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1
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5 expired or been withdrawn or discharged; requiring a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 official records office of the clerk of the
24 circuit court of the county where the property is located and
25 such notice has not expired pursuant to subsection (2) or been
26 withdrawn or discharged., ~~which notice contains~~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32 been withdrawn or discharged.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40 a notice of lis pendens or whose notice expired or was withdrawn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, the date
49 of the clerk's electronic receipt, or the case number of the
50 action.

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

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

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

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

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59 institution of the action.

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64 withdrawn or discharged, constitutes ~~shall constitute~~ a bar to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

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

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88 court may impose such terms for the extension of time as justice
89 requires.

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

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

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