Claim of
44 Exemption and Request for Hearing or, alternatively, 8 business
45 days if you mailed a copy of the form for claim and request to

Amendment No. 1

46 the plaintiff. If the plaintiff files an objection to your Claim
47 of Exemption and Request for Hearing, the clerk will notify you
48 and the other parties of the time and date of the hearing. You
49 may attend the hearing with or without an attorney. If the
50 plaintiff fails to file an objection, no hearing is required,
51 the writ of garnishment will be dissolved and your wages, money,
52 or property will be released.

53 YOU SHOULD FILE THE FORM FOR CLAIM OF EXEMPTION IMMEDIATELY TO
54 KEEP YOUR WAGES, MONEY, OR PROPERTY FROM BEING APPLIED TO THE
55 COURT JUDGMENT. THE CLERK CANNOT GIVE YOU LEGAL ADVICE. IF YOU
56 NEED LEGAL ASSISTANCE YOU SHOULD SEE A LAWYER. IF YOU CANNOT
57 AFFORD A PRIVATE LAWYER, LEGAL SERVICES MAY BE AVAILABLE.
58 CONTACT YOUR LOCAL BAR ASSOCIATION OR ASK THE CLERK'S OFFICE
59 ABOUT ANY LEGAL SERVICES PROGRAM IN YOUR AREA.

60 CLAIM OF EXEMPTION AND
61 REQUEST FOR HEARING

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

- 64
- _____ 1. Head of family wages. (You must check a. or
b. below.)
- 65 _____ a. I provide more than one-half of the support
for a child or other dependent and have net
earnings of ~~\$500~~ \$750 or less per week.
- 66 _____ b. I provide more than one-half of the support
for a child or other dependent, have net
earnings of more than ~~\$500~~ \$750 per week, but
have not agreed in writing to have my wages

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 409 (2010)

Amendment No. 1

garnished.

67

_____ 2. Social Security benefits.

68

_____ 3. Supplemental Security Income benefits.

69

_____ 4. Public assistance (welfare).

70

_____ 5. Workers' Compensation.

71

_____ 6. Unemployment Compensation.

72

_____ 7. Veterans' benefits.

73

_____ 8. Retirement or profit-sharing benefits or
pension money.

74

_____ 9. Life insurance benefits or cash surrender
value of a life insurance policy or proceeds
of annuity contract.

75

_____ 10. Disability income benefits.

76

_____ 11. Prepaid College Trust Fund or Medical
Savings Account.

77

_____ 12. Other exemptions as provided by law.
_____ (explain)

78

79 I request a hearing to decide the validity of my claim. Notice
80 of the hearing should be given to me at:

81 Address: _____

82 Telephone number: _____

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

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 409 (2010)

Amendment No. 1

85

86

Defendant's signature

87

Date _____

88

STATE OF FLORIDA

89

COUNTY OF

90

Sworn and subscribed to before me this _____ day of

91

...(month and year)...., by ...(name of person making

92

statement)...

93

Notary Public/Deputy Clerk

94

Personally Known _____ OR Produced Identification _____

95

Type of Identification Produced _____

96

97

98

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

99

Remove line 6 and insert:

100

garnishment; amending s. 77.041, F.S.; increasing the amount of

101

wages of a head of family that is exempt from garnishment;

102

providing an effective date.

COMMITTEE MEETING REPORT
Civil Justice & Courts Policy Committee

1/12/2010 10:00:00AM

Location: Reed Hall (102 HOB)

HB 437 : Contingency Fee Agreements Between the Department of Legal Affairs and Private Attorneys

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Eric Eisnaugle				X	
Adam M. Fetterman		X			
Anitere Flores				X	
James Frishe	X				
Audrey Gibson		X			
Eduardo Gonzalez	X				
Tom Grady	X				
Dave Murzin	X				
H. Marlene O'Toole	X				
Ralph Poppell	X				
Darren Soto		X			
Michael Weinstein			X		
Carl Domino (Chair)	X				
Total Yeas: 7 Total Nays: 3					

Appearances:

Contingency Fee Agreements Between Dept. of Legal Affairs and Private Attorneys
 Bill McCollum, Attorney General - Proponent
 Office of Attorney General
 The Capitol PL-01
 Tallahassee Florida 32399
 Phone: 850-245-0222

Contingency Fee Agreements Between Dept. of Legal Affairs and Private Attorneys
 Brian Pitts - Information Only
 Justice 2 Jesus
 1119 Newton Ave S
 St. Petersburg Florida 33705
 Phone: 727-897-9291

Contingency Fee Agreements Between Dept. of Legal Affairs and Private Attorneys
 Gary Farmer - Opponent
 Florida Justice Association
 218 South Monroe Street
 Tallahassee Florida
 Phone: 954-648-3903

Committee meeting was reported out: Tuesday, January 12, 2010 4:52:10PM

COMMITTEE MEETING REPORT
Civil Justice & Courts Policy Committee

1/12/2010 10:00:00AM

Location: Reed Hall (102 HOB)

HB 449 : Sanctions for Certain Court Pleadings

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Eric Eisnaugle			X		
Adam M. Fetterman	X				
Anitere Flores	X				
James Frishe	X				
Audrey Gibson	X				
Eduardo Gonzalez	X				
Tom Grady	X				
Dave Murzin	X				
H. Marlene O'Toole	X				
Ralph Poppell	X				
Darren Soto	X				
Michael Weinstein			X		
Carl Domino (Chair)	X				
Total Yeas: 11		Total Nays: 0			

Appearances:

Sanctions for Certain Court Pleadings

Brian Pitts - Information Only

Justice 2 Jesus

1119 Newton Ave. S

St. Petersburg Florida 33705

Phone: 727-897-9291

Committee meeting was reported out: Tuesday, January 12, 2010 4:52:10PM