

By Senator Powell

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1 A bill to be entitled
2 An act relating to lis pendens; amending s. 48.23,
3 F.S.; providing that a person who acquires for a value
4 a lien on property during the course of specified
5 legal actions takes such lien free of claims in
6 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; providing an effective date.

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

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

15 48.23 Lis pendens.—

16 (1)

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22 been withdrawn or discharged.

23 2. Any person acquiring for value an interest in, or lien
24 upon, the real or personal property during the pendency of an
25 action described in subparagraph 1., other than a party to the
26 proceeding or the legal successor by operation of law, or
27 personal representative, heir, or devisee of a deceased party to
28 the proceeding, shall take such interest or lien exempt from all
29 claims against the property that were filed in such action by

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30 the party who failed to record a notice of lis pendens or whose
31 notice expired or was withdrawn or discharged, and from any
32 judgment entered in the proceeding, notwithstanding the
33 provisions of s. 695.01, as if such person had no actual or
34 constructive notice of the proceeding or of the claims made
35 therein or the documents forming the causes of action against
36 the property in the proceeding.

37 (d) Except for the interest of persons in possession or
38 easements of use, the recording of such notice of lis pendens,
39 provided that during the pendency of the proceeding it has not
40 expired pursuant to subsection (2) or been withdrawn or
41 discharged, constitutes a bar to the enforcement against the
42 property described in the notice of all interests and liens,
43 including, but not limited to, federal tax liens and levies,
44 unrecorded at the time of recording the notice unless the holder
45 of any such unrecorded interest or lien intervenes in such
46 proceedings within 30 days after the recording of the notice. If
47 the holder of any such unrecorded interest or lien does not
48 intervene in the proceedings and if such proceedings are
49 prosecuted to a judicial sale of the property described in the
50 notice, the property shall be forever discharged from all such
51 unrecorded interests and liens. A valid recorded notice of lis
52 pendens of such proceedings prosecuted to a judicial sale
53 remains in effect through the recording of any instrument
54 transferring title to the property pursuant to the final
55 judgment unless it expires, is withdrawn, or it is otherwise
56 discharged. If the notice of lis pendens expires or is withdrawn
57 or discharged, the expiration, withdrawal, or discharge of the
58 notice does not affect the validity of any unrecorded interest

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59 or lien.

60 Section 2. This act is intended to clarify existing law and
61 shall apply to actions pending on the effective date of this
62 act.

63 Section 3. This act shall take effect upon becoming a law.