

LEGAL-EASE



New Changes to Mechanics Lien Law Now in Effect

As you probably know, establishing a proper mechanics lien is a tricky proposition. There are strict time requirements that must be met for serving notice of the claim of lien and for filing suit, if necessary, to enforce the lien.

California's mechanics lien law has now been amended to add to the requirements that must be followed in order for a lien to be enforceable. These new requirements were added in response to complaints from many property owners that they were not adequately notified of the pendency of a mechanics lien that could adversely affect title to their property and potentially result in a foreclosure action's being filed.

Previously, the law required that most contractors and materialmen had to provide a "preliminary notice" within 20 days of starting work or providing materials to a job. However, there was no requirement to provide the homeowner or property owner with a copy of the lien itself.

Effective January 1, 2011, a specified form of "Notice of Mechanic's Lien," accompanied by a copy of the claim of lien itself, must be provided to the property owner by registered mail, certified mail or first class mail, before the lien may be recorded.

The language of the Notice describes procedures involved in the filing of a mechanics lien and warns of the potential consequences if the claimant is not paid and the lien is foreclosed upon. The Notice must use exactly the language, and be in exactly the form, set forth in California Civil Code Section 3084, including the size of the font, bolding and so forth. A failure to do so will make the lien unenforceable.

A second amendment has added an absolute requirement that contractors are required to file and record a notice of the pendency of action (*lis pendens*) within 20 days after a lawsuit to foreclose on a mechanics lien is filed. Previously, filing a *lis pendens* was suggested, but not required.

Because of the complexity of the mechanics lien procedure, you may want to consult with an attorney with experience in this area, to make sure you have the proper language in your Notice, and all other procedures are properly complied with.

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