

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 5 withdrawn or discharged; requiring a notice of lis pendens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

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

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

17 48.23 Lis pendens.--

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 24 expired pursuant to subsection (2) or been withdrawn or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

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

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 31 been withdrawn or discharged.

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 39 a notice of lis pendens or whose notice expired or was withdrawn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

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

46 a. The names of the parties.~~τ~~

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

49 c. The name of the court in which it is pending.~~τ~~

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

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

53 2. In the case of any notice of lis pendens filed on the
 54 same date as the pleading upon which the notice is based, the
 55 clerk's notation of the date of receipt on the notice shall

56 satisfy the requirement that the notice contain the date of the
 57 institution of the action.

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

79 (2) A ~~No~~ notice of lis pendens is not effectual for any
 80 purpose beyond 1 year from the commencement of the action and
 81 will expire at that time, unless the relief sought is disclosed
 82 by the pending ~~initial~~ pleading to be founded on a duly recorded
 83 instrument or on a lien claimed under part I of chapter 713

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84 against the property involved, except when the court extends the
85 time of expiration on reasonable notice and for good cause. The
86 court may impose such terms for the extension of time as justice
87 requires.

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

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

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