

AMENDED IN ASSEMBLY MARCH 27, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 568

Introduced by Assembly Member Dutra

February 21, 2001

~~An act to add Article 8 (commencing with Section 3155) to Chapter 2 of Title 15 of Part 4 of Division 3 of the Civil Code, relating to mechanics' liens, and making an appropriation therefor. An act to add Article 10.5 (commencing with Section 7170) to Chapter 9 of Division 3 of the Business and Professions Code, and to add Chapter 1.5 (commencing with Section 3107) to Title 15 of Part 4 of Division 3 of the Civil Code, relating to home improvement contracts.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 568, as amended, Dutra. ~~Mechanics' liens: homeowners' relief recovery~~ *home improvement contracts.*

The California Constitution gives workmen the right to a mechanics' lien for the value of labor and materials provided for the improvement of real property.

Existing law sets forth the procedure for the enforcement of this right, as specified. Existing law also establishes the Contractors' State Licensing Board providing for the regulation of those who contract for the improvement of real property, as specified.

~~This bill would establish the Homeowners' Protection Act of 2001, which would prohibit a mechanics' lienholder, if a specified claim is filed by the property owner, from maintaining an action to foreclose a recorded lien against a single-family dwelling that is the property owner's primary residence pursuant to any other provision of law unless~~

~~a hearing officer, in a specified hearing, determines that the property owner has not paid the original contractor in full, or the property owner has failed to hire only licensed contractors pursuant to a written contract.~~

~~The bill would establish the Homeowners' Relief Recovery Fund in the State Treasury, to be continuously appropriated for the purposes of the act, and to be administered by the Contractors' State License Board. The bill would establish the procedure for a lienholder to file a claim against the fund, to be decided by a hearing officer, as specified, and would require the board to adopt certain regulations.~~

~~The bill would provide that a finding by a hearing officer that the original contractor was paid in full by the property owner and failed to make timely payments to the mechanics' lienholders would constitute grounds for immediate suspension of the original contractor's license, except as specified.~~

~~The bill would make the presentation of false or fraudulent claims for the payment of a loss from the fund a felony, punishable as specified, and would thereby impose a state-mandated local program by creating a new crime.~~

This bill would limit the right of subcontractors to enforce a mechanics' lien for certain works of improvement on a single-family, owner-occupied dwelling to those subcontractors who give the homeowner a joint check notice, in a form specified by the Contractors' State Licensing Board, as specified. The bill would entitle the homeowner to require payments for home improvements to be made by means of a joint check to be endorsed by both the prime contractor and subcontractor, and would make related changes. These provisions would apply only to works of improvement under contracts executed on or after January 1, 2002.

Existing law requires specified attachments to accompany a home improvement contract or an estimate for home improvement work.

The bill would set forth detailed requirements for the content of home improvement contracts totaling more than \$500, as specified, including the attachments required under existing law, and would make violations of these requirements a misdemeanor punishable by a fine of not less than \$100 nor more than \$5,000, or imprisonment in a county jail not exceeding one year, or both that fine and imprisonment. In certain circumstances, the fine would not be less than \$500 nor more than \$25,000, and would be required to be in addition to full restitution. The



bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: ~~2/3~~ majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Article 8 (commencing with Section 3155) is~~
2 *SECTION 1. Article 10.5 (commencing with Section 7170) is*
3 *added to Chapter 9 of Division 3 of the Business and Professions*
4 *Code, to read:*

5
6 *Article 10.5. Home Improvement Contracts*

7
8 *7170. (a) This article applies only to home improvement*
9 *contracts, as defined in Section 7151.2, between a contractor,*
10 *whether a general building contractor or a specialty contractor,*
11 *who is licensed or required to be licensed pursuant to this chapter*
12 *with regard to the transaction, and who contracts with an owner*
13 *or tenant for work upon a residential building or structure, or upon*
14 *land adjacent thereto, for proposed repairing, remodeling,*
15 *altering, converting, modernizing, or adding to, the residential*
16 *building or structure or land adjacent thereto, if the aggregate*
17 *contract price specified in one or more improvement contracts,*
18 *including all labor, services, and materials to be furnished by the*
19 *contractor, exceeds five hundred dollars (\$500).*

