

House Bill 444

By: Representatives Reeves of the 99th, Gunter of the 8th, Silcox of the 53rd, Evans of the 57th,
and Stoner of the 40th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 9 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated,
2 relating to lis pendens, so as to revise when an action may operate as a lis pendens; to
3 provide for superior court clerks to record all notices of lis pendens on real property filed
4 with them; to provide for recording fees; to provide for entry of dismissal, settlement, or final
5 judgment; to provide for when an action may operate as a lis pendens in cases involving
6 domestic relations matters and nondomestic relations matters; to require issuance by a court;
7 to provide for procedures and qualifications for issuance; to amend Article 2 of Chapter 6 of
8 Title 5 of the Official Code of Georgia Annotated, relating to appellate practice, so as to
9 provide for discretionary appeals from orders granting or denying an objection to the filing
10 of a lis pendens or granting or denying a motion canceling a lis pendens; to provide for
11 related matters; to provide for applicability; to repeal conflicting laws; and for other
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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PART I
SECTION 1-1.

Article 9 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to lis pendens, is amended by repealing and replacing Code Section 44-14-610, relating to necessity of recordation for operation of lis pendens as to real property, as follows:

"44-14-610.

(a) No action, whether seeking legal or equitable relief or both, as to real property in this state shall operate as a lis pendens as to any such real property involved therein until there shall have been filed in the office of the clerk of the superior court of the county where the real property is located a notice of the institution of the action containing the names of the parties, the time of the institution of the action, the name of the court in which it is pending, a description of the real property involved, and a statement of the relief sought regarding the property, provided that:

(1) The real property is involved in a civil action into which realty is actually and directly brought by the pleadings in a pending suit and in which relief is sought regarding that particular property; and

(2) Any person with a claim of a legal or equitable interest in such real property shall have the right to intervene and file a motion to object in the civil action to the filing of the lis pendens, and, if so filed, the court shall review and make a determination within 60 days of such filing, unless otherwise extended by the court, as to whether:

(A) The filing of the lis pendens meets the requirements of this paragraph. If the court finds that such filing does not meet the requirements of this paragraph, the court shall enter an order canceling the lis pendens; and

(B) The filer of the lis pendens shall be required to pay or post into the court's registry a bond in an amount to be determined by the court.

(b) During the pendency of the civil action, the court may enter an order canceling the lis pendens, on the court's own motion or on the motion of a party to the underlying action, upon a showing that the real property is no longer involved in the pending action."

SECTION 1-2.

Said article is further amended by repealing and replacing Code Section 44-14-611, relating to lis pendens docket, indexing, and recording fees, as follows:

"44-14-611.

The clerks of the superior courts of this state shall record all notices of lis pendens on real property filed with them and shall be allowed a fee, as required by subparagraph (f)(1)(A) of Code Section 15-6-77, for recording the lis pendens in the lis pendens docket."

SECTION 1-3.

Said article is further amended by repealing and replacing Code Section 44-14-612, relating to entry of dismissal, settlement, or final judgment, as follows:

"44-14-612.

Upon the dismissal of any action or cancellation pursuant to subsection (a) of Code Section 44-14-610 or when a settlement or final judgment is entered therein, or upon order of the court, the party initiating the filing of a lis pendens shall file a release of the lis pendens with the clerk of the superior court of each county where the lis pendens was recorded."

PART II

SECTION 2-1.

Article 2 of Chapter 6 of Title 5 of the Official Code of Georgia Annotated, relating to appellate practice, is amended by revising paragraphs (11) and (12) of, and adding a new

paragraph to, subsection (a) of Code Section 5-6-35, relating to cases requiring application for appeal, requirements for application, exhibits, response, issuance of appellate court order regarding appeal, procedure, supersedeas, jurisdiction of appeal, and appeals involving nonmonetary judgments in custody cases, as follows:

"(11) Appeals from decisions of the state courts reviewing decisions of the magistrate courts by de novo proceedings so long as the subject matter is not otherwise subject to a right of direct appeal; ~~and~~

(12) Appeals from orders terminating parental rights; and

(13) Appeals from orders under subsection (a) of Code Section 44-14-610 granting or denying an objection to the filing of a lis pendens or granting or denying a motion canceling a lis pendens."

PART III

SECTION 3-1.

This Act shall apply to any lis pendens filed in the office of the clerk of the superior court on or after July 1, 2023.

SECTION 3-2.

All laws and parts of laws in conflict with this Act are repealed.