

By the Committees on Community Affairs; and Judiciary; and
Senator Powell

578-02721-19

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1 A bill to be entitled
2 An act relating to judicial process; amending s.
3 48.23, F.S.; providing that a person who acquires for
4 value a lien on property during the course of
5 specified legal actions takes such lien free of claims
6 in certain circumstances; specifying the effect of a
7 valid, recorded notice of lis pendens in certain
8 circumstances involving a judicial sale; providing
9 applicability; amending s. 48.021, F.S.; revising
10 authority of special process servers; revising a
11 cross-reference; requiring that civil witness
12 subpoenas be served by certain persons; amending s.
13 48.031, F.S.; revising requirements for substituted
14 service on the spouse of the person to be served;
15 revising requirements for documenting service of
16 process; conforming terminology; amending s. 48.062,
17 F.S.; revising requirements for service on limited
18 liability companies; amending s. 48.194, F.S.;
19 revising provisions specifying who may serve process
20 outside of the state; revising requirements for
21 documenting that service has been properly made
22 outside the state; amending s. 48.21, F.S.; revising
23 requirements for return-of-service forms; authorizing
24 certain persons to electronically sign return-of-
25 service forms; amending s. 316.29545, F.S.; exempting
26 certified process servers from certain window
27 sunscreening restrictions; providing an effective
28 date.

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

31
32 Section 1. Paragraphs (b) and (d) of subsection (1) of
33 section 48.23, Florida Statutes, are amended to read:

34 48.23 Lis pendens.—

35 (1)

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41 been withdrawn or discharged.

42 2. Any person acquiring for value an interest in, or lien
43 upon, the real or personal property during the pendency of an
44 action described in subparagraph 1., other than a party to the
45 proceeding or the legal successor by operation of law, or
46 personal representative, heir, or devisee of a deceased party to
47 the proceeding, shall take such interest or lien exempt from all
48 claims against the property that were filed in such action by
49 the party who failed to record a notice of lis pendens or whose
50 notice expired or was withdrawn or discharged, and from any
51 judgment entered in the proceeding, notwithstanding the
52 provisions of s. 695.01, as if such person had no actual or
53 constructive notice of the proceeding or of the claims made
54 therein or the documents forming the causes of action against
55 the property in the proceeding.

56 (d) Except for the interest of persons in possession or
57 easements of use, the recording of such notice of lis pendens,
58 provided that during the pendency of the proceeding it has not

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59 expired pursuant to subsection (2) or been withdrawn or
60 discharged, constitutes a bar to the enforcement against the
61 property described in the notice of all interests and liens,
62 including, but not limited to, federal tax liens and levies,
63 unrecorded at the time of recording the notice unless the holder
64 of any such unrecorded interest or lien intervenes in such
65 proceedings within 30 days after the recording of the notice. If
66 the holder of any such unrecorded interest or lien does not
67 intervene in the proceedings and if such proceedings are
68 prosecuted to a judicial sale of the property described in the
69 notice, the property shall be forever discharged from all such
70 unrecorded interests and liens. A valid recorded notice of lis
71 pendens of such proceedings prosecuted to a judicial sale
72 remains in effect through the recording of any instrument
73 transferring title to the property pursuant to the final
74 judgment unless it expires, is withdrawn, or it is otherwise
75 discharged. If the notice of lis pendens expires or is withdrawn
76 or discharged, the expiration, withdrawal, or discharge of the
77 notice does not affect the validity of any unrecorded interest
78 or lien.

79 Section 2. The changes made by this act to s. 48.23,
80 Florida Statutes, are intended to clarify existing law and shall
81 apply to actions pending on the effective date of this act.

82 Section 3. Subsection (1) of section 48.021, Florida
83 Statutes, is amended to read:

84 48.021 Process; by whom served.—

85 (1) All process shall be served by the sheriff of the
86 county where the person to be served is found, except ~~initial~~
87 nonenforceable civil process, criminal witness subpoenas, and

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88 criminal summonses may be served by a special process server
89 appointed by the sheriff as provided ~~for~~ in this section or by a
90 certified process server as provided ~~for~~ in s. 48.27 ~~ss. 48.25-~~
91 ~~48.31~~. Civil witness subpoenas shall ~~may~~ be served by any person
92 authorized by rules of civil procedure.

93 Section 4. Subsections (2) and (5) and paragraph (a) of
94 subsection (6) of section 48.031, Florida Statutes, are amended
95 to read:

96 48.031 Service of process generally; service of witness
97 subpoenas.—

98 (2) (a) Substituted ~~Substitute~~ service ~~may be made~~ on the
99 spouse of the person to be served may be made at any place in a
100 ~~the~~ county by an individual authorized under s. 48.021 or s.
101 48.27 to serve process in that county, if the cause of action is
102 not an adversarial adversary proceeding between the spouse and
103 the person to be served, if the spouse requests such service or
104 the spouse is also a party to the action, and if the spouse and
105 person to be served reside ~~are residing~~ together in the same
106 dwelling, regardless of whether such dwelling is located in the
107 county where substituted service is made.

