

**Introduced by Senator Lowenthal**February 18, 2009

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An act to amend Sections 7034, 7071.5, 7071.10, 7159, 7159.1, 7159.5, 7159.14, 7164, 8513, and 17577.5 of the Business and Professions Code, to amend Sections 1917.166, 1917.615, 3059, 3060, 3319, 3320, and 3321 of, to add Title 1.4C (commencing with Section 1749.70) to Part 4 of Division 3 of, to add Part 6 (commencing with Section 8000) to Division 4 of, to repeal Chapter 8 (commencing with Section 3081.1) of Title 14 of Part 4 of Division 3 of, to repeal Title 15 (commencing with Section 3082) of Part 4 of Division 3 of, and to repeal Part 8 (commencing with Section 7100) of Division 4 of, the Civil Code, to amend Sections 86, 410.42, 708.760, 1203.61, 1281.5, and 1800 of the Code of Civil Procedure, to amend Sections 17307.5 and 81133.5 of the Education Code, to amend Sections 7480, 14975, 15820.105, 27287, 66499.2, and 66499.7 of, and to repeal Section 27361.9 of, the Government Code, to amend Sections 5463, 16017.5, 19825, and 34218 of the Health and Safety Code, to amend Section 11751.82 of the Insurance Code, to amend Section 218.5 of the Labor Code, to amend Sections 4107.7, 7103, 10222, 10822, 20104, 20134, 20461, 20496, 20682.5, 20688.4, 20813, 20815.3, 20991, 21061, 21071, 21081, 21091, 21101, 21111, 21121, 21131, 21141, 21151, 21161, 21171, 21181, 21196, 21212, 21231, 21241, 21251, 21261, 21271, 21311, 21321, 21331, 21341, 21351, 21361, 21371, 21381, 21391, 21401, 21411, 21421, 21431, 21441, 21451, 21461, 21491, 21501, 21511, 21521, 21531, 21541, 21572, 21581, 21591, 21601, 21622, and 21631 of, and to add Part 6 (commencing with Section 41010) to Division 2 of, the Public Contract Code, and to amend Section 136.5 of the Streets and Highways Code, relating to mechanics liens.

## LEGISLATIVE COUNSEL'S DIGEST

SB 189, as introduced, Lowenthal. Mechanics liens.

The California Constitution provides that mechanics, persons furnishing materials, artisans, and laborers of every class have a lien upon the property upon which they have bestowed labor or furnished material for the value of the labor done and material furnished. The California Constitution also requires the Legislature to provide, by law, for the speedy and efficient enforcement of those liens.

Existing statutory law governs works of improvement, including design professionals' liens and mechanics liens. These provisions govern the conditions required to enforce a lien and for a mechanic's lien to be deemed valid, and define the use of the terms "materialman" and "original contractor" for purposes of the mechanics' lien law.

This bill would revise and recast those statutory provisions and make both substantive and technical changes. The bill would also replace the terms "original contractor" and "materialman" with the terms "direct contractor" and "material supplier," respectively. The bill would specifically authorize the submission of notices by means of electronic communication with respect to mechanics liens. The bill would also set forth additional requirements governing the form of security for bonds and would set forth the security required for large projects with a contract price of greater than \$1,000,000 for the owner of a less than fee interest in property or \$5,000,000 for the owner of the fee interest in the property.

The bill would enact separate provisions governing private works of improvement and public works of improvement. The bill would revise and recast provisions governing design professionals' liens, mechanics liens, notices of cessation, payment bonds, and retention payments. The bill would make related and conforming changes. Because the bill would expand the class of persons who are required to submit affidavits, the bill would expand the scope of the crime of perjury, thereby imposing a state-mandated local program. The bill would also provide that any other act enacted during the 2009 calendar year that takes effect on or before January 1, 2010, and that amends, adds, or repeals any section that is amended, added, or repealed by this act, as specified, shall prevail over this act.

The bill would become operative on January 1, 2011.

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: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 7034 of the Business and Professions  
2 Code is amended to read:

3 7034. (a) No contractor ~~who~~ *that* is required to be licensed  
4 under this chapter shall insert in any contract, or be a party, with  
5 a subcontractor ~~who~~ *that* is licensed under this chapter to any  
6 contract which contains, a provision, clause, covenant, or  
7 agreement which is void or unenforceable under Section 2782 of  
8 the Civil Code.

9 (b) No contractor ~~who~~ *that* is required to be licensed under this  
10 chapter shall require a waiver of lien rights from any subcontractor,  
11 employee, or supplier in violation of Section ~~3262~~ *8160* of the  
12 Civil Code *or Section 42310 of the Public Contract Code.*

13 SEC. 2. Section 7071.5 of the Business and Professions Code  
14 is amended to read:

15 7071.5. The contractor’s bond required by this article shall be  
16 executed by an admitted surety in favor of the State of California,  
17 in a form acceptable to the registrar and filed with the registrar by  
18 the licensee or applicant. The contractor’s bond shall be for the  
19 benefit of the following:

20 (a) A homeowner contracting for home improvement upon the  
21 homeowner’s personal family residence damaged as a result of a  
22 violation of this chapter by the licensee.

23 (b) A property owner contracting for the construction of a  
24 single-family dwelling who is damaged as a result of a violation  
25 of this chapter by the licensee. That property owner shall only  
26 recover under this subdivision if the single-family dwelling is not  
27 intended for sale or offered for sale at the time the damages were  
28 incurred.

1 (c) A person damaged as a result of a willful and deliberate  
2 violation of this chapter by the licensee, or by the fraud of the  
3 licensee in the execution or performance of a construction contract.

4 (d) An employee of the licensee damaged by the licensee's  
5 failure to pay wages.

6 (e) A person or entity, including ~~an express trust fund~~ *a laborer*  
7 described in ~~subdivision (b) of Section 3111~~ 8020 of the Civil Code  
8 *or subdivision (b) of Section 41070 of the Public Contract Code,*  
9 ~~to whom~~ *which* a portion of the compensation of an employee of  
10 a licensee is paid by agreement with that employee or the collective  
11 bargaining agent of that employee, damaged as the result of the  
12 licensee's failure to pay fringe benefits for its employees, including,  
13 but not limited to, employer payments described in Section 1773.1  
14 of the Labor Code and regulations thereunder (without regard to  
15 whether the work was performed on a private or public work).  
16 Damage to ~~an express trust fund~~ *a person or entity under this*  
17 *subdivision* is limited to actual employer payments required to be  
18 made on behalf of employees of the licensee, as part of the overall  
19 compensation of those employees, which the licensee fails to pay.

20 SEC. 3. Section 7071.10 of the Business and Professions Code  
21 is amended to read:

22 7071.10. The qualifying individual's bond required by this  
23 article shall be executed by an admitted surety insurer in favor of  
24 the State of California, in a form acceptable to the registrar and  
25 filed with the registrar by the qualifying individual. The qualifying  
26 individual's bond shall not be required in addition to the  
27 contractor's bond when, as set forth under paragraph (1) of  
28 subdivision (b) of Section 7068, the individual proprietor has  
29 qualified for the license by his or her personal appearance, or the  
30 qualifier is a general partner as set forth under paragraph (2) of  
31 subdivision (b) of Section 7068. The qualifying individual's bond  
32 shall be for the benefit of the following persons:

33 (a) A homeowner contracting for home improvement upon the  
34 homeowner's personal family residence damaged as a result of a  
35 violation of this chapter by the licensee.

36 (b) A property owner contracting for the construction of a  
37 single-family dwelling who is damaged as a result of a violation  
38 of this chapter by the licensee. That property owner shall only  
39 recover under this subdivision if the single-family dwelling is not

1 intended for sale or offered for sale at the time the damages were  
2 incurred.

3 (c) A person damaged as a result of a willful and deliberate  
4 violation of this chapter by the licensee, or by the fraud of the  
5 licensee in the execution or performance of a construction contract.

6 (d) An employee of the licensee damaged by the licensee's  
7 failure to pay wages.

8 (e) A person or entity, including ~~an express trust fund~~ *a laborer*  
9 described in *subdivision (b) of Section 3111 8020* of the Civil Code  
10 *or subdivision (b) of Section 41070 of the Public Contract Code,*  
11 ~~to whom~~ *which* a portion of the compensation of an employee of  
12 a licensee is paid by agreement with that employee or the collective  
13 bargaining agent of that employee, that is damaged as the result  
14 of the licensee's failure to pay fringe benefits for its employees  
15 including, but not limited to, employer payments described in  
16 Section 1773.1 of the Labor Code and regulations adopted  
17 thereunder (without regard to whether the work was performed on  
18 a public or private work). Damage to ~~an express trust fund~~ *a person*  
19 *or entity under this subdivision* is limited to employer payments  
20 required to be made on behalf of employees of the licensee, as part  
21 of the overall compensation of those employees, which the licensee  
22 fails to pay.

23 SEC. 4. Section 7159 of the Business and Professions Code is  
24 amended to read:

25 7159. (a) (1) This section identifies the projects for which a  
26 home improvement contract is required, outlines the contract  
27 requirements, and lists the items that shall be included in the  
28 contract, or may be provided as an attachment.

29 (2) This section does not apply to service and repair contracts  
30 that are subject to Section 7159.10, if the contract for the applicable  
31 services complies with Sections 7159.10 to 7159.14, inclusive.

32 (3) This section does not apply to the sale, installation, and  
33 servicing of a fire alarm sold in conjunction with an alarm system,  
34 as defined in subdivision (n) of Section 7590.1, if all costs  
35 attributable to making the fire alarm system operable, including  
36 sale and installation costs, do not exceed five hundred dollars  
37 (\$500), and the licensee complies with the requirements set forth  
38 in Section 7159.9.

39 (4) This section does not apply to any costs associated with  
40 monitoring a burglar or fire alarm system.

1 (5) Failure by the licensee, his or her agent or salesperson, or  
2 by a person subject to be licensed under this chapter, to provide  
3 the specified information, notices, and disclosures in the contract,  
4 or to otherwise fail to comply with any provision of this section,  
5 is cause for discipline.

6 (b) For purposes of this section, “home improvement contract”  
7 means an agreement, whether oral or written, or contained in one  
8 or more documents, between a contractor and an owner or between  
9 a contractor and a tenant, regardless of the number of residence  
10 or dwelling units contained in the building in which the tenant  
11 resides, if the work is to be performed in, to, or upon the residence  
12 or dwelling unit of the tenant, for the performance of a home  
13 improvement, as defined in Section 7151, and includes all labor,  
14 services, and materials to be furnished and performed thereunder,  
15 if the aggregate contract price specified in one or more  
16 improvement contracts, including all labor, services, and materials  
17 to be furnished by the contractor, exceeds five hundred dollars  
18 (\$500). “Home improvement contract” also means an agreement,  
19 whether oral or written, or contained in one or more documents,  
20 between a salesperson, whether or not he or she is a home  
21 improvement salesperson, and an owner or a tenant, regardless of  
22 the number of residence or dwelling units contained in the building  
23 in which the tenant resides, which provides for the sale, installation,  
24 or furnishing of home improvement goods or services.

25 (c) In addition to the specific requirements listed under this  
26 section, every home improvement contract and any person subject  
27 to licensure under this chapter or his or her agent or salesperson  
28 shall comply with all of the following:

- 29 (1) The writing shall be legible.
- 30 (2) Any printed form shall be readable. Unless a larger typeface  
31 is specified in this article, text in any printed form shall be in at  
32 least 10-point typeface and the headings shall be in at least 10-point  
33 boldface type.
- 34 (3) (A) Before any work is started, the contractor shall give the  
35 buyer a copy of the contract signed and dated by both the contractor  
36 and the buyer. The buyer’s receipt of the copy of the contract  
37 initiates the buyer’s rights to cancel the contract pursuant to  
38 Sections 1689.5 to 1689.14, inclusive, of the Civil Code.

1 (B) The contract shall contain on the first page, in a typeface  
2 no smaller than that generally used in the body of the document,  
3 both of the following:

4 (i) The date the buyer signed the contract.

5 (ii) The name and address of the contractor to which the  
6 applicable “Notice of Cancellation” is to be mailed, immediately  
7 preceded by a statement advising the buyer that the “Notice of  
8 Cancellation” may be sent to the contractor at the address noted  
9 on the contract.

10 (4) A statement that, upon satisfactory payment being made for  
11 any portion of the work performed, the contractor, prior to any  
12 further payment being made, shall furnish to the person contracting  
13 for the home improvement or swimming pool work a full and  
14 unconditional release from any claim or mechanic’s lien pursuant  
15 to Section ~~3114~~ 8410 of the Civil Code for that portion of the work  
16 for which payment has been made.

17 (5) A change-order form for changes or extra work shall be  
18 incorporated into the contract and shall become part of the contract  
19 only if it is in writing and signed by the parties prior to the  
20 commencement of any work covered by a change order.

21 (6) The contract shall contain, in close proximity to the  
22 signatures of the owner and contractor, a notice stating that the  
23 owner or tenant has the right to require the contractor to have a  
24 performance and payment bond.

25 (7) If the contract provides for a contractor to furnish joint  
26 control, the contractor shall not have any financial or other interest  
27 in the joint control.

28 (8) The provisions of this section are not exclusive and do not  
29 relieve the contractor from compliance with any other applicable  
30 provision of law.

31 (d) A home improvement contract and any changes to the  
32 contract shall be in writing and signed by the parties to the contract  
33 prior to the commencement of work covered by the contract or an  
34 applicable change order and, except as provided in paragraph (8)  
35 of subdivision (a) of Section 7159.5, shall include or comply with  
36 all of the following:

37 (1) The name, business address, and license number of the  
38 contractor.

39 (2) If applicable, the name and registration number of the home  
40 improvement salesperson that solicited or negotiated the contract.

1 (3) The following heading on the contract form that identifies  
2 the type of contract in at least 10-point boldface type: “Home  
3 Improvement.”

4 (4) The following statement in at least 12-point boldface type:  
5 “You are entitled to a completely filled in copy of this agreement,  
6 signed by both you and the contractor, before any work may be  
7 started.”

8 (5) The heading: “Contract Price,” followed by the amount of  
9 the contract in dollars and cents.

10 (6) If a finance charge will be charged, the heading: “Finance  
11 Charge,” followed by the amount in dollars and cents. The finance  
12 charge is to be set out separately from the contract amount.

13 (7) The heading: “Description of the Project and Description  
14 of the Significant Materials to be Used and Equipment to be  
15 Installed,” followed by a description of the project and a description  
16 of the significant materials to be used and equipment to be installed.  
17 For swimming pools, the project description required under this  
18 paragraph also shall include a plan and scale drawing showing the  
19 shape, size, dimensions, and the construction and equipment  
20 specifications.

21 (8) If a downpayment will be charged, the details of the  
22 downpayment shall be expressed in substantially the following  
23 form, and shall include the text of the notice as specified in  
24 subparagraph (C):

25 (A) The heading: “Downpayment.”

26 (B) A space where the actual downpayment appears.

27 (C) The following statement in at least 12-point boldface type:  
28 “THE DOWNPAYMENT MAY NOT EXCEED \$1,000 OR 10  
29 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS  
30 LESS.”

31 (9) If payments, other than the downpayment, are to be made  
32 before the project is completed, the details of these payments,  
33 known as progress payments, shall be expressed in substantially  
34 the following form, and shall include the text of the statement as  
35 specified in subparagraph (C):

36 (A) A schedule of progress payments shall be preceded by the  
37 heading: “Schedule of Progress Payments.”

38 (B) Each progress payment shall be stated in dollars and cents  
39 and specifically reference the amount of work or services to be  
40 performed and materials and equipment to be supplied.



1 (C) The section of the contract reserved for the progress  
2 payments shall include the following statement in at least 12-point  
3 boldface type:

4 “The schedule of progress payments must specifically describe  
5 each phase of work, including the type and amount of work or  
6 services scheduled to be supplied in each phase, along with the  
7 amount of each proposed progress payment. IT IS AGAINST THE  
8 LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR  
9 WORK NOT YET COMPLETED, OR FOR MATERIALS NOT  
10 YET DELIVERED. HOWEVER, A CONTRACTOR MAY  
11 REQUIRE A DOWNPAYMENT.”

12 (10) The contract shall address the commencement of work to  
13 be performed in substantially the following form:

14 (A) A statement that describes what constitutes substantial  
15 commencement of work under the contract.

16 (B) The heading: “Approximate Start Date.”

17 (C) The approximate date on which work will be commenced.

18 (11) The estimated completion date of the work shall be  
19 referenced in the contract in substantially the following form:

20 (A) The heading: “Approximate Completion Date.”

21 (B) The approximate date of completion.

22 (12) If applicable, the heading: “List of Documents to be  
23 Incorporated into the Contract,” followed by the list of documents  
24 incorporated into the contract.

25 (13) The heading: “Note about Extra Work and Change Orders,”  
26 followed by the following statement:

27 “Extra Work and Change Orders become part of the contract  
28 once the order is prepared in writing and signed by the parties prior  
29 to the commencement of work covered by the new change order.  
30 The order must describe the scope of the extra work or change,  
31 the cost to be added or subtracted from the contract, and the effect  
32 the order will have on the schedule of progress payments.”

33 (e) Except as provided in paragraph (8) of subdivision (a) of  
34 Section 7159.5, all of the following notices shall be provided to  
35 the owner as part of the contract form as specified or, if otherwise  
36 authorized under this subdivision, may be provided as an  
37 attachment to the contract:

38 (1) A notice concerning commercial general liability insurance.  
39 This notice may be provided as an attachment to the contract if  
40 the contract includes the following statement: “A notice concerning

1 commercial general liability insurance is attached to this contract.”  
2 The notice shall include the heading “Commercial General Liability  
3 Insurance (CGL),” followed by whichever of the following  
4 statements is both relevant and correct:

5 (A) “(The name on the license or ‘This contractor’) does not  
6 carry commercial general liability insurance.”

7 (B) “(The name on the license or ‘This contractor’) carries  
8 commercial general liability insurance written by (the insurance  
9 company). You may call (the insurance company) at \_\_\_\_\_  
10 to check the contractor’s insurance coverage.”

11 (C) “(The name on the license or ‘This contractor’) is  
12 self-insured.”

13 (2) A notice concerning workers’ compensation insurance. This  
14 notice may be provided as an attachment to the contract if the  
15 contract includes the statement: “A notice concerning workers’  
16 compensation insurance is attached to this contract.” The notice  
17 shall include the heading “Workers’ Compensation Insurance”  
18 followed by whichever of the following statements is correct:

19 (A) “(The name on the license or ‘This contractor’) has no  
20 employees and is exempt from workers’ compensation  
21 requirements.”

22 (B) “(The name on the license or ‘This contractor’) carries  
23 workers’ compensation insurance for all employees.”

24 (3) A notice that provides the buyer with the following  
25 information about the performance of extra or change-order work:

26 (A) A statement that the buyer may not require a contractor to  
27 perform extra or change-order work without providing written  
28 authorization prior to the commencement of work covered by the  
29 new change order.

30 (B) A statement informing the buyer that extra work or a change  
31 order is not enforceable against a buyer unless the change order  
32 also identifies all of the following in writing prior to the  
33 commencement of work covered by the new change order:

34 (i) The scope of work encompassed by the order.

35 (ii) The amount to be added or subtracted from the contract.

36 (iii) The effect the order will make in the progress payments or  
37 the completion date.

38 (C) A statement informing the buyer that the contractor’s failure  
39 to comply with the requirements of this paragraph does not  
40 preclude the recovery of compensation for work performed based

1 upon legal or equitable remedies designed to prevent unjust  
2 enrichment.

3 (4) A notice with the heading—~~Mechanics~~ “*Mechanics Lien*  
4 Warning” written as follows:

5 ~~“MECHANICS”~~ “*MECHANICS LIEN WARNING*”:

6 Anyone who helps improve your property, but who is not paid,  
7 may record what is called a ~~mechanics~~ *mechanics* lien on your  
8 property. A ~~mechanics~~ *mechanics* lien is a claim, like a mortgage  
9 or home equity loan, made against your property and recorded  
10 with the county recorder.

11 Even if you pay your contractor in full, unpaid subcontractors,  
12 suppliers, and laborers who helped to improve your property may  
13 record ~~mechanics~~ *mechanics* liens and sue you in court to foreclose  
14 the lien. If a court finds the lien is valid, you could be forced to  
15 pay twice or have a court officer sell your home to pay the lien.  
16 Liens can also affect your credit.

17 To preserve their right to record a lien, each subcontractor and  
18 material supplier must provide you with a document called a  
19 ~~20-day Preliminary~~ ‘*Preliminary Notice*.’ This notice is not a lien.  
20 The purpose of the notice is to let you know that the person who  
21 sends you the notice has the right to record a lien on your property  
22 if he or she is not paid.

23 BE CAREFUL. The Preliminary Notice can be sent up to 20  
24 days after the subcontractor starts work or the supplier provides  
25 material. This can be a big problem if you pay your contractor  
26 before you have received the Preliminary Notices.

27 You will not get Preliminary Notices from your prime contractor  
28 or from laborers who work on your project. The law assumes that  
29 you already know they are improving your property.

30 PROTECT YOURSELF FROM LIENS. You can protect  
31 yourself from liens by getting a list from your contractor of all the  
32 subcontractors and material suppliers that work on your project.  
33 Find out from your contractor when these subcontractors started  
34 work and when these suppliers delivered goods or materials. Then  
35 wait 20 days, paying attention to the Preliminary Notices you  
36 receive.

37 PAY WITH JOINT CHECKS. One way to protect yourself is  
38 to pay with a joint check. When your contractor tells you it is time  
39 to pay for the work of a subcontractor or supplier who has provided

1 you with a Preliminary Notice, write a joint check payable to both  
2 the contractor and the subcontractor or material supplier.

3 For other ways to prevent liens, visit CSLB’s Internet Web site  
4 at [www.cslb.ca.gov](http://www.cslb.ca.gov) or call CSLB at 800-321-CSLB (2752).

5 REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING  
6 A LIEN PLACED ON YOUR HOME. This can mean that you  
7 may have to pay twice, or face the forced sale of your home to pay  
8 what you owe.”

9 (5) The following notice shall be provided in at least 12-point  
10 typeface:

11 “Information about the Contractors’ State License Board (CSLB):  
12 CSLB is the state consumer protection agency that licenses and  
13 regulates construction contractors.

14 Contact CSLB for information about the licensed contractor you  
15 are considering, including information about disclosable  
16 complaints, disciplinary actions, and civil judgments that are  
17 reported to CSLB.

18 Use only licensed contractors. If you file a complaint against a  
19 licensed contractor within the legal deadline (usually four years),  
20 CSLB has authority to investigate the complaint. If you use an  
21 unlicensed contractor, CSLB may not be able to help you resolve  
22 your complaint. Your only remedy may be in civil court, and you  
23 may be liable for damages arising out of any injuries to the  
24 unlicensed contractor or the unlicensed contractor’s employees.

25 For more information:  
26 Visit CSLB’s Internet Web site at [www.cslb.ca.gov](http://www.cslb.ca.gov)  
27 Call CSLB at 800-321-CSLB (2752)  
28 Write CSLB at P.O. Box 26000, Sacramento, CA 95826.”

29 (6) (A) The notice set forth in subparagraph (B) and entitled  
30 “Three-Day Right to Cancel,” shall be provided to the buyer unless  
31 the contract is:

- 32 (i) Negotiated at the contractor’s place of business.
- 33 (ii) Subject to the “Seven-Day Right to Cancel,” as set forth in  
34 paragraph (7).
- 35 (iii) Subject to licensure under the Alarm Company Act (Chapter  
36 11.6 (commencing with Section 7590)), provided the alarm  
37 company licensee complies with Sections 1689.5, 1689.6, and  
38 1689.7 of the Civil Code, as applicable.

39 (B) “Three-Day Right to Cancel

1 You, the buyer, have the right to cancel this contract within three  
2 business days. You may cancel by e-mailing, mailing, faxing, or  
3 delivering a written notice to the contractor at the contractor’s  
4 place of business by midnight of the third business day after you  
5 received a signed and dated copy of the contract that includes this  
6 notice. Include your name, your address, and the date you received  
7 the signed copy of the contract and this notice.

8 If you cancel, the contractor must return to you anything you  
9 paid within 10 days of receiving the notice of cancellation. For  
10 your part, you must make available to the contractor at your  
11 residence, in substantially as good condition as you received them,  
12 goods delivered to you under this contract or sale. Or, you may,  
13 if you wish, comply with the contractor’s instructions on how to  
14 return the goods at the contractor’s expense and risk. If you do  
15 make the goods available to the contractor and the contractor does  
16 not pick them up within 20 days of the date of your notice of  
17 cancellation, you may keep them without any further obligation.  
18 If you fail to make the goods available to the contractor, or if you  
19 agree to return the goods to the contractor and fail to do so, then  
20 you remain liable for performance of all obligations under the  
21 contract.”

22 (C) The “Three-Day Right to Cancel” notice required by this  
23 paragraph shall comply with all of the following:

- 24 (i) The text of the notice is at least 12-point boldface type.
- 25 (ii) The notice is in immediate proximity to a space reserved  
26 for the owner’s signature.
- 27 (iii) The owner acknowledges receipt of the notice by signing  
28 and dating the notice form in the signature space.
- 29 (iv) The notice is written in the same language, e.g., Spanish,  
30 as that principally used in any oral sales presentation.
- 31 (v) The notice may be attached to the contract if the contract  
32 includes, in at least 12-point boldface type, a checkbox with the  
33 following statement: “The law requires that the contractor give  
34 you a notice explaining your right to cancel. Initial the checkbox  
35 if the contractor has given you a ‘Notice of the Three-Day Right  
36 to Cancel.’”
- 37 (vi) The notice shall be accompanied by a completed form in  
38 duplicate, captioned “Notice of Cancellation,” which also shall be  
39 attached to the agreement or offer to purchase and be easily

1 detachable, and which shall contain the following statement written  
2 in the same language, e.g., Spanish, as used in the contract:

3  
4 "Notice of Cancellation"  
5 /enter date of transaction/  
6 \_\_\_\_\_  
7 (Date)

8  
9 "You may cancel this transaction, without any penalty or  
10 obligation, within three business days from the above date.

11 If you cancel, any property traded in, any payments made by  
12 you under the contract or sale, and any negotiable instrument  
13 executed by you will be returned within 10 days following receipt  
14 by the seller of your cancellation notice, and any security interest  
15 arising out of the transaction will be canceled.

16 If you cancel, you must make available to the seller at your  
17 residence, in substantially as good condition as when received,  
18 any goods delivered to you under this contract or sale, or you may,  
19 if you wish, comply with the instructions of the seller regarding  
20 the return shipment of the goods at the seller's expense and risk.

21 If you do make the goods available to the seller and the seller  
22 does not pick them up within 20 days of the date of your notice of  
23 cancellation, you may retain or dispose of the goods without any  
24 further obligation. If you fail to make the goods available to the  
25 seller, or if you agree to return the goods to the seller and fail to  
26 do so, then you remain liable for performance of all obligations  
27 under the contract."

28  
29 To cancel this transaction, mail or deliver a signed and dated copy of this  
30 cancellation notice, or any other written notice, or send a telegram  
31 to \_\_\_\_\_,  
32 /name of seller/  
33 at \_\_\_\_\_  
34 /address of seller's place of business/  
35 not later than midnight of \_\_\_\_\_.  
36 (Date)

37 I hereby cancel this transaction. \_\_\_\_\_  
38 (Date)  
39 \_\_\_\_\_  
40 (Buyer's signature)

1 (7) (A) The following notice entitled “Seven-Day Right to  
2 Cancel” shall be provided to the buyer for any contract that is  
3 written for the repair or restoration of residential premises damaged  
4 by any sudden or catastrophic event for which a state of emergency  
5 has been declared by the President of the United States or the  
6 Governor, or for which a local emergency has been declared by  
7 the executive officer or governing body of any city, county, or city  
8 and county:

9 “Seven-Day Right to Cancel

10 You, the buyer, have the right to cancel this contract within seven  
11 business days. You may cancel by e-mailing, mailing, faxing, or  
12 delivering a written notice to the contractor at the contractor’s  
13 place of business by midnight of the seventh business day after  
14 you received a signed and dated copy of the contract that includes  
15 this notice. Include your name, your address, and the date you  
16 received the signed copy of the contract and this notice.

17 If you cancel, the contractor must return to you anything you  
18 paid within 10 days of receiving the notice of cancellation. For  
19 your part, you must make available to the contractor at your  
20 residence, in substantially as good condition as you received them,  
21 goods delivered to you under this contract or sale. Or, you may,  
22 if you wish, comply with the contractor’s instructions on how to  
23 return the goods at the contractor’s expense and risk. If you do  
24 make the goods available to the contractor and the contractor does  
25 not pick them up within 20 days of the date of your notice of  
26 cancellation, you may keep them without any further obligation.  
27 If you fail to make the goods available to the contractor, or if you  
28 agree to return the goods to the contractor and fail to do so, then  
29 you remain liable for performance of all obligations under the  
30 contract.”

31 (B) The “Seven-Day Right to Cancel” notice required by this  
32 subdivision shall comply with all of the following:

- 33 (i) The text of the notice is at least 12-point boldface type.  
34 (ii) The notice is in immediate proximity to a space reserved  
35 for the owner’s signature.  
36 (iii) The owner acknowledges receipt of the notice by signing  
37 and dating the notice form in the signature space.  
38 (iv) The notice is written in the same language, e.g., Spanish,  
39 as that principally used in any oral sales presentation.