20 *(b) Every home improvement contract, including every*
21 *contract that meets the requirements of subdivision (a) the primary*
22 *purpose of which is the construction of a swimming pool, is subject*
23 *to this section. Every home improvement contract, and any*
24 *changes in the contract subject to this section, shall be evidenced*
25 *by a writing and shall be signed by all the parties to the contract.*
26 *The writing shall contain all of the items specified in the following*
27 *sections.*



1 7170.01. *The contract shall include the name, address, and*
2 *license number of the contractor, and the name and registration*
3 *number of any salesperson who solicited or negotiated the*
4 *contract.*

5 7170.02. *The contract shall include the approximate date*
6 *when the work will begin and the date on which all construction*
7 *is to be completed.*

8 7170.03. *The contract shall include a plan and scale drawing*
9 *showing the shape, size, dimensions, and construction and*
10 *equipment specifications for a swimming pool and for other home*
11 *improvements, a description of the work to be done, a description*
12 *of the materials to be used and the equipment to be used or*
13 *installed, and the agreed upon consideration for the work.*

14 7170.04. *If the payment schedule contained in the contract*
15 *provides for a downpayment to be paid to the contractor by the*
16 *owner or the tenant before the commencement of work, the*
17 *downpayment may not exceed two hundred dollars (\$200) or 2*
18 *percent of the contract price for swimming pools, or one thousand*
19 *dollars (\$1,000) or 10 percent of the contract price for other home*
20 *improvements, excluding finance charges, whichever is less.*

21 7170.05. *The contract shall include a schedule of payments*
22 *showing the amount of each payment as a sum in dollars and cents.*
23 *In no event may the payment schedule provide for the contractor*
24 *to receive, nor may the contractor actually receive, payments in*
25 *excess of 100 percent of the value of the work performed on the*
26 *project at any time, excluding finance charges, except that the*
27 *contractor may receive an initial downpayment authorized by*
28 *Section 7170.04. With respect to a swimming pool contract, the*
29 *final payment may be made at the completion of the final*
30 *plastering phase of construction, provided that any installation or*
31 *construction of equipment, decking, or fencing required by the*
32 *contract is also completed. A failure by the contractor without*
33 *lawful excuse to substantially commence work within 20 days of*
34 *the approximate date specified in the contract when work will*
35 *begin shall postpone the next succeeding payment to the*
36 *contractor for that period of time equivalent to the time between*
37 *when substantial commencement was to have occurred and when*
38 *it did occur. The schedule of payments shall be stated in dollars and*
39 *cents, and shall be specifically referenced to the amount of work*
40 *or services to be performed and to any materials and equipment*



1 to be supplied. With respect to a contract that provides for a
2 schedule of monthly payments to be made by the owner or tenant
3 and for a schedule of payments to be disbursed to the contractor
4 by a person or entity to whom the contractor intends to assign the
5 right to receive the owner's or tenant's monthly payments, the
6 payments referred to in this section mean the payments to be
7 disbursed by the assignee and not those payments to be made by
8 the owner or tenant.

9 7170.06. The contract shall include a statement that, upon
10 satisfactory payment being made for any portion of the work
11 performed, the contractor shall, prior to any further payment
12 being made, furnish to the person contracting for the home
13 improvement or swimming pool a full and unconditional release
14 from any claim or mechanic's lien pursuant to Section 3114 of the
15 Civil Code for that portion of the work for which payment has been
16 made.

