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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2018	.	
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The Committee on Judiciary (Steube) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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



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12 appointed by the sheriff as provided ~~for~~ in this section or by a
13 certified process server as provided ~~for~~ in s. 48.27 ~~ss. 48.25-~~
14 ~~48.31~~. Civil witness subpoenas shall ~~may~~ be served by any person
15 authorized by rules of civil procedure.

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

19 48.031 Service of process generally; service of witness
20 subpoenas.—

21 (2) (a) Substituted ~~Substitute~~ service ~~may be made~~ on the
22 spouse of the person to be served may be made at any place in a
23 ~~the~~ county by an individual authorized under s. 48.021 or s.
24 48.27 to serve process in that county, if the cause of action is
25 not an adversarial adversary proceeding between the spouse and
26 the person to be served, if the spouse requests such service or
27 the spouse is also a party to the action, and if the spouse and
28 person to be served reside ~~are residing~~ together in the same
29 dwelling, regardless of whether such dwelling is located in the
30 county where substituted service is made.

31 (b) Substituted ~~Substitute~~ service may be made on an
32 individual doing business as a sole proprietorship at his or her
33 place of business, during regular business hours, by serving the
34 person in charge of the business at the time of service if two
35 attempts to serve the owner are ~~have been~~ made at the place of
36 business.

37 (5) A person serving process shall place, on the first page
38 only of at least one of the processes served, the date and time
39 of service, his or her initials, and, if applicable, his or her
40 identification number ~~and initials for all service of process.~~



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41 ~~The person serving process shall list on the return of service~~
42 ~~form all initial pleadings delivered and served along with the~~
43 ~~process.~~ The person requesting service or the person authorized
44 to serve the process shall file the return-of-service form with
45 the court.

46 (6) (a) If the only address for a person to be served which
47 is discoverable through public records is a private mailbox, a
48 virtual office, or an executive office or mini suite,
49 substituted ~~substitute~~ service may be made by leaving a copy of
50 the process with the person in charge of the private mailbox,
51 virtual office, or executive office or mini suite, but only if
52 the process server determines that the person to be served
53 maintains a mailbox, a virtual office, or an executive office or
54 mini suite at that location.

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

57 48.062 Service on a limited liability company.—

58 (4) If the address ~~provided~~ for the registered agent,
59 member, or manager is a residence, a ~~or~~ private mailbox, a
60 virtual office, or an executive office or mini suite, service on
61 the domestic or foreign limited liability company, ~~domestic or~~
62 ~~foreign,~~ may be made by serving the registered agent, member, or
63 manager in accordance with s. 48.031.

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

66 48.194 Personal service outside state.—

67 (1) Except as otherwise provided herein, service of process
68 on persons outside of this state shall be made in the same
69 manner as service within this state by any person ~~officer~~



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70 authorized to serve process in the state where the person is
71 served. No order of court is required. ~~An affidavit of the~~
72 ~~officer shall be filed, stating the time, manner, and place of~~
73 ~~service.~~ A The court may consider the return-of-service form
74 described in s. 48.21 affidavit, or any other competent
75 evidence, in determining whether service has been properly made.
76 Service of process on persons outside the United States may be
77 required to conform to the provisions of the Hague Convention on
78 the Service Abroad of Judicial and Extrajudicial Documents in
79 Civil or Commercial Matters.

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

82 48.21 Return of execution of process.—

83 (1) Each person who effects service of process shall note
84 on a return-of-service form attached thereto, the date and time
85 when it comes to hand, the date and time when it is served, the
86 manner of service, the name of the person on whom it was served,
87 and, if the person is served in a representative capacity, the
88 position occupied by the person. The return-of-service form must
89 list all pleadings served and be signed by the person who
90 effects the service of process. However, a person who is
91 authorized under this chapter to serve process and ~~employed by a~~
92 ~~sheriff~~ who effects such ~~the~~ service of process may sign the
93 return-of-service form using an electronic signature ~~certified~~
94 ~~by the sheriff.~~