1 (v) The notice may be attached to the contract if the contract  
 2 includes, in at least 12-point boldface type, a checkbox with the  
 3 following statement: “The law requires that the contractor give  
 4 you a notice explaining your right to cancel. Initial the checkbox  
 5 if the contractor has given you a ‘Notice of the Seven-Day Right  
 6 to Cancel.’”

7 (vi) The notice shall be accompanied by a completed form in  
 8 duplicate, captioned “Notice of Cancellation,” which shall also be  
 9 attached to the agreement or offer to purchase and be easily  
 10 detachable, and which shall contain the following statement written  
 11 in the same language, e.g., Spanish, as used in the contract:

12  
 13 “Notice of Cancellation”

14 /enter date of transaction/  
 15 \_\_\_\_\_

16 (Date)  
 17

18 “You may cancel this transaction, without any penalty or  
 19 obligation, within seven business days from the above date.

20 If you cancel, any property traded in, any payments made by  
 21 you under the contract or sale, and any negotiable instrument  
 22 executed by you will be returned within 10 days following receipt  
 23 by the seller of your cancellation notice, and any security interest  
 24 arising out of the transaction will be canceled.

25 If you cancel, you must make available to the seller at your  
 26 residence, in substantially as good condition as when received,  
 27 any goods delivered to you under this contract or sale, or you may,  
 28 if you wish, comply with the instructions of the seller regarding  
 29 the return shipment of the goods at the seller’s expense and risk.

30 If you do make the goods available to the seller and the seller  
 31 does not pick them up within 20 days of the date of your notice of  
 32 cancellation, you may retain or dispose of the goods without any  
 33 further obligation. If you fail to make the goods available to the  
 34 seller, or if you agree to return the goods to the seller and fail to  
 35 do so, then you remain liable for performance of all obligations  
 36 under the contract.”

37  
 38 To cancel this transaction, mail or deliver a signed and dated copy of this  
 39 cancellation notice, or any other written notice, or send a telegram  
 40 to \_\_\_\_\_,





1 (e)  
 2 (3) Any contract that is subject to subdivision (a) of Section  
 3 7159.2.

4 SEC. 6. Section 7159.5 of the Business and Professions Code  
 5 is amended to read:

6 7159.5. This section applies to all home improvement contracts,  
 7 as defined in Section 7151.2, between an owner or tenant and a  
 8 contractor, whether a general contractor or a specialty contractor,  
 9 ~~who~~ *that* is licensed or subject to be licensed pursuant to this  
 10 chapter with regard to the transaction.

11 (a) Failure by the licensee or a person subject to be licensed  
 12 under this chapter, or by his or her agent or salesperson, to comply  
 13 with the following provisions is cause for discipline:

14 (1) The contract shall be in writing and shall include the agreed  
 15 contract amount in dollars and cents. The contract amount shall  
 16 include the entire cost of the contract, including profit, labor, and  
 17 materials, but excluding finance charges.

18 (2) If there is a separate finance charge between the contractor  
 19 and the person contracting for home improvement, the finance  
 20 charge shall be set out separately from the contract amount.

21 (3) If a downpayment will be charged, the downpayment may  
 22 not exceed one thousand dollars (\$1,000) or 10 percent of the  
 23 contract amount, whichever is less.

24 (4) If, in addition to a downpayment, the contract provides for  
 25 payments to be made prior to completion of the work, the contract  
 26 shall include a schedule of payments in dollars and cents  
 27 specifically referencing the amount of work or services to be  
 28 performed and any materials and equipment to be supplied.

29 (5) Except for a downpayment, the contractor may neither  
 30 request nor accept payment that exceeds the value of the work  
 31 performed or material delivered.

32 (6) Upon any payment by the person contracting for home  
 33 improvement, and prior to any further payment being made, the  
 34 contractor shall, if requested, obtain and furnish to the person a  
 35 full and unconditional release from any potential lien claimant  
 36 claim or ~~mechanic's~~ *mechanics* lien pursuant to Section ~~3114~~ *8410*  
 37 of the Civil Code for any portion of the work for which payment  
 38 has been made. The person contracting for home improvement  
 39 may withhold all further payments until these releases are  
 40 furnished.

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

6 (8) A contractor furnishing a performance and payment bond,  
7 lien and completion bond, or a bond equivalent or joint control  
8 approved by the registrar covering full performance and payment  
9 is exempt from paragraphs (3), (4), and (5), and need not include,  
10 as part of the contract, the statement regarding the downpayment  
11 specified in subparagraph (C) of paragraph (8) of subdivision (d)  
12 of Section 7159, the details and statement regarding progress  
13 payments specified in paragraph (9) of subdivision (d) of Section  
14 7159, or the ~~Mechanics~~<sup>2</sup> *Mechanics* Lien Warning specified in  
15 paragraph (4) of subdivision (e) of Section 7159. A contractor  
16 furnishing these bonds, bond equivalents, or a joint control  
17 approved by the registrar may accept payment prior to completion.  
18 If the contract provides for a contractor to furnish joint control,  
19 the contractor shall not have any financial or other interest in the  
20 joint control.

21 (b) A violation of paragraph (1), (3), or (5) of subdivision (a)  
22 by a licensee or a person subject to be licensed under this chapter,  
23 or by his or her agent or salesperson, is a misdemeanor punishable  
24 by a fine of not less than one hundred dollars (\$100) nor more than  
25 five thousand dollars (\$5,000), or by imprisonment in a county  
26 jail not exceeding one year, or by both that fine and imprisonment.

27 (1) An indictment or information against a person who is not  
28 licensed but who is required to be licensed under this chapter shall  
29 be brought, or a criminal complaint filed, for a violation of this  
30 section, in accordance with paragraph (4) of subdivision (d) of  
31 Section 802 of the Penal Code, within four years from the date of  
32 the contract or, if the contract is not reduced to writing, from the  
33 date the buyer makes the first payment to the contractor.

34 (2) An indictment or information against a person who is  
35 licensed under this chapter shall be brought, or a criminal complaint  
36 filed, for a violation of this section, in accordance with paragraph  
37 (2) of subdivision (d) of Section 802 of the Penal Code, within  
38 two years from the date of the contract or, if the contract is not  
39 reduced to writing, from the date the buyer makes the first payment  
40 to the contractor.

1 (3) The limitations on actions in this subdivision shall not apply  
2 to any administrative action filed against a licensed contractor.  
3 (c) Any person who violates this section as part of a plan or  
4 scheme to defraud an owner or tenant of a residential or  
5 nonresidential structure, including a mobilehome or manufactured  
6 home, in connection with the offer or performance of repairs to  
7 the structure for damage caused by a natural disaster, shall be  
8 ordered by the court to make full restitution to the victim based  
9 on the person’s ability to pay, as defined in subdivision (e) of  
10 Section 1203.1b of the Penal Code. In addition to full restitution,  
11 and imprisonment authorized by this section, the court may impose  
12 a fine of not less than five hundred dollars (\$500) nor more than  
13 twenty-five thousand dollars (\$25,000), based upon the defendant’s  
14 ability to pay. This subdivision applies to natural disasters for  
15 which a state of emergency is proclaimed by the Governor pursuant  
16 to Section 8625 of the Government Code, or for which an  
17 emergency or major disaster is declared by the President of the  
18 United States.

19 SEC. 7. Section 7159.14 of the Business and Professions Code  
20 is amended to read:

21 7159.14. (a) This section applies to a service and repair  
22 contract as defined in Section 7159.10. A violation of this section  
23 by a licensee or a person subject to be licensed under this chapter,  
24 or by his or her agent or salesperson, is cause for discipline.

25 (1) The contract may not exceed seven hundred fifty dollars  
26 (\$750).

27 (2) The contract shall be in writing and shall state the agreed  
28 contract amount, which may be stated as either a fixed contract  
29 amount in dollars and cents or, if a time and materials formula is  
30 used, as an estimated contract amount in dollars and cents.

31 (3) The contract amount shall include the entire cost of the  
32 contract including profit, labor, and materials, but excluding  
33 finance charges.

34 (4) The actual contract amount of a time and materials contract  
35 may not exceed the estimated contract amount without written  
36 authorization from the buyer.

37 (5) The prospective buyer must have initiated contact with the  
38 contractor to request work.

1 (6) The contractor may not sell the buyer goods or services  
2 beyond those reasonably necessary to take care of the particular  
3 problem that caused the buyer to contact the contractor.

4 (7) No payment may be due before the project is completed.

5 (8) A service and repair contractor may charge only one service  
6 charge. For purposes of this chapter, a service charge includes  
7 such charges as a service or trip charge, or an inspection fee.

8 (9) A service and repair contractor charging a service charge  
9 must disclose in all advertisements that there is a service charge  
10 and, when the customer initiates the call for service, must disclose  
11 the amount of the service charge.

12 (10) The service and repair contractor must offer to the customer  
13 any parts that were replaced.

14 (11) Upon any payment by the buyer, the contractor shall, if  
15 requested, obtain and furnish to the buyer a full and unconditional  
16 release from any potential lien claimant claim or ~~mechanic's~~  
17 *mechanics* lien pursuant to Section ~~3114~~ 8410 of the Civil Code  
18 for any portion of the work for which payment has been made.

19 (b) A violation of paragraph (1), (2), (3), (4), (5), (6), or (8) of  
20 subdivision (a) by a licensee or a person subject to be licensed  
21 under this chapter, or by his or her agent or salesperson, is a  
22 misdemeanor punishable by a fine of not less than one hundred  
23 dollars (\$100) nor more than five thousand dollars (\$5,000), or by  
24 imprisonment in a county jail not exceeding one year, or by both  
25 that fine and imprisonment.

26 (1) An indictment or information against a person who is not  
27 licensed but who is required to be licensed under this chapter shall  
28 be brought, or a criminal complaint filed, for a violation of this  
29 section, in accordance with paragraph (4) of subdivision (d) of  
30 Section 802 of the Penal Code, within four years from the date of  
31 the contract or, if the contract is not reduced to writing, from the  
32 date the buyer makes the first payment to the contractor.

33 (2) An indictment or information against a person who is  
34 licensed under this chapter shall be brought, or a criminal complaint  
35 filed, for a violation of this section, in accordance with paragraph  
36 (2) of subdivision (d) of Section 802 of the Penal Code, within  
37 two years from the date of the contract or, if the contract is not  
38 reduced to writing, from the date the buyer makes the first payment  
39 to the contractor.

1 (3) The limitations on actions in this subdivision shall not apply  
2 to any administrative action filed against a licensed contractor.

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

19 SEC. 8. Section 7164 of the Business and Professions Code is  
20 amended to read:

21 7164. (a) Notwithstanding Section 7044, every contract and  
22 any changes in a contract, between an owner and a contractor, for  
23 the construction of a single-family dwelling to be retained by the  
24 owner for at least one year shall be evidenced in writing signed  
25 by both parties.

26 (b) The writing shall contain the following:

27 (1) The name, address, and license number of the contractor.

28 (2) The approximate dates when the work will begin and be  
29 substantially completed.

30 (3) A legal description of the location where the work will be  
31 done.

32 (4) A statement with the heading—“~~Mechanics~~” “*Mechanics Lien*  
33 Warning” as follows:

34 “MECHANICS LIEN WARNING:

35 Anyone who helps improve your property, but who is not paid,  
36 may record what is called a ~~mechanics~~ *mechanics* lien on your  
37 property. A ~~mechanics~~ *mechanics* lien is a claim, like a mortgage  
38 or home equity loan, made against your property and recorded  
39 with the county recorder.

1 Even if you pay your contractor in full, unpaid subcontractors,  
2 suppliers, and laborers who helped to improve your property may  
3 record ~~mechanics'~~ *mechanics* liens and sue you in court to foreclose  
4 the lien. If a court finds the lien is valid, you could be forced to  
5 pay twice or have a court officer sell your home to pay the lien.  
6 Liens can also affect your credit.

7 To preserve their right to record a lien, each subcontractor and  
8 material supplier must provide you with a document called a  
9 ~~20-day Preliminary~~ *'Preliminary Notice.'* This notice is not a lien.  
10 The purpose of the notice is to let you know that the person who  
11 sends you the notice has the right to record a lien on your property  
12 if he or she is not paid.

13 BE CAREFUL. The Preliminary Notice can be sent up to 20  
14 days after the subcontractor starts work or the supplier provides  
15 material. This can be a big problem if you pay your contractor  
16 before you have received the Preliminary Notices.

17 You will not get Preliminary Notices from your prime contractor  
18 or *other persons you contract with directly* or from laborers who  
19 work on your project. The law assumes that you already know  
20 they are improving your property.

21 PROTECT YOURSELF FROM LIENS. You can protect  
22 yourself from liens by getting a list from your contractor of all the  
23 subcontractors and material suppliers that work on your project.  
24 Find out from your contractor when these subcontractors started  
25 work and when these suppliers delivered goods or materials. Then  
26 wait 20 days, paying attention to the Preliminary Notices you  
27 receive.

28 PAY WITH JOINT CHECKS. One way to protect yourself is  
29 to pay with a joint check. When your contractor tells you it is time  
30 to pay for the work of a subcontractor or supplier who has provided  
31 you with a Preliminary Notice, write a joint check payable to both  
32 the contractor and the subcontractor or material supplier.

33 For other ways to prevent liens, visit CSLB's Web site at  
34 [www.cslb.ca.gov](http://www.cslb.ca.gov) or call CSLB at 800-321-CSLB (2752).

35 REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING  
36 A LIEN PLACED ON YOUR HOME. This can mean that you  
37 may have to pay twice, or face the forced sale of your home to pay  
38 what you owe."

39 (5) (A) A statement prepared by the board through regulation  
40 that emphasizes the value of commercial general liability insurance

1 and encourages the owner to verify the contractor's insurance  
2 coverage and status.

3 (B) A check box indicating whether or not the contractor carries  
4 commercial general liability insurance, and if that is the case, the  
5 name and the telephone number of the insurer.

6 (c) The writing may also contain other matters agreed to by the  
7 parties to the contract. The writing shall be legible and shall clearly  
8 describe any other document which is to be incorporated into the  
9 contract. Prior to commencement of any work, the owner shall be  
10 furnished a copy of the written agreement, signed by the contractor.  
11 The provisions of this section are not exclusive and do not relieve  
12 the contractor from compliance with all other applicable provisions  
13 of law.

14 (d) Every contract subject to the provisions of this section shall  
15 contain, in close proximity to the signatures of the owner and  
16 contractor, a notice in at least 10-point bold type or in all capital  
17 letters, stating that the owner has the right to require the contractor  
18 to have a performance and payment bond and that the expense of  
19 the bond may be borne by the owner.

20 (e) The requirements in paragraph (5) of subdivision (b) shall  
21 become operative three months after the board adopts the  
22 regulations referenced in subparagraph (A) of paragraph (5) of  
23 subdivision (b).

24 (f) This section shall become operative on January 1, 2006.

25 SEC. 9. Section 8513 of the Business and Professions Code is  
26 amended to read:

27 8513. (a) The board shall prescribe a form entitled "Notice to  
28 Owner" that shall describe, in nontechnical language and in a clear  
29 and coherent manner using words with common and everyday  
30 meaning, the pertinent provisions of this state's mechanics' lien  
31 laws and the rights and responsibilities of an owner of property  
32 and a registered pest control company thereunder. Each company  
33 registered under this chapter, prior to entering into a contract with  
34 an owner for work for which a company registration is required,  
35 shall give a copy of this "Notice to Owner" to the owner, his or  
36 her agent, or the payer.

37 (b) No company that is required to be registered under this  
38 chapter shall require or request a waiver of lien rights from any  
39 subcontractor, employee, or supplier.



1 (c) Each company registered under this chapter that acts as a  
2 subcontractor for another company registered under this chapter  
3 shall, within 20 days of commencement of any work for which a  
4 company registration is required, give the preliminary ~~20-day~~  
5 notice ~~(private work)~~ in accordance with the provisions *Chapter*  
6 *2 (commencing with Section 8200)* of ~~Section 3097 Part 6 of~~  
7 *Division 4* of the Civil Code, to the owner, his or her agent, or the  
8 payer.

9 (d) Each company registered under this chapter that acts as a  
10 prime contractor for work for which a company registration is  
11 required shall, prior to accepting payment for the work, furnish to  
12 the owner, his or her agent, or the payer a full and unconditional  
13 release from any claim of ~~mechanics'~~ *mechanics'* lien by any  
14 subcontractor entitled to enforce a mechanics' lien pursuant to  
15 Section ~~3114~~ *8172* of the Civil Code.

16 (e) Each company registered under this chapter that subcontracts  
17 to another company registered under this chapter work for which  
18 a company registration is required shall furnish to the subcontractor  
19 the name of the owner, his or her agent, or the payer.

20 (f) The provisions of this section shall be applicable only to  
21 those registered companies, as defined in Section 8506.1, operating  
22 pursuant to a Branch 1 or Branch 3 registration.

23 (g) A violation of the provisions of this section is a ground for  
24 disciplinary action.

25 SEC. 10. Section 17577.5 of the Business and Professions  
26 Code is amended to read:

27 17577.5. (a) No contract or offer for the sale, lease, or rental  
28 of a home water treatment device and no purchase money loan, as  
29 defined in subdivision (b), shall provide for a lien on real property.  
30 Any lien taken in violation of this section is void and  
31 unenforceable.

32 (b) For the purpose of this section, "purchase money loan"  
33 means a loan or an advance under an open-end credit account if  
34 both of the following occur:

35 (1) The primary purpose of the loan or the primary purpose of  
36 establishing the open-end credit account is to finance all or a  
37 portion of the purchase price or any of the lease or rental payments  
38 for a water treatment device.

39 (2) The creditor knows the primary purpose of the loan or the  
40 primary purpose of establishing the open-end credit account when

1 the loan is initially made or the open-end credit account is  
2 established.

3 (c) The creditor shall be deemed to know that the primary  
4 purpose of the loan or the primary purpose of establishing the  
5 open-end credit account is the primary purpose described in  
6 paragraph (1) of subdivision (b) if any of the following occur:

7 (1) The consumer’s application for credit or any other document  
8 in the creditor’s possession before the loan is made or the open-end  
9 account is established indicates the primary purpose of the loan  
10 or the open-end credit account.

11 (2) The seller, lessor, or renter arranges or guarantees the loan  
12 or open-end account, or participates in the preparation of the  
13 consumer’s application for credit or other loan documents, or  
14 receives from the creditor a loan commission, brokerage, or referral  
15 fee.

16 (d) For the purpose of this section, “open-end credit” has the  
17 same meaning as used in Section 226.2 of Title 12 of the Code of  
18 Federal Regulations.

19 (e) This section does not apply to ~~mechanics’~~ *mechanics* liens  
20 established pursuant to Chapter ~~2 4~~ (commencing with Section  
21 ~~3109) 8400~~) of Title ~~15~~ of Part ~~4 6~~ of Division ~~3 4~~ of the Civil  
22 Code.

23 SEC. 11. Title 1.4C (commencing with Section 1749.70) is  
24 added to Part 4 of Division 3 of the Civil Code, to read:

25

26 TITLE 1.4C. AUTOMATIC CHECKOUT SYSTEM

27

28 1749.70 This title shall be known and may be cited as the  
29 Rosenthal-Roberti Item Pricing Act.

30 1749.71. (a) Every retail grocery store or grocery department  
31 within a general retail merchandise store which uses a point-of-sale  
32 system shall cause to have a clearly readable price indicated on  
33 85 percent of the total number of packaged consumer commodities  
34 offered for sale which are not exempt pursuant to subdivision (b).

35 The management of any such retail grocery store or grocery  
36 department shall determine the number of consumer commodities  
37 normally offered for sale on a daily basis, shall determine the  
38 consumer commodities to be exempted pursuant to this subdivision,  
39 and shall maintain a list of those consumer commodities exempt  
40 pursuant to this subdivision. The list shall be made available to a

1 designated representative of the appropriate local union, the  
2 members of which are responsible for item pricing, in those stores  
3 or departments that have collective bargaining agreements, seven  
4 days prior to an item or items being exempted pursuant to this  
5 subdivision. In addition, the list shall be available and posted in a  
6 prominent place in the store seven days prior to an item or items  
7 being exempted pursuant to this subdivision.

8 (b) The provisions of this section shall not apply to any of the  
9 following:

10 (1) Any consumer commodity which was not generally  
11 item-priced on January 1, 1977, as determined by the Department  
12 of Food and Agriculture pursuant to subdivision (c) of Section  
13 12604.5 of the Business and Professions Code, as in effect July 8,  
14 1977.

15 (2) Any unpackaged fresh food produce, or to consumer  
16 commodities which are under three cubic inches in size, weigh  
17 less than three ounces, and are priced under forty cents (\$0.40).

18 (3) Any consumer commodity offered as a sale item or as a  
19 special.

20 (4) Any business which has as its only regular employees the  
21 owner thereof, or the parent, spouse, or child of the owner, or, in  
22 addition thereto, not more than two other regular employees.

23 (5) Identical items within a multi-item package.

24 (6) Items sold through a vending machine.

25 (c) For the purposes of this section:

26 (1) "Consumer commodity" includes all of the following:

27 (A) Food, including all material whether solid, liquid, or mixed,  
28 and whether simple or compound, which is used or intended for  
29 consumption by human beings or domestic animals normally kept  
30 as household pets, and all substances or ingredients added to any  
31 material for any purpose. This definition shall not apply to  
32 individual packages of cigarettes or individual cigars.

33 (B) Napkins, facial tissues, toilet tissues, foil wrapping, plastic  
34 wrapping, paper toweling, and disposable plates and cups.

35 (C) Detergents, soaps, and other cleaning agents.

36 (D) Pharmaceuticals, including nonprescription drugs, bandages,  
37 female hygiene products, and toiletries.

38 (2) "Grocery department" means an area within a general retail  
39 merchandise store which is engaged primarily in the retail sale of

1 packaged food, rather than food prepared for immediate  
2 consumption on or off the premises.

3 (3) “Grocery store” means a store engaged primarily in the retail  
4 sale of packaged food, rather than food prepared for consumption  
5 on the premises.

6 (4) “Point-of-sale system” means any computer or electronic  
7 system used by a retail establishment such as, but not limited to,  
8 Universal Product Code scanners, price lookup codes, or an  
9 electronic price lookup system as a means for determining the  
10 price of the item being purchased by a consumer.

11 (5) “Sale item” or “special” means any consumer commodity  
12 offered in good faith for a period of 14 days or less, on sale at a  
13 price below the normal price that item is usually sold for in that  
14 store. The Department of Food and Agriculture shall determine  
15 the normal length of a sale held for consumer commodities  
16 generally item priced on January 1, 1977, in stores regulated  
17 pursuant to this chapter, and that period shall be used for the  
18 purposes of this subdivision. The department’s determination as  
19 to the normal length of a sale shall be binding for the purposes of  
20 this section, but each such determination shall not exceed seven  
21 days.

22 1749.72. (a) The intentional violation of Section 1749.71 is  
23 punishable by a civil penalty of not less than twenty-five dollars  
24 (\$25) nor more than five hundred dollars (\$500).

25 (b) Failure to have a clearly readable price indicated on 12 units  
26 of the same item required to be item-priced of the same commodity  
27 shall constitute a presumption of intent to violate Section 1749.71.

28 (c) Every additional 12 units of the same item required to be  
29 item-priced that fail to have a price indicated on them shall  
30 constitute a presumption of intent to violate Section 1749.71.

31 (d) Each day that a violation continues shall also constitute a  
32 separate violation after notification thereof to the manager or  
33 assistant manager of the retail grocery store or the grocery  
34 department of the general retail merchandise store and shall  
35 constitute a presumption of intent to violate Section 1749.71.

36 (e) Notwithstanding any other provision of law, any person may  
37 bring an action to enjoin a violation of Section 1749.71.

38 1749.73. Any person, firm, corporation, or association who  
39 violates Sections 1749.71 and 1749.72 shall be liable to any person  
40 injured for any losses and expenses thereby incurred, and for the

1 sum of fifty dollars (\$50) in addition thereto. The remedy set forth  
2 herein is applicable only to actions brought in the name of, and on  
3 behalf of, a single plaintiff and shall not be applicable in multiple  
4 plaintiff or class actions.

5 1749.74. Improper pricing on the shelf or on the item due to  
6 unintentional error shall not constitute a violation of this title.

7 1749.75. The remedies set forth in Sections 1749.72 and  
8 1749.73 are the exclusive remedies available to any person, state  
9 or local agency, or law enforcement official.

10 1749.76. It is the intention of the Legislature that this title shall  
11 occupy the field with regard to item pricing and shall preempt all  
12 local ordinances, rules, or regulations concerning item pricing.

13 SEC. 12. Section 1917.166 of the Civil Code is amended to  
14 read:

15 1917.166. The lien of a shared appreciation loan, including the  
16 principal amount and all interest, whether accrued or to be accrued,  
17 and all amounts of contingent deferred interest, shall attach from  
18 the time of the recordation of the deed of trust securing the loan,  
19 and the lien, including the lien of the interest accrued or to be  
20 accrued and of the contingent deferred interest, shall have priority  
21 over any other lien or encumbrance affecting the property secured  
22 by the shared appreciation instrument, recorded after the time of  
23 recordation of the shared appreciation instrument. However,  
24 nothing in this section or Section 1917.165 shall preclude a junior  
25 lien or encumbrance subordinate to the obligation of the shared  
26 appreciation loan. In no case may a junior lien achieve priority  
27 over the lien securing the obligation of the shared appreciation  
28 loan, provided that nothing in this section shall be construed to  
29 supersede ~~Section 3134 of the Civil Code~~ 8450.

30 SEC. 13. Section 1917.615 of the Civil Code is amended to  
31 read:

32 1917.615. The lien of a shared appreciation loan for seniors,  
33 including the total loan obligation, shall attach from the time of  
34 the recordation of the deed of trust securing the loan, and the lien,  
35 including the lien of the total loan obligation accrued or to be  
36 accrued, shall have priority over any other lien or encumbrance  
37 affecting the property secured by the shared appreciation instrument  
38 and recorded after the time of recordation of the shared appreciation  
39 instrument. However, nothing in this section or Section 1917.614  
40 shall preclude a junior lien or encumbrance subordinate to the total

1 loan obligation of the shared appreciation loan for seniors. In no  
 2 case may a junior lien achieve priority over the lien securing the  
 3 total loan obligation of the shared appreciation loan, provided that  
 4 nothing in this section shall be construed to supersede Section  
 5 ~~3134~~. 8450.

6 SEC. 14. Section 3059 of the Civil Code is amended to read:

7 3059. The liens of mechanics, for materials and services upon  
 8 real property, are regulated by Chapter ~~2 4~~ (commencing with  
 9 Section ~~3109~~) 8400) of Title ~~15 Part 6 of this part~~ Division 4.

10 SEC. 15. Section 3060 of the Civil Code is amended to read:

11 3060. ~~Any~~ (a) As used in this section, “mine” means a mining  
 12 claim or real property worked on as a mine.

13 (b) Any person who performs labor in ~~any mining claim or~~  
 14 ~~claims, or in or upon any real property worked as a mine, either~~  
 15 ~~in the its development thereof or in working thereon on it by the~~  
 16 subtractive process, or furnishes materials to be used or consumed  
 17 ~~therein in it, has a lien upon the same mine and the works owned~~  
 18 and used by the owners for milling or reducing the ores from the  
 19 ~~same mine, for the value of the work or labor done or materials~~  
 20 furnished by ~~each respectively~~ each, whether done or furnished at  
 21 the instance of the owner of ~~such mining claim or claims or real~~  
 22 ~~property worked as a the mine, or his the owner’s agent, and every~~  
 23 contractor, subcontractor, superintendent, or other person having  
 24 charge of any mining or work or labor performed in and about  
 25 ~~such mining claim or claims or real property worked as a the mine,~~  
 26 either as lessee or under a working bond or contract thereon shall  
 27 be held to be the agent of the owner for the purposes of this section.  
 28 The liens provided for by this section shall be enforced in the same  
 29 manner as those provided for by ~~Title 15 Part 6~~ (commencing with  
 30 Section ~~3082~~, Part 4, 8000) of Division ~~3 4~~.

31 SEC. 16. Chapter 8 (commencing with Section 3081.1) of Title  
 32 14 of Part 4 of Division 3 of the Civil Code is repealed.

33 SEC. 17. Title 15 (commencing with Section 3082) of Part 4  
 34 of Division 3 of the Civil Code is repealed.

35 SEC. 18. Section 3319 of the Civil Code is amended to read:

36 3319. (a) In each written contract for private works of  
 37 improvement entered into on or after January 1, 1996, the  
 38 contracting party and the design professional may agree to  
 39 contractual provisions that include a late payment penalty, in lieu

1 of any interest otherwise due. The terms of the late payment penalty  
2 shall be specifically set forth in the written contract.

