

# LAWYERS LINK



## WHAT IS A LIS PENDENS, AND WHY DOES IT MATTER?

### What is a lis pendens?

Lis pendens is a Latin term that translates to “pending litigation.” In real estate a notice of lis pendens is a public notice in county real estate records to advise the general public, particularly anyone interested in buying or financing a given piece of real property, that a lawsuit has been filed that could affect the title or ownership interest in that property. A notice of lis pendens typically includes a

legal description of the real property, names of the parties involved, and other information about the lawsuit that affects the property.

### How does a lis pendens work?

The lis pendens process is initiated when a lawsuit involving a property is filed. A notice of lis pendens is filed with the court along with the complaint, and the notice is recorded

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with the County Recorder where the piece of property is located creating a “cloud” on the title to the property. A cloud on title is any irregularity in the chain of title. The purpose of a lis pendens is to ensure that any potential buyers are fully aware of the lawsuit involving the property prior to purchase. Buyers should be aware that when they purchase a property they assume the risks arising from any liens or pending litigation against that property.

### **Does a lis pendens prevent a property from being bought or sold?**

A lis pendens does not prevent a piece of real estate from being bought or sold, but it usually has a major impact on how desirable a piece of property will be to prospective buyers. A lis pendens could ultimately result in a new buyer losing his or her title to the property. Most buyers do not want to take the risk that a lawsuit could compromise their ownership of the property and will shy away from a home that has a lis pendens attached to it.

### **When is a lis pendens typically used?**

Lis pendens are used most often in cases of divorce and other disputes concerning the ownership of real property. For example, if a divorcing couple cannot agree on how to divide their interest in the marital home, one spouse may file a lawsuit and a notice of lis pendens to prevent the other spouse from trying to sell the house until the divorce is settled.

### **Will a lis pendens show up in a title search?**

A title search can determine if the title to a property is free and clear, meaning that there are no outstanding claims or pending litigation against the property. If a lis pendens exists, it should come up in a title search and appear in the preliminary title report together with the liens and easements. It’s important to read through the preliminary title report carefully to determine which liens or items can stay on the property and which items must be paid or settled prior to closing. Once closed, the items not taken care of will remain on the property.

### **Why a lis pendens matters.**

A lis pendens matters because if a buyer purchases real estate with a lis pendens against it, that buyer will still have to abide by the final result of the lawsuit. It is vital that prospective buyers and sellers become fully aware of what a lis pendens is so they can make more informed choices about how to proceed with future real estate transactions.

**For additional questions concerning lis pendens, contact your representative at Lawyers Title.**

*Disclaimer: This article is meant for educational purposes only and is not intended to be construed as financial, tax, legal, or insurance advice.*



## MONTHLY INDUSTRY TERMS

### **Joint Tenancy**

An equal undivided ownership of property by two or more persons. Upon death of any owner, the survivors take the decedent’s interest in the property.

### **Loan-To-Value Ratio**

The relationship between the amount of the mortgage loan and the appraised value of the property expressed as a percentage.

### **Principal, Interest, Taxes and Insurance (PITI)**

Also called monthly housing expense.