17 7170.07. The requirements set forth in Sections 7170.04,
18 7170.05, and 7170.06 shall not apply when the contract provides
19 for the contractor to furnish a performance and payment bond, lien
20 and completion bond, bond equivalent, or joint control approved
21 by the registrar covering full performance and completion of the
22 contract and the bonds or joint control are furnished by the
23 contractor, or when the parties agree for full payment to be made
24 upon, or for a schedule of payments to commence after,
25 satisfactory completion of the project. The contract shall contain,
26 in close proximity to the signatures of the owner or tenant and the
27 contractor, a notice in at least 10-point type stating that the owner
28 or tenant has the right to require the contractor to have a
29 performance and payment bond.

30 7170.08. No extra or change-order work may be required to
31 be performed without prior written authorization of the person
32 contracting for the construction of the home improvement or
33 swimming pool. No change-order is enforceable against the
34 person contracting for home improvement work or swimming pool
35 construction unless it clearly sets forth the scope of work
36 encompassed by the change-order and the price to be charged for
37 the changes. Any change-order forms for changes or extra work
38 shall be incorporated in, and become a part of, the contract.
39 Failure to comply with the requirements of this section does not
40 preclude the recovery of compensation for work performed based



1 upon quasi-contract, quantum meruit, restitution, or other similar
2 legal or equitable remedies designed to prevent unjust enrichment.

3 7170.09. If the contract provides for a payment of a
4 salesperson's commission out of the contract price, that payment
5 shall be made on a pro rata basis in proportion to the schedule of
6 payments made to the contractor by the disbursing party in
7 accordance with Section 7170.05.

8 7170.10. The contract shall include, for owner-occupied,
9 single-family residences, the language of the notice required
10 pursuant to Section 3107.10 of the Civil Code, and for all other
11 property, the language required pursuant to Section 7018.5.

12 7170.11. The contract shall include a description of what
13 constitutes substantial commencement of work pursuant to the
14 contract.

15 7170.12. The contract shall include a notice that failure by the
16 contractor without lawful excuse to substantially commence work
17 within 20 days from the approximate date specified in the contract
18 when work will begin is a violation of the Contractors' State
19 License Law.

20 7170.13. If the contract provides for a contractor to furnish
21 joint control, the contractor shall not have any financial or other
22 interest in the joint control.

23 7170.14. A failure by the contractor without lawful excuse to
24 substantially commence work within 20 days from the approximate
25 date specified in the contract when work will begin is a violation
26 of this article. For purposes of this article, the board shall, by
27 regulation, determine what constitutes "without lawful excuse."

28 7170.15. This article does not prohibit the parties to a home
29 improvement contract from agreeing to a contract or account
30 subject to Chapter 1 (commencing with Section 1801) of Title 2 of
31 Part 4 of Division 3 of the Civil Code.

32 7170.16. The contract shall be accompanied by and include
33 all of the items specified in Section 7159.3.

34 7170.17. The contract may contain other matters agreed to by
35 the parties to the contract.

36 7170.18. The contract shall be legible and shall be in a form
37 that clearly describes any other document that is to be
38 incorporated into the contract. Before any work is done, the owner
39 shall be furnished a copy of the written agreement, signed by the
40 contractor.



1 7170.19. *The provisions of this article are not exclusive and*
2 *do not relieve the contractor or any contract subject to it from*
3 *compliance with all other applicable provisions of law.*

4 7170.20 *A violation of this article by a licensee, or a person*
5 *required to be licensed, under this chapter, or by his or her agent*
6 *or salesperson, is a misdemeanor punishable by a fine of not less*
7 *than one hundred dollars (\$100) nor more than five thousand*
8 *dollars (\$5,000), or by imprisonment in a county jail not exceeding*
9 *one year, or by both that fine and imprisonment.*