3 (b) The penalty authorized pursuant to subdivision (a) shall be  
4 separate from, and in addition to, the design ~~professionals'~~  
5 *professionals* liens provided by Chapter ~~8 3~~ (commencing with  
6 ~~Section 3081.1~~ 8300) of ~~Title 14 of Part 4 6~~ of Division ~~3,~~  
7 ~~mechanics' 4,~~ *mechanics* liens provided by Chapter ~~2 4~~  
8 (commencing with Section ~~3109~~ 8400) of ~~Title 15 of Part 4 6~~ of  
9 Division ~~3 4,~~ and stop *payment* notices for private works provided  
10 in by Chapter ~~3 5~~ (commencing with Section ~~3156~~ 8500) of ~~Title~~  
11 ~~15 of Part 4 6~~ of Division ~~3 4.~~

12 (c) None of the rights or obligations created or permitted by this  
13 section between design professionals and contracting parties shall  
14 apply to construction loan funds held by a lender pursuant to a  
15 construction loan agreement.

16 (d) For purposes of this section, the following definitions apply:

17 (1) "Contracting party" means any person or entity entering into  
18 a written contract with a design professional for professional design  
19 services for a private work of improvement.

20 (2) "Design professional" means a person licensed as an  
21 architect pursuant to Chapter 3 (commencing with Section 5500)  
22 of Division 3 of the Business and Professions Code, registered as  
23 a professional engineer pursuant to Chapter 7 (commencing with  
24 Section 6700) of Division 3 of the Business and Professions Code,  
25 or licensed as a land surveyor pursuant to Chapter 15 (commencing  
26 with Section 8700) of Division 3 of the Business and Professions  
27 Code.

28 SEC. 19. Section 3320 of the Civil Code is amended to read:

29 3320. (a) In each contract for public works of improvement,  
30 entered into on or after January 1, 1996, the public agency shall  
31 pay to the prime design professional any progress payment within  
32 30 days of receipt of a written demand for payment in accordance  
33 with the contract, and the final retention payment within 45 days  
34 of receipt of a written demand for payment in accordance with the  
35 contract. If the public agency disputes in good faith any portion  
36 of the amount due, it may withhold from the payment an amount  
37 not to exceed 150 percent of the disputed amount. The disputed  
38 amount withheld is not subject to any penalty authorized by this  
39 section.

1 (b) If any amount is wrongfully withheld or is not timely paid  
2 in violation of this section, the prime design professional shall be  
3 entitled to a penalty of 1 ½ percent for the improperly withheld  
4 amount, in lieu of any interest otherwise due, per month for every  
5 month that payment is not made. In any action for the collection  
6 of amounts withheld in violation of this section, the prevailing  
7 party is entitled to his or her reasonable attorney’s fees and costs.

8 (c) The penalty described in subdivision (b) is separate from,  
9 and in addition to, the design professionals’ ~~liens provided by~~  
10 ~~Chapter 8 (commencing with Section 3081.1) of Title 14 of Part~~  
11 ~~4 of Division 3, mechanics’ liens provided by Chapter 2~~  
12 ~~(commencing with Section 3109) of Title 15 of Part 4 of Division~~  
13 ~~3, and stop notices remedies for a public works contract provided~~  
14 ~~in Chapter 3 Part 6 (commencing with Section 3156) 41010) of~~  
15 ~~Title 15 Division 2 of Part 4 of Division 3 the Public Contract~~  
16 ~~Code.~~

17 (d) This section does not apply to state agency contracts subject  
18 to Section 927.6 of the Government Code.

19 (e) None of the rights or obligations created by this section  
20 between prime design professionals and public agencies apply to  
21 construction loan funds held by a lender pursuant to a construction  
22 loan agreement.

23 (f) For purposes of this section:

24 (1) “Public agency” means the state, any county, any city, any  
25 city and county, any district, any public authority, any public  
26 agency, any municipal corporation, or other political subdivision  
27 or political corporation of the state.

28 (2) “Design professional” means a person licensed as an  
29 architect pursuant to Chapter 3 (commencing with Section 5500)  
30 of Division 3 of the Business and Professions Code, registered as  
31 a professional engineer pursuant to Chapter 7 (commencing with  
32 Section 6700) of Division 3 of the Business and Professions Code,  
33 or licensed as a land surveyor pursuant to Chapter 15 (commencing  
34 with Section 8700) of Division 3 of the Business and Professions  
35 Code.

36 (3) “Prime design professional” means a design professional  
37 with a written contract directly with the public agency.

38 SEC. 20. Section 3321 of the Civil Code is amended to read:

39 3321. (a) In each contract for public works of improvement,  
40 a prime design professional shall pay to each subconsultant design



1 professional the amount due him or her from the payment received,  
2 not later than 15 days after receipt of each progress payment or  
3 final retention payment. If the prime design professional disputes  
4 in good faith any portion of the amount due, he or she may  
5 withhold from the payment an amount not to exceed 150 percent  
6 of the disputed amount. The disputed amount withheld shall not  
7 be subject to any penalty authorized by this section.

8 (b) If any amount is wrongfully withheld or is not timely paid  
9 in violation of this section, the subconsultant design professional  
10 shall be entitled to a penalty of 1½ percent of the improperly  
11 withheld amount, in lieu of any interest otherwise due, per month,  
12 for each month that payment is not made. In any action for the  
13 collection of amounts withheld in violation of this section, the  
14 prevailing party shall be entitled to his or her reasonable attorney’s  
15 fees and costs.

16 (c) The penalty described in subdivision (b) shall be separate  
17 from, and in addition to, the design professionals’ ~~liens provided~~  
18 ~~by Chapter 8 (commencing with Section 3081.1) of Title 14 of~~  
19 ~~Part 4 of Division 3, mechanics’ liens provided by Chapter 2~~  
20 ~~(commencing with Section 3109) of Title 15 of Part 4 of Division~~  
21 ~~3, and stop notices remedies for a public works contract provided~~  
22 ~~in Chapter 3 Part 6 (commencing with Section 3156) 41010) of~~  
23 ~~Title 15 Division 2 of Part 4 of Division 3 the Public Contract~~  
24 ~~Code.~~

25 (d) None of the rights or obligations created by this section  
26 between prime design professionals and subconsultant design  
27 professionals shall apply to construction loan funds held by a lender  
28 pursuant to a construction loan agreement.

29 (e) For purposes of this section:

30 (1) “Public agency” means the state, any county, any city, any  
31 city and county, any district, any public authority, any public  
32 agency, any municipal corporation, or other political subdivision  
33 or political corporation of the state.

34 (2) “Design professional” means a person licensed as an  
35 architect pursuant to Chapter 3 (commencing with Section 5500)  
36 of Division 3 of the Business and Professions Code, registered as  
37 a professional engineer pursuant to Chapter 7 (commencing with  
38 Section 6700) of Division 3 of the Business and Professions Code,  
39 or licensed as a land surveyor pursuant to Chapter 15 (commencing

1 with Section 8700) of Division 3 of the Business and Professions  
2 Code.

3 (3) “Prime design professional” means a design professional  
4 having a written contract directly with the public agency.

5 (4) “Subconsultant design professional” means a design  
6 professional having a written contract with a prime design  
7 professional.

8 SEC. 21. Part 8 (commencing with Section 7100) of Division  
9 4 of the Civil Code is repealed.

10 SEC. 22. Part 6 (commencing with Section 8000) is added to  
11 Division 4 of the Civil Code, to read:

12  
13 PART 6. PRIVATE WORK OF IMPROVEMENT

14  
15 CHAPTER 1. DEFINITIONS AND GENERAL PROVISIONS

16  
17 Article 1. Definitions

18  
19 8000. Unless the provision or context otherwise requires, the  
20 definitions in this article govern the construction of this part.

21 8002. “Claimant” means a person that has a right under this  
22 part to record a claim of lien, give a stop payment notice, or assert  
23 a claim against a payment bond.

24 8004. A work of improvement “commences” on either of the  
25 following events:

26 (a) Delivery to the site of rental equipment, material, or supplies  
27 that are thereafter used, consumed, or incorporated in the work of  
28 improvement.

29 (b) Visible work of a permanent nature on the site.

30 8006. “Construction lender” means either of the following:

31 (a) A mortgagee or beneficiary under a deed of trust lending  
32 funds for payment of construction costs for all or part of a work  
33 of improvement, or the assignee or successor in interest of the  
34 mortgagee or beneficiary.

35 (b) An escrow holder or other person holding funds provided  
36 by an owner, lender, or another person as a fund for payment of  
37 construction costs for all or part of a work of improvement.

38 8008. “Contract” means an agreement that provides for all or  
39 part of a work of improvement. The term includes a contract  
40 change.

1 8010. “Contract price” means the price agreed to in a direct  
2 contract for a work of improvement, including a contract change.  
3 If the parties have not agreed to a price for the work of  
4 improvement, the contract price is the reasonable value of the work  
5 provided for the work of improvement.

6 8011. “Contractor” includes a direct contractor, subcontractor,  
7 or both.

8 8012. “Design professional” means a person licensed as an  
9 architect pursuant to Chapter 3 (commencing with Section 5500)  
10 of Division 3 of the Business and Professions Code, registered as  
11 a professional engineer pursuant to Chapter 7 (commencing with  
12 Section 6700) of Division 3 of the Business and Professions Code,  
13 or licensed as a land surveyor pursuant to Chapter 15 (commencing  
14 with Section 8700) of Division 3 of the Business and Professions  
15 Code who provides services pursuant to a written contract with a  
16 landowner for the design, engineering, or planning of a work of  
17 improvement.

18 8013. “Direct contract” means a contract between an owner  
19 and a direct contractor that provides for all or part of a work of  
20 improvement. The term includes a contract change.

21 8014. “Direct contractor” means a contractor that has a direct  
22 contractual relationship with an owner. A reference in another  
23 statute to a “prime contractor” in connection with the provisions  
24 in this part means a “direct contractor.”

25 8016. A person “knows” or “has knowledge” of information  
26 if the person knows or should have known that information.

27 8018. “Labor, service, equipment, or material” includes, but  
28 is not limited to, labor, skills, services, material, supplies,  
29 equipment, appliances, power, and surveying provided for a work  
30 of improvement.

31 8020. (a) “Laborer” means a person who, acting as an  
32 employee, performs labor, or bestows skill or other necessary  
33 services, on a work of improvement.

34 (b) “Laborer” includes a person or entity to ~~whom~~ *which* a  
35 portion of a laborer’s compensation for a work of improvement,  
36 including, but not limited to, employer payments described in  
37 Section 1773.1 of the Labor Code and implementing regulations,  
38 is paid by agreement with that laborer or the collective bargaining  
39 agent of that laborer.

1 (c) A person or entity described in subdivision (b) ~~who~~ *that* has  
 2 standing under applicable law to maintain a direct legal action, in  
 3 its own name or as an assignee, to collect any portion of  
 4 compensation owed for a laborer for a work of improvement, shall  
 5 have standing to enforce any rights or claims of the laborer under  
 6 this part, to the extent of the compensation agreed to be paid to  
 7 the person or entity for labor on that improvement. This subdivision  
 8 is intended to give effect to the long-standing public policy of this  
 9 state to protect the entire compensation of a laborer on a work of  
 10 improvement, regardless of the form in which that compensation  
 11 is to be paid.

12 8022. “Lending institution” includes a commercial bank,  
 13 savings and loan institution, credit union, or other organization or  
 14 person engaged in the business of financing loans.

15 8024. “Lien” means a lien under this part and includes a lien  
 16 of a design professional under Section 8302, a lien for a work of  
 17 improvement under Section 8400, and a lien for a site improvement  
 18 under Section 8402.

19 8026. (a) “Material supplier” means a person that provides  
 20 material or supplies to be used or consumed in a work of  
 21 improvement.

22 (b) Materials or supplies delivered to a site are presumed to  
 23 have been used or consumed in the work of improvement. The  
 24 presumption established by this subdivision is a presumption  
 25 affecting the burden of proof.

26 8028. “Owner” means:

27 (a) With respect to a work of improvement, a person that  
 28 contracts for the work of improvement.

29 (b) With respect to property on which a work of improvement  
 30 is situated or planned, a person that owns the fee or a lesser interest  
 31 in the property, including, but not limited to, an interest as lessee  
 32 or as vendee under a contract of purchase.

33 (c) A successor in interest of a person described in subdivision  
 34 (a) or (b).

35 8030. “Payment bond” means a bond given under Chapter 6  
 36 (commencing with 8600).

37 8032. “Person” means an individual, corporation, public entity,  
 38 business trust, estate, trust, partnership, limited liability company,  
 39 association, or other entity.

1 8034. “Preliminary notice” means the notice provided for in  
2 Chapter 2 (commencing with Section 8200).

3 8036. “Public entity” means the state, Regents of the University  
4 of California, a county, city, district, public authority, public  
5 agency, and any other political subdivision or public corporation  
6 in the state.

7 8038. (a) “Reputed construction lender” means a person that  
8 a claimant reasonably and in good faith believes is a construction  
9 lender.

10 (b) “Reputed direct contractor” means a person that a claimant  
11 reasonably and in good faith believes is a direct contractor.

12 (c) “Reputed owner” means a person that a claimant reasonably  
13 and in good faith believes is an owner.

14 8040. “Site” means the property on which a work of  
15 improvement is situated or planned.

16 8042. “Site improvement” means any of the following work  
17 on property:

18 (a) Demolition or removal of improvements, trees, or other  
19 vegetation.

20 (b) Drilling test holes.

21 (c) Grading, filling, or otherwise improving the property or a  
22 street, highway, or sidewalk in front of or adjoining the property.

23 (d) Construction or installation of sewers or other public utilities.

24 (e) Construction of areas, vaults, cellars, or rooms under  
25 sidewalks.

26 (f) Any other work or improvements in preparation of the site  
27 for a work of improvement.

28 8044. (a) “Stop payment notice” means the notice given under  
29 Chapter 5 (commencing with Section 8500). A reference in another  
30 statute to a “stop notice” in connection with the remedies provided  
31 in this part means a stop payment notice.

32 (b) A stop payment notice may be bonded or unbonded. A  
33 “bonded stop payment notice” is a notice given with a bond under  
34 Section 8532. An “unbonded stop payment notice” is a notice not  
35 given with a bond under Section 8532.

36 (c) Except to the extent this part distinguishes between a bonded  
37 and an unbonded stop payment notice, a reference in this part to  
38 a stop payment notice includes both a bonded and an unbonded  
39 notice.

1 8046. “Subcontractor” means a contractor that does not have  
2 a direct contractual relationship with an owner. The term includes  
3 a contractor that has a contractual relationship with a direct  
4 contractor or with another subcontractor.

5 8048. “Work” means labor, service, equipment, or material  
6 provided to a work of improvement.

7 8050. (a) “Work of improvement” includes, but is not limited  
8 to:

9 (1) Construction, alteration, repair, demolition, or removal, in  
10 whole or in part, of, or addition to, a building, wharf, bridge, ditch,  
11 flume, aqueduct, well, tunnel, fence, machinery, railroad, or road.

12 (2) Seeding, sodding, or planting of property for landscaping  
13 purposes.

14 (3) Filling, leveling, or grading of property.

15 (b) Except as otherwise provided in this part, “work of  
16 improvement” means the entire structure or scheme of  
17 improvement as a whole, and includes site improvement.

18  
19 Article 2. Miscellaneous Provisions  
20

21 8051. (a) This part is operative on January 1, 2011.

22 (b) Except as otherwise provided in this section, this part applies  
23 to a contract for a work of improvement executed before, on, or  
24 after the operative date.

25 (c) The effectiveness of a notice given or other action taken on  
26 a work of improvement before the operative date is governed by  
27 the applicable law in effect before the operative date and not by  
28 this part.

29 (d) A provision of this part, insofar as it is substantially the same  
30 as a previously existing provision relating to the same subject  
31 matter, shall be construed as a restatement and continuation thereof  
32 and not as a new enactment.

33 8052. This part applies only to a work of improvement that is  
34 not governed by Part 6 (commencing with Section 41010) of  
35 Division 2 of the Public Contract Code.

36 8054. Except as otherwise provided in this part, Part 2  
37 (commencing with Section 307) of the Code of Civil Procedure  
38 provides the rules of practice in proceedings under this part.

39 8056. For purposes of this part, “day” means a calendar day.

1 8058. (a) If this part provides for filing a contract, plan, or  
2 other paper with the county recorder, the provision is satisfied by  
3 filing the paper in the office of the county recorder of the county  
4 in which the work of improvement or part of it is situated.

5 (b) If this part provides for recording a notice, claim of lien,  
6 release of lien, payment bond, or other paper, the provision is  
7 satisfied by filing the paper for record in the office of the county  
8 recorder of the county in which the work of improvement or part  
9 of it is situated. A paper in otherwise proper form, verified and  
10 containing the information required by this part, shall be accepted  
11 by the recorder for recording and is deemed duly recorded without  
12 acknowledgment.

13 (c) The county recorder shall number, index, and preserve a  
14 contract, plan, or other paper presented for filing under this part,  
15 and shall number, index, and transcribe into the official records,  
16 in the same manner as a conveyance of real property, a notice,  
17 claim of lien, payment bond, or other paper recorded under this  
18 part.

19 (d) The county recorder shall charge and collect the fees  
20 provided in Article 5 (commencing with Section 27360) of Chapter  
21 6 of Part 3 of Division 2 of Title 3 of the Government Code for  
22 performing duties under this section.

23 8060. No act of an owner in good faith and in compliance with  
24 a provision of this part shall be construed to prevent a direct  
25 contractor's performance of the contract, or exonerate a surety on  
26 a performance or payment bond.

27 8062. An owner may give a notice or execute or file a document  
28 under this part on behalf of a co-owner if the owner acts on the  
29 co-owner's behalf and includes in the notice or document the name  
30 and address of the co-owner on whose behalf the owner acts.

31 8064. An act that may be done by or to a person under this part  
32 may be done by or to the person's agent to the extent the act is  
33 within the scope of the agent's authority.

34 8066. (a) This part does not apply to a transaction governed  
35 by the Oil and Gas Lien Act, Chapter 2.5 (commencing with  
36 Section 1203.50) of Title 4 of Part 3 of the Code of Civil  
37 Procedure.

38 (b) This part does not apply to or change improvement security  
39 under the Subdivision Map Act, Division 2 (commencing with  
40 Section 66410) of Title 7 of the Government Code.

1 (c) This part does not apply to a transaction governed by  
2 Sections 20457 to 20464, inclusive, of the Public Contract Code.

3  
4 Article 3. Notice  
5

6 8100. (a) Notice under this part shall be in writing.

7 (b) Written notice under this part may be given by electronic  
8 communication to the extent authorized under Section 8112.

9 8102. (a) Notice under this part shall, in addition to any other  
10 information required by statute for that type of notice, include all  
11 of the following information to the extent known to the person  
12 giving the notice:

13 (1) The name and address of the owner or reputed owner.

14 (2) The name and address of the direct contractor.

15 (3) The name and address of the construction lender, if any.

16 (4) A description of the site sufficient for identification,  
17 including the street address of the site, if any. If a sufficient legal  
18 description of the site is given, the effectiveness of the notice is  
19 not affected by the fact that the street address is erroneous or is  
20 omitted.

21 (5) The name, address, and relationship to the parties of the  
22 person giving the notice.

23 (6) If the person giving the notice is a claimant:

24 (A) A general statement of the work provided.

25 (B) The name of the person to or for whom the work is provided.

26 (C) A statement or estimate of the claimant’s demand, if any,  
27 after deducting all just credits and offsets.

28 (b) Notice is not invalid by reason of any variance from the  
29 requirements of this section if the notice is sufficient to  
30 substantially inform the person given notice of the information  
31 required by this section and other information required in the  
32 notice.

33 8104. (a) A direct contractor or subcontractor that employs a  
34 laborer and fails to pay the full compensation due the laborer,  
35 including any employer payments described in Section 1773.1 of  
36 the Labor Code and implementing regulations, shall not later than  
37 the date the compensation became delinquent, give the laborer,  
38 the laborer’s bargaining representative, if any, the construction  
39 lender or reputed construction lender, if any, and the owner or



1 reputed owner, notice that includes all of the following information,  
2 in addition to the information required by Section 8102:

3 (1) The name and address of the laborer, and of any person or  
4 entity described in subdivision (b) of Section 8020 to which  
5 employer payments are due.

6 (2) The total number of straight time and overtime hours worked  
7 by the laborer on each job.

8 (3) The amount then past due and owing.

9 (b) Failure to give the notice required by subdivision (a)  
10 constitutes grounds for disciplinary action under the Contractors'  
11 State License Law, Chapter 9 (commencing with Section 7000)  
12 of Division 3 of the Business and Professions Code.

13 8106. Except as otherwise provided by statute, notice under  
14 this part shall be given by any of the following means:

15 (a) Personal delivery.

16 (b) Mail in the manner provided in Section 8110.

17 (c) Leaving the notice and mailing a copy in the manner  
18 provided in Section 415.20 of the Code of Civil Procedure for  
19 service of summons and complaint in a civil action.

20 8108. Except as otherwise provided by this part, notice under  
21 this part shall be given to the person to be notified at the person's  
22 residence, the person's place of business, or at any of the following  
23 addresses:

24 (a) If the person to be notified is an owner, the owner's address  
25 shown on the direct contract, the building permit, or a construction  
26 trust deed.

27 (b) If the person to be notified is a construction lender, the  
28 construction lender's address shown on the construction loan  
29 agreement or construction trust deed.

30 (c) If the person to be notified is a direct contractor or a  
31 subcontractor, the contractor's address shown on the building  
32 permit, on the contractor's contract, or on the records of the  
33 Contractors' State License Board.

34 (d) If the person to be notified is a claimant, the claimant's  
35 address shown on the claimant's contract, preliminary notice, claim  
36 of lien, stop payment notice, or claim against a payment bond, or  
37 on the records of the Contractors' State License Board.

38 (e) If the person to be notified is a surety on a bond, the surety's  
39 address shown on the bond for service of notices, papers, and other  
40 documents, or on the records of the Department of Insurance.

1 8110. Except as otherwise provided by this part, notice by mail  
2 under this part shall be given by registered or certified mail, express  
3 mail, or overnight delivery by an express service carrier.

4 8112. (a) As used in this section, “electronic record” has the  
5 meaning provided in Section 1633.2.

6 (b) A notice under this part may be given to a person in the form  
7 of an electronic record if the person has agreed in writing to receive  
8 the notice in the form of an electronic record.

9 (c) If a person that has agreed to receive a notice in the form of  
10 an electronic record is a consumer within the meaning of Section  
11 7006 of Title 15 of the United States Code, the person’s agreement  
12 shall satisfy the requirements of Section 7001 of Title 15 of the  
13 United States Code relating to consumer consent to an electronic  
14 record.

15 8114. A notice required by this part to be posted shall be  
16 displayed in a conspicuous location at the site and at the main  
17 office of the site, if one exists.

18 8116. Notice under this part is complete and deemed to have  
19 been given at the following times:

20 (a) If given by personal delivery, when delivered.

21 (b) If given by mail, when deposited in the mail or with an  
22 express service carrier in the manner provided in Section 1013 of  
23 the Code of Civil Procedure.

24 (c) If given by leaving the notice and mailing a copy in the  
25 manner provided in Section 415.20 of the Code of Civil Procedure  
26 for service of summons in a civil action, five days after mailing.

27 (d) If given by posting, when displayed.

28 (e) If given by recording, when recorded in the office of the  
29 county recorder.

30 (f) If given in the form of an electronic record, when the  
31 electronic record is transmitted.

32 8118. (a) Proof that notice was given to a person in the manner  
33 required by this part shall be made by a proof of notice declaration  
34 that states all of the following:

35 (1) The type or description of the notice given.

36 (2) The date, place, and manner of notice, and facts showing  
37 that notice was given in the manner required by statute.

38 (3) The name and address of the person to which notice was  
39 given, and, if appropriate, the title or capacity in which the person  
40 was given notice.

1 (b) If the notice is given by mail, the declaration shall be  
2 accompanied by one of the following:

3 (1) Documentation provided by the United States Postal Service  
4 showing that payment was made to mail the notice using registered  
5 or certified mail, or express mail.

6 (2) Documentation provided by an express service carrier  
7 showing that payment was made to send the notice using an  
8 overnight delivery service.

9 (3) A return receipt, delivery confirmation, signature  
10 confirmation, or other proof of delivery or attempted delivery  
11 provided by the United States Postal Service, or a photocopy of  
12 the record of delivery and receipt maintained by the United States  
13 Postal Service, showing the date of delivery and to whom delivered,  
14 or in the event of nondelivery, by the returned envelope itself.

15 (4) A tracking record or other documentation provided by an  
16 express service carrier showing delivery or attempted delivery of  
17 the notice.

18 (c) If notice is given in the form of an electronic record, the  
19 declaration shall also state that the document was served  
20 electronically and that no notice of nontransmission was received,  
21 and shall be accompanied by the recipient's written agreement to  
22 receive the notice in the form of an electronic record.

23

#### 24 Article 4. Construction Documents

25

26 8130. (a) A written direct contract shall provide a space for  
27 the owner to enter the following information:

28 (1) The owner's name, address, and place of business, if any.

29 (2) The name and address of the construction lender, if any.  
30 This paragraph does not apply to a home improvement contract  
31 or swimming pool contract subject to Article 10 (commencing  
32 with Section 7150) of Chapter 9 of Division 3 of the Business and  
33 Professions Code.

34 (b) A written contract entered into between a direct contractor  
35 and subcontractor, or between subcontractors, shall provide a space  
36 for the name and address of the owner, direct contractor, and  
37 construction lender, if any.

38 8132. (a) A public entity that issues building permits shall, in  
39 its application form for a building permit, provide space and a  
40 designation for the applicant to enter the name, branch designation,

1 if any, and address of the construction lender and shall keep the  
 2 information on file open for public inspection during the regular  
 3 business hours of the public entity.

4 (b) If there is no known construction lender, the applicant shall  
 5 note that fact in the designated space.

6 (c) Failure of the applicant to indicate the name and address of  
 7 the construction lender on the application does not relieve a person  
 8 required to give the construction lender preliminary notice from  
 9 that duty.

10 8134. (a) A mortgage, deed of trust, or other instrument  
 11 securing a loan, any of the proceeds of which may be used for a  
 12 work of improvement, shall bear the designation “Construction  
 13 Trust Deed” prominently on its face and shall state all of the  
 14 following:

15 (1) The name and address of the construction lender.

16 (2) The name and address of the owner of the property described  
 17 in the instrument.

18 (3) A legal description of the property that secures the loan and,  
 19 if known, the street address of the property.

20 (b) Failure to comply with subdivision (a) does not affect the  
 21 validity of the mortgage, deed of trust, or other instrument.

22 (c) Failure to comply with subdivision (a) does not relieve a  
 23 person required to give preliminary notice from that duty.

24 (d) The county recorder of the county in which the instrument  
 25 is recorded shall indicate in the general index of the official records  
 26 of the county that the instrument secures a construction loan.

27

28

Article 5. Bonds

29

30 8140. The Bond and Undertaking Law, Chapter 2 (commencing  
 31 with Section 995.010) of Title 14 of Part 2 of the Code of Civil  
 32 Procedure, applies to a bond given under this part, except to the  
 33 extent this part prescribes a different rule or is inconsistent.

34 8142. None of the following releases a surety from liability on  
 35 a bond given under this part:

36 (a) A change to a contract, plan, specification, or agreement for  
 37 a work of improvement or for work provided for a work of  
 38 improvement.

39 (b) A change to the terms of payment or an extension of the  
 40 time for payment for a work of improvement.

1 (c) A rescission or attempted rescission of a contract, agreement,  
2 or bond.

3 (d) A condition precedent or subsequent in the bond purporting  
4 to limit the right of recovery of a claimant otherwise entitled to  
5 recover pursuant to a contract, agreement, or bond.

6 (e) In the case of a bond given for the benefit of claimants, the  
7 fraud of a person other than the claimant seeking to recover on the  
8 bond.

9 8144. (a) A bond given under this part shall be construed most  
10 strongly against the surety and in favor of the beneficiary.

11 (b) A surety is not released from liability to the beneficiary by  
12 reason of a breach of the direct contract or on the part of any  
13 obligee named in the bond.

14 (c) Except as otherwise provided by statute, the sole conditions  
15 of recovery on the bond are that the beneficiary is a person  
16 described in Article 1 (commencing with Section 8400) of Chapter  
17 4 and the beneficiary has not been paid the full amount of the  
18 claim.

19

20

#### Article 6. Completion

21

22 8150. (a) For the purpose of this part, completion of a work  
23 of improvement occurs at the earliest of the following times:

24 (1) Substantial completion of the work of improvement.

25 (2) Occupation or use by the owner accompanied by cessation  
26 of labor.

27 (3) Cessation of labor for a continuous period of 60 days.

28 (4) Recordation of a notice of cessation after cessation of labor  
29 for a continuous period of 30 days.

30 (b) Notwithstanding subdivision (a), if a work of improvement  
31 is subject to acceptance by a public entity, completion occurs on  
32 acceptance.

33 8152. (a) An owner may record a notice of completion on or  
34 within 15 days after the date of completion of a work of  
35 improvement.

36 (b) The notice of completion shall be signed and verified by the  
37 owner.

38 (c) The notice shall comply with Section 8102, and shall also  
39 include all of the following information:

1 (1) If the notice is given only of completion of a contract for a  
2 particular portion of the work of improvement as provided in  
3 Section 8154, the name of the direct contractor under that contract  
4 and a general statement of the work provided pursuant to the  
5 contract.

6 (2) If signed by the owner’s successor in interest, the name and  
7 address of the successor’s transferor.

8 (3) The nature of the interest or estate of the owner.

9 (4) The date of completion. An erroneous statement of the date  
10 of completion does not affect the effectiveness of the notice if the  
11 true date of completion is 15 days or less before the date of  
12 recordation of the notice.