108 (b) Substituted ~~Substitute~~ service may be made on an
109 individual doing business as a sole proprietorship at his or her
110 place of business, during regular business hours, by serving the
111 person in charge of the business at the time of service if two
112 attempts to serve the owner are ~~have been~~ made at the place of
113 business.

114 (5) A person serving process shall place, on the first page
115 only of at least one of the processes served, the date and time
116 of service, his or her initials or signature, and, if

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117 ~~applicable,~~ his or her identification number ~~and initials for~~
118 ~~all service of process. The person serving process shall list on~~
119 ~~the return-of-service form all initial pleadings delivered and~~
120 ~~served along with the process.~~ The person requesting service or
121 the person authorized to serve the process shall file the
122 return-of-service form with the court.

123 (6) (a) If the only address for a person to be served which
124 is discoverable through public records is a private mailbox, a
125 virtual office, or an executive office or mini suite,
126 substituted ~~substitute~~ service may be made by leaving a copy of
127 the process with the person in charge of the private mailbox,
128 virtual office, or executive office or mini suite, but only if
129 the process server determines that the person to be served
130 maintains a mailbox, a virtual office, or an executive office or
131 mini suite at that location.

132 Section 5. Subsection (4) of section 48.062, Florida
133 Statutes, is amended to read:

134 48.062 Service on a limited liability company.—

135 (4) If the address ~~provided~~ for the registered agent,
136 member, or manager is a residence, a ~~or~~ private mailbox, a
137 virtual office, or an executive office or mini suite, service on
138 the domestic or foreign limited liability company, ~~domestic or~~
139 ~~foreign,~~ may be made by serving the registered agent, member, or
140 manager in accordance with s. 48.031.

141 Section 6. Subsection (1) of section 48.194, Florida
142 Statutes, is amended to read:

143 48.194 Personal service outside state.—

144 (1) Except as otherwise provided herein, service of process
145 on persons outside of this state shall be made in the same

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146 manner as service within this state by any person ~~officer~~
147 authorized to serve process in the state where the person is
148 served. No order of court is required. ~~A~~ An affidavit of the
149 ~~officer shall be filed, stating the time, manner, and place of~~
150 ~~service.~~ The court may consider the return-of-service form
151 described in s. 48.21 affidavit, or any other competent
152 evidence, in determining whether service has been properly made.
153 Service of process on persons outside the United States may be
154 required to conform to the provisions of the Hague Convention on
155 the Service Abroad of Judicial and Extrajudicial Documents in
156 Civil or Commercial Matters.

157 Section 7. Subsection (1) of section 48.21, Florida
158 Statutes, is amended to read:

159 48.21 Return of execution of process.-

160 (1) Each person who effects service of process shall note
161 on a return-of-service form attached thereto, the date and time
162 when it comes to hand, the date and time when it is served, the
163 manner of service, the name of the person on whom it was served,
164 and, if the person is served in a representative capacity, the
165 position occupied by the person. The return-of-service form must
166 list all pleadings served and be signed by the person who
167 effects the service of process. However, a person who is
168 authorized under this chapter to serve process and ~~employed by a~~
169 ~~sheriff~~ who effects such ~~the~~ service of process may sign the
170 return-of-service form using an electronic signature ~~certified~~
171 ~~by the sheriff~~.

172 Section 8. Section 316.29545, Florida Statutes, is amended
173 to read:

174 316.29545 Window sunscreening exclusions; medical

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175 exemption; certain law enforcement vehicles, process server
176 vehicles, and private investigative service vehicles exempt.—

177 (1) The department shall issue medical exemption
178 certificates to persons who are afflicted with Lupus, any
179 autoimmune disease, or other medical conditions which require a
180 limited exposure to light, which certificates shall entitle the
181 person to whom the certificate is issued to have sunscreening
182 material on the windshield, side windows, and windows behind the
183 driver which is in violation of the requirements of ss.
184 316.2951-316.2957. The department shall consult with the Medical
185 Advisory Board established in s. 322.125 for guidance with
186 respect to the autoimmune diseases and other medical conditions
187 which shall be included on the form of the medical certificate
188 authorized by this section. At a minimum, the medical exemption
189 certificate shall include a vehicle description with the make,
190 model, year, vehicle identification number, medical exemption
191 decal number issued for the vehicle, and the name of the person
192 or persons who are the registered owners of the vehicle. A
193 medical exemption certificate shall be nontransferable and shall
194 become null and void upon the sale or transfer of the vehicle
195 identified on the certificate.

196 (2) The department shall exempt all law enforcement
197 vehicles used in undercover or canine operations from the window
198 sunscreening requirements of ss. 316.2951-316.2957.

199 (3) The department shall exempt from the window
200 sunscreening restrictions of ss. 316.2953, 316.2954, and
201 316.2956 vehicles that are owned or leased by process servers
202 certified pursuant to s. 48.29 or by private investigators or
203 private investigative agencies licensed under chapter 493.

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204 (4) The department may charge a fee in an amount sufficient
205 to defray the expenses of issuing a medical exemption
206 certificate as described in subsection (1).

207 (5) The department is authorized to promulgate rules for
208 the implementation of this section.

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