10 7170.21. *Any person who violates this article as part of a plan*
11 *or scheme to defraud an owner of a residential or nonresidential*
12 *structure, including a mobilehome or manufactured home, in*
13 *connection with the offer or performance of repairs to the structure*
14 *for damage caused by a natural disaster, shall be ordered by the*
15 *court to make full restitution to the victim based on the person's*
16 *ability to pay, as defined in subdivision (e) of Section 1203.1b of*
17 *the Penal Code. In addition to full restitution, and imprisonment*
18 *authorized by Section 7170.20, the court may impose a fine of not*
19 *less than five hundred dollars (\$500) nor more than twenty-five*
20 *thousand dollars (\$25,000), based upon the defendant's ability to*
21 *pay. This section applies to natural disasters for which a state of*
22 *emergency is proclaimed by the Governor pursuant to Section*
23 *8625 of the Government Code or for which an emergency or major*
24 *disaster is declared by the President of the United States.*

25 7170.22. (a) *An indictment or information against a person*
26 *who is not licensed, but who is required to be licensed under this*
27 *chapter, shall be brought, or a criminal complaint filed, for a*
28 *violation of this article within four years from the date the buyer*
29 *signs the contract.*

30 (b) *An indictment or information against a person who is*
31 *licensed under this chapter shall be brought, or a criminal*
32 *complaint filed, for a violation of this article within one year from*
33 *the date the buyer signs the contract.*

34 7170.23. *The limitations on actions in this article shall not*
35 *apply to any administrative action filed against a licensed*
36 *contractor.*

37 SEC. 2. *Chapter 1.5 (commencing with Section 3107) is*
38 *added to Title 15 of Part 4 of Division 3 of the Civil Code, to read:*
39



CHAPTER 1.5. LIEN RIGHTS IN WORKS OF IMPROVEMENT ON SINGLE-FAMILY OWNER-OCCUPIED DWELLINGS

3107. This chapter shall be known and may be cited as the "Home Improvement Lien Rights Act."

3107.1. This chapter applies only to works of improvement on single-family, owner-occupied dwellings.

3107.2. (a) A person described in Section 3110 who furnishes labor, services, equipment, or material in a work of improvement of a single-family, owner-occupied dwelling may elect to use the procedure under this chapter or may rely on the rights under his or her contract with other persons. A person under direct contract with the homeowner, one performing actual labor for wages as described in subdivision (a) of Section 3089, or a person or entity to whom a portion of a laborer's compensation is paid as described in subdivision (b) of Section 3089, is not required to make this election in order to maintain mechanics' lien rights.

(b) Notwithstanding Sections 3097 and 3114, a person described in Section 3110, other than the prime contractor and one who is not exempt under subdivision (a), is entitled to enforce a lien under this title only if the person gives the homeowner a joint check notice under this chapter.

(c) The joint check notice may be given by any of the following methods:

(1) Personal delivery.

(2) Leaving it at the dwelling address or place of business with a person in charge.

(3) First-class registered or certified mail, postage prepaid, addressed to the homeowner at his or her residence or place of business address.

(d) A copy of the joint check notice shall also be given to the prime contractor.

3107.3. (a) The joint check notice is effective only if the homeowner receives it before making payment to the prime contractor under the terms of the contract for the labor, services, equipment, or material provided.

(b) For purposes of this chapter, "prime contractor" means a contractor who contracts directly with a homeowner.



1 3107.4. The form of the joint check notice shall be prepared
2 by the Contractors' State License Board and shall include the
3 following information:

4 (a) The name and address of the person furnishing labor,
5 services, equipment, or materials, who is requesting a joint check.

6 (b) The name of the homeowner who contracted with the prime
7 contractor for the labor, services, equipment, or materials.

8 (c) The address of the single-family, owner-occupied dwelling.

9 (d) A brief description of the services or material provided, or
10 to be provided, and the amount the prime contractor agreed to pay
11 for these services and materials.

12 (e) A brief statement of the rights and duties under this chapter
13 in plain English, including the substance of the following:

14
15 *“Joint Check Requirement*

16
17 *“Section 3107.3 of the California Civil Code*

18
19 *“To protect yourself from a lien, you must pay your contractor*
20 *and me by a check made out to both of us. Write a joint check only*
21 *after your contractor provides you with a request for payment that*
22 *includes payment for my services or for equipment or material I*
23 *supplied.*

24 *“If you pay the contractor without using a joint check, and the*
25 *contractor does not pay me, I have the right to place a mechanics’*
26 *lien on your home and enforce my claim against you.*

27 *“I have notified your contractor of this requirement.”*

28 3107.5. To enforce a lien under this chapter, the claimant shall
29 comply with Section 3116.

