

## **BILL ANALYSIS**

H.B. 964  
By: Hartnett  
Business & Industry  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Lis pendens is a notice filed for the purpose of warning all persons that the title to certain property is in litigation and that, if they purchase the defendant's claim to the property, they are in danger of being bound by an adverse judgment. The purpose of such notice is to preserve rights pending litigation. Current law provides that a lis pendens is notice to the world of its contents and that it is effective from the time it is filed for the record, regardless of whether service has been made on the parties to the proceeding. This creates a notice at a time when a potential bona fide purchaser is most likely unable to see or otherwise have access to the notice in the record. H.B. 964 provides that notice of a lis pendens on real property is effective only after the claim has been indexed in the court records and is available to the public.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 964 amends the Property Code to specify that the time at which notice of lis pendens becomes effective is when the notice is filed for record and the notice recorded in the lis pendens record is indexed by the county clerk in the manner provided by law. The bill adds the indexing of a notice of lis pendens to the recording of that notice as a condition that prevents a transfer or encumbrance of real property involved in a proceeding by a party to the proceeding to a third party who has paid a valuable consideration and who does not have actual or constructive notice of the proceeding from taking effect.

### **EFFECTIVE DATE**

September 1, 2011.