13 (d) A notice of completion that does not comply with the  
14 provisions of this section is not effective.

15 8154. If a work of improvement is made pursuant to two or  
16 more direct contracts, each covering a portion of the work of  
17 improvement:

18 (a) The owner may record a notice of completion of a direct  
19 contract for a portion of the work of improvement. On recordation  
20 of the notice of completion, for the purpose of Sections 8412 and  
21 8414, a direct contractor is deemed to have completed the contract  
22 for which the notice of completion is recorded and a claimant other  
23 than a direct contractor is deemed to have ceased providing work.

24 (b) If the owner does not record a notice of completion under  
25 this section, the period for recording a claim of lien is that provided  
26 in Sections 8412 and 8414.

27 8155. (a) An owner may record a notice of cessation if there  
28 has been a continuous cessation of labor on a work of improvement  
29 for at least 30 days prior to the recordation that continues through  
30 the date of the recordation.

31 (b) The notice shall be signed and verified by the owner.

32 (c) The notice shall comply with the requirements of Article 4  
33 (commencing with Section 8100), and shall also include all of the  
34 following information:

35 (1) The date on or about which labor ceased.

36 (2) A statement that the cessation has continued until the  
37 recordation of the notice.

38 8156. (a) An owner that records a notice of completion or  
39 cessation shall, within 10 days of the date the notice of completion

1 or cessation is filed for record, give a copy of the notice to all of  
2 the following persons:

3 (1) A direct contractor.

4 (2) A claimant that has given the owner preliminary notice.

5 (b) The copy of the notice shall be given in compliance with  
6 the requirements of Article 3 (commencing with Section 8100).

7 (c) If the owner fails to give notice to a person as required by  
8 subdivision (a), the notice is ineffective to shorten the time within  
9 which that person may record a claim of lien under Sections 8412  
10 and 8414. The ineffectiveness of the notice is the sole liability of  
11 the owner for failure to give notice to a person under subdivision  
12 (a).

13 (d) This section does not apply to any of the following owners:

14 (1) A person that occupies the property as a personal residence,  
15 if the dwelling contains four or fewer residential units.

16 (2) A person that has a security interest in the property.

17 (3) A person that obtains an interest in the property pursuant to  
18 a transfer described in subdivision (b), (c), or (d) of Section 1102.2.

19

20

#### Article 7. Waiver and Release

21

22 8160. An owner, direct contractor, or subcontractor may not,  
23 by contract or otherwise, waive, affect, or impair any other  
24 claimant's rights under this part, whether with or without notice,  
25 and any term of a contract that purports to do so is void and  
26 unenforceable unless and until the claimant executes and delivers  
27 a waiver and release under this article.

28 8162. A claimant's waiver and release does not release the  
29 owner, construction lender, or surety on a payment bond from a  
30 lien or claim unless both of the following conditions are satisfied:

31 (a) The waiver and release is in substantially the form provided  
32 in this article and is signed by the claimant.

33 (b) If the release is a conditional release, there is evidence of  
34 payment to the claimant. Evidence of payment may be (1) the  
35 claimant's endorsement on a single or joint payee check that has  
36 been paid by the financial institution on which it was drawn or (2)  
37 written acknowledgment of payment by the claimant.

38 8164. An oral or written statement purporting to waive, release,  
39 impair or otherwise adversely affect a lien or claim is void and  
40 unenforceable and does not create an estoppel or impairment of

1 the lien or claim unless either of the following conditions is  
2 satisfied:

3 (a) The statement is pursuant to a waiver and release under this  
4 article.

5 (b) The claimant has actually received payment in full for the  
6 claim.

7 8166. (a) A claimant may reduce the amount of, or release in  
8 its entirety, a stop payment notice. The reduction or release shall  
9 be in writing and may be given in a form other than a waiver and  
10 release form provided in this article.

11 (b) The writing shall identify whether it is a reduction of the  
12 amount of the stop payment notice, or a release of the notice in its  
13 entirety. If the writing is a reduction, it shall state the amount of  
14 the reduction, and the amount to remain withheld after the  
15 reduction.

16 (c) A claimant’s reduction or release of a stop payment notice  
17 has the following effect:

18 (1) The reduction or release releases the claimant’s right to  
19 enforce payment of the claim stated in the notice to the extent of  
20 the reduction or release.

21 (2) The reduction or release releases the person given the notice  
22 from the obligation to withhold funds pursuant to the notice to the  
23 extent of the reduction or release.

24 (3) The reduction or release does not preclude the claimant from  
25 giving a subsequent stop payment notice that is timely and proper.

26 (4) The reduction or release does not release any right of the  
27 claimant other than the right to enforce payment of the claim stated  
28 in the stop payment notice to the extent of the reduction or release.

29 8168. This article does not affect the enforceability of either  
30 an accord and satisfaction concerning a good faith dispute or an  
31 agreement made in settlement of an action pending in court if the  
32 accord and satisfaction or agreement and settlement make specific  
33 reference to the lien or claim.

34 8170. If a claimant is required to execute a waiver and release  
35 in exchange for, or in order to induce payment of, a progress  
36 payment and the claimant is not, in fact, paid in exchange for the  
37 waiver and release or a single payee check or joint payee check is  
38 given in exchange for the waiver and release, the waiver and release  
39 shall be in substantially the following form:



1 Conditional Waiver and Release on Progress Payment

2

3 NOTICE: This document waives the claimant’s lien and certain other rights  
4 effective on receipt of payment. A person should not rely on this document  
5 unless satisfied that the claimant has received payment.

6

7 Identifying Information

8 Name of Claimant: \_\_\_\_\_

9 Name of Customer: \_\_\_\_\_

10 Job Location: \_\_\_\_\_

11 Owner: \_\_\_\_\_

12 Through Date: \_\_\_\_\_

13

14 Conditional Waiver and Release

15 This document waives and releases lien, stop payment notice, and payment  
16 bond rights the claimant has for labor and service provided, and equipment  
17 and material delivered, to the customer on this job through the Through Date  
18 of this document. This document is effective only on the claimant’s receipt of  
19 payment from the financial institution on which the following check is drawn:

20 Maker of Check: \_\_\_\_\_

21 Amount of Check: \$ \_\_\_\_\_

22 Check Payable to: \_\_\_\_\_

23

24 Exceptions

25 This document does not apply to a lien right based on any of the following:

26 (1) Retentions.

27 (2) Extras for which the claimant has not received payment.

28 (3) The following progress payments for which the claimant has previously  
29 given a conditional waiver and release but has not received payment:

30 Date(s) of waiver and release: \_\_\_\_\_

31 Amount(s) of unpaid progress payment(s): \$ \_\_\_\_\_

32 This document does not affect contract rights, including (A) a right based on  
33 rescission, abandonment, or breach of contract, and (B) the right to recover  
34 compensation for work not compensated by the payment.

35

36 Signature

37 Claimant’s Signature: \_\_\_\_\_

38 Claimant’s Title: \_\_\_\_\_

39 Date of Signature: \_\_\_\_\_

40

1 8172. If the claimant is required to execute a waiver and release  
2 in exchange for, or in order to induce payment of, a progress  
3 payment and the claimant asserts in the waiver it has, in fact, been  
4 paid the progress payment, the waiver and release shall be in  
5 substantially the following form, with the text of the “Notice to  
6 Claimant” in at least as large a type as the largest type otherwise  
7 in the form:

8  
9 Unconditional Waiver and Release on Progress Payment

10  
11 NOTICE TO CLAIMANT: This document waives and releases rights  
12 unconditionally and states that you have been paid for giving up those rights.  
13 This document is enforceable against you if you sign it, even if you have not  
14 been paid. If you have not been paid, use a conditional waiver and release  
15 form.

16  
17 Identifying Information  
18 Name of Claimant: \_\_\_\_\_  
19 Name of Customer: \_\_\_\_\_  
20 Job Location: \_\_\_\_\_  
21 Owner: \_\_\_\_\_  
22 Through Date: \_\_\_\_\_

23  
24 Unconditional Waiver and Release  
25 This document waives and releases lien, stop payment notice, and payment  
26 bond rights the claimant has for labor and service provided, and equipment  
27 and material delivered, to the customer on this job through the Through Date  
28 of this document.

29  
30 The claimant has received the following progress payment:  
31 \$ \_\_\_\_\_

32  
33 Exceptions  
34 This document does not apply to a lien right based on any of the following:  
35 (1) Retentions.  
36 (2) Extras for which the claimant has not received payment. This document  
37 does not affect contract rights, including (A) a right based on rescission,  
38 abandonment, or breach of contract, and (B) the right to recover compensation  
39 for work not compensated by the payment.

40

1 Signature  
 2 Claimant's Signature: \_\_\_\_\_  
 3 Claimant's Title: \_\_\_\_\_  
 4 Date of Signature: \_\_\_\_\_  
 5

6 8174. If the claimant is required to execute a waiver and release  
 7 in exchange for, or in order to induce payment of, a final payment  
 8 and the claimant is not, in fact, paid in exchange for the waiver  
 9 and release or a single payee check or joint payee check is given  
 10 in exchange for the waiver and release, the waiver and release shall  
 11 be in substantially the following form:

12  
 13 Conditional Waiver and Release on Final Payment

14  
 15 NOTICE: This document waives the claimant's lien and certain other rights  
 16 effective on receipt of payment. A person should not rely on this document  
 17 unless satisfied that the claimant has received payment.  
 18

19 Identifying Information

20 Name of Claimant: \_\_\_\_\_  
 21 Name of Customer: \_\_\_\_\_  
 22 Job Location: \_\_\_\_\_  
 23 Owner: \_\_\_\_\_  
 24

25 Conditional Waiver and Release

26 This document waives and releases lien, stop payment notice, and payment  
 27 bond rights the claimant has for labor and service provided, and equipment  
 28 and material delivered to the customer on this job. This document is effective  
 29 only on the claimant's receipt of payment from the financial institution on  
 30 which the following check is drawn:

31 Maker of Check: \_\_\_\_\_  
 32 Amount of Check: \$ \_\_\_\_\_  
 33 Check Payable to: \_\_\_\_\_  
 34

35 Exceptions

36 This document does not affect any of the following:  
 37 (1) Disputed claims for extras in the amount of: \$ \_\_\_\_\_  
 38 (2) The following progress payments for which the claimant has previously  
 39 given a conditional waiver and release but has not received payment:  
 40 Date(s) of waiver and release: \_\_\_\_\_

1 Amount(s) of unpaid progress payment(s): \$ \_\_\_\_\_

2

3 Signature

4 Claimant's Signature: \_\_\_\_\_

5 Claimant's Title: \_\_\_\_\_

6 Date of Signature: \_\_\_\_\_

7

8 8176. If the claimant is required to execute a waiver and release  
9 in exchange for, or in order to induce payment of, a final payment  
10 and the claimant asserts in the waiver it has, in fact, been paid the  
11 final payment, the waiver and release shall be in substantially the  
12 following form, with the text of the "Notice to Claimant" in at  
13 least as large a type as the largest type otherwise in the form:

14

15 Unconditional Waiver and Release on Final Payment

16

17 NOTICE TO CLAIMANT: This document waives and releases rights  
18 unconditionally and states that you have been paid for giving up those rights.  
19 This document is enforceable against you if you sign it, even if you have not  
20 been paid. If you have not been paid, use a conditional waiver and release  
21 form.

22

23 Identifying Information

24 Name of Claimant: \_\_\_\_\_

25 Name of Customer: \_\_\_\_\_

26 Job Location: \_\_\_\_\_

27 Owner: \_\_\_\_\_

28

29 Unconditional Waiver and Release

30 This document waives and releases lien, stop payment notice, and payment  
31 bond rights the claimant has for all labor and service provided, and equipment  
32 and material delivered, to the customer on this job. The claimant has been paid  
33 in full.

34

35 Exception

36 This document does not affect the following:

37 Disputed claims for extras in the amount of: \$ \_\_\_\_\_

38

39 Signature

40 Claimant's Signature: \_\_\_\_\_

1 Claimant’s Title: \_\_\_\_\_

2 Date of Signature: \_\_\_\_\_

3

4

CHAPTER 2. PRELIMINARY NOTICE

5

6 8200. (a) Except as otherwise provided by statute, before  
7 recording a lien claim, giving a stop payment notice, or asserting  
8 a claim against a payment bond, a claimant shall give preliminary  
9 notice to the following persons:

10 (1) The owner or reputed owner.

11 (2) The direct contractor or reputed direct contractor to which  
12 the claimant provides work, either directly or through one or more  
13 subcontractors.

14 (3) The construction lender or reputed construction lender, if  
15 any.

16 (b) The notice shall comply with the requirements of Article 3  
17 (commencing with Section 8100) of Chapter 1.

18 (c) Compliance with this section is a necessary prerequisite to  
19 the validity of a lien claim or stop payment notice under this part.

20 (d) Compliance with this section or with Section 8612 is a  
21 necessary prerequisite to the validity of a claim against a payment  
22 bond under this part.

23 (e) Notwithstanding the foregoing subdivisions:

24 (1) A laborer is not required to give preliminary notice.

25 (2) A claimant with a direct contractual relationship with an  
26 owner or reputed owner is required to give preliminary notice only  
27 to the construction lender or reputed construction lender, if any.

28 8202. (a) The preliminary notice shall comply with the  
29 requirements of Section 8102, and shall also include:

30 (1) A general description of the work to be provided.

31 (2) An estimate of the total price of the work provided and to  
32 be provided.

33 (3) The following statement in boldface type:

34

35

NOTICE TO PROPERTY OWNER

36

37 **EVEN THOUGH YOU HAVE PAID YOUR CONTRACTOR IN FULL,**  
38 **if the person or firm that has given you this notice is not paid in full for labor,**  
39 **service, equipment, or material provided or to be provided to your construction**  
40 **project, a lien may be placed on your property. Foreclosure of the lien may**

1 lead to loss of all or part of your property. You may wish to protect yourself  
2 against this by (1) requiring your contractor to provide a signed release by the  
3 person or firm that has given you this notice before making payment to your  
4 contractor, or (2) any other method that is appropriate under the circumstances.

5 This notice is required by law to be served by the undersigned as a statement  
6 of your legal rights. This notice is not intended to reflect upon the financial  
7 condition of the contractor or the person employed by you on the construction  
8 project.

9 If you record a notice of cessation or completion of your construction project,  
10 you must within 10 days after recording, send a copy of the notice of  
11 completion to your contractor and the person or firm that has given you this  
12 notice. The notice must be sent by registered or certified mail. Failure to send  
13 the notice will extend the deadline to record a claim of lien. You are not  
14 required to send the notice if you are a residential homeowner of a dwelling  
15 containing four or fewer units.

16  
17 (b) If preliminary notice is given by a subcontractor that has  
18 not paid all compensation due to a laborer, the notice shall include  
19 the name and address of the laborer and any person or entity  
20 described in subdivision (b) of Section 8020 to which payments  
21 are due.

22 (c) If an invoice for material or certified payroll contains the  
23 information required by this section and Section 8102, a copy of  
24 the invoice or payroll, given in compliance with the requirements  
25 of Article 3 (commencing with Section 8100) of Chapter 1, is  
26 sufficient.

27 8204. (a) A claimant may record a claim of lien, give a stop  
28 payment notice, or assert a claim against a payment bond only for  
29 work provided within 20 days before giving preliminary notice or  
30 at any time thereafter.

31 (b) Notwithstanding subdivision (a), a certificated architect,  
32 registered engineer, or licensed land surveyor that has furnished  
33 services for the design of the work of improvement may record a  
34 claim of lien, give a stop payment notice, or assert a claim against  
35 a payment bond for design professional services provided for the  
36 design of the work of improvement if the architect, engineer, or  
37 land surveyor gives preliminary notice not later than 20 days after  
38 the work of improvement has commenced.

39 8206. (a) Except as provided in subdivision (b), a claimant  
40 need give only one preliminary notice to each person to which

1 notice must be given under this chapter with respect to all work  
2 provided by the claimant for a work of improvement.

3 (b) If a claimant provides work pursuant to contracts with more  
4 than one subcontractor, the claimant shall give a separate  
5 preliminary notice with respect to work provided pursuant to each  
6 contract.

7 (c) A preliminary notice that contains a general description of  
8 work provided by the claimant through the date of the notice also  
9 covers work provided by the claimant after the date of the notice  
10 whether or not they are within the scope of the general description  
11 contained in the notice.

12 8208. A direct contractor shall make available to any person  
13 seeking to give preliminary notice the following information:

14 (a) The name and address of the owner.

15 (b) The name and address of the construction lender, if any.

16 8210. If a construction loan is obtained after commencement  
17 of a work of improvement, the owner shall give notice of the name  
18 and address of the construction lender to each person that has given  
19 the owner preliminary notice.

20 8212. An agreement made or entered into by an owner whereby  
21 the owner agrees to waive the rights conferred on the owner by  
22 this chapter is void and unenforceable.

23 8214. The county recorder may cause to be destroyed all  
24 documents filed under subdivision (o) of former Section 3097 as  
25 that section read on January 1, 2008.

26 8216. If the contract of any subcontractor on a particular work  
27 of improvement provides for payment to the subcontractor of more  
28 than four hundred dollars (\$400), the failure of that subcontractor,  
29 licensed under the Contractors' State License Law (Chapter 9  
30 (commencing with Section 7000) of Division 3 of the Business  
31 and Professions Code), to give the notice provided for in this  
32 chapter, constitutes grounds for disciplinary action under the  
33 Contractors' State License Law.

34

### 35 CHAPTER 3. DESIGN PROFESSIONALS' LIEN

36

37 8300. Notwithstanding Section 8028, for purposes of this  
38 chapter "owner" means a fee owner of a site.

39 8302. (a) A design professional has, from the date of  
40 recordation of a claim of lien under this chapter, a lien on the site

1 notwithstanding the absence of commencement of the planned  
2 work of improvement, if the owner who contracted for the design  
3 professional’s services is also the owner of the site at the time of  
4 recordation of the claim of lien.

5 (b) The lien of the design professional is for the amount of the  
6 design professional’s fee for services provided under the contract  
7 or the reasonable value of those services, whichever is less. The  
8 amount of the lien is reduced by the amount of any deposit or prior  
9 payment under the contract.

10 (c) A design professional may not record a claim of lien, and a  
11 lien may not be created, under this chapter unless a building permit  
12 or other governmental approval in furtherance of the work of  
13 improvement has been obtained in connection with or utilizing the  
14 services provided by the design professional.

15 8304. A design professional is not entitled to a lien under this  
16 chapter unless all of the following conditions are satisfied:

17 (a) The work of improvement for which the design professional  
18 provided services has not commenced.

19 (b) The owner defaults in a payment required under the contract  
20 or refuses to pay the demand of the design professional made under  
21 the contract.

22 (c) Not less than 10 days before recording a claim of lien, the  
23 design professional gives the owner notice making a demand for  
24 payment, and stating that a default has occurred under the contract  
25 and the amount of the default.

26 (d) The design professional records a claim of lien. The claim  
27 of lien shall include all of the following information:

- 28 (1) The name of the design professional.
- 29 (2) The amount of the claim.
- 30 (3) The current owner of record of the site.
- 31 (4) A legal description of the site.
- 32 (5) Identification of the building permit or other governmental  
33 approval for the work of improvement.

34 8306. (a) On recordation of the claim of lien, a lien is created  
35 in favor of the named design professional.

36 (b) The lien automatically expires and is null and void and of  
37 no further force or effect on the occurrence of either of the  
38 following events:

- 39 (1) The commencement of the work of improvement for which  
40 the design professional provided services.



1 (2) The expiration of 90 days after recording the claim of lien,  
2 unless the design professional commences an action to enforce the  
3 lien within that time.

4 (c) If the owner partially or fully satisfies the lien, the design  
5 professional shall execute and record a document that evidences  
6 a partial or full satisfaction and release of the lien, as applicable.

7 8308. (a) Except as provided in subdivision (b), no provision  
8 of this part applies to a lien created under this chapter.

9 (b) The following provisions of this part apply to a lien created  
10 under this chapter:

11 (1) This chapter.

12 (2) Article 1 (commencing with Section 8000) of Chapter 1.

13 (3) Section 8428.

14 (4) Article 7 (commencing with Section 8480) of Chapter 4.

15 (5) Article 8 (commencing with Section 8490) of Chapter 4.

16 8310. This chapter does not affect the ability of a design  
17 professional to obtain a lien for a work of improvement under  
18 Section 8400.

19 8312. A design professional shall record a claim of lien under  
20 this chapter no later than 90 days after the design professional  
21 knows or has reason to know that the work of improvement will  
22 not be commenced.

23 8314. The creation of a lien under this chapter does not affect  
24 the ability of the design professional to pursue other remedies.

25 8316. (a) No lien created under this chapter affects or takes  
26 priority over the interest of record of a purchaser, lessee, or  
27 encumbrancer, if the interest of the purchaser, lessee, or  
28 encumbrancer in the property was duly recorded before recordation  
29 of the claim of lien.

30 (b) No lien created under this chapter affects or takes priority  
31 over an encumbrance of a construction lender that funds the loan  
32 for the work of improvement for which the design professional  
33 provided services.

34 8318. A design professional may not obtain a lien under this  
35 chapter for services provided for a work of improvement relating  
36 to a single-family, owner-occupied residence for which the  
37 expected construction cost is less than one hundred thousand  
38 dollars (\$100,000).

CHAPTER 4. MECHANICS LIEN

Article 1. Who is Entitled to Lien

8400. A person that provides work authorized for a work of improvement, including, but not limited to, the following persons, has a lien right under this chapter:

- (a) Direct contractor.
- (b) Subcontractor.
- (c) Material supplier.
- (d) Equipment lessor.
- (e) Laborer.
- (f) Design professional.

8402. A person that provides work authorized for a site improvement has a lien right under this chapter.

8404. Work is authorized for a work of improvement or for a site improvement in any of the following circumstances:

- (a) It is provided at the request of or agreed to by the owner.
- (b) It is provided or authorized by a direct contractor, subcontractor, architect, project manager, or other person having charge of all or part of the work of improvement or site improvement.

Article 2. Conditions to Enforcing a Lien

8410. A claimant may enforce a lien only if the claimant has given preliminary notice to the extent required by Chapter 2 (commencing with Section 8200) and made proof of notice.

8412. A direct contractor may not enforce a lien unless the contractor records a claim of lien after the contractor completes the direct contract, and before the earlier of the following times:

- (a) Ninety days after completion of the work of improvement.
- (b) Sixty days after the owner records a notice of completion or cessation.

8414. A claimant other than a direct contractor may not enforce a lien unless the claimant records a claim of lien within the following times:

- (a) After the claimant ceases to provide work.
- (b) Before the earlier of the following times:
  - (1) Ninety days after completion of the work of improvement.

1 (2) Thirty days after the owner records a notice of completion  
2 or cessation.

3 8416. A claim of lien shall be in writing, signed and verified  
4 by the claimant, and shall include all of the following information:

5 (a) An itemization of the claimant's demand after deducting all  
6 just credits and offsets.

7 (b) The name of the owner or reputed owner, if known.

8 (c) A general statement of the kind of work provided by the  
9 claimant.

10 (d) The name of the person that contracted with the claimant  
11 for the work.

12 (e) A description of the site sufficient for identification.

13 (f) The claimant's address.

14 8418. (a) Before recording a claim of lien, the claimant shall  
15 give notice of the intended recording to the owner or reputed owner  
16 of the property subject to the claim of lien, if known. The notice  
17 shall comply with the requirements of Article 3 (commencing with  
18 Section 8100) of Chapter 1.

19 (b) Notice of the intended recording of a claim of lien shall  
20 include a copy of the claim of lien.

21 8420. The county recorder shall not record a claim of lien that  
22 is filed for record unless accompanied by a declaration under  
23 penalty of perjury attesting to service of a true and accurate copy  
24 of the lien claim on the owner or reputed owner.

25 8422. (a) Except as provided in subdivision (b), erroneous  
26 information contained in a claim of lien relating to the claimant's  
27 demand, credits and offsets deducted, the work provided, or the  
28 description of the site, does not invalidate the claim of lien.

29 (b) Erroneous information contained in a claim of lien relating  
30 to the claimant's demand, credits and offsets deducted, or the work  
31 provided, invalidates the claim of lien if the court determines either  
32 of the following:

33 (1) The claim of lien was made with intent to slander title or  
34 defraud.

35 (2) An innocent third party, without notice, actual or  
36 constructive, became the bona fide owner of the property after  
37 recordation of the claim of lien, and the claim of lien was so  
38 deficient that it did not put the party on further inquiry in any  
39 manner.

1 8424. (a) An owner of property subject to a recorded claim of  
2 lien or a direct contractor or subcontractor affected by the claim  
3 of lien that disputes the correctness or validity of the claim may  
4 obtain release of the property from the claim of lien by recording  
5 a lien release bond. The principal on the bond may be the owner  
6 of the property, the direct contractor, or the subcontractor.

7 (b) The bond shall be conditioned on payment of any judgment  
8 and costs the claimant recovers on the lien. The bond shall be in  
9 an amount equal to 150 percent of the amount of the claim of lien  
10 or 150 percent of the amount allocated in the claim of lien to the  
11 property to be released. The bond shall be executed by an admitted  
12 surety insurer.

13 (c) The bond may be recorded either before or after  
14 commencement of an action to enforce the lien. On recordation of  
15 the bond, the property is released from the claim of lien and from  
16 any action to enforce the lien.

17 (d) A person that obtains and records a lien release bond shall  
18 give notice to the claimant. The notice shall comply with the  
19 requirements of Article 3 (commencing with Section 8100) of  
20 Chapter 1 and shall include a copy of the bond. Failure to give the  
21 notice required by this section does not affect the validity of the  
22 bond, but the statute of limitations for an action on the bond is  
23 tolled until notice is given. The claimant shall commence an action  
24 on the bond within six months after notice is given.

25  
26  
27

### Article 3. Amount of Lien

28 8430. (a) The lien is a direct lien for the lesser of the following  
29 amounts:

30 (1) The reasonable value of the work provided by the claimant.

31 (2) The price agreed to by the claimant and the person that  
32 contracted for the work.

33 (b) The lien is not limited in amount by the contract price for  
34 the work of improvement except as provided in Section 8602.

35 (c) This section does not preclude the claimant from including  
36 in a claim of lien work performed as a result of rescission,  
37 abandonment, or breach of the contract. If there is a rescission,  
38 abandonment, or breach of the contract, the amount of the lien  
39 may not exceed the reasonable value of the work provided by the  
40 claimant.

1 8432. (a) A lien does not extend to work, whether or not the  
2 work is authorized by a direct contractor or subcontractor, if the  
3 work is not included in a direct contract, and the claimant had  
4 actual knowledge or constructive notice of the provisions of that  
5 contract before providing the work.

6 (b) The filing of a contract with the county recorder, before the  
7 commencement of a work of improvement, is constructive notice  
8 of the provisions of the contract to a person providing work on  
9 that work of improvement.

10 8434. A direct contractor or a subcontractor may enforce a lien  
11 only for the amount due pursuant to that contractor's contract after  
12 deducting all lien claims of other claimants for work provided and  
13 embraced within that contract.

14  
15 Article 4. Property Subject to Lien  
16

17 8440. Subject to Section 8442, a lien attaches to the work of  
18 improvement and to the property on which the work of  
19 improvement is situated, including as much space about the work  
20 of improvement as is required for the convenient use and  
21 occupation of the work of improvement.

22 8442. The following interests in property to which a lien  
23 attaches are subject to the lien:

24 (a) The interest of a person that contracted for the work of  
25 improvement.

26 (b) The interest of a person that did not contract for the work  
27 of improvement, if work for which the lien is claimed was provided  
28 with the knowledge of the person. This subdivision does not apply  
29 to the interest of a person that gives notice of nonresponsibility  
30 under Section 8444.

31 8444. (a) An owner of property on which a work of  
32 improvement is situated that did not contract for the work of  
33 improvement may give notice of nonresponsibility.

34 (b) A notice of nonresponsibility shall be signed and verified  
35 by the owner.

36 (c) The notice shall comply with the requirements of Article 3  
37 (commencing with Section 8100) of Chapter 1.

38 (d) The notice shall also include all of the following information:

39 (1) The nature of the owner's title or interest.

1 (2) The name of a purchaser under contract, if any, or lessee, if  
2 known.

3 (3) A statement that the person giving the notice is not  
4 responsible for claims arising from the work of improvement.

5 (e) A notice of nonresponsibility is not effective unless, within  
6 10 days after the person giving notice has knowledge of the work  
7 of improvement, the person both posts and records the notice.

8 8446. A claimant may record one claim of lien on two or more  
9 works of improvement, subject to the following conditions:

10 (a) The works of improvement have or are reputed to have the  
11 same owner, or the work was contracted for by the same person  
12 for the works of improvement whether or not they have the same  
13 owner.

14 (b) The claimant in the claim of lien designates the amount due  
15 for each work of improvement. If the claimant contracted for a  
16 lump sum payment for work provided for the works of  
17 improvement and the contract does not segregate the amount due  
18 for each work of improvement separately, the claimant may  
19 estimate an equitable distribution of the amount due for each work  
20 of improvement based on the proportionate amount of work  
21 provided for each. If the claimant does not designate the amount  
22 due for each work of improvement, the lien is subordinate to other  
23 liens.