30 3107.6. The preliminary notice required by subdivision (h) of
31 Section 3097 is not required pursuant to this chapter.

32 3107.7. (a) If, after the person furnishing labor, services,
33 equipment, or materials provides a joint check notice to the
34 homeowner, the prime contractor orders extra labor, services,
35 equipment, or material that would increase the amount that can be
36 claimed in a lien, the person furnishing these items must notify the
37 homeowner of the increased amount.

38 (b) The notice of the increased lien claim amount is effective
39 only if the homeowner receives it before the homeowner makes



1 *payment to the prime contractor under the terms of the contract for*
 2 *the labor, services, equipment, or material provided.*

3 *3107.8. The form of the increased lien claim notice shall be*
 4 *prepared by the Contractors' State License Board and shall*
 5 *include the following information:*

6 *(a) The date of the original joint check notice.*

7 *(b) The name and address of the person furnishing labor,*
 8 *services, equipment, or materials, who is requesting a joint check*
 9 *or direct payment.*

10 *(c) The name of the homeowner who contracted for the labor,*
 11 *services, equipment, or materials.*

12 *(d) The address of the single-family, owner-occupied dwelling.*

13 *(e) A brief description of the services or material to be*
 14 *provided, or already provided, and the amount the prime*
 15 *contractor agreed to pay for these services and materials.*

16 *3107.9. The right to elect joint checks under this chapter may*
 17 *not be waived. A contractual provision or other agreement*
 18 *purporting to waive the rights under this chapter is void.*

19 *3107.10. The Contractors' State License Board shall prepare*
 20 *a notice entitled "Mechanics' Lien Warning" which includes a*
 21 *brief description of mechanics' liens, ways to prevent them, the*
 22 *process described in this chapter, and the rights of persons*
 23 *exempted from participating in this procedure.*

24 *3107.11. This chapter applies only to works of improvement*
 25 *under contracts executed on or after January 1, 2002.*

26 *SEC. 3. No reimbursement is required by this act pursuant to*
 27 *Section 6 of Article XIII B of the California Constitution because*
 28 *the only costs that may be incurred by a local agency or school*
 29 *district will be incurred because this act creates a new crime or*
 30 *infraction, eliminates a crime or infraction, or changes the penalty*
 31 *for a crime or infraction, within the meaning of Section 17556 of*
 32 *the Government Code, or changes the definition of a crime within*
 33 *the meaning of Section 6 of Article XIII B of the California*
 34 *Constitution.*

35 ~~*added to Chapter 2 of Title 15 of Part 4 of Division 3 of the Civil*~~
 36 ~~*Code, to read:*~~

37



1 Article 8. ~~Homeowners' Protection Act of 2001~~

2
3 3155. ~~This article shall be known and may be cited as the~~
4 ~~"Homeowners' Protection Act of 2001."~~

5 3155.1. ~~For purposes of this article, the following definitions~~
6 ~~shall apply:~~

7 (a) ~~"Board" means the Contractors' State License Board.~~

8 (b) ~~"Claimant" means an "owner," as defined in subdivision~~
9 ~~(f), who has filed a claim with the Homeowners' Relief Recovery~~
10 ~~Fund pursuant to this article and who has notice of a lien recorded~~
11 ~~against his or her real property for the reasonable value of labor,~~
12 ~~services, equipment, or material provided or supplied to the~~
13 ~~property.~~