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

97 48.23 Lis pendens.—

98 (1)



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

105 2. Any person acquiring for value an interest in, or lien
106 upon, the real or personal property during the pendency of an
107 action described in subparagraph 1., other than a party to the
108 proceeding or the legal successor by operation of law, or
109 personal representative, heir, or devisee of a deceased party to
110 the proceeding, shall take such interest or lien exempt from all
111 claims against the property that were filed in such action by
112 the party who failed to record a notice of lis pendens or whose
113 notice expired or was withdrawn or discharged, and from any
114 judgment entered in the proceeding, notwithstanding the
115 provisions of s. 695.01, as if such person had no actual or
116 constructive notice of the proceeding or of the claims made
117 therein or the documents forming the causes of action against
118 the property in the proceeding.

119 (d) Except for the interest of persons in possession or
120 easements of use, the recording of such notice of lis pendens,
121 provided that during the pendency of the proceeding it has not
122 expired pursuant to subsection (2) or been withdrawn or
123 discharged, constitutes a bar to the enforcement against the
124 property described in the notice of all interests and liens,
125 including, but not limited to, federal tax liens and levies,
126 unrecorded at the time of recording the notice unless the holder
127 of any such unrecorded interest or lien intervenes in such



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128 proceedings within 30 days after the recording of the notice. If
129 the holder of any such unrecorded interest or lien does not
130 intervene in the proceedings and if such proceedings are
131 prosecuted to a judicial sale of the property described in the
132 notice, the property shall be forever discharged from all such
133 unrecorded interests and liens. A valid recorded notice of lis
134 pendens of such proceedings prosecuted to a judicial sale
135 remains in effect through the recording of any instrument
136 transferring title to the property pursuant to the final
137 judgment unless it expires, is withdrawn, or it is otherwise
138 discharged. If the notice of lis pendens expires or is withdrawn
139 or discharged, the expiration, withdrawal, or discharge of the
140 notice does not affect the validity of any unrecorded interest
141 or lien.

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

145 Section 8. Paragraph (a) of subsection (2) of section
146 48.27, Florida Statutes, is amended to read:

147 48.27 Certified process servers.—

148 (2) (a) The addition of a person's name to the list
149 authorizes him or her to serve ~~initial~~ nonenforceable civil
150 process on a person found within the circuit where the process
151 server is certified when a civil action is ~~has been~~ filed
152 against such person in the circuit court or in a county court in
153 the state. Upon filing an action in circuit or county court, a
154 person may select from the list for the circuit where the
155 process is to be served one or more certified process servers to
156 serve ~~initial~~ nonenforceable civil process.



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157 Section 9. This act shall take effect upon becoming a law.

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159 ===== T I T L E A M E N D M E N T =====

160 And the title is amended as follows:

161 Delete everything before the enacting clause

162 and insert:

163 A bill to be entitled

164 An act relating to judicial process; amending s.

165 48.021, F.S.; revising authority of special process

166 servers; revising a cross-reference; requiring that

167 civil witness subpoenas be served by certain persons;

168 amending s. 48.031, F.S.; revising requirements for

169 substituted service on the spouse of the person to be

170 served; revising requirements for documenting service

171 of process; conforming terminology; amending s.

172 48.062, F.S.; revising requirements for service on

173 limited liability companies; amending s. 48.194, F.S.;

174 revising provisions specifying who may serve process

175 outside of the state; revising requirements for

176 documenting that service has been properly made

177 outside the state; amending s. 48.21, F.S.; revising

178 requirements for return-of-service forms; authorizing

179 certain persons to electronically sign return-of-

180 service forms; amending s. 48.23, F.S.; providing that

181 a person who acquires for a value a lien on property

182 during the course of specified legal actions takes

183 such lien free of claims in certain circumstances;

184 specifying the effect of a valid, recorded notice of

185 lis pendens in certain circumstances involving a



186 | judicial sale; providing applicability; amending s.
187 | 48.27, F.S.; revising authority of certified process
188 | servers; conforming terminology; providing an
189 | effective date.