24 (c) If there is a single structure on property of different owners,  
25 the claimant need not segregate the proportion of work provided  
26 for the portion of the structure situated on property of each owner.  
27 In the lien enforcement action the court may, if it determines it  
28 equitable to do so, designate an equitable distribution of the lien  
29 among the property of the owners.

30 (d) The lien does not extend beyond the amount designated as  
31 against other creditors having liens, by judgment, mortgage, or  
32 otherwise, on either the works of improvement or the property on  
33 which the works of improvement are situated.

34 8448. (a) As used in this section, “separate residential unit”  
35 means one residential structure, including a residential structure  
36 containing multiple condominium units, together with any common  
37 area, garage, or other appurtenant improvements.

38 (b) If a work of improvement consists of the construction of  
39 two or more separate residential units:

1 (1) Each unit is deemed a separate work of improvement, and  
2 completion of each unit is determined separately for purposes of  
3 the time for recording a claim of lien on that unit. This paragraph  
4 does not affect any lien right under Section 8402 or 8446.

5 (2) Material provided for the work of improvement is deemed  
6 to be provided for use or consumption in each separate residential  
7 unit in which the material is actually used or consumed; but if the  
8 claimant is unable to segregate the amounts used or consumed in  
9 separate residential units, the claimant has the right to all the  
10 benefits of Section 8446.

11  
12 Article 5. Priorities  
13

14 8450. (a) A lien under this chapter, other than a lien provided  
15 for in Section 8402, has priority over a lien, mortgage, deed of  
16 trust, or other encumbrance on the work of improvement or the  
17 property on which the work of improvement is situated, that (1)  
18 attaches after commencement of the work of improvement or (2)  
19 was unrecorded at the commencement of the work of improvement  
20 and of which the claimant had no notice.

21 (b) Subdivision (a) is subject to the exception provided for in  
22 Section 8452.

23 8452. A mortgage or deed of trust, otherwise subordinate to a  
24 lien under Section 8450, has priority over a lien for work provided  
25 after recordation of a payment bond that satisfies all of the  
26 following requirements:

27 (a) The bond refers to the mortgage or deed of trust.

28 (b) The bond is in an amount not less than 75 percent of the  
29 principal amount of the mortgage or deed of trust.

30 8454. If a site improvement is provided for in a direct contract  
31 separate from the direct contract for the remainder of the work of  
32 improvement, the site improvement is deemed a separate work of  
33 improvement and commencement of the site improvement is not  
34 commencement of the remainder of the work of improvement.

35 8456. (a) This section applies to a construction loan secured  
36 by a mortgage or deed of trust that has priority over a lien under  
37 this chapter.

38 (b) An optional advance of funds by the construction lender that  
39 is used for construction costs has the same priority as a mandatory  
40 advance of funds by the construction lender, provided that the total

1 of all advances does not exceed the amount of the original  
2 construction loan.

3 8458. (a) Except as provided in subdivision (b), a lien provided  
4 for in Section 8402 has priority over:

5 (1) A mortgage, deed of trust, or other encumbrance that attaches  
6 after commencement of the site improvement.

7 (2) A mortgage, deed of trust, or other encumbrance that was  
8 unrecorded at the commencement of the site improvement and of  
9 which the claimant had no notice.

10 (3) A mortgage, deed of trust, or other encumbrance that was  
11 recorded before commencement of the site improvement, if given  
12 for the sole or primary purpose of financing the site improvement.  
13 This subdivision does not apply if the loan proceeds are, in good  
14 faith, placed in the control of the lender pursuant to a binding  
15 agreement with the borrower to the effect that (A) the proceeds  
16 are to be applied to the payment of claimants and (B) no portion  
17 of the proceeds will be paid to the borrower in the absence of  
18 satisfactory evidence that all claims have been paid or that the time  
19 for recording a claim of lien has expired and no claim of lien has  
20 been recorded.

21 (b) A mortgage or deed of trust, otherwise subordinate under  
22 subdivision (a), has priority over a lien provided for in Section  
23 8402 if a payment bond in an amount not less than 50 percent of  
24 the principal amount of the mortgage or deed of trust is recorded  
25 before completion of the work of improvement.

26  
27  
28

Article 6. Enforcement of Lien

29 8460. (a) The claimant shall commence an action to enforce  
30 a lien within 90 days after recordation of the claim of lien and  
31 record a notice of the pendency of the action under Title 4.5  
32 (commencing with Section 405) of Part 2 of the Code of Civil  
33 Procedure within 110 days after recordation of the claim of lien.  
34 If the claimant does not commence an action and record notice of  
35 the pendency of the action within the times provided in this  
36 subdivision, the claim of lien expires and is unenforceable.

37 (b) Subdivision (a) does not apply if the claimant and owner  
38 agree to extend credit, and notice of the fact and terms of the  
39 extension of credit is recorded (1) within 90 days after recordation  
40 of the claim of lien or (2) more than 90 days after recordation of



1 the claim of lien but before a purchaser or encumbrancer for value  
2 and in good faith acquires rights in the property. In that event the  
3 claimant shall commence an action to enforce the lien and record  
4 a notice of the pendency of the action within 90 days after the  
5 expiration of the credit, but in no case later than one year after  
6 completion of the work of improvement. If the claimant does not  
7 commence an action and record notice of the pendency of the  
8 action within the times provided in this subdivision, the claim of  
9 lien expires and is unenforceable.

10 8462. Notwithstanding Section 583.420 of the Code of Civil  
11 Procedure, the court may dismiss an action to enforce a lien that  
12 is not brought to trial within two years after commencement of the  
13 action.

14 8464. In addition to any other costs allowed by law, the court  
15 in an action to enforce a lien shall allow as costs to each claimant  
16 whose lien is established the amount paid to verify and record the  
17 claim of lien, whether the claimant is a plaintiff or defendant.

18 8466. If there is a deficiency of proceeds from the sale of  
19 property on a judgment for enforcement of a lien, a deficiency  
20 judgment may be entered against a party personally liable for the  
21 deficiency in the same manner and with the same effect as in an  
22 action to foreclose a mortgage.

23 8468. (a) This chapter does not affect any of the following  
24 rights of a claimant:

25 (1) The right to maintain a personal action to recover a debt  
26 against the person liable, either in a separate action or in an action  
27 to enforce a lien.

28 (2) The right to a writ of attachment. In an application for a writ  
29 of attachment, the claimant shall refer to this section. The  
30 claimant's recording of a claim of lien does not affect the right to  
31 a writ of attachment.

32 (3) The right to enforce a judgment.

33 (b) A judgment obtained by the claimant in a personal action  
34 described in subdivision (a) does not impair or merge the claim of  
35 lien, but any amount collected on the judgment shall be credited  
36 on the amount of the lien.

37 8470. In an action to enforce a lien for work provided to a  
38 contractor:

1 (a) The contractor shall defend the action at the contractor’s  
2 own expense. During the pendency of the action the owner may  
3 withhold from the direct contractor the amount of the lien claim.

4 (b) If the judgment in the action is against the owner or the  
5 owner’s property, the owner may deduct the amount of the  
6 judgment and costs from any amount owed to the direct contractor.  
7 If the amount of the judgment and costs exceeds the amount owed  
8 to the direct contractor, or if the owner has settled with the direct  
9 contractor in full, the owner may recover from the direct contractor,  
10 or the sureties on a bond given by the direct contractor for faithful  
11 performance of the direct contract, the amount of the judgment  
12 and costs that exceed the contract price and for which the direct  
13 contractor was originally liable.

14

15 Article 7. Release Order

16

17 8480. (a) The owner of property subject to a claim of lien may  
18 petition the court for an order to release the property from the claim  
19 of lien for any of the following causes:

20 (1) The claimant has not commenced an action to enforce the  
21 lien within the time provided in Section 8460.

22 (2) The claimant’s demand stated in the claim of lien has been  
23 paid to the claimant in full.

24 (3) None of the work stated in the claim of lien has been  
25 provided.

26 (4) The claimant was not licensed to provide the work stated in  
27 the claim of lien for which a license was required by statute.

28 (5) There is a final judgment in another proceeding that the  
29 petitioner is not indebted to the claimant for the demand on which  
30 the claim of lien is based.

31 (b) This article does not bar any other cause of action or claim  
32 for relief by the owner of the property, including, but not limited  
33 to, the filing of a complaint with the Contractors’ State License  
34 Board. A release order does not bar any other cause of action or  
35 claim for relief by the claimant, other than an action to enforce the  
36 claim of lien that is the subject of the release order.

37 (c) A petition for a release order under this article may be joined  
38 with a pending action to enforce the claim of lien that is the subject  
39 of the petition. No other action or claim for relief may be joined  
40 with a petition under this article.

1 (d) Notwithstanding Section 8054, Chapter 2.5 (commencing  
2 with Section 1141.10) of Title 3 of Part 3 of the Code of Civil  
3 Procedure does not apply to a proceeding under this article.

4 8482. An owner of property may not petition the court for a  
5 release order under this article unless at least 10 days before filing  
6 the petition the owner gives the claimant notice demanding that  
7 the claimant execute and record a release of the claim of lien. The  
8 notice shall comply with the requirements of Article 3  
9 (commencing with Section 8100) of Chapter 1, and shall state the  
10 grounds for the demand.

11 8484. A petition for a release order shall be verified and shall  
12 allege all of the following:

13 (a) The date of recordation of the claim of lien. A certified copy  
14 of the claim of lien shall be attached to the petition.

15 (b) The county in which the claim of lien is recorded.

16 (c) The book and page or series number of the place in the  
17 official records where the claim of lien is recorded.

18 (d) The legal description of the property subject to the claim of  
19 lien.

20 (e) The facts on which the petition is based. If the petition is  
21 based on expiration of the time to enforce the lien, the petition  
22 shall state whether an extension of credit has been granted under  
23 Section 8460, if so to what date, and shall allege that the time for  
24 commencement of an action to enforce the lien has expired.

25 (f) That the owner has given the claimant notice under Section  
26 8482 demanding that the claimant execute and record a release of  
27 the lien and that the claimant is unable or unwilling to do so or  
28 cannot with reasonable diligence be found.

29 (g) Whether an action to enforce the lien is pending.

30 (h) Whether the owner has filed for relief in bankruptcy or there  
31 is another restraint that prevents the claimant from commencing  
32 an action to enforce the lien.

33 8486. (a) On the filing of a petition for a release order, the  
34 clerk shall set a hearing date. The date shall be not more than 30  
35 days after the filing of the petition. The court may continue the  
36 hearing only on a showing of good cause, but in any event the  
37 court shall rule and make any necessary orders on the petition not  
38 later than 60 days after the filing of the petition.

39 (b) The petitioner shall serve a copy of the petition and a notice  
40 of hearing on the claimant at least 15 days before the hearing.

1 Service shall be made in the same manner as service of summons,  
2 or by certified or registered mail, postage prepaid, return receipt  
3 requested, addressed to the claimant as provided in Section 8108.

4 (c) Notwithstanding Section 8116, when service is made by  
5 mail, service is complete on the fifth day following deposit of the  
6 petition and notice in the mail.

7 8488. (a) At the hearing both (1) the petition and (2) the issue  
8 of compliance with the service and date for hearing requirements  
9 of this article are deemed controverted by the claimant. The  
10 petitioner has the initial burden of producing evidence on those  
11 matters. The petitioner has the burden of proof as to the issue of  
12 compliance with the service and date for hearing requirements of  
13 this article. The claimant has the burden of proof as to the validity  
14 of the lien.

15 (b) If judgment is in favor of the petitioner, the court shall order  
16 the property released from the claim of lien.

17 (c) The prevailing party is entitled to reasonable attorney’s fees.  
18

19 Article 8. Removal of Claim of Lien from Record  
20

21 8490. (a) A court order dismissing a cause of action to enforce  
22 a lien or releasing property from a claim of lien, or a judgment  
23 that no lien exists, shall include all of the following information:

- 24 (1) The date of recordation of the claim of lien.
- 25 (2) The county in which the claim of lien is recorded.
- 26 (3) The book and page or series number of the place in the  
27 official records where the claim of lien is recorded.
- 28 (4) The legal description of the property.

29 (b) A court order or judgment under this section is equivalent  
30 to cancellation of the claim of lien and its removal from the record.

31 (c) A court order or judgment under this section is a recordable  
32 instrument. On recordation of a certified copy of the court order  
33 or judgment, the property described in the order or judgment is  
34 released from the claim of lien.

35 (d) A court order or judgment under this section is not effective,  
36 and may not be recorded, until 20 days after service by the court  
37 or any party of notice of the entry of the order or judgment.

38 (e) This section does not apply to a court order dismissing an  
39 action to enforce a lien that is expressly stated to be without  
40 prejudice.

1 8494. If a claim of lien expires and is unenforceable under  
2 Section 8460, or if a court order or judgment is recorded under  
3 Section 8490, the claim of lien does not constitute actual or  
4 constructive notice of any of the matters contained, claimed,  
5 alleged, or contended in the claim of lien, or create a duty of  
6 inquiry in any person thereafter dealing with the affected property.

7  
8 CHAPTER 5. STOP PAYMENT NOTICE

9  
10 Article 1. General Provisions

11  
12 8500. The rights of all persons furnishing work for any work  
13 of improvement, with respect to any fund for payment of  
14 construction costs, are governed exclusively by this chapter, and  
15 no person may assert any legal or equitable right with respect to  
16 the fund, other than a right created by a written contract between  
17 that person and the person holding the fund, except pursuant to  
18 the provisions of this chapter.

19 8502. (a) A stop payment notice shall comply with the  
20 requirements of Section 8102, and shall be signed and verified by  
21 the claimant.

22 (b) The notice shall include a general description of work to be  
23 provided, and an estimate of the total amount in value of the work  
24 to be provided.

25 (c) The amount claimed in the notice may include only the  
26 amount due the claimant for work provided through the date of  
27 the notice.

28 8504. A claimant that willfully gives a false stop payment  
29 notice or that willfully includes in the notice a demand to withhold  
30 for work that has not been provided forfeits all right to participate  
31 in the distribution of the funds withheld and all right to a lien under  
32 Chapter 4 (commencing with Section 8400).

33 8506. (a) A stop payment notice to an owner shall be given  
34 to the owner or to the owner's architect, if any.

35 (b) A stop payment notice to a construction lender holding  
36 construction funds shall not be effective unless given to the  
37 manager or other responsible officer or person at the office or  
38 branch of the lender administering or holding the construction  
39 funds.

1 (c) A stop payment notice shall comply with the requirements  
 2 of Article 3 (commencing with Section 8100) of Chapter 1.  
 3 8508. A stop payment notice is not valid unless both of the  
 4 following conditions are satisfied:  
 5 (a) The claimant gave preliminary notice to the extent required  
 6 by Chapter 2 (commencing with Section 8200).  
 7 (b) The claimant gave the stop payment notice before expiration  
 8 of the time within which a claim of lien must be recorded under  
 9 Chapter 4 (commencing with Section 8400).  
 10 8510. (a) A person may obtain release of funds withheld  
 11 pursuant to a stop payment notice by giving the person withholding  
 12 the funds a release bond.  
 13 (b) A release bond shall be given by an admitted surety insurer  
 14 and shall be conditioned for payment of any amount not exceeding  
 15 the penal obligation of the bond that the claimant recovers on the  
 16 claim, together with costs of suit awarded in the action. The bond  
 17 shall be in an amount equal to 125 percent of the amount claimed  
 18 in the stop payment notice.  
 19 (c) On receipt of a release bond, the person withholding funds  
 20 pursuant to the stop payment notice shall release them.

21  
22 Article 2. Stop Payment Notice to Owner

23  
24 8520. (a) A person that has a lien right under Chapter 4  
 25 (commencing with Section 8400), other than a direct contractor,  
 26 may give the owner a stop payment notice.  
 27 (b) The owner may give notice, in compliance with the  
 28 requirements of Article 3 (commencing with Section 8100) of  
 29 Chapter 1, demanding that a person that has a lien right under  
 30 Chapter 4 (commencing with Section 8400) give the owner a stop  
 31 payment notice. If the person fails to give the owner a bonded or  
 32 unbonded stop payment notice, the person forfeits the right to a  
 33 lien under Chapter 4 (commencing with Section 8400).  
 34 8522. (a) Except as provided in subdivision (b), on receipt of  
 35 a stop payment notice an owner shall withhold from the direct  
 36 contractor or from any person acting under authority of a direct  
 37 contractor a sufficient amount due or to become due to the direct  
 38 contractor to pay the claim stated in the notice.  
 39 (b) The owner may, but is not required to, withhold funds if the  
 40 owner has previously recorded a payment bond under Section

1 8602. If the owner does not withhold funds, the owner shall, within  
2 30 days after receipt of the stop payment notice, give notice to the  
3 claimant that a payment bond has been recorded and provide the  
4 claimant a copy of the bond. The notice shall comply with the  
5 requirements of Article 3 (commencing with Section 8100) of  
6 Chapter 1.

7

8 Article 3. Stop Payment Notice to Construction Lender

9

10 8530. A person that has a lien right under Chapter 4  
11 (commencing with Section 8400) may give a construction lender  
12 a stop payment notice.

13 8532. A claimant may give a construction lender a stop  
14 payment notice accompanied by a bond in an amount equal to 125  
15 percent of the amount of the claim. The bond shall be conditioned  
16 that if the defendant recovers judgment in an action to enforce  
17 payment of the claim stated in the stop payment notice or to enforce  
18 a claim of lien recorded by the claimant, the claimant will pay all  
19 costs that are awarded the owner, direct contractor, or construction  
20 lender, and all damages to the owner, direct contractor, or  
21 construction lender that result from the stop payment notice or  
22 recordation of the claim of lien, not exceeding the amount of the  
23 bond.

24 8534. (a) A construction lender that objects to the sufficiency  
25 of sureties on the bond given with a bonded stop payment notice  
26 shall give notice to the claimant of the objection, within 20 days  
27 after the bonded stop payment notice is given. The notice shall  
28 comply with the requirements of Article 3 (commencing with  
29 Section 8100) of Chapter 1.

30 (b) The claimant may within 10 days after notice of the objection  
31 is given substitute for the initial bond a bond executed by an  
32 admitted surety insurer. If the claimant does not substitute a bond  
33 executed by an admitted surety insurer, the construction lender  
34 may disregard the bonded stop payment notice and release all funds  
35 withheld in response to that notice.

36 8536. (a) Except as provided in subdivision (b), on receipt of  
37 a stop payment notice a construction lender shall withhold from  
38 the borrower or other person to whom the lender or the owner is  
39 obligated to make payments or advancement out of the construction  
40 fund sufficient funds to pay the claim stated in the notice.

1 (b) The construction lender may, at its option, elect not to  
2 withhold funds in any of the following circumstances:

- 3 (1) The stop payment notice is unbonded.
- 4 (2) The stop payment notice is given by a claimant other than  
5 a direct contractor, and a payment bond is recorded before the  
6 lender is given any stop payment notice.

7 8538. (a) The claimant may make a written request for notice  
8 of an election by the construction lender under Section 8536 not  
9 to withhold funds. The request shall be made at the time the  
10 claimant gives the construction lender the stop payment notice and  
11 shall be accompanied by a preaddressed, stamped envelope.

12 (b) If the construction lender elects not to withhold funds under  
13 Section 8536, the lender shall, within 30 days after making the  
14 election, give notice of that fact to a claimant who has requested  
15 notice of the election under subdivision (a). The notice shall  
16 comply with the requirements of Article 3 (commencing with  
17 Section 8100) of Chapter 1. If the basis of the election is the  
18 recordation of a payment bond under Section 8602, the construction  
19 lender shall include a copy of the bond with the notice.

20 (c) A construction lender is not liable for failure to include a  
21 copy of the bond with the notice under this section if all of the  
22 following conditions are satisfied:

- 23 (1) The failure was not intentional and resulted from a bona fide  
24 error.
- 25 (2) The lender maintains reasonable procedures to avoid an  
26 error of that type.
- 27 (3) The lender corrected the error not later than 20 days after  
28 the date the lender discovered the violation.

29  
30  
31

Article 4. Priorities

32 8540. (a) Funds withheld pursuant to a stop payment notice  
33 shall be distributed in the following order of priority:

- 34 (1) First, to pay claims of persons that have given a bonded stop  
35 payment notice. If funds are insufficient to pay the claims of those  
36 persons in full, the funds shall be distributed pro rata among the  
37 claimants in the ratio that the claim of each bears to the aggregate  
38 of all claims for which a bonded stop payment notice is given.
- 39 (2) Second, to pay claims of persons that have given an  
40 unbonded stop payment notice. If funds are insufficient to pay the



1 claims of those persons in full, the funds shall be distributed among  
2 the claimants in the ratio that the claim of each bears to the  
3 aggregate of all claims for which an unbonded stop payment notice  
4 is given.

5 (b) Pro rata distribution under this section shall be made among  
6 the persons entitled to share in the distribution without regard to  
7 the order in which the person has given a stop payment notice or  
8 commenced an enforcement action.

9 8542. Notwithstanding Section 8540:

10 (a) If funds are withheld pursuant to a stop payment notice given  
11 to a construction lender by a direct contractor or subcontractor,  
12 the direct contractor or subcontractor may recover only the net  
13 amount due the direct contractor or subcontractor after deducting  
14 any funds that are withheld by the construction lender pursuant to  
15 the claims of subcontractors and material suppliers that have given  
16 a stop payment notice for work done on behalf of the direct  
17 contractor or subcontractor.

18 (b) In no event is the construction lender required to withhold,  
19 pursuant to a stop payment notice, more than the net amount  
20 provided in subdivision (a). Notwithstanding any other provision  
21 of this chapter, a construction lender is not liable for failure to  
22 withhold more than that net amount on receipt of a stop payment  
23 notice.

24 8544. The rights of a claimant who gives a construction lender  
25 a stop payment notice are not affected by an assignment of  
26 construction loan funds made by the owner or direct contractor,  
27 and the stop payment notice has priority over the assignment,  
28 whether the assignment is made before or after the stop payment  
29 notice is given.

30

31 Article 5. Enforcement of Claim Stated in Stop Payment Notice

32

33 8550. (a) A claimant shall commence an action to enforce  
34 payment of the claim stated in a stop payment notice not earlier  
35 than 10 days after the date the claimant gives the notice and not  
36 later than 90 days after expiration of the time within which a stop  
37 payment notice must be given. The action may not be brought to  
38 trial or judgment entered before expiration of the time prescribed  
39 in this subdivision.

1 (b) If a claimant does not commence an action to enforce  
2 payment of the claim stated in a stop payment notice within the  
3 time prescribed in subdivision (a), the notice ceases to be effective  
4 and the person withholding funds pursuant to the notice shall  
5 release them.

6 (c) Within five days after commencement of an action to enforce  
7 payment of the claim stated in a stop payment notice, the claimant  
8 shall give notice of commencement of the action to the persons to  
9 whom the stop payment notice was given. The notice shall comply  
10 with the requirements of Article 3 (commencing with Section  
11 8100) of Chapter 1.

12 8552. If more than one claimant has given a stop payment  
13 notice:

14 (a) Any number of claimants may join in the same enforcement  
15 action.

16 (b) If claimants commence separate actions, the court first  
17 acquiring jurisdiction may order the actions consolidated.

18 (c) On motion of the owner or construction lender the court  
19 shall require all claimants to be impleaded in one action, to the  
20 end that the rights of all parties may be adjudicated in the action.

21 8554. Notwithstanding Section 583.420 of the Code of Civil  
22 Procedure, the court may dismiss an action to enforce payment of  
23 the claim stated in a stop payment notice that is not brought to trial  
24 within two years after commencement of the action.

25 8556. A stop payment notice ceases to be effective, and a  
26 person withholding funds pursuant to the notice shall release them,  
27 in either of the following circumstances:

28 (a) An action to enforce payment of the claim stated in the stop  
29 payment notice is dismissed, unless expressly stated to be without  
30 prejudice.

31 (b) Judgment in an action to enforce payment of the claim stated  
32 in the stop payment notice is against the claimant.

33 8558. (a) In an action to enforce payment of the claim stated  
34 in a bonded stop payment notice, the prevailing party is entitled  
35 to a reasonable attorney’s fee in addition to costs and damages.

36 (b) The court, on notice and motion by a party, shall determine  
37 who is the prevailing party or that there is no prevailing party for  
38 the purpose of this section, regardless of whether the action  
39 proceeds to final judgment. The prevailing party is the party that

1 recovers greater relief in the action, subject to the following  
2 limitations:

3 (1) If the action is voluntarily dismissed or dismissed pursuant  
4 to a settlement, there is no prevailing party.

5 (2) If the defendant tenders to the claimant the full amount to  
6 which the defendant is entitled, and deposits in court for the  
7 claimant the amount so tendered, and alleges those facts in the  
8 answer and the allegation is determined to be true, the defendant  
9 is deemed to be the prevailing party.

10 8560. If the claimant is the prevailing party in an action to  
11 enforce payment of the claim stated in a bonded stop payment  
12 notice, any amount awarded on the claim shall include interest at  
13 the legal rate calculated from the date the stop payment notice is  
14 given.

15  
16 CHAPTER 6. PAYMENT BOND

17  
18 8600. An owner may require a performance bond, payment  
19 bond, or other security as protection against a direct contractor's  
20 failure to perform the direct contract or to make full payment for  
21 all work provided pursuant to the contract.

22 8602. (a) This section applies if, before the commencement  
23 of work, the owner in good faith files a direct contract with the  
24 county recorder, and records a payment bond of the direct  
25 contractor in an amount not less than 50 percent of the price stated  
26 in the direct contract.

27 (b) If the conditions of subdivision (a) are satisfied, the court  
28 shall, where equitable to do so, restrict lien enforcement under this  
29 part to the aggregate amount due from the owner to the direct  
30 contractor and shall enter judgment against the direct contractor  
31 and surety on the bond for any deficiency that remains between  
32 the amount due to the direct contractor and the whole amount due  
33 to claimants.

34 8604. If a lending institution requires that a payment bond be  
35 given as a condition of lending money to finance a work of  
36 improvement, and accepts in writing as sufficient a bond given in  
37 fulfillment of the requirement, the lending institution may not  
38 thereafter object to the borrower as to the validity of the bond or  
39 refuse to make the loan based on an objection to the bond if the  
40 bond is given by an admitted surety insurer.

1 8606. (a) A payment bond under this part shall be conditioned  
2 for the payment in full of the claims of all claimants and shall by  
3 its terms inure to the benefit of all claimants so as to give a claimant  
4 a right of action to enforce the liability on the bond. The bond shall  
5 be given by an admitted surety insurer.

6 (b) An owner, direct contractor, or subcontractor may be the  
7 principal on the bond.

8 (c) A claimant may enforce the liability on the bond in an action  
9 to enforce a lien under this part or in a separate action on the bond.

10 8608. (a) This part does not give a claimant a right to recover  
11 on a direct contractor's payment bond given under this chapter  
12 unless the claimant provided work to the direct contractor either  
13 directly or through one or more subcontractors, pursuant to a direct  
14 contract.

15 (b) Nothing in this section affects the stop payment notice right  
16 of, and relative priorities among, design professionals and holders  
17 of secured interests in the property.

18 8609. Any provision in a payment bond attempting by contract  
19 to shorten the period prescribed in Section 337 of the Code of Civil  
20 Procedure for the commencement of an action on the bond shall  
21 not be valid under either of the following circumstances:

22 (a) If the provision attempts to limit the time for commencement  
23 of an action on the bond to a shorter period than six months from  
24 the completion of any work of improvement.

25 (b) As applied to any action brought by a claimant, unless the  
26 bond is recorded before the work of improvement is commenced.

27 8610. Notwithstanding Section 8609, if a payment bond under  
28 this part is recorded before completion of a work of improvement,  
29 an action to enforce the liability on the bond may not be  
30 commenced later than six months after completion of the work of  
31 improvement.

32 8612. (a) In order to enforce a claim against a payment bond  
33 under this part, a claimant shall give the preliminary notice  
34 provided in Chapter 2 (commencing with Section 8200).

35 (b) If preliminary notice was not given as provided in Chapter  
36 2 (commencing with Section 8200), a claimant may enforce a  
37 claim by giving written notice to the surety and the bond principal  
38 within 15 days after recordation of a notice of completion. If no  
39 notice of completion has been recorded, the time for giving written

1 notice to the surety and the bond principal is extended to 75 days  
2 after completion of the work of improvement.

3  
4 CHAPTER 7. SECURITY FOR LARGE PROJECT

5  
6 Article 1. Application of Chapter

7  
8 8700. (a) This chapter applies if any of the following  
9 conditions is satisfied:

10 (1) The owner of the fee interest in property contracts for a work  
11 of improvement on the property with a contract price greater than  
12 five million dollars (\$5,000,000).

13 (2) The owner of a less than fee interest in property contracts  
14 for a work of improvement on the property with a contract price  
15 greater than one million dollars (\$1,000,000).

16 (b) For the purpose of this section:

17 (1) The owner of the fee interest in property is not deemed to  
18 be the owner of a less than fee interest by reason of a mortgage,  
19 deed of trust, ground lease, or other lien or encumbrance or right  
20 of occupancy that encumbers the fee interest.

21 (2) A lessee of property is deemed to be the owner of a fee  
22 interest in the property if all of the following conditions are  
23 satisfied:

24 (A) The initial term of the lease is at least 35 years.