14 (c) ~~"Full payment" and "paid in full" means that the person~~
15 ~~who provided his or her labor, services, equipment, or material has~~
16 ~~received compensation for that labor, service, equipment, or~~
17 ~~material in an amount equal to the reasonable value of that labor,~~
18 ~~service, equipment, or material. A person shall not be considered~~
19 ~~to have been paid in full if 10 percent or more of any retention~~
20 ~~proceeds have been withheld.~~

21 (d) ~~"Fund" means the Homeowners' Relief Recovery Fund.~~

22 (e) ~~"Original contractor" is a person who has a direct~~
23 ~~contractual relationship with the owner of an existing~~
24 ~~single-family, owner-occupied dwelling to provide labor,~~
25 ~~services, equipment, or material toward a work of improvement on~~
26 ~~that property.~~

27 (f) ~~"Owner" is a person who is the record owner of a~~
28 ~~single-family dwelling that is his or her primary residence.~~

29 (g) ~~"Building" is any structure built for the support, shelter, or~~
30 ~~enclosure of persons, animals, chattels, or property of any kind.~~

31 3155.2. ~~(a) Within the 90-day period following the recording~~
32 ~~of the lien, of if a claimant has filed a claim within that 90-day~~
33 ~~period pursuant to Section 3155.9, a lienholder may not maintain~~
34 ~~an action to foreclose a recorded mechanics lien against real~~
35 ~~property containing a single-family owner-occupied dwelling~~
36 ~~which is the primary residence of the owner pursuant to any other~~
37 ~~provision of law unless a hearing officer determines that the~~
38 ~~claimant has not paid the original contractor in full in a hearing~~
39 ~~held pursuant Section 3155.12 or that the claimant has not~~
40 ~~complied with subdivision (b).~~



1 ~~(b) In order for a claimant to receive the protection of this~~
2 ~~article against foreclosure on a lien, the claimant shall hire only~~
3 ~~licensed contractors pursuant to a written contract.~~

4 ~~3155.3. (a) There is hereby established within the State~~
5 ~~Treasury the Homeowners' Relief Recovery Fund, which is~~
6 ~~hereby continuously appropriated for the purpose of administering~~
7 ~~this article, including the payment of the compensation of hearing~~
8 ~~officers appointed pursuant to Section 3155.12, and the provision~~
9 ~~of monetary relief to any lienholder who is not paid in full for~~
10 ~~labor, services, equipment, or material.~~

11 ~~(b) The state shall not be liable for any claims against the fund~~
12 ~~except as provided in this article.~~

13 ~~3155.4. In order to establish a claim against the Homeowners'~~
14 ~~Relief Recovery Fund a claimant shall provide evidence that a~~
15 ~~mechanics' lien has been recorded against their real property~~
16 ~~pursuant to this chapter.~~

17 ~~3155.5. (a) The Contractors' State License Board shall~~
18 ~~administer the Homeowners' Relief Recovery Fund and shall~~
19 ~~develop rules and regulations, which shall be as informal as~~
20 ~~possible to administer the fund pursuant to this article.~~

21 ~~(b) The board may file a civil action against any licensed~~
22 ~~original contractor in order to obtain reimbursement to the fund for~~
23 ~~any payments made to a lienholder upon a finding by a hearing~~
24 ~~officer that the original contractor failed to pay the lienholder in~~
25 ~~full.~~

26 ~~(c) The board shall establish a toll-free telephone number to~~
27 ~~provide information to all parties involved concerning the~~
28 ~~Homeowners' Relief Recovery Fund, the hearing process, and~~
29 ~~requirements under this article.~~

30 ~~3155.6. (a) Funding shall be in an amount determined by the~~
31 ~~Contractors' State License Board to be sufficient to meet the~~
32 ~~projected claims over the next year.~~

33 ~~(b) The board shall annually determine whether the funding is~~
34 ~~sufficient to meet the projected claims over the next year and~~
35 ~~annually report to the Legislature on the need to increase or~~
36 ~~decrease the funding accordingly. In making this determination,~~
37 ~~the board shall not include in any fund balance moneys in the fund~~
38 ~~that are encumbered by claims approved pursuant to this article.~~

