

REVISED JUDICATURE ACT OF 1961 (EXCERPT)

Act 236 of 1961

CHAPTER 27

NOTICE LIS PENDENS

600.2701 Notice lis pendens; recording; copy as evidence.

Sec. 2701. (1) To render the filing of a complaint constructive notice to a purchaser of any real estate, the plaintiff shall file for record, with the register of deeds of the county in which the lands to be affected by such constructive notice are situated, a notice of the pendency of such action, setting forth the title of the cause, and the general object thereof, together with a description of the lands to be affected thereby.

(2) Such a notice may be filed with the complaint before the service of the summons; but, in that case, personal or substituted service of the summons must be made upon a defendant, within 60 days after the filing, or else, before the expiration of the same time, publication must be commenced, or service thereof must be made without the state, as prescribed by law. If the defendant dies within 60 days after the filing of the notice and before commencement or completion of service of the summons, the summons may be served upon the person substituted for the defendant within 60 days after such substitution.

(3) The register of deeds shall record such notice, in a book kept for that purpose, upon the payment of the fee as is provided by law. A copy of such record, authenticated by the register of deeds, is evidence of such notice, and the recording of the same, in all courts and places.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.2711 Notice lis pendens; filing by defendant.

Sec. 2711. Where a defendant sets up in his answer a counterclaim, upon which he demands an affirmative judgment affecting the title to, or the possession, use or enjoyment of real property, he may file for record a like notice at the time of filing his answer or at any time afterwards before final judgment. For these purposes, the defendant filing such a notice is regarded as a plaintiff and the plaintiff is regarded as a defendant.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.2715 Notice lis pendens; duration; extension.

Sec. 2715. (1) A notice of pendency hereafter filed for record shall be effective as notice for a period of 3 years from the date of filing. Before the expiration of the period, the court upon application of the plaintiff and upon such notice as may be directed or approved by the court, and for good cause shown, may from time to time grant additional orders each extending the period of duration of the notice of pendency for a period of not more than 3 years. If extended, a copy of the notice stating the date of filing of the immediately preceding notice, and stamped or marked "extended", shall be filed for record, recorded and indexed prior to the expiration of the notice of pendency then in force in the manner prescribed in this chapter.

(2) A notice of pendency heretofore filed shall be effective for a period of 3 years from the effective date of this act, and shall be subject to extension as herein prescribed.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.2721 Notice lis pendens; index by register of deeds.

Sec. 2721. Each register of deeds shall enter in an index to be kept in his office, such references to the said notices, as will enable all persons interested to search his office for such notices without inconvenience.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.2725 Notice lis pendens; cancellation; costs.

Sec. 2725. (1) If a plaintiff filing the notice before the service of the summons fails to serve the same within the time prescribed in this chapter, or after the action is settled, discontinued or abated, or final judgment is rendered therein against the party filing the notice, and the time to appeal therefrom has expired, the court, upon the application of any person aggrieved and upon such notice as may be directed or approved by it, shall direct that a notice of the pendency of an action be canceled of record by a particular register of deeds, or by all the registers of deeds, with whom it is filed.

(2) If a plaintiff filing the notice unreasonably neglects to proceed in the action, or does not commence or prosecute the action in good faith, the court, in its discretion, upon the application of any person aggrieved and upon such notice as may be directed or approved by it, may direct that a notice of the pendency of an action be canceled of record by a particular register of deeds, or by all the registers of deeds, with whom it is filed.

(3) The cancellation shall be made by a note to that effect, on the margin of the record, referring to the

order. A certified copy of the order shall be filed for record with the register of deeds before the notice is canceled.

(4) The court, in its discretion, upon directing cancellation of the notice upon termination of the action, or during the pendency thereof if satisfied that the plaintiff who filed the notice unreasonably neglected to proceed in the action or did not commence or prosecute the same in good faith, may direct the plaintiff to pay all or any of the costs and expenses occasioned by filing the notice and the cancellation of the record, aside from the costs of the action itself.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.2731 Notice lis pendens; cancellation; bond.

Sec. 2731. (1) In any pending or future action, other than an action to foreclose a mortgage or for the partition of real property or for dower, in which a notice of the pendency thereof has been filed and in which it appears to the court that adequate relief can be secured to the party who filed the same by the giving of a bond, where the cancellation of such notice is not otherwise expressly provided for or regulated, any person having an interest in the property affected by the action may apply for the cancellation thereof upon notice to all the parties to the action and to such other persons as the court may direct.

(2) The court in which the action is pending may make an order for the bond upon such terms as to costs or otherwise as may seem just. The discretion vested in the court by this section may be exercised in any such action, notwithstanding the same may have been brought to recover a judgment affecting the title to, or the possession, use or enjoyment, of specific real property.

(3) Upon an application as provided in subdivision (1) for cancellation of the notice of pendency, made in any pending or future action for specific performance of a contract to convey real property, whether or not the court determines that adequate relief can be secured to the party filing the notice of pendency by the giving of a bond, the court may order that the notice be canceled, upon the giving of a bond by the applicant upon terms fixed in the order, as provided in subdivision (2), unless the person filing the notice of pendency gives a bond, upon terms to be fixed by the order.

(4) The bond shall be in an amount which the court, upon consideration of the affidavits submitted upon the application, deems sufficient to indemnify the applicant for the damages he may incur if the notice of pendency is not canceled.

(5) The order shall provide that upon failure of the person filing the notice of pendency to give a bond in accordance with the order, the notice of pendency shall be canceled upon the giving of a bond by the applicant, as provided therein.

(6) Where the person who filed the notice of pendency has given a bond as provided in the order, recovery may be had upon the bond without further leave of the court, upon the discontinuance or abatement of the action, or the cancellation of the notice of pendency because of the neglect of such person to proceed in the action, or upon final judgment against him. The recovery may be obtained by a separate civil action, or by motion in the action as to which the notice was filed.

History: 1961, Act 236, Eff. Jan. 1, 1963.

600.2735 Notice lis pendens; suits in federal courts.

Sec. 2735. (1) This chapter applies to suits affecting title to real property in the federal courts.

(2) The register of deeds shall file and index notices of the pendency of actions in the federal courts as prescribed herein.

(3) If a suit is removed to a federal court, or remanded to a state court, no additional notice need be filed; the notice filed in the action prior to removal or remand remains in effect.

History: 1961, Act 236, Eff. Jan. 1, 1963.