25 (B) The lease covers one or more lawful parcels under the  
26 Subdivision Map Act, Division 2 (commencing with Section  
27 66410) of Title 7 of the Government Code, and any applicable  
28 local ordinance adopted under that act, in their entirety, including,  
29 but not limited to, a parcel approved pursuant to a certificate of  
30 compliance proceeding.

31 8702. This chapter does not apply to any of the following works  
32 of improvement:

33 (a) A single-family residence, including a single-family  
34 residence located within a subdivision, and any associated fixed  
35 work that requires the services of a general engineering contractor  
36 as defined in Section 7056 of the Business and Professions Code.  
37 As used in this subdivision, “single-family residence” means a  
38 real property improvement used or intended to be used as a  
39 dwelling unit for one family.

1 (b) A housing development eligible for a density bonus under  
2 Section 65915 of the Government Code.

3 8704. This chapter does not apply to any of the following  
4 owners:

5 (a) A qualified publicly traded company or a wholly owned  
6 subsidiary of a qualified publicly traded company, if the obligations  
7 of the subsidiary pursuant to the contract for the work of  
8 improvement are guaranteed by the parent. As used in this  
9 subdivision, “qualified publicly traded company” means a company  
10 having a class of equity securities listed for trading on the New  
11 York Stock Exchange, the American Stock Exchange, or the  
12 NASDAQ stock market, and the nonsubordinated debt securities  
13 of which are rated as “investment grade” by either Fitch ICBA,  
14 Inc., Moody’s Investor Services, Inc., Standard & Poor’s Ratings  
15 Services, or a similar statistical rating organization that is nationally  
16 recognized for rating the creditworthiness of a publicly traded  
17 company. If at any time before final payment of all amounts due  
18 pursuant to the contract the nonsubordinated debt securities of the  
19 qualified publicly traded company are downgraded to below  
20 “investment grade” by any of those rating organizations, the owner  
21 is no longer exempt from this chapter.

22 (b) A qualified private company or a wholly owned subsidiary  
23 of a qualified private company, if the obligations of the subsidiary  
24 pursuant to the contract for the work of improvement are  
25 guaranteed by the parent. As used in this subdivision, “qualified  
26 private company” means a company that has no equity securities  
27 listed for trading on the New York Stock Exchange, the American  
28 Stock Exchange, or the NASDAQ stock market, and that has a net  
29 worth determined in accordance with generally accepted accounting  
30 principles in excess of fifty million dollars (\$50,000,000). If at  
31 any time before final payment of all amounts due pursuant to the  
32 contract the net worth of the qualified private company is reduced  
33 below that level, the owner is no longer exempt from this chapter.

34

## 35 Article 2. Security Requirement

36

37 8710. An owner shall provide the direct contractor all of the  
38 following:

39 (a) Security for the owner’s payment obligation pursuant to the  
40 contract. The security shall be used only if the owner defaults on

1 the payment obligation to the direct contractor. This subdivision  
2 does not apply to an owner that is the majority owner of the direct  
3 contractor.

4 (b) A copy, certified by the county recorder, of any recorded  
5 mortgage or deed of trust that secures the construction loan of a  
6 lending institution for the work of improvement, disclosing the  
7 amount of the loan.

8 8712. If an owner fails to provide or maintain the security  
9 required by this chapter, the direct contractor may give the owner  
10 notice demanding security. The notice shall comply with the  
11 requirements of Article 3 (commencing with Section 8100) of  
12 Chapter 1. If the owner does not provide or maintain the security  
13 within 10 days after notice demanding security is given, the direct  
14 contractor may suspend work until the owner provides or maintains  
15 the security.

16 8714. It is against public policy to waive the provisions of this  
17 chapter by contract.

18 8716. This chapter does not affect any statute providing a  
19 subcontractor the right to record a claim of lien, give a stop  
20 payment notice, assert a claim against a payment bond, or receive  
21 prompt payment, including the direct contractor's payment  
22 responsibilities under Section 7108.5 of the Business and  
23 Professions Code.

24  
25 Article 3. Form of Security

26  
27 8720. An owner shall provide security by any of the following  
28 means:

- 29 (a) A bond that satisfies Section 8722.  
30 (b) An irrevocable letter of credit that satisfies Section 8724.  
31 (c) An escrow account that satisfies Section 8726.

32 8722. A bond under this chapter shall satisfy all of the  
33 following requirements:

- 34 (a) The bond shall be executed by an admitted surety insurer  
35 that is either listed in the Department of the Treasury's Listing of  
36 Approved Sureties (Department Circular 570) or that has an A.M.  
37 Best rating of A or better and has an underwriting limitation, under  
38 Section 12090 of the Insurance Code, greater than the amount of  
39 the bond.

1 (b) The bond shall be in an amount not less than 15 percent of  
2 the contract price for the work of improvement or, if the work of  
3 improvement is to be substantially completed within six months  
4 after the commencement of work, not less than 25 percent of the  
5 contract price.

6 (c) The bond shall be conditioned for payment on default by  
7 the owner of any undisputed amount pursuant to the contract that  
8 is due and payable for more than 30 days.

9 8724. An irrevocable letter of credit under this chapter shall  
10 satisfy all of the following requirements:

11 (a) The letter of credit shall be issued by a financial institution,  
12 as defined in Section 5107 of the Financial Code, inuring to the  
13 benefit of the direct contractor.

14 (b) The letter of credit shall be in an amount not less than 15  
15 percent of the contract price for the work of improvement or, if  
16 the work of improvement is to be substantially completed within  
17 six months after the commencement of work, not less than 25  
18 percent of the contract price.

19 (c) The maturity date and other terms of the letter of credit shall  
20 be determined by agreement between the owner, the direct  
21 contractor, and the financial institution, except that the owner shall  
22 maintain the letter of credit in effect until the owner has satisfied  
23 its payment obligation to the direct contractor.

24 8726. An escrow account under this chapter shall satisfy all of  
25 the following requirements:

26 (a) The account shall be designated as a “construction security  
27 escrow account.”

28 (b) The account shall be located in this state and maintained  
29 with an escrow agent licensed under the Escrow Law, Division 6  
30 (commencing with Section 17000) of the Financial Code, or with  
31 any person exempt from the Escrow Law under paragraph (1) or  
32 (3) of subdivision (a) of Section 17006 of the Financial Code.

33 (c) The owner shall deposit funds in the account in the amount  
34 provided in Section 8728. This chapter does not require a  
35 construction lender to agree to deposit proceeds of a construction  
36 loan in the account.

37 (d) The owner shall grant the direct contractor a perfected, first  
38 priority security interest in the account and in all funds deposited  
39 by the owner in the account and in their proceeds, established to



1 the reasonable satisfaction of the direct contractor, which may be  
2 by a written opinion of legal counsel for the owner.

3 (e) The funds on deposit in the account shall be the sole property  
4 of the owner, subject to the security interest of the direct contractor.  
5 The owner and the direct contractor shall instruct the escrow holder  
6 to hold the funds on deposit in the account for the purpose of  
7 perfecting the direct contractor's security interest in the account  
8 and to disburse those funds only on joint authorization of the owner  
9 and the direct contractor, or pursuant to a court order that is binding  
10 on both of them.

11 8728. The following provisions govern a deposit to or  
12 disbursement from a construction security escrow account under  
13 this chapter:

14 (a) Before the commencement of work the owner shall make  
15 an initial deposit to the account in an amount not less than 15  
16 percent of the contract price for the work of improvement or, if  
17 the work of improvement is to be substantially completed within  
18 six months after the commencement of work, not less than 25  
19 percent of the contract price.

20 (b) If the contract provides for a retention to be withheld from  
21 a periodic payment to the direct contractor, the owner shall deposit  
22 to the account the amount withheld as retention at the time the  
23 owner makes the corresponding payment to the direct contractor  
24 from which the retention is withheld.

25 (c) The amount required to be maintained on deposit shall not  
26 exceed the total amount remaining to be paid to the direct  
27 contractor pursuant to the contract or as adjusted by agreement  
28 between the owner and the direct contractor. If the amount on  
29 deposit equals or exceeds the total amount remaining to be paid  
30 to the direct contractor, the owner and the direct contractor shall  
31 authorize disbursement to the direct contractor for progress  
32 payments then due the direct contractor, but a party is not obligated  
33 to authorize disbursement that would cause the amount remaining  
34 on deposit following the disbursement to be less than the total  
35 amount remaining to be paid to the direct contractor.

36 (d) The owner and the direct contractor shall authorize the  
37 disbursement to the owner of any funds remaining on deposit after  
38 the direct contractor has been paid all amounts due pursuant to the  
39 contract. The owner and the direct contractor shall authorize the  
40 disbursement of funds on deposit pursuant to a court order that is

1 binding on both of them. The owner and the direct contractor may  
 2 agree in the contract to additional conditions for the disbursement  
 3 of funds on deposit, except that the conditions may not cause the  
 4 amount remaining on deposit to be less than the amount required  
 5 under this section.

6 8730. If the contract price for a work of improvement is not a  
 7 fixed price, the amount of security provided under this chapter  
 8 shall be the guaranteed maximum price or, if there is no guaranteed  
 9 maximum price, the owner's and direct contractor's good faith  
 10 estimate of the reasonable value of the work to be provided  
 11 pursuant to the contract.

12  
 13 CHAPTER 8. PROMPT PAYMENT

14  
 15 Article 1. Progress Payment

16  
 17 8800. (a) Except as otherwise agreed in writing by the owner  
 18 and direct contractor, the owner shall pay the direct contractor,  
 19 within 30 days after notice demanding payment pursuant to the  
 20 contract, any progress payment due as to which there is no good  
 21 faith dispute between them. The notice given shall comply with  
 22 the requirements of Article 3 (commencing with Section 8100) of  
 23 Chapter 1.

24 (b) If there is a good faith dispute between the owner and direct  
 25 contractor as to a progress payment due, the owner may withhold  
 26 from the progress payment an amount not in excess of 150 percent  
 27 of the disputed amount.

28 (c) An owner that violates this section is liable to the direct  
 29 contractor for a penalty of 2 percent per month on the amount  
 30 wrongfully withheld, in place of any interest otherwise due. In an  
 31 action for collection of the amount wrongfully withheld, the  
 32 prevailing party is entitled to costs and a reasonable attorney's fee.

33 (d) This section does not supersede any requirement of Article  
 34 2 (commencing with Section 8810) relating to the withholding of  
 35 a retention.

36 8802. (a) This section applies to a contract between a public  
 37 utility and a direct contractor for all or part of a work of  
 38 improvement.

39 (b) Unless the direct contractor and a subcontractor otherwise  
 40 agree in writing, within 21 days after receipt of a progress payment

1 from the public utility the direct contractor shall pay the  
2 subcontractor the amount allowed the direct contractor on account  
3 of the work performed by the subcontractor to the extent of the  
4 subcontractor's interest in the work. If there is a good faith dispute  
5 over all or part of the amount due on a progress payment from the  
6 direct contractor to a subcontractor, the direct contractor may  
7 withhold an amount not in excess of 150 percent of the disputed  
8 amount.

9 (c) A direct contractor that violates this section is liable to the  
10 subcontractor for a penalty of 2 percent of the disputed amount  
11 due per month for every month that payment is not made. In an  
12 action for collection of the amount wrongfully withheld, the  
13 prevailing party is entitled to costs and a reasonable attorney's fee.

14 (d) This section does not limit or impair a contractual,  
15 administrative, or judicial remedy otherwise available to a  
16 contractor or subcontractor in a dispute involving late payment or  
17 nonpayment by the contractor or deficient performance or  
18 nonperformance by the subcontractor.

19

20

## Article 2. Retention Payment

21

22 8810. This article governs a retention payment withheld by an  
23 owner from a direct contractor or by a direct contractor from a  
24 subcontractor.

25 8812. (a) If an owner withholds a retention from a direct  
26 contractor, the owner shall, within 45 days after completion of the  
27 work of improvement, pay the retention to the contractor.

28 (b) If part of a work of improvement ultimately will become  
29 the property of a public entity, the owner may condition payment  
30 of a retention allocable to that part on acceptance of the part by  
31 the public entity.

32 (c) If there is a good faith dispute between the owner and direct  
33 contractor as to a retention payment due, the owner may withhold  
34 from final payment an amount not in excess of 150 percent of the  
35 disputed amount.

36 8814. (a) If a direct contractor has withheld a retention from  
37 a subcontractor, the direct contractor shall, within 10 days after  
38 receiving all or part of a retention payment, pay the subcontractor  
39 its share of the payment.

1 (b) If a retention received by the direct contractor is specifically  
2 designated for a particular subcontractor, the direct contractor shall  
3 pay the retention payment to the designated subcontractor, if  
4 consistent with the terms of the subcontract.

5 (c) If a good faith dispute exists between the direct contractor  
6 and a subcontractor, the direct contractor may withhold from the  
7 retention to the subcontractor an amount not in excess of 150  
8 percent of the estimated value of the disputed amount.

9 8816. (a) If the direct contractor gives the owner, or a  
10 subcontractor gives the direct contractor, notice that work in dispute  
11 has been completed in accordance with the contract, the owner or  
12 direct contractor shall within 10 days give notice advising the  
13 notifying party of the acceptance or rejection of the disputed work.  
14 Both notices shall comply with the requirements of Article 3  
15 (commencing with Section 8100) of Chapter 1.

16 (b) Within 10 days after acceptance of disputed work, the owner  
17 or direct contractor shall pay the portion of the retention relating  
18 to the disputed work.

19 8818. If an owner or direct contractor does not make a retention  
20 payment within the time required by this article:

21 (a) The owner or direct contractor is liable to the person to which  
22 payment is owed for a penalty of 2 percent per month on the  
23 amount wrongfully withheld, in place of any interest otherwise  
24 due.

25 (b) In an action for collection of the amount wrongfully  
26 withheld, the prevailing party is entitled to costs and reasonable  
27 attorney’s fees.

28 8820. It is against public policy to waive the provisions of this  
29 article by contract.

30 8822. This article does not apply to a retention payment  
31 withheld by a lender pursuant to a construction loan agreement.

32

33

Article 3. Stop Work Notice

34

35 8830. “Stop work notice” means notice given under this article  
36 by a direct contractor to an owner that the contractor will stop  
37 work if the amount owed the contractor is not paid within 10 days  
38 after notice is given.

39 8832. If a direct contractor is not paid the amount due pursuant  
40 to a written contract within 35 days after the date payment is due

1 under the contract, and there is no dispute as to the satisfactory  
2 performance of the contractor, the contractor may give the owner  
3 a stop work notice. The notice shall comply with the requirements  
4 of Article 3 (commencing with Section 8100) of Chapter 1.

5 8834. A direct contractor that gives an owner a stop work notice  
6 shall give the following additional notice:

7 (a) At least five days before giving the stop work notice, the  
8 contractor shall post notice of intent to give a stop work notice.  
9 The notice shall comply with the requirements of Article 3  
10 (commencing with Section 8100) of Chapter 1.

11 (b) At the same time the contractor gives the stop work notice,  
12 the contractor shall give a copy of the stop work notice to all  
13 subcontractors with whom the contractor has a direct contractual  
14 relationship on the work of improvement.

15 8836. Within five days after receipt of a stop work notice from  
16 a direct contractor, the owner shall give a copy of the notice to the  
17 construction lender, if any. The copy of the notice shall be given  
18 in compliance with the requirements of Article 3 (commencing  
19 with Section 8100) of Chapter 1.

20 8838. (a) The direct contractor or the direct contractor's surety,  
21 or a subcontractor or a subcontractor's surety, is not liable for  
22 delay or damage that the owner or a subcontractor may suffer as  
23 a result of the direct contractor giving a stop work notice and  
24 subsequently stopping work for nonpayment, if the notice and  
25 posting requirements of this article are satisfied.

26 (b) A direct contractor's or subcontractor's liability to a  
27 subcontractor or material supplier after the direct contractor stops  
28 work under this article is limited to the amount the subcontractor  
29 or material supplier could otherwise recover under this part for  
30 work provided up to the date the subcontractor or material supplier  
31 ceases work, subject to the following exceptions:

32 (1) The direct contractor's or subcontractor's liability continues  
33 for work provided up to and including the 10-day notice period  
34 and not beyond.

35 (2) This subdivision does not limit liability for custom work,  
36 including materials that have been fabricated, manufactured, or  
37 ordered to specifications that are unique to the job.

38 8840. On resolution of the claim in the stop work notice or the  
39 direct contractor's cancellation of the stop work notice, the  
40 contractor shall post, and give subcontractors with whom the

1 contractor has a direct contractual relationship on the work of  
2 improvement, notice of the resolution or cancellation. The notice  
3 shall comply with the requirements of Article 3 (commencing with  
4 Section 8100) of Chapter 1.

5 8842. A direct contractor’s right to stop work under this article  
6 is in addition to other rights the direct contractor may have under  
7 the law.

8 8844. (a) If payment of the amount claimed is not made within  
9 10 days after a stop work notice is given, the direct contractor, the  
10 direct contractor’s surety, or an owner may in an expedited  
11 proceeding in the superior court in the county in which the private  
12 work of improvement is located, seek a judicial determination of  
13 liability for the amount due.

14 (b) The expedited proceeding shall be set for hearing or trial at  
15 the earliest possible date in order that it shall be quickly heard and  
16 determined, and shall take precedence over all other cases except  
17 older matter of the same character and other matters to which  
18 special precedence has been given.

19 8846. It is against public policy to waive the provisions of this  
20 article by contract.

21 8848. (a) This article applies to a contract entered into on or  
22 after January 1, 1999.

23 (b) This article does not apply to a retention withheld by a lender  
24 pursuant to a construction loan agreement.

25 SEC. 23. Section 86 of the Code of Civil Procedure is amended  
26 to read:

27 86. (a) The following civil cases and proceedings are limited  
28 civil cases:

29 (1) ~~Cases~~—A *case* at law in which the demand, exclusive of  
30 interest, or the value of the property in controversy amounts to  
31 twenty-five thousand dollars (\$25,000) or less. This paragraph  
32 does not apply to ~~eases a case that involve~~ *involves* the legality of  
33 any tax, impost, assessment, toll, or municipal fine, except ~~actions~~  
34 *an action* to enforce payment of delinquent unsecured personal  
35 property taxes if the legality of the tax is not contested by the  
36 defendant.

37 (2) ~~Actions~~—An *action* for dissolution of partnership where the  
38 total assets of the partnership do not exceed twenty-five thousand  
39 dollars (\$25,000); ~~actions~~ *an action* of interpleader where the

1 amount of money or the value of the property involved does not  
2 exceed twenty-five thousand dollars (\$25,000).

3 (3) ~~Actions~~—*An action* to cancel or rescind a contract when the  
4 relief is sought in connection with an action to recover money not  
5 exceeding twenty-five thousand dollars (\$25,000) or property of  
6 a value not exceeding twenty-five thousand dollars (\$25,000), paid  
7 or delivered under, or in consideration of, the contract; ~~actions an~~  
8 *action* to revise a contract where the relief is sought in an action  
9 upon the contract if the action otherwise is a limited civil case.

10 (4) ~~Proceedings~~—*A proceeding* in forcible entry or forcible or  
11 unlawful detainer where the whole amount of damages claimed is  
12 twenty-five thousand dollars (\$25,000) or less.

13 (5) ~~Actions~~—*An action* to enforce and foreclose ~~liens a lien~~ on  
14 personal property where the amount of the ~~liens lien~~ is twenty-five  
15 thousand dollars (\$25,000) or less.

16 (6) ~~Actions~~—*An action* to enforce and foreclose, or ~~petitions a~~  
17 *petition* to release, ~~liens of mechanics, materialmen, artisans,~~  
18 ~~laborers, and of all other persons to whom liens are given a lien~~  
19 *arising* under the provisions of Chapter ~~2 4~~ (commencing with  
20 Section ~~3109~~ 8400) of Title 15 of Part 4 6 of Division 3 4 of the  
21 Civil Code, or to enforce and foreclose an assessment lien on a  
22 common interest development as defined in Section 1351 of the  
23 Civil Code, where the amount of the liens is twenty-five thousand  
24 dollars (\$25,000) or less. However, ~~where if~~ an action to enforce  
25 the lien affects property that is also affected by a similar pending  
26 action that is not a limited civil case, or ~~where if~~ the total amount  
27 of ~~the~~ liens sought to be foreclosed against the same property  
28 aggregates an amount in excess of twenty-five thousand dollars  
29 (\$25,000), the action is not a limited civil case.

30 (7) ~~Actions~~—*An action* for declaratory relief when brought  
31 pursuant to either of the following:

32 (A) By way of cross-complaint as to a right of indemnity with  
33 respect to the relief demanded in the complaint or a cross-complaint  
34 in an action or proceeding that is otherwise a limited civil case.

35 (B) To conduct a trial after a nonbinding fee arbitration between  
36 an attorney and client, pursuant to Article 13 (commencing with  
37 Section 6200) of Chapter 4 of Division 3 of the Business and  
38 Professions Code, where the amount in controversy is twenty-five  
39 thousand dollars (\$25,000) or less.

1 (8) ~~Actions~~—*An action* to issue a temporary restraining orders  
 2 ~~and order or preliminary injunctions, and injunction;~~ to take  
 3 ~~accounts;~~ *an account*, where necessary to preserve the property or  
 4 rights of any party to a limited civil case; to make any order or  
 5 perform any act, pursuant to Title 9 (commencing with Section  
 6 680.010) of Part 2 (enforcement of judgments) in a limited civil  
 7 case; to appoint a receiver pursuant to Section 564 in a limited  
 8 civil case; to determine title to personal property seized in a limited  
 9 civil case.

10 (9) ~~Actions~~—*An action* under Article 3 (commencing with Section  
 11 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the  
 12 recovery of an interest in personal property or to enforce the  
 13 liability of the debtor of a judgment debtor where the interest  
 14 claimed adversely is of a value not exceeding twenty-five thousand  
 15 dollars (\$25,000) or the debt denied does not exceed twenty-five  
 16 thousand dollars (\$25,000).

17 (10) ~~Arbitration-related petitions~~—*An arbitration-related petition*  
 18 filed pursuant to either of the following:

19 (A) Article 2 (commencing with Section 1292) of Chapter 5 of  
 20 Title 9 of Part 3, except for uninsured motorist arbitration  
 21 proceedings in accordance with Section 11580.2 of the Insurance  
 22 Code, if the petition is filed before the arbitration award becomes  
 23 final and the matter to be resolved by arbitration is a limited civil  
 24 case under paragraphs (1) to (9), inclusive, of subdivision (a) or  
 25 if the petition is filed after the arbitration award becomes final and  
 26 the amount of the award and all other rulings, pronouncements,  
 27 and decisions made in the award are within paragraphs (1) to (9),  
 28 inclusive, of subdivision (a).

29 (B) To confirm, correct, or vacate a fee arbitration award  
 30 between an attorney and client that is binding or has become  
 31 binding, pursuant to Article 13 (commencing with Section 6200)  
 32 of Chapter 4 of Division 3 of the Business and Professions Code,  
 33 where the arbitration award is twenty-five thousand dollars  
 34 (\$25,000) or less.

35 (b) The following cases in equity are limited civil cases:

36 (1) ~~Cases~~—*A case* to try title to personal property when the  
 37 amount involved is not more than twenty-five thousand dollars  
 38 (\$25,000).

39 (2) ~~Cases~~—*A case* when equity is pleaded as a defensive matter  
 40 in any case that is otherwise a limited civil case.



1 (3) ~~Cases~~—A case to vacate a judgment or order of the court  
2 obtained in a limited civil case through extrinsic fraud, mistake,  
3 inadvertence, or excusable neglect.

4 SEC. 24. Section 410.42 of the Code of Civil Procedure is  
5 amended to read:

6 410.42. (a) The following provisions of a contract between  
7 the contractor and a subcontractor with principal offices in this  
8 state, for the construction of a public or private work of  
9 improvement in this state, shall be void and unenforceable:

10 (a)

11 (1) A provision which purports to require any dispute between  
12 the parties to be litigated, arbitrated, or otherwise determined  
13 outside this state.

14 (b)

15 (2) A provision which purports to preclude a party from  
16 commencing such a proceeding or obtaining a judgment or other  
17 resolution in this state or the courts of this state.

18 ~~For~~

19 (b) *For* purposes of this section, “construction” means any work  
20 or services performed on, or materials provided for, a work of  
21 improvement, as defined in Section ~~3106~~ 8050 of the Civil Code,  
22 and for which a lien may be claimed pursuant to Section ~~3110~~  
23 8400 of the Civil Code (whether or not a lien is in fact claimed)  
24 or for which such a lien could be claimed but for Section ~~3109~~  
25 8052 of the Civil Code.

26 SEC. 25. Section 708.760 of the Code of Civil Procedure is  
27 amended to read:

28 708.760. (a) If the judgment debtor named in the abstract or  
29 certified copy of the judgment filed pursuant to this article is a  
30 contractor upon a public work, the cost of which is to be paid out  
31 of public moneys voted, appropriated, or otherwise set apart for  
32 such purpose, only so much of the contract price shall be deemed  
33 owing and unpaid within the meaning of Section 708.740 or  
34 708.750 as may remain payable under the terms of the contractor’s  
35 contract, upon the completion thereof, after deducting sums due  
36 and to become due to persons described in Section ~~3181~~ 42030 of  
37 the ~~Civil Public Contract~~ Code. In ascertaining the sums due or  
38 to become due to such persons, only claims which are filed against  
39 the moneys due or to become due to the judgment debtor in  
40 accordance with ~~the provisions of~~ Chapter 4 (commencing with

1 Section ~~3179) 44110~~ of Title ~~15~~ of Part ~~4~~ 6 of Division ~~3~~ 2 of the  
 2 *Civil Public Contract* Code shall be considered.

3 (b) The Controller, auditor, or other public disbursing officer  
 4 whose duty it is to make payments under the provisions of the  
 5 contract may not deposit an amount with the court pursuant to this  
 6 article until the contract is completed, but may deposit an amount  
 7 with the court to satisfy the claim of the judgment debtor before  
 8 the payments specified in subdivision (a) are made so long as a  
 9 sufficient amount is retained for the satisfaction of the claims of  
 10 persons described in Section ~~3181 42030~~ of the *Civil Public*  
 11 *Contract* Code.

12 SEC. 26. Section 1203.61 of the Code of Civil Procedure is  
 13 amended to read:

14 1203.61. (a) Any lien provided for by this chapter shall be  
 15 enforced in the same manner as provided in ~~Title 15 Chapter 4~~  
 16 (commencing with Section ~~3082~~), ~~Part 4, 8400~~ of Part 6 of  
 17 Division ~~3, 4~~ of the Civil Code. ~~Such~~ *The* action shall be filed  
 18 within 180 days from the time of the recording of the lien ~~provided~~  
 19 ~~for herein~~. If a credit ~~be is~~ given and notice of the fact and terms  
 20 of ~~such the~~ credit ~~be is~~ filed in the office of the county recorder  
 21 subsequent to the filing of ~~such the~~ lien and prior to the expiration  
 22 of ~~said the~~ 180-day period, then ~~such the~~ lien continues in force  
 23 until 180 days after the expiration of ~~such the~~ credit, but no lien  
 24 continues in force by reason of any agreement to give credit for a  
 25 longer time than one year from the time the work is completed. If  
 26 the proceedings to enforce the lien ~~be are~~ not prosecuted to trial  
 27 within two years after ~~the commencement thereof~~, the court may  
 28 in its discretion dismiss the ~~same action~~ for want of prosecution,  
 29 and in all cases the dismissal of ~~such the~~ action (unless it ~~be is~~  
 30 expressly stated that ~~the same it is~~ without prejudice) or a judgment  
 31 ~~rendered therein in the action~~ that no lien exists ~~shall be is~~  
 32 equivalent to the cancellation and removal from the record of ~~such~~  
 33 *the* lien.

34 (b) As against any purchaser or encumbrancer for value and in  
 35 good faith whose rights are acquired subsequent to the expiration  
 36 of the 180-day period following the filing of ~~such the~~ lien, no  
 37 giving of credit or extension of the lien or time to enforce the ~~same~~  
 38 *lien* shall be effective unless evidenced by a notice or agreement  
 39 filed for record in the office of the county recorder prior to the  
 40 acquisition of the rights of ~~such the~~ purchaser or encumbrancer.

1 SEC. 27. Section 1281.5 of the Code of Civil Procedure is  
2 amended to read:

3 1281.5. (a) Any person who proceeds to record and enforce a  
4 claim of lien by commencement of an action pursuant to ~~Title 15~~  
5 *Chapter 4* (commencing with Section ~~3082~~) *8400*) of Part 6  
6 *Division 4* of ~~Division 3~~ of the Civil Code, does not thereby waive  
7 any right of arbitration the person may have pursuant to a written  
8 agreement to arbitrate, if, in filing an action to enforce the claim  
9 of lien, the claimant does either of the following:

10 (1) Includes an allegation in the complaint that the claimant  
11 does not intend to waive any right of arbitration, and intends to  
12 move the court, within 30 days after service of the summons and  
13 complaint, for an order to stay further proceedings in the action.

14 (2) At the same time that the complaint is filed, the claimant  
15 files an application that the action be stayed pending the arbitration  
16 of any issue, question, or dispute that is claimed to be arbitrable  
17 under the agreement and that is relevant to the action to enforce  
18 the claim of lien.

