



WHAT IS A LIS PENDENS?

Although a lis pendens is not a lien, it is seen in a similar light and can have the effect of preventing a sale. A lis pendens gives constructive notice of litigation to potential buyers. If a notice of lis pendens is properly filed, then a buyer cannot be a bona fide purchaser (i.e., a buyer who purchases real property for valuable consideration without notice of a disputed claim or prior interest does so free of that claim or interest); at best, the buyer takes title subject to the outcome of the litigation.

Title insurance underwriters will not usually allow the issuance of an owner's title insurance policy to a buyer until the lawsuit is cleared up and/or the lis pendens is cancelled. The result is that a seller involved in litigation concerning a property cannot easily get rid of the problem by selling that property to someone else. A lis pendens operates only during the pendency of the underlying suit, and only as to those issues that are involved in the suit. It terminates with the judgment, in the absence of an appeal. A lis pendens has no life of its own apart from the underlying lawsuit.

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