

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 5 withdrawn or discharged; requiring a notice of lis pendens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, the date of the clerk's
 7 electronic receipt, or the case number of the action;
 8 extending the time in which the holder of an unrecorded
 9 interest or lien may intervene in a pending action;
 10 providing for the control and discharge of a lis pendens
 11 that no longer affects the property; providing an
 12 effective date.

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

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

18 48.23 Lis pendens.--

19 (1) (a) An ~~Ne~~ 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 26 withdrawn or discharged., which notice contains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
 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 32 been withdrawn or discharged.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 40 a notice of lis pendens or whose notice expired or was withdrawn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
 49 date of the clerk's electronic receipt, or the case number of
 50 the 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
 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

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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
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.