19 (b) Within 30 days after service of the summons and complaint,  
20 the claimant shall file and serve a motion and notice of motion  
21 pursuant to Section 1281.4 to stay the action pending the arbitration  
22 of any issue, question, or dispute that is claimed to be arbitrable  
23 under the agreement and that is relevant to the action to enforce  
24 the claim of lien. The failure of a claimant to comply with this  
25 subdivision is a waiver of the claimant's right to compel arbitration.

26 (c) The failure of a defendant to file a petition pursuant to  
27 Section 1281.2 at or before the time the defendant answers the  
28 complaint filed pursuant to subdivision (a) is a waiver of the  
29 defendant's right to compel arbitration.

30 SEC. 28. Section 1800 of the Code of Civil Procedure is  
31 amended to read:

32 1800. (a) As used in this section, the following terms have the  
33 following meanings:

34 (1) "Insolvent" means:

35 (A) With reference to a person other than a partnership, a  
36 financial condition such that the sum of the person's debts is greater  
37 than all of the person's property, at a fair valuation, exclusive of  
38 both of the following:

39 (i) Property transferred, concealed, or removed with intent to  
40 hinder, delay, or defraud the person's creditors.

- 1 (ii) Property that is exempt from property of the estate pursuant  
2 to the election of the person made pursuant to Section 1801.
- 3 (B) With reference to a partnership, financial condition such  
4 that the sum of the partnership's debts are greater than the  
5 aggregate of, at a fair valuation, both of the following:
- 6 (i) All of the partnership's property, exclusive of property of  
7 the kind specified in clause (i) of subparagraph (A).
- 8 (ii) The sum of the excess of the value of each general partner's  
9 separate property, exclusive of property of the kind specified in  
10 clause (ii) of subparagraph (A), over the partner's separate debts.
- 11 (2) "Inventory" means personal property leased or furnished,  
12 held for sale or lease, or to be furnished under a contract for service,  
13 raw materials, work in process, or materials used or consumed in  
14 a business, including farm products such as crops or livestock,  
15 held for sale or lease.
- 16 (3) "Insider" means:
- 17 (A) If the assignor is an individual, any of the following:
- 18 (i) A relative of the assignor or of a general partner of the  
19 assignor.
- 20 (ii) A partnership in which the assignor is a general partner.
- 21 (iii) A general partner of the assignor.
- 22 (iv) A corporation of which the assignor is a director, officer,  
23 or person in control.
- 24 (B) If the assignor is a corporation, any of the following:
- 25 (i) A director of the assignor.
- 26 (ii) An officer of the assignor.
- 27 (iii) A person in control of the assignor.
- 28 (iv) A partnership in which the assignor is a general partner.
- 29 (v) A general partner of the assignor.
- 30 (vi) A relative of a general partner, director, officer, or person  
31 in control of the assignor.
- 32 (C) If the assignor is a partnership, any of the following:
- 33 (i) A general partner in the assignor.
- 34 (ii) A relative of a general partner in, general partner of, or  
35 person in control of the assignor.
- 36 (iii) A partnership in which the assignor is a general partner.
- 37 (iv) A general partner of the assignor.
- 38 (v) A person in control of the assignor.
- 39 (D) An affiliate of the assignor or an insider of an affiliate as if  
40 the affiliate were the assignor.

1 (E) A managing agent of the assignor.

2 As used in this paragraph, the following terms have the following  
3 meanings:

4 “Relative” means an individual related by affinity or  
5 consanguinity within the third degree as determined by the common  
6 law, or an individual in a step or adoptive relationship within the  
7 third degree.

8 An “affiliate” means a person that directly or indirectly owns,  
9 controls, or holds, with power to vote, 20 percent or more of the  
10 outstanding voting securities of the assignor, or 20 percent or more  
11 of whose outstanding voting securities are directly or indirectly  
12 owned, controlled, or held with power to vote by the assignor,  
13 excluding securities held in a fiduciary or agency capacity without  
14 sole discretionary power to vote, or held solely to secure a debt if  
15 the holder has not in fact exercised the power to vote, or a person  
16 who operates the business of the assignor under a lease or operating  
17 agreement or whose business is operated by the assignor under a  
18 lease or operating agreement.

19 (4) “Judicial lien” means a lien obtained by judgment, levy,  
20 sequestration, or other legal or equitable process or proceeding.

21 (5) “New value” means money or money’s worth in goods,  
22 services, or new credit, or release by a transferee of property  
23 previously transferred to the transferee in a transaction that is  
24 neither void nor voidable by the assignor or the assignee under  
25 any applicable law, but does not include an obligation substituted  
26 for an existing obligation.

27 (6) “Receivable” means a right to payment, whether or not the  
28 right has been earned by performance.

29 (7) “Security agreement” means an agreement that creates or  
30 provides for a security interest.

31 (8) “Security interest” means a lien created by an agreement.

32 (9) “Statutory lien” means a lien arising solely by force of a  
33 statute on specified circumstances or conditions, or lien of distress  
34 for rent, whether or not statutory, but does not include a security  
35 interest or judicial lien, whether or not the interest or lien is  
36 provided by or is dependent on a statute and whether or not the  
37 interest or lien is made fully effective by statute.

38 (10) “Transfer” means every mode, direct or indirect, absolute  
39 or conditional, voluntary or involuntary, or disposing of or parting

1 with property or with an interest in property, including retention  
2 of title as a security interest.

3 (b) Except as provided in subdivision (c), the assignee of any  
4 general assignment for the benefit of creditors, as defined in  
5 Section 493.010, may recover any transfer of property of the  
6 assignor that is all of the following:

7 (1) To or for the benefit of a creditor.

8 (2) For or on account of an antecedent debt owed by the assignor  
9 before the transfer was made.

10 (3) Made while the assignor was insolvent.

11 (4) Made on or within 90 days before the date of the making of  
12 the assignment or made between 90 days and one year before the  
13 date of making the assignment if the creditor, at the time of the  
14 transfer, was an insider and had reasonable cause to believe the  
15 debtor was insolvent at the time of the transfer.

16 (5) Enables the creditor to receive more than another creditor  
17 of the same class.

18 (c) The assignee may not recover under this section a transfer  
19 as follows:

20 (1) To the extent that the transfer was both of the following:

21 (A) Intended by the assignor and the creditor to or for whose  
22 benefit the transfer was made to be a contemporaneous exchange  
23 for new value given to the assignor.

24 (B) In fact a substantially contemporaneous exchange.

25 (2) To the extent that the transfer was all of the following:

26 (A) In payment of a debt incurred in the ordinary course of  
27 business or financial affairs of the assignor and the transferee.

28 (B) Made in the ordinary course of business or financial affairs  
29 of the assignor and the transferee.

30 (C) Made according to ordinary business terms.

31 (3) Of a security interest in property acquired by the assignor  
32 that meets both of the following:

33 (A) To the extent the security interest secures new value that  
34 was all of the following:

35 (i) Given at or after the signing of a security agreement that  
36 contains a description of the property as collateral.

37 (ii) Given by or on behalf of the secured party under the  
38 agreement.

39 (iii) Given to enable the assignor to acquire the property.

40 (iv) In fact used by the assignor to acquire the property.

1 (B) That is perfected within 20 days after the security interest  
2 attaches.

3 (4) To or for the benefit of a creditor, to the extent that, after  
4 the transfer, the creditor gave new value to or for the benefit of  
5 the assignor that meets both of the following:

6 (A) Not secured by an otherwise unavoidable security interest.

7 (B) On account of which new value the assignor did not make  
8 an otherwise unavoidable transfer to or for the benefit of the  
9 creditor.

10 (5) Of a perfected security interest in inventory or a receivable  
11 or the proceeds of either, except to the extent that the aggregate  
12 of all the transfers to the transferee caused a reduction, as of the  
13 date of the making of the assignment and to the prejudice of other  
14 creditors holding unsecured claims, of any amount by which the  
15 debt secured by the security interest exceeded the value of all  
16 security interest for the debt on the later of the following:

17 (A) Ninety days before the date of the making of the assignment.

18 (B) The date on which new value was first given under the  
19 security agreement creating the security interest.

20 (6) That is the fixing of a statutory lien.

21 (7) That is payment to a claimant, as defined in Section ~~3085~~  
22 *8002 of the Civil Code or Section 41020 of the Public Contract*  
23 *Code*, in exchange for the claimant's waiver or release of any  
24 potential or asserted claim of lien, stop *payment* notice, or right to  
25 recover on a payment bond, or any combination thereof.

26 (8) To the extent that the transfer was a bona fide payment of  
27 a debt to a spouse, former spouse, or child of the debtor, for  
28 alimony to, maintenance for, or support of, the spouse or child, in  
29 connection with a separation agreement, divorce decree, or other  
30 order of a court of record, or a determination made in accordance  
31 with state or territorial law by a governmental unit, or property  
32 settlement agreement; but not to the extent that either of the  
33 following occurs:

34 (A) The debt is assigned to another entity voluntarily, by  
35 operation of law or otherwise, in which case the assignee may not  
36 recover that portion of the transfer that is assigned to the state or  
37 any political subdivision of the state pursuant to Part D of Title  
38 IV of the Social Security Act (42 U.S.C. Sec. 601 et seq.) and  
39 passed on to the spouse, former spouse, or child of the debtor.

1 (B) The debt includes a liability designated as alimony,  
2 maintenance, or support, unless the liability is actually in the nature  
3 of alimony, maintenance, or support.

4 (d) An assignee of any general assignment for the benefit of  
5 creditors, as defined in Section 493.010, may avoid a transfer of  
6 property of the assignor transferred to secure reimbursement of a  
7 surety that furnished a bond or other obligation to dissolve a  
8 judicial lien that would have been avoidable by the assignee under  
9 subdivision (b). The liability of the surety under the bond or  
10 obligation shall be discharged to the extent of the value of the  
11 property recovered by the assignee or the amount paid to the  
12 assignee.

13 (e) (1) For the purposes of this section:

14 (A) A transfer of real property other than fixtures, but including  
15 the interest of a seller or purchaser under a contract for the sale of  
16 real property, is perfected when a bona fide purchaser of the  
17 property from the debtor, against whom applicable law permits  
18 the transfer to be perfected, cannot acquire an interest that is  
19 superior to the interest of the transferee.

20 (B) A transfer of a fixture or property other than real property  
21 is perfected when a creditor on a simple contract cannot acquire  
22 a judicial lien that is superior to the interest of the transferee.

23 (2) For the purposes of this section, except as provided in  
24 paragraph (3), a transfer is made at any of the following times:

25 (A) At the time the transfer takes effect between the transferor  
26 and the transferee, if the transfer is perfected at, or within 10 days  
27 after, the time, except as provided in subparagraph (B) of paragraph  
28 (3) of subdivision (c).

29 (B) At the time the transfer is perfected, if the transfer is  
30 perfected after the 10 days.

31 (C) Immediately before the date of making the assignment if  
32 the transfer is not perfected at the later of:

33 (i) The making of the assignment.

34 (ii) Ten days after the transfer takes effect between the transferor  
35 and the transferee.

36 (3) For the purposes of this section, a transfer is not made until  
37 the assignor has acquired rights in the property transferred.

38 (f) For the purposes of this section, the assignor is presumed to  
39 have been insolvent on and during the 90 days immediately  
40 preceding the date of making the assignment.



1 (g) An action by an assignee under this section must be  
2 commenced within one year after making the assignment.

3 SEC. 29. Section 17307.5 of the Education Code is amended  
4 to read:

5 17307.5. (a) Notwithstanding any provision of law to the  
6 contrary, including, but not limited to, ~~Title 15 Part 6~~ (commencing  
7 with Section ~~3082~~) 41010) of ~~Part 4 Division 2~~ of the ~~Civil Public~~  
8 *Contract Code*, the Department of General Services may issue a  
9 stop work order when construction work on a public school is not  
10 being performed in accordance with existing law and would  
11 compromise the structural integrity of the building, thereby  
12 endangering the public safety. The Department of General Services  
13 shall allow construction of incidental and minor nonstructural  
14 additions or nonstructural alterations without invoking its stop  
15 work authority.

16 (b) A school district, county superintendent of schools, county  
17 board of education, or other public board, body, or officer whose  
18 construction work on a public school is subject to a stop work  
19 order issued pursuant to subdivision (a) shall not be held liable in  
20 any action filed against the public board, body, or officer for  
21 stopping work as required by the stop work order, or for any delays  
22 caused by compliance with the stop work order, except to the extent  
23 that an error or omission by the public board, body, or officer is  
24 the basis for the issuance of the stop work order.

25 SEC. 30. Section 81133.5 of the Education Code is amended  
26 to read:

27 81133.5. (a) Notwithstanding any provision of law to the  
28 contrary, including, but not limited to, ~~Title 15 Part 6~~ (commencing  
29 with Section ~~3082~~) 41010) of ~~Part 4 Division 2~~ of the ~~Civil Public~~  
30 *Contract Code*, the Department of General Services may issue a  
31 stop work order when construction work on a community college  
32 is not being performed in accordance with existing law and would  
33 compromise the structural integrity of the building, thereby  
34 endangering the public safety. The Department of General Services  
35 shall allow construction of incidental and minor nonstructural  
36 additions or nonstructural alterations without invoking its stop  
37 work authority.

38 (b) A community college district or other public board, body,  
39 or officer whose construction work on a community college is  
40 subject to a stop work order issued pursuant to subdivision (a)

1 shall not be held liable in any action filed against the public board,  
2 body, or officer for stopping work as required by the stop work  
3 order, or for any delays caused by compliance with the stop work  
4 order, except to the extent that an error or omission by the public  
5 board, body, or officer is that basis for the issuance of the stop  
6 work order.

7 SEC. 31. Section 7480 of the Government Code, as amended  
8 by Section 1 of Chapter 234 of the Statutes of 2008, is amended  
9 to read:

10 7480. Nothing in this chapter shall prohibit any of the  
11 following:

12 (a) The dissemination of any financial information that is not  
13 identified with, or identifiable as being derived from, the financial  
14 records of a particular customer.

15 (b) When any police or sheriff’s department or district attorney  
16 in this state certifies to a bank, credit union, or savings association  
17 in writing that a crime report has been filed that involves the  
18 alleged fraudulent use of drafts, checks, access cards, or other  
19 orders drawn upon any bank, credit union, or savings association  
20 in this state, the police or sheriff’s department or district attorney,  
21 a county adult protective services office when investigating the  
22 financial abuse of an elder or dependent adult, or a long-term care  
23 ombudsman when investigating the financial abuse of an elder or  
24 dependent adult, may request a bank, credit union, or savings  
25 association to furnish, and a bank, credit union, or savings  
26 association shall furnish, a statement setting forth the following  
27 information with respect to a customer account specified by the  
28 requesting party for a period 30 days prior to, and up to 30 days  
29 following, the date of occurrence of the alleged illegal act involving  
30 the account:

- 31 (1) The number of items dishonored.
- 32 (2) The number of items paid that created overdrafts.
- 33 (3) The dollar volume of the dishonored items and items paid  
34 which created overdrafts and a statement explaining any credit  
35 arrangement between the bank, credit union, or savings association  
36 and customer to pay overdrafts.
- 37 (4) The dates and amounts of deposits and debits and the account  
38 balance on these dates.
- 39 (5) A copy of the signature card, including the signature and  
40 any addresses appearing on a customer’s signature card.

1 (6) The date the account opened and, if applicable, the date the  
2 account closed.

3 (7) Surveillance photographs and video recordings of persons  
4 accessing the crime victim's financial account via an automated  
5 teller machine (ATM) or from within the financial institution for  
6 dates on which illegal acts involving the account were alleged to  
7 have occurred. Nothing in this paragraph does any of the following:

8 (A) Requires a financial institution to produce a photograph or  
9 video recording if it does not possess the photograph or video  
10 recording.

11 (B) Affects any existing civil immunities as provided in Section  
12 47 of the Civil Code or any other provision of law.

13 (8) A bank, credit union, or savings association that provides  
14 the requesting party with copies of one or more complete account  
15 statements prepared in the regular course of business shall be  
16 deemed to be in compliance with paragraphs (1), (2), (3), and (4).

17 (c) When any police or sheriff's department or district attorney  
18 in this state certifies to a bank, credit union, or savings association  
19 in writing that a crime report has been filed that involves the  
20 alleged fraudulent use of drafts, checks, access cards, or other  
21 orders drawn upon any bank, credit union, or savings association  
22 doing business in this state, the police or sheriff's department or  
23 district attorney, a county adult protective services office when  
24 investigating the financial abuse of an elder or dependent adult,  
25 or a long-term care ombudsman when investigating the financial  
26 abuse of an elder or dependent adult, may request, with the consent  
27 of the account holder, the bank, credit union, or savings association  
28 to furnish, and the bank, credit union, or savings association shall  
29 furnish, a statement setting forth the following information with  
30 respect to a customer account specified by the requesting party for  
31 a period 30 days prior to, and up to 30 days following, the date of  
32 occurrence of the alleged illegal act involving the account:

33 (1) The number of items dishonored.

34 (2) The number of items paid that created overdrafts.

35 (3) The dollar volume of the dishonored items and items paid  
36 which created overdrafts and a statement explaining any credit  
37 arrangement between the bank, credit union, or savings association  
38 and customer to pay overdrafts.

39 (4) The dates and amounts of deposits and debits and the account  
40 balance on these dates.

1 (5) A copy of the signature card, including the signature and  
2 any addresses appearing on a customer's signature card.

3 (6) The date the account opened and, if applicable, the date the  
4 account closed.

5 (7) Surveillance photographs and video recordings of persons  
6 accessing the crime victim's financial account via an automated  
7 teller machine (ATM) or from within the financial institution for  
8 dates on which illegal acts involving this account were alleged to  
9 have occurred. Nothing in this paragraph does any of the following:

10 (A) Requires a financial institution to produce a photograph or  
11 video recording if it does not possess the photograph or video  
12 recording.

13 (B) Affects any existing civil immunities as provided in Section  
14 47 of the Civil Code or any other provision of law.

15 (8) A bank, credit union, or savings association doing business  
16 in this state that provides the requesting party with copies of one  
17 or more complete account statements prepared in the regular course  
18 of business shall be deemed to be in compliance with paragraphs  
19 (1), (2), (3), and (4).

20 (d) For purposes of subdivision (c), consent of the accountholder  
21 shall be satisfied if an accountholder provides to the financial  
22 institution and the person or entity seeking disclosure, a signed  
23 and dated statement containing all of the following:

24 (1) Authorization of the disclosure for the period specified in  
25 subdivision (c).

26 (2) The name of the agency or department to which disclosure  
27 is authorized and, if applicable, the statutory purpose for which  
28 the information is to be obtained.

29 (3) A description of the financial records that are authorized to  
30 be disclosed.

31 (e) (1) The Attorney General, a supervisory agency, the  
32 Franchise Tax Board, the State Board of Equalization, the  
33 Employment Development Department, the Controller or an  
34 inheritance tax referee when administering the Prohibition of Gift  
35 and Death Taxes (Part 8 (commencing with Section 13301) of  
36 Division 2 of the Revenue and Taxation Code), a police or sheriff's  
37 department or district attorney, a county adult protective services  
38 office when investigating the financial abuse of an elder or  
39 dependent adult, a long-term care ombudsman when investigating  
40 the financial abuse of an elder or dependent adult, a county welfare

1 department when investigating welfare fraud, a county  
2 auditor-controller or director of finance when investigating fraud  
3 against the county, or the Department of Corporations when  
4 conducting investigations in connection with the enforcement of  
5 laws administered by the Commissioner of Corporations, from  
6 requesting of an office or branch of a financial institution, and the  
7 office or branch from responding to a request, as to whether a  
8 person has an account or accounts at that office or branch and, if  
9 so, any identifying numbers of the account or accounts.

10 (2) No additional information beyond that specified in this  
11 section shall be released to a county welfare department without  
12 either the accountholder's written consent or a judicial writ, search  
13 warrant, subpoena, or other judicial order.

14 (3) A county auditor-controller or director of finance who  
15 unlawfully discloses information he or she is authorized to request  
16 under this subdivision is guilty of the unlawful disclosure of  
17 confidential data, a misdemeanor, which shall be punishable as  
18 set forth in Section 7485.

19 (f) The examination by, or disclosure to, any supervisory agency  
20 of financial records that relate solely to the exercise of its  
21 supervisory function. The scope of an agency's supervisory  
22 function shall be determined by reference to statutes that grant  
23 authority to examine, audit, or require reports of financial records  
24 or financial institutions as follows:

25 (1) With respect to the Commissioner of Financial Institutions  
26 by reference to Division 1 (commencing with Section 99), Division  
27 1.5 (commencing with Section 4800), Division 2 (commencing  
28 with Section 5000), Division 5 (commencing with Section 14000),  
29 Division 7 (commencing with Section 18000), Division ~~15~~ 16  
30 (commencing with Section ~~31000~~ 33000), and Division 16  
31 (commencing with Section 33000), of the Financial Code.

32 (2) With respect to the Controller by reference to Title 10  
33 (commencing with Section 1300) of Part 3 of the Code of Civil  
34 Procedure.

35 (3) With respect to the Administrator of Local Agency Security  
36 by reference to Article 2 (commencing with Section 53630) of  
37 Chapter 4 of Part 1 of Division 2 of Title 5 of the Government  
38 Code.

39 (g) The disclosure to the Franchise Tax Board of (1) the amount  
40 of any security interest that a financial institution has in a specified

1 asset of a customer or (2) financial records in connection with the  
2 filing or audit of a tax return or tax information return that are  
3 required to be filed by the financial institution pursuant to Part 10  
4 (commencing with Section 17001), Part 11 (commencing with  
5 Section 23001), or Part 18 (commencing with Section 38001), of  
6 the Revenue and Taxation Code.

7 (h) The disclosure to the State Board of Equalization of any of  
8 the following:

9 (1) The information required by Sections 6702, 6703, 8954,  
10 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155,  
11 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404,  
12 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the  
13 Revenue and Taxation Code.

14 (2) The financial records in connection with the filing or audit  
15 of a tax return required to be filed by the financial institution  
16 pursuant to Part 1 (commencing with Section 6001), Part 2  
17 (commencing with Section 7301), Part 3 (commencing with Section  
18 8601), Part 13 (commencing with Section 30001), Part 14  
19 (commencing with Section 32001), and Part 17 (commencing with  
20 Section 37001), of Division 2 of the Revenue and Taxation Code.

21 (3) The amount of any security interest a financial institution  
22 has in a specified asset of a customer, if the inquiry is directed to  
23 the branch or office where the interest is held.

24 (i) The disclosure to the Controller of the information required  
25 by Section 7853 of the Revenue and Taxation Code.

26 (j) The disclosure to the Employment Development Department  
27 of the amount of any security interest a financial institution has in  
28 a specified asset of a customer, if the inquiry is directed to the  
29 branch or office where the interest is held.

30 (k) The disclosure by a construction lender, as defined in Section  
31 ~~3087~~ 8006 of the Civil Code, to the Registrar of Contractors, of  
32 information concerning the making of progress payments to a  
33 prime contractor requested by the registrar in connection with an  
34 investigation under Section 7108.5 of the Business and Professions  
35 Code.

36 (l) Upon receipt of a written request from a local child support  
37 agency referring to a support order pursuant to Section 17400 of  
38 the Family Code, a financial institution shall disclose the following  
39 information concerning the account or the person named in the

1 request, whom the local child support agency shall identify,  
2 whenever possible, by social security number:

3 (1) If the request states the identifying number of an account at  
4 a financial institution, the name of each owner of the account.

5 (2) Each account maintained by the person at the branch to  
6 which the request is delivered, and, if the branch is able to make  
7 a computerized search, each account maintained by the person at  
8 any other branch of the financial institution located in this state.

9 (3) For each account disclosed pursuant to paragraphs (1) and  
10 (2), the account number, current balance, street address of the  
11 branch where the account is maintained, and, to the extent available  
12 through the branch's computerized search, the name and address  
13 of any other person listed as an owner.

14 (4) Whenever the request prohibits the disclosure, a financial  
15 institution shall not disclose either the request or its response, to  
16 an owner of the account or to any other person, except the officers  
17 and employees of the financial institution who are involved in  
18 responding to the request and to attorneys, employees of the local  
19 child support agencies, auditors, and regulatory authorities who  
20 have a need to know in order to perform their duties, and except  
21 as disclosure may be required by legal process.

22 (5) No financial institution, or any officer, employee, or agent  
23 thereof, shall be liable to any person for (A) disclosing information  
24 in response to a request pursuant to this subdivision, (B) failing to  
25 notify the owner of an account, or complying with a request under  
26 this paragraph not to disclose to the owner, the request or disclosure  
27 under this subdivision, or (C) failing to discover any account owned  
28 by the person named in the request pursuant to a computerized  
29 search of the records of the financial institution.

30 (6) The local child support agency may request information  
31 pursuant to this subdivision only when the local child support  
32 agency has received at least one of the following types of physical  
33 evidence:

34 (A) Any of the following, dated within the last three years:

35 (i) Form 599.

36 (ii) Form 1099.

37 (iii) A bank statement.

38 (iv) A check.

39 (v) A bank passbook.

40 (vi) A deposit slip.

1 (vii) A copy of a federal or state income tax return.

2 (viii) A debit or credit advice.

3 (ix) Correspondence that identifies the child support obligor by  
4 name, the bank, and the account number.

5 (x) Correspondence that identifies the child support obligor by  
6 name, the bank, and the banking services related to the account of  
7 the obligor.

8 (xi) An asset identification report from a federal agency.

9 (B) A sworn declaration of the custodial parent during the 12  
10 months immediately preceding the request that the person named  
11 in the request has had or may have had an account at an office or  
12 branch of the financial institution to which the request is made.

13 (7) Information obtained by a local child support agency  
14 pursuant to this subdivision shall be used only for purposes that  
15 are directly connected with the administration of the duties of the  
16 local child support agency pursuant to Section 17400 of the Family  
17 Code.

18 (m) (1) As provided in paragraph (1) of subdivision (c) of  
19 Section 666 of Title 42 of the United States Code, upon receipt of  
20 an administrative subpoena on the current federally approved  
21 interstate child support enforcement form, as approved by the  
22 federal Office of Management and Budget, a financial institution  
23 shall provide the information or documents requested by the  
24 administrative subpoena.

25 (2) The administrative subpoena shall refer to the current federal  
26 Office of Management and Budget control number and be signed  
27 by a person who states that he or she is an authorized agent of a  
28 state or county agency responsible for implementing the child  
29 support enforcement program set forth in Part D (commencing  
30 with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the  
31 United States Code. A financial institution may rely on the  
32 statements made in the subpoena and has no duty to inquire into  
33 the truth of any statement in the subpoena.

34 (3) If the person who signs the administrative subpoena directs  
35 a financial institution in writing not to disclose either the subpoena  
36 or its response to any owner of an account covered by the subpoena,  
37 the financial institution shall not disclose the subpoena or its  
38 response to the owner.

39 (4) No financial institution, or any officer, employee, or agent  
40 thereof, shall be liable to any person for (A) disclosing information



1 or providing documents in response to a subpoena pursuant to this  
2 subdivision, (B) failing to notify any owner of an account covered  
3 by the subpoena or complying with a request not to disclose to the  
4 owner, the subpoena or disclosure under this subdivision, or (C)  
5 failing to discover any account owned by the person named in the  
6 subpoena pursuant to a computerized search of the records of the  
7 financial institution.

8 (n) The dissemination of financial information and records  
9 pursuant to any of the following:

10 (1) Compliance by a financial institution with the requirements  
11 of Section 2892 of the Probate Code.

12 (2) Compliance by a financial institution with the requirements  
13 of Section 2893 of the Probate Code.

14 (3) An order by a judge upon a written ex parte application by  
15 a peace officer showing specific and articulable facts that there  
16 are reasonable grounds to believe that the records or information  
17 sought are relevant and material to an ongoing investigation of a  
18 felony violation of Section 186.10 or of any felony subject to the  
19 enhancement set forth in Section 186.11.

20 (A) The ex parte application shall specify with particularity the  
21 records to be produced, which shall be only those of the individual  
22 or individuals who are the subject of the criminal investigation.

23 (B) The ex parte application and any subsequent judicial order  
24 shall be open to the public as a judicial record unless ordered sealed  
25 by the court, for a period of 60 days. The sealing of these records  
26 may be extended for 60-day periods upon a showing to the court  
27 that it is necessary for the continuance of the investigation.  
28 Sixty-day extensions may continue for up to one year or until  
29 termination of the investigation of the individual or individuals,  
30 whichever is sooner.

31 (C) The records ordered to be produced shall be returned to the  
32 peace officer applicant or his or her designee within a reasonable  
33 time period after service of the order upon the financial institution.

34 (D) Nothing in this subdivision shall preclude the financial  
35 institution from notifying a customer of the receipt of the order  
36 for production of records unless a court orders the financial  
37 institution to withhold notification to the customer upon a finding  
38 that the notice would impede the investigation.

39 (E) Where a court has made an order pursuant to this paragraph  
40 to withhold notification to the customer under this paragraph, the

1 peace officer or law enforcement agency who obtained the financial  
2 information shall notify the customer by delivering a copy of the  
3 ex parte order to the customer within 10 days of the termination  
4 of the investigation.

5 (4) No financial institution, or any officer, employee, or agent  
6 thereof, shall be liable to any person for any of the following:

7 (A) Disclosing information to a probate court pursuant to  
8 Sections 2892 and 2893.

9 (B) Disclosing information in response to a court order pursuant  
10 to paragraph (3).

