

Committee Substitute for
Committee Substitute for Senate Bill No. 1552

An act relating to lis pendens; amending s. 48.23, F.S.; permitting property to be sold exempt from claims asserted in an action when the lis pendens has expired or been withdrawn or discharged; requiring a notice of lis pendens to include the date of the action or the case number of the action; extending the time in which the holder of an unrecorded interest or lien may intervene in a pending action; providing for the control and discharge of a lis pendens that no longer affects the property; providing an effective date.

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

Section 1. Section 48.23, Florida Statutes, is amended to read:

48.23 Lis pendens.—

(1)(a) ~~An~~ No action in any of the state or federal courts in this state operates as a lis pendens on any real or personal property involved therein or to be affected thereby only if until a notice of lis pendens ~~the commencement of the action~~ is recorded in the official records office of the clerk of the circuit court of the county where the property is located and such notice has not expired pursuant to subsection (2) or been withdrawn or discharged, ~~which notice contains~~

(b)1. An action that is filed for specific performance or that is not based on a duly recorded instrument has no effect, except as between the parties to the proceeding, on the title to, or on any lien upon, the real or personal property unless a notice of lis pendens has been recorded and has not expired or been withdrawn or discharged.

2. Any person acquiring for value an interest in the real or personal property during the pendency of an action described in subparagraph 1., other than a party to the proceeding or the legal successor by operation of law, or personal representative, heir, or devisee of a deceased party to the proceeding, shall take such interest exempt from all claims against the property that were filed in such action by the party who failed to record a notice of lis pendens or whose notice expired or was withdrawn or discharged, and from any judgment entered in the proceeding, notwithstanding the provisions of s. 695.01, as if such person had no actual or constructive notice of the proceeding or of the claims made therein or the documents forming the causes of action against the property in the proceeding.

(c)1. A notice of lis pendens must contain the following:

a. The names of the parties.

b. The ~~date time~~ of the institution of the action, the date of the clerk's electronic receipt, or the case number of the action.

- c. The name of the court in which it is pending,⁷
- d. A description of the property involved or to be affected,⁷ and
- e. A statement of the relief sought as to the property.

2. In the case of any notice of lis pendens filed on the same date as the pleading upon which the notice is based, the clerk's notation of the date of receipt on the notice shall satisfy the requirement that the notice contain the date of the institution of the action.

(d)(b) Except for the interest of persons in possession or easements of use, the recording filing for record of such notice of lis pendens, provided that during the pendency of the proceeding it has not expired pursuant to subsection (2) or been withdrawn or discharged, constitutes shall constitute a bar to the enforcement against the property described in the said notice of lis pendens of all interests and liens, including, but not limited to, federal tax liens and levies, unrecorded at the time of recording the filing for record such notice of lis pendens unless the holder of any such unrecorded interest or lien intervenes shall intervene in such proceedings within 30 ~~20~~ days after the filing and recording of the said notice of lis pendens. If the holder of any such unrecorded interest or lien does not intervene in the proceedings and if such proceedings are prosecuted to a judicial sale of the property described in the said notice of lis pendens, the property shall be forever discharged from all such unrecorded interests and liens. If the In the event said notice of lis pendens expires or is withdrawn or discharged by order of the court, the expiration, withdrawal, or discharge of the notice does same shall not in any way affect the validity of any unrecorded interest or lien.

(2) A ~~No~~ notice of lis pendens is not effectual for any purpose beyond 1 year from the commencement of the action and will expire at that time, unless the relief sought is disclosed by the pending initial pleading to be founded on a duly recorded instrument or on a lien claimed under part I of chapter 713 against the property involved, except when the court extends the time of expiration on reasonable notice and for good cause. The court may impose such terms for the extension of time as justice requires.

(3) When the pending initial pleading does not show that the action is founded on a duly recorded instrument or on a lien claimed under part I of chapter 713 or when the action no longer affects the subject property, the court shall may control and discharge the recorded notice of lis pendens as the court would may grant and dissolve injunctions.

(4) This section applies to all actions now or hereafter pending in any state or federal courts in this state, but the period of time specified in subsection (2) above-mentioned does not include the period of pendency of any action in an appellate court.

Section 2. This act shall take effect July 1, 2009.

Approved by the Governor May 20, 2009.

Filed in Office Secretary of State May 20, 2009.