

Important Changes To Requirements For Recording Mechanic's Liens

Effective January 1, 2011, contractors will be required to comply with new requirements for the recordation of mechanic's liens on private projects in California. **FAILURE TO COMPLY WITH THESE NEW REQUIREMENTS WILL RENDER ANY MECHANIC'S LIEN UNENFORCEABLE.**

First, in addition to the previous requirements for the mechanic's lien form, effective January 1, 2011, a mechanic's lien must include each of the following:

- A proof of service affidavit completed and signed by the person serving the mechanic's lien upon the owner, reputed owner, original contractor or construction lender. The contractor's service of the mechanic lien is a new requirement and is discussed below; and
- The following statement printed in at least 10-point boldface type with the last sentence in all uppercase letters:

NOTICE OF MECHANIC'S LIEN ATTENTION!

Upon the recording of the enclosed MECHANIC'S LIEN with the county recorder's office of the county where the property is located, your property is subject to the filing of a legal action seeking a court-ordered foreclosure sale of the real property on which the lien has been recorded. That legal action must be filed with the court no later than 90 days after the date the mechanic's lien is recorded.

The party identified in the mechanic's lien may have provided labor or materials for improvements to your property and may not have been paid for these items. You are receiving this notice because it is a required step in filing a mechanic's lien foreclosure action against your property. The foreclosure action will seek a sale of your property in order to pay for unpaid labor, materials, or improvements provided to your property. This may affect your ability to borrow against, refinance, or sell the property until the mechanic's lien is released.

BECAUSE THE LIEN AFFECTS YOUR PROPERTY, YOU MAY WISH TO SPEAK WITH YOUR CONTRACTOR IMMEDIATELY, OR CONTACT AN ATTORNEY, OR FOR MORE INFORMATION ON MECHANIC'S LIENS GO TO THE CONTRACTORS' STATE LICENSE BOARD WEB SITE AT www.cslb.ca.gov.

The proof of service affidavit identified above must be made by the person serving the mechanic's lien, and it must show the date, place, and manner of service in compliance with the requirements for service discussed below. The proof of service affidavit must also contain the name and address of the person or persons upon whom a copy of the mechanic's lien was served and, if appropriate, the title or capacity in which the person was served.

Second, effective January 1, 2011, the contractor is required to serve the mechanic's lien, including the Notice of Mechanic's Lien set forth above, upon the owner, reputed owner, construction lender or original contractor. Service of the mechanic's lien, which is effective on the deposit of the mechanic's lien in the U.S. Mail, must be made before recordation of the mechanic's lien and as follows:

- If to the owner or reputed owner, service is to be made by registered mail, certified mail, or first-class mail, evidenced by a certificate of mailing, postage prepaid, and addressed to the owner or reputed owner at the owner's or reputed owner's residence or business address or at the address shown on the building permit.
- If the owner or reputed owner cannot be served by the above method, service is to be made upon the construction lender or the original contractor (the contractor in direct contract with the owner) by registered mail, certified mail, or first-class mail, evidenced by a certificate of mailing, postage prepaid.

If you would like further information, please contact
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