

## **Lis Pendens**

[RCW 4.28.320](#) explains the effect of filing a lis pendens in more detail. The lis pendens is filed at the commencement of the action. Usually one waits until the summons and petition have been filed with the court and a cause number has been issued. Once the cause number has been issued the lis pendens can be recorded with the county's real property records so that anyone searching the title of the property will be able to find the applicable court file. In most cases, a properly recorded lis pendens will ensure that the condemnation proceeding applies to those who purchase or lease the property after the lis pendens is recorded. In a partial take situation, be sure to attach the description of the entire property affected by the condemnation, not just the portion actually being acquired.

### **RCW 4.28.320**

#### **Lis pendens in actions affecting title to real estate.**

At any time after an action affecting title to real property has been commenced, or after a writ of attachment with respect to real property has been issued in an action, or after a receiver has been appointed with respect to any real property, the plaintiff, the defendant, or such a receiver may file with the auditor of each county in which the property is situated a notice of the pendency of the action, containing the names of the parties, the object of the action, and a description of the real property in that county affected thereby. From the time of the filing only shall the pendency of the action be constructive notice to a purchaser or encumbrancer of the property affected thereby, and every person whose conveyance or encumbrance is subsequently executed or subsequently recorded shall be deemed a subsequent purchaser or encumbrancer, and shall be bound by all proceedings taken after the filing of such notice to the same extent as if he or she were a party to the action. For the purpose of this section an action shall be deemed to be pending from the time of filing such notice: PROVIDED, HOWEVER, That such notice shall be of no avail unless it shall be followed by the first publication of the summons, or by the personal service thereof on a defendant within sixty days after such filing. And the court in which the said action was commenced may, at its discretion, at any time after the action shall be settled, discontinued or abated, on application of any person aggrieved and on good cause shown and on such notice as shall be directed or approved by the court, order the notice authorized in this section to be canceled of record, in whole or in part, by the county auditor of any county in whose office the same may have been filed or recorded, and such cancellation shall be evidenced by the recording of the court order.

[2004 c 165 § 33; 1999 c 233 § 1; 1893 c 127 § 17; RRS § 243.]

#### **NOTES:**

**Purpose -- Captions not law -- 2004 c 165:** See notes following RCW [7.60.005](#).

**Effective date -- 1999 c 233:** "This act takes effect August 1, 1999." [1999 c 233 § 24.]

## **RCW 7.60.005**

### **Definitions.**

The definitions in this section apply throughout this chapter unless the context requires otherwise.

- (1) "Court" means the superior court of this state in which the receivership is pending.
- (2) "Entity" means a person other than a natural person.
- (3) "Estate" means the entirety of the property with respect to which a receiver's appointment applies, but does not include trust fund taxes or property of an individual person exempt from execution under the laws of this state. Estate property includes any nonexempt interest in property that is partially exempt, including fee title to property subject to a homestead exemption under chapter [6.13](#) RCW.
- (4) "Executory contract" means a contract where the obligation of both the person over whose property the receiver is appointed and the other party to the contract are so far unperformed that the failure of either party to the contract to complete performance would constitute a material breach of the contract, thereby excusing the other party's performance of the contract.
- (5) "Insolvent" or "insolvency" means a financial condition of a person such that the sum of the person's debts and other obligations is greater than all of that person's property, at a fair valuation, exclusive of (a) property transferred, concealed, or removed with intent to hinder, delay, or defraud any creditors of the person, and (b) any property exempt from execution under any statutes of this state.
- (6) "Lien" means a charge against or interest in property to secure payment of a debt or the performance of an obligation.
- (7) "Notice and a hearing" or any similar phrase means notice and opportunity for a hearing.
- (8) "Person" means an individual, corporation, limited liability company, general partnership, limited partnership, limited liability partnership, association, governmental entity, or other entity, of any kind or nature.
- (9) "Property" includes all right, title, and interests, both legal and equitable, and including any community property interest, in or with respect to any property of a person with respect to which a receiver is appointed, regardless of the manner by which the property has been or is acquired. "Property" includes any proceeds, products, offspring, rents, or profits of or from

property in the estate. "Property" does not include any power that a person may exercise solely for the benefit of another person or trust fund taxes.

(10) "Receiver" means a person appointed by the court as the court's agent, and subject to the court's direction, to take possession of, manage, or dispose of property of a person.

(11) "Receivership" means the case in which the receiver is appointed. "General receivership" means a receivership in which a general receiver is appointed. "Custodial receivership" means a receivership in which a custodial receiver is appointed.

(12) "Security interest" means a lien created by an agreement.

(13) "State agent" and "state agency" means any office, department, division, bureau, board, commission, or other agency of the state of Washington or of any subdivision thereof, or any individual acting in an official capacity on behalf of any state agent or state agency.

(14) "Utility" means a person providing any service regulated by the utilities and transportation commission.

[2004 c 165 § 2.]

#### **NOTES:**

**Purpose -- 2004 c 165:** "The purpose of this act is to create more comprehensive, streamlined, and cost-effective procedures applicable to proceedings in which property of a person is administered by the courts of this state for the benefit of creditors and other persons having an interest therein." [2004 c 165 § 1.]

**Captions not law -- 2004 c 165:** "Captions used in this act are not part of the law." [2004 c 165 § 48.]