

By Senator Bennett

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 5 expired or been withdrawn or discharged; requiring a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

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Section 48.23, Florida Statutes, is amended to
 17 read:

18 48.23 Lis pendens.—

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 25 expired pursuant to subsection (2) or been withdrawn or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

27 (b)1. An action that is filed for specific performance or
 28 that is not based on a duly recorded instrument has no effect,
 29 except as between the parties to the proceeding, on the title

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30 to, or on any lien upon, the real or personal property unless a
31 notice of lis pendens has been recorded and has not expired or
32 been withdrawn or discharged.

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40 a notice of lis pendens or whose notice expired or was withdrawn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

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

47 a. The names of the parties.

48 b. The ~~date~~ time of the institution of the action or the
49 case number of the action.

50 c. The name of the court in which it is pending.

51 d. A description of the property involved or to be
52 affected. ~~and~~

53 e. A statement of the relief sought as to the property.

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

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

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

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88 requires.

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

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

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