

By the Committee on Judiciary; and Senator Powell

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1 A bill to be entitled
2 An act relating to judicial process; amending s.
3 48.021, F.S.; revising authority of special process
4 servers; revising a cross-reference; requiring that
5 civil witness subpoenas be served by certain persons;
6 amending s. 48.031, F.S.; revising requirements for
7 substituted service on the spouse of the person to be
8 served; revising requirements for documenting service
9 of process; conforming terminology; amending s.
10 48.062, F.S.; revising requirements for service on
11 limited liability companies; amending s. 48.194, F.S.;
12 revising provisions specifying who may serve process
13 outside of the state; revising requirements for
14 documenting that service has been properly made
15 outside the state; amending s. 48.21, F.S.; revising
16 requirements for return-of-service forms; authorizing
17 certain persons to electronically sign return-of-
18 service forms; amending s. 48.23, F.S.; providing that
19 a person who acquires for a value a lien on property
20 during the course of specified legal actions takes
21 such lien free of claims in certain circumstances;
22 specifying the effect of a valid, recorded notice of
23 lis pendens in certain circumstances involving a
24 judicial sale; providing applicability; amending s.
25 48.27, F.S.; revising authority of certified process
26 servers; conforming terminology; amending s.
27 316.29545, F.S.; exempting certified process servers
28 from certain window suncreening restrictions;
29 providing an effective date.

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

Section 1. Subsection (1) of section 48.021, Florida Statutes, is amended to read:

48.021 Process; by whom served.—

(1) All process shall be served by the sheriff of the county where the person to be served is found, except ~~initial~~ nonenforceable civil process, criminal witness subpoenas, and criminal summonses may be served by a special process server appointed by the sheriff as provided ~~for~~ in this section or by a certified process server as provided ~~for~~ in s. 48.27 ~~ss. 48.25-48.31~~. Civil witness subpoenas shall ~~may~~ be served by any person authorized by rules of civil procedure.

Section 2. Subsections (2) and (5) and paragraph (a) of subsection (6) of section 48.031, Florida Statutes, are amended to read:

48.031 Service of process generally; service of witness subpoenas.—

(2) (a) Substituted ~~Substitute~~ service ~~may be made~~ on the spouse of the person to be served may be made at any place in a ~~the~~ county by an individual authorized under s. 48.021 or s. 48.27 to serve process in that county, if the cause of action is not an adversarial ~~adversary~~ proceeding between the spouse and the person to be served, if the spouse requests such service or the spouse is also a party to the action, and if the spouse and person to be served reside ~~are residing~~ together in the same dwelling, regardless of whether such dwelling is located in the county where substituted service is made.

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59 (b) Substituted ~~Substitute~~ service may be made on an
60 individual doing business as a sole proprietorship at his or her
61 place of business, during regular business hours, by serving the
62 person in charge of the business at the time of service if two
63 attempts to serve the owner are ~~have been~~ made at the place of
64 business.

65 (5) A person serving process shall place, on the first page
66 only of at least one of the processes served, the date and time
67 of service, his or her initials, and, if applicable, his or her
68 identification number ~~and initials for all service of process.~~
69 ~~The person serving process shall list on the return of service~~
70 ~~form all initial pleadings delivered and served along with the~~
71 ~~process.~~ The person requesting service or the person authorized
72 to serve the process shall file the return-of-service form with
73 the court.

74 (6) (a) If the only address for a person to be served which
75 is discoverable through public records is a private mailbox, a
76 virtual office, or an executive office or mini suite,
77 substituted ~~substitute~~ service may be made by leaving a copy of
78 the process with the person in charge of the private mailbox,
79 virtual office, or executive office or mini suite, but only if
80 the process server determines that the person to be served
81 maintains a mailbox, a virtual office, or an executive office or
82 mini suite at that location.

83 Section 3. Subsection (4) of section 48.062, Florida
84 Statutes, is amended to read:

85 48.062 Service on a limited liability company.—

86 (4) If the address ~~provided~~ for the registered agent,
87 member, or manager is a residence, a ~~or~~ private mailbox, a

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88 virtual office, or an executive office or mini suite, service on
89 the domestic or foreign limited liability company, ~~domestic or~~
90 ~~foreign,~~ may be made by serving the registered agent, member, or
91 manager in accordance with s. 48.031.

