



## WHAT IS LIS PENDENS?

A lis pendens literally means that litigation is pending. It tells the public that a lawsuit affecting the property is in progress and that any judgment awarded in that legal action will have priority as of the date of lis pendens. Some lawyers file a lis pendens automatically when they file a suit affecting title to real estate.

The lis pendens creates a cloud on the title and can prevent a potential sale of the property from taking place. A property owner's first remedy, if a lis pendens is found is to post a bond. If the court determines that the lis pendens was filed in bad faith, or that it does not affect title or possession to the property, then the court may expunge the lis pendens without the posting of a bond. You can take title subject to the lis pendens, but you would risk possible future judgments against the property. If a lis pendens exists it should be found in the preliminary report together with the liens and easements.

Read through the preliminary report carefully to determine which liens or items can stay on the property and which items must be paid settled prior to closing. Once closed, the items not taken care of will remain on the property.



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