39 ~~(c) The board shall be responsible for an annual review or audit~~
40 ~~of the fund.~~



1 ~~3155.7.—All funding provided pursuant to Section 3155.6 shall~~
2 ~~be deposited in the State Treasury to the credit of the Homeowners’~~
3 ~~Relief Recovery Fund, which is to be used exclusively for the~~
4 ~~purposes of this article.~~

5 ~~3155.8.—Notwithstanding any other provision of law, the time~~
6 ~~for a lienholder to bring an action to foreclose a lien on a~~
7 ~~single family, owner occupied dwelling which is the primary~~
8 ~~residence of the owner shall be extended by 90 days to provide for~~
9 ~~the claim period under Section 3155.9, and shall be extended to,~~
10 ~~and include, 60 days following service of the decision by a hearing~~
11 ~~officer regarding the claimant’s claim against the Homeowners’~~
12 ~~Relief Recovery Fund.~~

13 ~~3155.9.—Within 90 days after the lienholder has recorded a lien~~
14 ~~on a single family, owner occupied dwelling which is the primary~~
15 ~~residence of the owner, the owner may file a statement of claim~~
16 ~~with the Contractors’ State License Board. The statement of claim~~
17 ~~shall include, but may not be limited to, the following:~~

18 ~~(a) A copy of any preliminary notice given by the lienholder,~~
19 ~~together with the proof of service accompanied thereby, if a~~
20 ~~lienholder is otherwise required to serve a preliminary notice.~~

21 ~~(b) A copy of the mechanics’ lien recorded in the office of the~~
22 ~~county recorder.~~

23 ~~(c) A statement of account showing all charges, credits, and~~
24 ~~balance due.~~

25 ~~(d) Proof of payment, including, but not limited to, a receipt of~~
26 ~~payment, credit card receipt, or statement or canceled check.~~

27 ~~3155.10.—Once the statement of claim described in Section~~
28 ~~3155.9 has been filed with the Contractors’ State License Board,~~
29 ~~the board shall notify the original contractor and the lienholder of~~
30 ~~the filing of the claim. The original contractor and the lienholder~~
31 ~~shall file a response within 15 days after receipt of the notice. This~~
32 ~~response shall state in detail the defense against the claim and~~
33 ~~include all documents which the respondent claims support this~~
34 ~~defense. If the original contractor contends that it has not been paid~~
35 ~~in full, the original contractor shall provide a copy of all~~
36 ~~documents in support of this contention. The lienholder, original~~
37 ~~contractor, and claimant may submit any other information to~~
38 ~~assist the hearing officer to make the determination required by~~
39 ~~this article.~~



1 3155.11. — If the original contractor fails to respond to the claim
2 filed by the claimant, it shall be presumed that the claimant paid
3 the contractor in full and the hearing officer shall then determine
4 the value of the claim based upon the documentation provided.

5 3155.12. — The board shall set a hearing date within 60 days of
6 receipt of the statement of claim at the office of the Contractors'
7 State License Board nearest to the site of the work of
8 improvement, before a hearing officer appointed by the board to
9 hear the presentation of the lienholder, the original contractor, and
10 the claimant. To the extent possible, all claims submitted on the
11 same project shall be consolidated and heard in the same hearing.
12 The Contractors' State License Board shall provide notice to the
13 original contractor, the claimant, and the lienholder of the date,
14 time, and location of this hearing.

15 3155.13. — At the hearing, the hearing officer shall first
16 determine whether the claimant has made a full payment to the
17 original contractor. If the hearing officer determines that the
18 claimant has not paid the contractor in full, the hearing officer shall
19 dismiss the claim and issue a finding that the lienholder may
20 pursue foreclosure of its mechanics' lien in the appropriate court.
21 If the hearing officer determines that the claimant has paid the
22 original contractor in full, the hearing officer shall determine the
23 validity and reasonable value of the claim and, if determined to be
24 valid, enter an order addressed to the Contractors' State License
25 Board directing it to pay the lienholder the reasonable amount of
26 the claim, subject to subdivision (a) of Section 3155.3.

