

**SUMMARY OF RECENT  
EFFECTIVE (AND SOON TO BE EFFECTIVE)  
CHANGES TO CALIFORNIA CONSTRUCTION  
PAYMENT  
ENFORCEMENT STATUTES**

April 18, 2012

**CHANGES EFFECTIVE JANUARY 1, 2011**

<b>FORMER</b>	<b>CURRENT</b>
<p>•C.C. § 3084.*</p> <p>    i    Record lien with the recorder.</p> <p>*As of July 1, 2012: C.C. § 8416</p>	<p>•C.C. § 3084.</p> <p>    i    Must serve owner with the Mechanic’s Lien and Notice of Mechanic’s Lien.</p> <p>    i    Notice and Affidavit of service recorded.</p> <p>    i    Service by first class mail permitted.</p> <p>    i    Lien is “unenforceable as a matter of law” if claimant fails to comply</p>
<p>•C.C. § 3146.**</p> <p>    i    Lis Pendens <u>may</u> be recorded.</p> <p>**As of July 1, 2012: C.C. § 8461.</p>	<p>    i    Lis Pendens <u>shall</u> be recorded on or before 20 days filing of the Mechanic’s Lien.</p>

## CHANGES EFFECTIVE JANUARY 1, 2012

<b>CURRENTLY</b>	<b>EFFECTIVE JULY 1, 2012</b>
<p>•C.C. §§ 3082-3268 – Codify California’s mechanic’s lien laws.</p>	<p>•C.C. §§ 3082-3268 are repealed.</p> <p>•C.C. §§ 8000-9566 - Codify California’s mechanic’s lien laws. Organized into 3 categories:</p> <ol style="list-style-type: none"> <li>1. Works of improvement generally (§§8000 – 8154);</li> <li>2. Private works of improvement (§§8160-8848); and</li> <li>3. Public works of improvement (§§9000-9566)</li> </ol>
<p>•C.C. § 3090 – “Materialman”</p>	<p>•C.C. § 8028 – “Material Supplier”</p>
<p>•C.C. § 3095 – “Original Contractor”</p>	<p>•C.C. § 8018 – “Direct Contractor”</p>
<p>•C.C. §§ 3097 (Private Work) – “Preliminary 20-Day Notice”</p> <p>•C.C. §3097(b) - Except the contractor...all persons who have a direct contract with the owner...shall, as a necessary prerequisite to the validity of any claim of lien, claim on a payment bond...cause to be given to the construction lender...a written preliminary notice as prescribed by this section.</p>	<p>•C.C. §8200(e)(2) – “Preliminary Notice” A claimant with a direct contractual relationship with an owner or reputed owner is required to give preliminary notice only to the construction lender.</p>
<p>•C.C. § 3098</p>	<p>C.C. §§9300-9306. The public works preliminary notice requirements are set forth in No substantive changes to former C.C. §3098.</p>

•C.C. § 3103 - “Stop Notice”	•C.C. § 8044 - “Stop Payment Notice”
<p>C.C. § 3086 - Completion" includes: (a) The occupation or use of a work of improvement by the owner accompanied by cessation of labor. (b) The acceptance by the owner of the work of improvement. (c) A cessation of labor for 60 days, or a cessation of labor for 30 days if the owner files for record a notice of cessation.</p> <p>If the work is subject to acceptance by any public entity, completion is the date of such acceptance; provided, however, that, except as to contracts awarded under the State Contract Act, a cessation of labor on any public work for a continuous period of 30 days shall be a completion thereof.</p>	<p>•C.C. § 8180 (Private Work) “Completion” no longer includes acceptance by the owner on private work projects.</p> <p>•C.C. §9200 (Public Work) – Acceptance still constitutes completion. However, cessation must be for a continuous period of 60 days to result in “completion.”</p>
C.C. § 3093 - The notice of completion shall be recorded within 10 days after completion.	<p>C.C. § 8182 (Private Work) - An owner may record a notice of completion on or within 15 days after the date of completion of a work of improvement.</p> <p>C.C. § 9204 (Public Work) – A public entity may record a notice of completion on or within 15 days after the date of completion of the work of improvement.</p>
•C.C. § 3154 – No formal notice requirement. Petitioner must verify that the lien claimant is unwilling to execute a release of the lien...	•C.C. § 8482 – At least 10 days before filing petition, owner must give claimant notice demanding a release of lien.
•C.C. § 3154 - The prevailing party shall be entitled to attorneys' fees not to exceed two thousand dollars (\$2,000).	•C.C. § 8488 - The prevailing party is entitled to reasonable attorney's fees.
•C.C. § 3143 – Mechanic’s lien release bond shall be “in a penal sum equal to 1 1/2 times the amount of the claim...”	•C.C. § 8424 – Mechanic’s lien release bond shall be “in an amount equal to 125 percent of the amount of the claim of lien...”
•C.C. §3171 (Private Work)- If the owner, construction lender or any original contractor or subcontractor disputes the validity of any stop notice, he may file a release bond.	•C.C. § 8510 (Private Work) – A person may obtain release of funds withheld pursuant to a stop payment notice by giving the person withholding the funds a release bond.

<p>•C.C. § 3096/3171 – (Private Work). Payment bonds and stop notice release bonds must be executed by good and sufficient sureties.</p>	<p>•C.C. § 8510/8606 – The bond shall be given by an “admitted surety insurer.”</p>
<p>•C.C. § 3262(a) – Neither the owner nor original contractor...shall waive, affect, or impair the claims and liens of other persons ...except by their written consent... [that] follows substantially one of the forms set forth in this section.</p>	<p>•C.C. § 8122 – An owner, direct contractor, or subcontractor may not...waive, affect, or impair any other claimant’s rights under this part...unless and until the claimant executes and delivers a wavier and release under this article.</p>
<p>•C.C. § 3262 – Sets forth all four waiver and release forms.</p>	<p>•C.C. § 8132: Conditional Upon Progress. Minor substantive change that requires the claimant to identify, by date and amount, all previously executed conditional releases that have not been paid.</p> <p>•C.C. § 8134: Unconditional Upon Progress. No substantive change.</p> <p>•C.C. § 8136: Conditional Upon Final. Minor substantive change requiring identification of claimant’s customer.</p> <p>•C.C. § 8138: Unconditional Upon Final. No substantive change.</p>
<p>•C.C. § 3115 – Time for Recordation of lien by direct contractor.</p>	<p>•C.C. § 8412 – No substantive changes.</p>
<p>•C.C. § 3262 – Time for Recordation of lien by a Claimant other than the direct contractor.</p>	<p>•C.C. § 8414 – No substantive changes.</p>
<p>•C.C. § 3144 – Time for commencement, foreclosure action.</p> <p>•C.C. § 3145 – Credit.</p>	<p>•C.C. § 8460 – Combines both former sections.</p>