

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; providing an effective date.

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

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

48.23 Lis pendens.—

(1)

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lien upon, the real or personal property unless a notice of lis pendens has been recorded and has not expired or been withdrawn or discharged.

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that were filed in such action by the party who failed to record a notice of lis pendens or whose notice expired or was withdrawn or discharged, and from any judgment entered in the proceeding, notwithstanding the provisions of s. 695.01, as if such person had no actual or constructive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

51 | therein or the documents forming the causes of action against  
52 | the property in the proceeding.

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56 | expired pursuant to subsection (2) or been withdrawn or  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

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

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

81           48.021 Process; by whom served.—

82           (1) All process shall be served by the sheriff of the  
 83 county where the person to be served is found, except ~~initial~~  
 84 nonenforceable civil process, criminal witness subpoenas, and  
 85 criminal summonses may be served by a special process server  
 86 appointed by the sheriff as provided ~~for~~ in this section or by a  
 87 certified process server as provided ~~for~~ in s. 48.27 ~~ss. 48.25-~~  
 88 ~~48.31~~. Civil witness subpoenas shall ~~may~~ be served by any person  
 89 authorized by rules of civil procedure.

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

93           48.031 Service of process generally; service of witness  
 94 subpoenas.—

95           (2) (a) Substituted ~~Substitute~~ service ~~may be made~~ on the  
 96 spouse of the person to be served may be made at any place in a  
 97 ~~the~~ county by an individual authorized under s. 48.021 or s.  
 98 48.27 to serve process in that county, if the cause of action is  
 99 not an adversarial ~~adversary~~ proceeding between the spouse and  
 100 the person to be served, if the spouse requests such service or

101 the spouse is also a party to the action, and if the spouse and  
102 person to be served reside ~~are residing~~ together in the same  
103 dwelling, regardless of whether such dwelling is located in the  
104 county where substituted service is made.

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

111 (5) A person serving process shall place, on the first  
112 page only of at least one of the processes served, the date and  
113 time of service, his or her initials or signature, and, if  
114 applicable, his or her identification number ~~and initials for~~  
115 ~~all service of process. The person serving process shall list on~~  
116 ~~the return-of-service form all initial pleadings delivered and~~  
117 ~~served along with the process.~~ The person requesting service or  
118 the person authorized to serve the process shall file the  
119 return-of-service form with the court.

120 (6) (a) If the only address for a person to be served which  
121 is discoverable through public records is a private mailbox, a  
122 virtual office, or an executive office or mini suite,  
123 substituted ~~substitute~~ service may be made by leaving a copy of  
124 the process with the person in charge of the private mailbox,  
125 virtual office, or executive office or mini suite, but only if

126 | the process server determines that the person to be served  
 127 | maintains a mailbox, a virtual office, or an executive office or  
 128 | mini suite at that location.

129 | Section 5. Subsection (4) of section 48.062, Florida  
 130 | Statutes, is amended to read:

131 | 48.062 Service on a limited liability company.—

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

138 | Section 6. Subsection (1) of section 48.194, Florida  
 139 | Statutes, is amended to read:

140 | 48.194 Personal service outside state.—

141 | (1) Except as otherwise provided herein, service of  
 142 | process on persons outside of this state shall be made in the  
 143 | same manner as service within this state by any person ~~officer~~  
 144 | authorized to serve process in the state where the person is  
 145 | served. No order of court is required. A ~~An affidavit of the~~  
 146 | ~~officer shall be filed, stating the time, manner, and place of~~  
 147 | ~~service. The court may consider the~~ return-of-service form  
 148 | described in s. 48.21 ~~affidavit,~~ or any other competent  
 149 | evidence, in determining whether service has been properly made.  
 150 | Service of process on persons outside the United States may be

151 required to conform to the provisions of the Hague Convention on  
152 the Service Abroad of Judicial and Extrajudicial Documents in  
153 Civil or Commercial Matters.

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

156 48.21 Return of execution of process.—

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

169 Section 8. This act shall take effect upon becoming a law.