92 Section 4. Subsection (1) of section 48.194, Florida
93 Statutes, is amended to read:

94 48.194 Personal service outside state.-

95 (1) Except as otherwise provided herein, service of process
96 on persons outside of this state shall be made in the same
97 manner as service within this state by any person ~~officer~~
98 authorized to serve process in the state where the person is
99 served. No order of court is required. ~~An affidavit of the~~
100 ~~officer shall be filed, stating the time, manner, and place of~~
101 ~~service.~~ A The court may consider the return-of-service form
102 described in s. 48.21 affidavit, or any other competent
103 evidence, in determining whether service has been properly made.
104 Service of process on persons outside the United States may be
105 required to conform to the provisions of the Hague Convention on
106 the Service Abroad of Judicial and Extrajudicial Documents in
107 Civil or Commercial Matters.

108 Section 5. Subsection (1) of section 48.21, Florida
109 Statutes, is amended to read:

110 48.21 Return of execution of process.-

111 (1) Each person who effects service of process shall note
112 on a return-of-service form attached thereto, the date and time
113 when it comes to hand, the date and time when it is served, the
114 manner of service, the name of the person on whom it was served,
115 and, if the person is served in a representative capacity, the
116 position occupied by the person. The return-of-service form must

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117 list all pleadings served and be signed by the person who
118 effects the service of process. However, a person who is
119 authorized under this chapter to serve process and ~~employed by a~~
120 ~~sheriff~~ who effects such ~~the~~ service of process may sign the
121 return-of-service form using an electronic signature ~~certified~~
122 ~~by the sheriff.~~

123 Section 6. Paragraphs (b) and (d) of subsection (1) of
124 section 48.23, Florida Statutes, is amended to read:

125 48.23 Lis pendens.—

126 (1)

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

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

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146 the property in the proceeding.

147 (d) Except for the interest of persons in possession or
148 easements of use, the recording of such notice of lis pendens,
149 provided that during the pendency of the proceeding it has not
150 expired pursuant to subsection (2) or been withdrawn or
151 discharged, constitutes a bar to the enforcement against the
152 property described in the notice of all interests and liens,
153 including, but not limited to, federal tax liens and levies,
154 unrecorded at the time of recording the notice unless the holder
155 of any such unrecorded interest or lien intervenes in such
156 proceedings within 30 days after the recording of the notice. If
157 the holder of any such unrecorded interest or lien does not
158 intervene in the proceedings and if such proceedings are
159 prosecuted to a judicial sale of the property described in the
160 notice, the property shall be forever discharged from all such
161 unrecorded interests and liens. A valid recorded notice of lis
162 pendens of such proceedings prosecuted to a judicial sale
163 remains in effect through the recording of any instrument
164 transferring title to the property pursuant to the final
165 judgment unless it expires, is withdrawn, or it is otherwise
166 discharged. If the notice of lis pendens expires or is withdrawn
167 or discharged, the expiration, withdrawal, or discharge of the
168 notice does not affect the validity of any unrecorded interest
169 or lien.

170 Section 7. The changes made by this act to s. 48.23,
171 Florida Statutes, are intended to clarify existing law and shall
172 apply to actions pending on the effective date of this act.

173 Section 8. Paragraph (a) of subsection (2) of section
174 48.27, Florida Statutes, is amended to read:

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175 48.27 Certified process servers.-

176 (2) (a) The addition of a person's name to the list
177 authorizes him or her to serve ~~initial~~ nonenforceable civil
178 process on a person found within the circuit where the process
179 server is certified when a civil action is ~~has been~~ filed
180 against such person in the circuit court or in a county court in
181 the state. Upon filing an action in circuit or county court, a
182 person may select from the list for the circuit where the
183 process is to be served one or more certified process servers to
184 serve ~~initial~~ nonenforceable civil process.

185 Section 9. Subsection (3) of section 316.29545, Florida
186 Statutes, is amended to read:

187 316.29545 Window sunscreening exclusions; medical
188 exemption; certain law enforcement vehicles and private
189 investigative service vehicles exempt.-

190 (3) The department shall exempt from the window
191 sunscreening restrictions of ss. 316.2953, 316.2954, and
192 316.2956 vehicles that are owned or leased by process servers
193 certified pursuant to s. 48.29 and private investigators or
194 private investigative agencies licensed under chapter 493.

195 Section 10. This act shall take effect upon becoming a law.