27 3155.14. (a) The hearing shall be conducted in accordance
28 with Chapter 5 (commencing with Section 11500) of Part 1 of
29 Division 3 of Title 2 of the Government Code.

30 (b) The hearing officers appointed by the Contractors' State
31 License Board shall be attorneys licensed to practice in this state
32 with at least five years of experience in mechanics' lien law.

33 3155.15. (a) The findings of the hearing officer shall be final,
34 but shall impose obligations upon the claimant, original
35 contractor, and lienholder only to the extent that the claimant,
36 original contractor, or lienholder agree to be bound by those
37 obligations. However, the remedies available to a party pursuant
38 to this article, including the right to receive payment from the fund,
39 shall not be available to a party that does not agree to the
40 obligations. A lienholder shall be deemed to agree to the



1 obligations only by recording a release of the lien in the county
2 recorder's office where the real property is located. The findings
3 of the hearing officer may be entered into evidence in any
4 subsequent civil action or proceedings. The findings of the hearing
5 officer shall be served on the lienholder, original contractor, the
6 claimant, and the board no more than 10 days after the hearing.

7 (b) The Contractors' State License Board shall pay to the
8 lienholder, upon receipt of an order pursuant to Section 3155.13
9 the amount of the claim, subject to subdivision (a) of Section
10 3155.3 within 10 days of receiving evidence that the lienholder has
11 recorded a release of its lien in the county recorder's office where
12 the real property is located. The evidence shall be submitted within
13 15 days after the findings of the hearing officer are served.

14 3155.16. A finding by the hearing officer that the original
15 contractor was paid in full by the claimant and failed to make
16 timely payments to any lienholder on the work of improvement,
17 except a finding made pursuant to Section 3155.11, shall be
18 grounds for immediate suspension of the original contractor's
19 license. The original contractor shall be given notice of a hearing
20 to challenge the findings, which shall be conducted within 60 days
21 of the date of the suspension pursuant to the procedures of the
22 Contractors' State License Board. If the finding is sustained, the
23 contractor's license shall be immediately revoked and shall not be
24 reinstated until the original contractor provides to the Contractors'
25 State License Board a contractor's license bond as provided in
26 Section 7071.8 of the Business and Professions Code in the sum
27 of fifty thousand dollars (\$50,000).

28 3155.17. (a) The Contractors' State License Board shall
29 adopt and make available forms for the notice regarding the
30 claimant's rights under this article.

31 (b) The county recorder's office shall provide information
32 pursuant to subdivision (c) of Section 3155.5 at the same time that
33 notice is sent to an owner of property upon which a lien is recorded.

34 3155.18. Any firm, corporation, partnership, or association;
35 or any person acting in his or her individual capacity, who aids,
36 abets, solicits, or conspires with any person to knowingly present
37 or cause to be presented any false or fraudulent claim for the
38 payment of a loss from the fund under this article is guilty of a
39 felony punishable by imprisonment in the state prison for two,
40 three, or five years, and by a fine not exceeding fifty thousand



1 ~~dollars (\$50,000), unless the amount of the false or fraudulent~~
2 ~~claim exceeds fifty thousand dollars (\$50,000), in which event the~~
3 ~~fine may not exceed double the amount of the false or fraudulent~~
4 ~~claim.~~

5 ~~SEC. 2.—No reimbursement is required by this act pursuant to~~
6 ~~Section 6 of Article XIII B of the California Constitution because~~
7 ~~the only costs that may be incurred by a local agency or school~~
8 ~~district will be incurred because this act creates a new crime or~~
9 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
10 ~~for a crime or infraction, within the meaning of Section 17556 of~~
11 ~~the Government Code, or changes the definition of a crime within~~
12 ~~the meaning of Section 6 of Article XIII B of the California~~
13 ~~Constitution.~~