11 (C) Complying with a court order under this subdivision not to  
12 disclose to the customer, the order, or the dissemination of  
13 information pursuant to the court order.

14 (o) Disclosure by a financial institution to a peace officer, as  
15 defined in Section 830.1 of the Penal Code, pursuant to the  
16 following:

17 (1) Paragraph (1) of subdivision (a) of Section 1748.95 of the  
18 Civil Code, provided that the financial institution has first complied  
19 with the requirements of paragraph (2) of subdivision (a) and  
20 subdivision (b) of Section 1748.95 of the Civil Code.

21 (2) Paragraph (1) of subdivision (a) of Section 4002 of the  
22 Financial Code, provided that the financial institution has first  
23 complied with the requirements of paragraph (2) of subdivision  
24 (a) and subdivision (b) of Section 4002 of the Financial Code.

25 (3) Paragraph (1) of subdivision (a) of Section 22470 of the  
26 Financial Code, provided that any financial institution that is a  
27 finance lender has first complied with the requirements of  
28 paragraph (2) of subdivision (a) and subdivision (b) of Section  
29 22470 of the Financial Code.

30 (p) When the governing board of the Public Employees'  
31 Retirement System or the State Teachers' Retirement System  
32 certifies in writing to a financial institution that a benefit recipient  
33 has died and that transfers to the benefit recipient's account at the  
34 financial institution from the retirement system occurred after the  
35 benefit recipient's date of death, the financial institution shall  
36 furnish the retirement system with the name and address of any  
37 coowner, cosigner, or any other person who had access to the funds  
38 in the account following the date of the benefit recipient's death,  
39 or if the account has been closed, the name and address of the  
40 person who closed the account.

1 (q) When the retirement board of a retirement system established  
2 under the County Employees Retirement Law of 1937 certifies in  
3 writing to a financial institution that a retired member or the  
4 beneficiary of a retired member has died and that transfers to the  
5 account of the retired member or beneficiary of a retired member  
6 at the financial institution from the retirement system occurred  
7 after the date of death of the retired member or beneficiary of a  
8 retired member, the financial institution shall furnish the retirement  
9 system with the name and address of any coowner, cosigner, or  
10 any other person who had access to the funds in the account  
11 following the date of death of the retired member or beneficiary  
12 of a retired member, or if the account has been closed, the name  
13 and address of the person who closed the account.

14 (r) When the Franchise Tax Board certifies in writing to a  
15 financial institution that (1) a taxpayer filed a tax return that  
16 authorized a direct deposit refund with an incorrect financial  
17 institution account or routing number that resulted in all or a  
18 portion of the refund not being received, directly or indirectly, by  
19 the taxpayer; (2) the direct deposit refund was not returned to the  
20 Franchise Tax Board; and (3) the refund was deposited directly  
21 on a specified date into the account of an accountholder of the  
22 financial institution who was not entitled to receive the refund,  
23 then the financial institution shall furnish to the Franchise Tax  
24 Board the name and address of any coowner, cosigner, or any other  
25 person who had access to the funds in the account following the  
26 date of direct deposit refund, or if the account has been closed, the  
27 name and address of the person who closed the account.

28 SEC. 32. Section 7480 of the Government Code, as amended  
29 by Section 2 of Chapter 234 of the Statutes of 2008, is amended  
30 to read:

31 7480. Nothing in this chapter shall prohibit any of the  
32 following:

33 (a) The dissemination of any financial information that is not  
34 identified with, or identifiable as being derived from, the financial  
35 records of a particular customer.

36 (b) When any police or sheriff's department or district attorney  
37 in this state certifies to a bank, credit union, or savings association  
38 in writing that a crime report has been filed that involves the  
39 alleged fraudulent use of drafts, checks, access cards, or other  
40 orders drawn upon any bank, credit union, or savings association

1 in this state, the police or sheriff's department or district attorney,  
2 a county adult protective services office when investigating the  
3 financial abuse of an elder or dependent adult, or a long-term care  
4 ombudsman when investigating the financial abuse of an elder or  
5 dependent adult, may request a bank, credit union, or savings  
6 association to furnish, and a bank, credit union, or savings  
7 association shall furnish, a statement setting forth the following  
8 information with respect to a customer account specified by the  
9 requesting party for a period 30 days prior to, and up to 30 days  
10 following, the date of occurrence of the alleged illegal act involving  
11 the account:

- 12 (1) The number of items dishonored.
- 13 (2) The number of items paid that created overdrafts.
- 14 (3) The dollar volume of the dishonored items and items paid  
15 which created overdrafts and a statement explaining any credit  
16 arrangement between the bank, credit union, or savings association  
17 and customer to pay overdrafts.
- 18 (4) The dates and amounts of deposits and debits and the account  
19 balance on these dates.
- 20 (5) A copy of the signature card, including the signature and  
21 any addresses appearing on a customer's signature card.
- 22 (6) The date the account opened and, if applicable, the date the  
23 account closed.
- 24 (7) Surveillance photographs and video recordings of persons  
25 accessing the crime victim's financial account via an automated  
26 teller machine (ATM) or from within the financial institution for  
27 dates on which illegal acts involving the account were alleged to  
28 have occurred. Nothing in this paragraph does any of the following:
  - 29 (A) Requires a financial institution to produce a photograph or  
30 video recording if it does not possess the photograph or video  
31 recording.
  - 32 (B) Affects any existing civil immunities as provided in Section  
33 47 of the Civil Code or any other provision of law.
- 34 (8) A bank, credit union, or savings association that provides  
35 the requesting party with copies of one or more complete account  
36 statements prepared in the regular course of business shall be  
37 deemed to be in compliance with paragraphs (1), (2), (3), and (4).
- 38 (c) When any police or sheriff's department or district attorney  
39 in this state certifies to a bank, credit union, or savings association  
40 in writing that a crime report has been filed that involves the

1 alleged fraudulent use of drafts, checks, access cards, or other  
2 orders drawn upon any bank, credit union, or savings association  
3 doing business in this state, the police or sheriff's department or  
4 district attorney, a county adult protective services office when  
5 investigating the financial abuse of an elder or dependent adult,  
6 or a long-term care ombudsman when investigating the financial  
7 abuse of an elder or dependent adult, may request, with the consent  
8 of the accountholder, the bank, credit union, or savings association  
9 to furnish, and the bank, credit union, or savings association shall  
10 furnish, a statement setting forth the following information with  
11 respect to a customer account specified by the requesting party for  
12 a period 30 days prior to, and up to 30 days following, the date of  
13 occurrence of the alleged illegal act involving the account:

- 14 (1) The number of items dishonored.
- 15 (2) The number of items paid that created overdrafts.
- 16 (3) The dollar volume of the dishonored items and items paid  
17 which created overdrafts and a statement explaining any credit  
18 arrangement between the bank, credit union, or savings association  
19 and customer to pay overdrafts.
- 20 (4) The dates and amounts of deposits and debits and the account  
21 balance on these dates.
- 22 (5) A copy of the signature card, including the signature and  
23 any addresses appearing on a customer's signature card.
- 24 (6) The date the account opened and, if applicable, the date the  
25 account closed.
- 26 (7) Surveillance photographs and video recordings of persons  
27 accessing the crime victim's financial account via an automated  
28 teller machine (ATM) or from within the financial institution for  
29 dates on which illegal acts involving this account were alleged to  
30 have occurred. Nothing in this paragraph does any of the following:
  - 31 (A) Requires a financial institution to produce a photograph or  
32 video recording if it does not possess the photograph or video  
33 recording.
  - 34 (B) Affects any existing civil immunities as provided in Section  
35 47 of the Civil Code or any other provision of law.
- 36 (8) A bank, credit union, or savings association doing business  
37 in this state that provides the requesting party with copies of one  
38 or more complete account statements prepared in the regular course  
39 of business shall be deemed to be in compliance with paragraphs  
40 (1), (2), (3), and (4).

1 (d) For purposes of subdivision (c), consent of the accountholder  
2 shall be satisfied if an accountholder provides to the financial  
3 institution and the person or entity seeking disclosure, a signed  
4 and dated statement containing all of the following:

5 (1) Authorization of the disclosure for the period specified in  
6 subdivision (c).

7 (2) The name of the agency or department to which disclosure  
8 is authorized and, if applicable, the statutory purpose for which  
9 the information is to be obtained.

10 (3) A description of the financial records that are authorized to  
11 be disclosed.

12 (e) (1) The Attorney General, a supervisory agency, the  
13 Franchise Tax Board, the State Board of Equalization, the  
14 Employment Development Department, the Controller or an  
15 inheritance tax referee when administering the Prohibition of Gift  
16 and Death Taxes (Part 8 (commencing with Section 13301) of  
17 Division 2 of the Revenue and Taxation Code), a police or sheriff's  
18 department or district attorney, a county adult protective services  
19 office when investigating the financial abuse of an elder or  
20 dependent adult, a long-term care ombudsman when investigating  
21 the financial abuse of an elder or dependent adult, a county welfare  
22 department when investigating welfare fraud, a county  
23 auditor-controller or director of finance when investigating fraud  
24 against the county, or the Department of Corporations when  
25 conducting investigations in connection with the enforcement of  
26 laws administered by the Commissioner of Corporations, from  
27 requesting of an office or branch of a financial institution, and the  
28 office or branch from responding to a request, as to whether a  
29 person has an account or accounts at that office or branch and, if  
30 so, any identifying numbers of the account or accounts.

31 (2) No additional information beyond that specified in this  
32 section shall be released to a county welfare department without  
33 either the accountholder's written consent or a judicial writ, search  
34 warrant, subpoena, or other judicial order.

35 (3) A county auditor-controller or director of finance who  
36 unlawfully discloses information he or she is authorized to request  
37 under this subdivision is guilty of the unlawful disclosure of  
38 confidential data, a misdemeanor, which shall be punishable as  
39 set forth in Section 7485.

1 (f) The examination by, or disclosure to, any supervisory agency  
2 of financial records that relate solely to the exercise of its  
3 supervisory function. The scope of an agency's supervisory  
4 function shall be determined by reference to statutes that grant  
5 authority to examine, audit, or require reports of financial records  
6 or financial institutions as follows:

7 (1) With respect to the Commissioner of Financial Institutions  
8 by reference to Division 1 (commencing with Section 99), Division  
9 1.5 (commencing with Section 4800), Division 2 (commencing  
10 with Section 5000), Division 5 (commencing with Section 14000),  
11 Division 7 (commencing with Section 18000), Division 15  
12 (commencing with Section 31000), and Division 16 (commencing  
13 with Section 33000), of the Financial Code.

14 (2) With respect to the Controller by reference to Title 10  
15 (commencing with Section 1300) of Part 3 of the Code of Civil  
16 Procedure.

17 (3) With respect to the Administrator of Local Agency Security  
18 by reference to Article 2 (commencing with Section 53630) of  
19 Chapter 4 of Part 1 of Division 2 of Title 5 of the Government  
20 Code.

21 (g) The disclosure to the Franchise Tax Board of (1) the amount  
22 of any security interest that a financial institution has in a specified  
23 asset of a customer or (2) financial records in connection with the  
24 filing or audit of a tax return or tax information return that are  
25 required to be filed by the financial institution pursuant to Part 10  
26 (commencing with Section 17001), Part 11 (commencing with  
27 Section 23001), or Part 18 (commencing with Section 38001), of  
28 the Revenue and Taxation Code.

29 (h) The disclosure to the State Board of Equalization of any of  
30 the following:

31 (1) The information required by Sections 6702, 6703, 8954,  
32 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155,  
33 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404,  
34 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the  
35 Revenue and Taxation Code.

36 (2) The financial records in connection with the filing or audit  
37 of a tax return required to be filed by the financial institution  
38 pursuant to Part 1 (commencing with Section 6001), Part 2  
39 (commencing with Section 7301), Part 3 (commencing with Section  
40 8601), Part 13 (commencing with Section 30001), Part 14

1 (commencing with Section 32001), and Part 17 (commencing with  
2 Section 37001), of Division 2 of the Revenue and Taxation Code.

3 (3) The amount of any security interest a financial institution  
4 has in a specified asset of a customer, if the inquiry is directed to  
5 the branch or office where the interest is held.

6 (i) The disclosure to the Controller of the information required  
7 by Section 7853 of the Revenue and Taxation Code.

8 (j) The disclosure to the Employment Development Department  
9 of the amount of any security interest a financial institution has in  
10 a specified asset of a customer, if the inquiry is directed to the  
11 branch or office where the interest is held.

12 (k) The disclosure by a construction lender, as defined in Section  
13 ~~3087~~ 8006 of the Civil Code, to the Registrar of Contractors, of  
14 information concerning the making of progress payments to a  
15 prime contractor requested by the registrar in connection with an  
16 investigation under Section 7108.5 of the Business and Professions  
17 Code.

18 (l) Upon receipt of a written request from a local child support  
19 agency referring to a support order pursuant to Section 17400 of  
20 the Family Code, a financial institution shall disclose the following  
21 information concerning the account or the person named in the  
22 request, whom the local child support agency shall identify,  
23 whenever possible, by social security number:

24 (1) If the request states the identifying number of an account at  
25 a financial institution, the name of each owner of the account.

26 (2) Each account maintained by the person at the branch to  
27 which the request is delivered, and, if the branch is able to make  
28 a computerized search, each account maintained by the person at  
29 any other branch of the financial institution located in this state.

30 (3) For each account disclosed pursuant to paragraphs (1) and  
31 (2), the account number, current balance, street address of the  
32 branch where the account is maintained, and, to the extent available  
33 through the branch's computerized search, the name and address  
34 of any other person listed as an owner.

35 (4) Whenever the request prohibits the disclosure, a financial  
36 institution shall not disclose either the request or its response, to  
37 an owner of the account or to any other person, except the officers  
38 and employees of the financial institution who are involved in  
39 responding to the request and to attorneys, employees of the local  
40 child support agencies, auditors, and regulatory authorities who



1 have a need to know in order to perform their duties, and except  
2 as disclosure may be required by legal process.

3 (5) No financial institution, or any officer, employee, or agent  
4 thereof, shall be liable to any person for (A) disclosing information  
5 in response to a request pursuant to this subdivision, (B) failing to  
6 notify the owner of an account, or complying with a request under  
7 this paragraph not to disclose to the owner, the request or disclosure  
8 under this subdivision, or (C) failing to discover any account owned  
9 by the person named in the request pursuant to a computerized  
10 search of the records of the financial institution.

11 (6) The local child support agency may request information  
12 pursuant to this subdivision only when the local child support  
13 agency has received at least one of the following types of physical  
14 evidence:

15 (A) Any of the following, dated within the last three years:

16 (i) Form 599.

17 (ii) Form 1099.

18 (iii) A bank statement.

19 (iv) A check.

20 (v) A bank passbook.

21 (vi) A deposit slip.

22 (vii) A copy of a federal or state income tax return.

23 (viii) A debit or credit advice.

24 (ix) Correspondence that identifies the child support obligor by  
25 name, the bank, and the account number.

26 (x) Correspondence that identifies the child support obligor by  
27 name, the bank, and the banking services related to the account of  
28 the obligor.

29 (xi) An asset identification report from a federal agency.

30 (B) A sworn declaration of the custodial parent during the 12  
31 months immediately preceding the request that the person named  
32 in the request has had or may have had an account at an office or  
33 branch of the financial institution to which the request is made.

34 (7) Information obtained by a local child support agency  
35 pursuant to this subdivision shall be used only for purposes that  
36 are directly connected with the administration of the duties of the  
37 local child support agency pursuant to Section 17400 of the Family  
38 Code.

39 (m) (1) As provided in paragraph (1) of subdivision (c) of  
40 Section 666 of Title 42 of the United States Code, upon receipt of

1 an administrative subpoena on the current federally approved  
2 interstate child support enforcement form, as approved by the  
3 federal Office of Management and Budget, a financial institution  
4 shall provide the information or documents requested by the  
5 administrative subpoena.

6 (2) The administrative subpoena shall refer to the current federal  
7 Office of Management and Budget control number and be signed  
8 by a person who states that he or she is an authorized agent of a  
9 state or county agency responsible for implementing the child  
10 support enforcement program set forth in Part D (commencing  
11 with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the  
12 United States Code. A financial institution may rely on the  
13 statements made in the subpoena and has no duty to inquire into  
14 the truth of any statement in the subpoena.

15 (3) If the person who signs the administrative subpoena directs  
16 a financial institution in writing not to disclose either the subpoena  
17 or its response to any owner of an account covered by the subpoena,  
18 the financial institution shall not disclose the subpoena or its  
19 response to the owner.

20 (4) No financial institution, or any officer, employee, or agent  
21 thereof, shall be liable to any person for (A) disclosing information  
22 or providing documents in response to a subpoena pursuant to this  
23 subdivision, (B) failing to notify any owner of an account covered  
24 by the subpoena or complying with a request not to disclose to the  
25 owner, the subpoena or disclosure under this subdivision, or (C)  
26 failing to discover any account owned by the person named in the  
27 subpoena pursuant to a computerized search of the records of the  
28 financial institution.

29 (n) The dissemination of financial information and records  
30 pursuant to any of the following:

31 (1) Compliance by a financial institution with the requirements  
32 of Section 2892 of the Probate Code.

33 (2) Compliance by a financial institution with the requirements  
34 of Section 2893 of the Probate Code.

35 (3) An order by a judge upon a written ex parte application by  
36 a peace officer showing specific and articulable facts that there  
37 are reasonable grounds to believe that the records or information  
38 sought are relevant and material to an ongoing investigation of a  
39 felony violation of Section 186.10 or of any felony subject to the  
40 enhancement set forth in Section 186.11.

1 (A) The ex parte application shall specify with particularity the  
2 records to be produced, which shall be only those of the individual  
3 or individuals who are the subject of the criminal investigation.

4 (B) The ex parte application and any subsequent judicial order  
5 shall be open to the public as a judicial record unless ordered sealed  
6 by the court, for a period of 60 days. The sealing of these records  
7 may be extended for 60-day periods upon a showing to the court  
8 that it is necessary for the continuance of the investigation.  
9 Sixty-day extensions may continue for up to one year or until  
10 termination of the investigation of the individual or individuals,  
11 whichever is sooner.

12 (C) The records ordered to be produced shall be returned to the  
13 peace officer applicant or his or her designee within a reasonable  
14 time period after service of the order upon the financial institution.

15 (D) Nothing in this subdivision shall preclude the financial  
16 institution from notifying a customer of the receipt of the order  
17 for production of records unless a court orders the financial  
18 institution to withhold notification to the customer upon a finding  
19 that the notice would impede the investigation.

20 (E) Where a court has made an order pursuant to this paragraph  
21 to withhold notification to the customer under this paragraph, the  
22 peace officer or law enforcement agency who obtained the financial  
23 information shall notify the customer by delivering a copy of the  
24 ex parte order to the customer within 10 days of the termination  
25 of the investigation.

26 (4) No financial institution, or any officer, employee, or agent  
27 thereof, shall be liable to any person for any of the following:

28 (A) Disclosing information to a probate court pursuant to  
29 Sections 2892 and 2893.

30 (B) Disclosing information in response to a court order pursuant  
31 to paragraph (3).

32 (C) Complying with a court order under this subdivision not to  
33 disclose to the customer, the order, or the dissemination of  
34 information pursuant to the court order.

35 (o) Disclosure by a financial institution to a peace officer, as  
36 defined in Section 830.1 of the Penal Code, pursuant to the  
37 following:

38 (1) Paragraph (1) of subdivision (a) of Section 1748.95 of the  
39 Civil Code, provided that the financial institution has first complied

1 with the requirements of paragraph (2) of subdivision (a) and  
2 subdivision (b) of Section 1748.95 of the Civil Code.

3 (2) Paragraph (1) of subdivision (a) of Section 4002 of the  
4 Financial Code, provided that the financial institution has first  
5 complied with the requirements of paragraph (2) of subdivision  
6 (a) and subdivision (b) of Section 4002 of the Financial Code.

7 (3) Paragraph (1) of subdivision (a) of Section 22470 of the  
8 Financial Code, provided that any financial institution that is a  
9 finance lender has first complied with the requirements of  
10 paragraph (2) of subdivision (a) and subdivision (b) of Section  
11 22470 of the Financial Code.

12 (p) When the governing board of the Public Employees'  
13 Retirement System or the State Teachers' Retirement System  
14 certifies in writing to a financial institution that a benefit recipient  
15 has died and that transfers to the benefit recipient's account at the  
16 financial institution from the retirement system occurred after the  
17 benefit recipient's date of death, the financial institution shall  
18 furnish the retirement system with the name and address of any  
19 coowner, cosigner, or any other person who had access to the funds  
20 in the account following the date of the benefit recipient's death,  
21 or if the account has been closed, the name and address of the  
22 person who closed the account.

23 (q) When the retirement board of a retirement system established  
24 under the County Employees Retirement Law of 1937 certifies in  
25 writing to a financial institution that a retired member or the  
26 beneficiary of a retired member has died and that transfers to the  
27 account of the retired member or beneficiary of a retired member  
28 at the financial institution from the retirement system occurred  
29 after the date of death of the retired member or beneficiary of a  
30 retired member, the financial institution shall furnish the retirement  
31 system with the name and address of any coowner, cosigner, or  
32 any other person who had access to the funds in the account  
33 following the date of death of the retired member or beneficiary  
34 of a retired member, or if the account has been closed, the name  
35 and address of the person who closed the account.

36 (r) When the Franchise Tax Board certifies in writing to a  
37 financial institution that (1) a taxpayer filed a tax return that  
38 authorized a direct deposit refund with an incorrect financial  
39 institution account or routing number that resulted in all or a  
40 portion of the refund not being received, directly or indirectly, by

1 the taxpayer; (2) the direct deposit refund was not returned to the  
2 Franchise Tax Board; and (3) the refund was deposited directly  
3 on a specified date into the account of an accountholder of the  
4 financial institution who was not entitled to receive the refund,  
5 then the financial institution shall furnish to the Franchise Tax  
6 Board the name and address of any coowner, cosigner, or any other  
7 person who had access to the funds in the account following the  
8 date of direct deposit refund, or if the account has been closed, the  
9 name and address of the person who closed the account.

10 SEC. 33. Section 14975 of the Government Code is amended  
11 to read:

12 14975. Notwithstanding the provisions of Section ~~3247~~ 45010  
13 of the ~~Civil Public Contract~~ Code, the contractor under any  
14 contract made under this chapter need not provide a payment bond  
15 before the commencement of the work but must provide a payment  
16 bond as otherwise required by law prior to payment under the  
17 contract.

18 SEC. 34. Section 15820.105 of the Government Code is  
19 amended to read:

20 15820.105. (a) Plans and specifications for the project shall  
21 comply with applicable building codes.

22 (b) The project is hereby deemed a “public work” project for  
23 purposes of ~~Title 15 (commencing with Section 3082) of Part 4 of~~  
24 ~~Division 3 Sections 41010 to 45090, inclusive, of the Civil Public~~  
25 ~~Contract~~ Code.

26 (c) The provisions of Chapter 1 (commencing with Section  
27 1720) of Part 7 of Division 2 of the Labor Code shall apply to all  
28 public works contracts entered into for the project.

29 (d) Other than as provided in this section and Sections  
30 15820.101 to 15820.104, inclusive, private sector methods may  
31 be used to deliver the project. Specifically, the procurement and  
32 contracting for the delivery of the project is not subject to the State  
33 Contract Act (Part 2 (commencing with Section 10100) of Division  
34 2 of the Public Contract Code) or any other provision of California  
35 law governing public procurement or public works projects.

36 SEC. 35. Section 27287 of the Government Code is amended  
37 to read:

38 27287. Unless it belongs to the class provided for in either  
39 Sections 27282 to 27286, inclusive, or ~~Sections~~ Section 1202 or  
40 1203, of the Civil Code, or is a fictitious mortgage or deed of trust

1 as provided in ~~Sections 2952, Section 2952 or 2963, 2963~~ of the  
 2 Civil Code, or is a fictitious oil and gas lease as provided in Section  
 3 1219 of the Civil Code, or is ~~a claim of lien, as an instrument~~  
 4 ~~provided for~~ in Section ~~3084 8058~~ of the Civil Code; or a notice  
 5 ~~of completion, as provided in~~ Section ~~3093 42250~~ of the Civil  
 6 *Public Contract Code*, before an instrument can be recorded its  
 7 execution shall be acknowledged by the person executing it, or if  
 8 executed by a corporation, by its president or secretary or other  
 9 person executing it on behalf of the corporation, or, except for any  
 10 quitclaim deed or grant deed other than a trustee’s deed or a deed  
 11 of reconveyance, mortgage, deed of trust, or security agreement,  
 12 proved by subscribing witness or as provided in Sections 1198 and  
 13 1199 of the Civil Code, and the acknowledgment or proof certified  
 14 as prescribed by law.

15 SEC. 36. Section 27361.9 of the Government Code is repealed.  
 16 ~~27361.9. The board of supervisors of any county may provide~~  
 17 ~~for an additional fee for filing every preliminary 20-day notice~~  
 18 ~~pursuant to paragraph (1) of subdivision (o) of Section 3097 of~~  
 19 ~~the Civil Code for the exclusive purpose of defraying the cost of~~  
 20 ~~implementing and maintaining a system to facilitate compliance~~  
 21 ~~with paragraph (2) of subdivision (o) of Section 3097 of the Civil~~  
 22 ~~Code.~~

23 SEC. 37. Section 66499.2 of the Government Code is amended  
 24 to read:

25 66499.2. A bond or bonds by one or more duly authorized  
 26 corporate sureties for the security of laborers and ~~materialmen~~  
 27 *material suppliers* shall be in substantially the following form:

28 Whereas, ~~The~~ Board of Supervisors of the County of \_\_\_\_ (or  
 29 City Council of the City of \_\_\_\_), State of California, and \_\_\_\_  
 30 (hereinafter designated as “the principal”) have entered into an  
 31 agreement whereby the principal agrees to install and complete  
 32 certain designated public improvements, which agreement, dated  
 33 \_\_\_\_, 20\_\_, and identified as project \_\_\_\_, is hereby referred to and  
 34 made a part hereof; and

35 Whereas, ~~Under~~ the terms of the agreement, the principal is  
 36 required before entering upon the performance of the work, to file  
 37 a good and sufficient payment bond with the County of \_\_\_\_ (or  
 38 the City of \_\_\_\_ ) to secure the claims to which reference is made  
 39 in ~~Title 15 Part 6~~ (commencing with Section ~~3082 41010~~) of ~~Part~~

1 ~~4 of Division 3 2 of the Civil Public Contract Code of the State~~  
2 ~~of California.~~

3 Now, therefore, the principal and the undersigned as corporate  
4 surety, are held firmly bound unto the County of \_\_\_\_ (or the City  
5 of \_\_\_\_ ) and all contractors, subcontractors, laborers, ~~materialmen~~  
6 *material suppliers*, and other persons employed in the performance  
7 of the agreement and referred to in ~~Title 15 Part 6~~ (commencing  
8 with Section ~~3082~~) *41010*) of ~~Part 4 of Division 3 2 of the Civil~~  
9 *Public Contract Code* in the sum of \_\_\_\_ dollars (\$\_\_\_\_), for  
10 materials furnished or labor thereon of any kind, or for amounts  
11 due under the Unemployment Insurance Act with respect to this  
12 work or labor, that the surety will pay the same in an amount not  
13 exceeding the amount hereinabove set forth, and also in case suit  
14 is brought upon this bond, will pay, in addition to the face amount  
15 thereof, costs and reasonable expenses and fees, including  
16 reasonable attorney’s fees, incurred by county (or city) in  
17 successfully enforcing this obligation, to be awarded and fixed by  
18 the court, and to be taxed as costs and to be included in the  
19 judgment therein rendered.

20 It is hereby expressly stipulated and agreed that this bond shall  
21 inure to the benefit of any and all persons, companies, and  
22 corporations entitled to file claims under ~~Title 15 Part 6~~  
23 (commencing with Section ~~3082~~) *41010*) of ~~Part 4 of Division 3~~  
24 *2 of the Civil Public Contract Code*, so as to give a right of action  
25 to them or their assigns in any suit brought upon this bond.

26 Should the condition of this bond be fully performed, then this  
27 obligation shall become null and void, otherwise it shall be and  
28 remain in full force and effect.

29 The surety hereby stipulates and agrees that no change, extension  
30 of time, alteration, or addition to the terms of the agreement or the  
31 specifications accompanying the same shall in any manner affect  
32 its obligations on this bond, and it does hereby waive notice of  
33 any such change, extension, alteration, or addition.

34 In witness whereof, this instrument has been duly executed by  
35 the principal and surety above named, on \_\_\_\_, 20\_\_.

36 SEC. 38. Section 66499.7 of the Government Code is amended  
37 to read:

38 66499.7. The security furnished by the subdivider shall be  
39 released in whole or in part in the following manner:

1 (a) Security given for faithful performance of any act or  
2 agreement shall be released upon the performance of the act or  
3 final completion and acceptance of the required work. The  
4 legislative body may provide for the partial release of the security  
5 upon the partial performance of the act or the acceptance of the  
6 work as it progresses, consistent with the provisions of this section.  
7 The security may be a surety bond, a cash deposit, a letter of credit,  
8 escrow account, or other form of performance guarantee required  
9 as security by the legislative body that meets the requirements as  
10 acceptable security pursuant to law. If the security furnished by  
11 the subdivider is a documentary evidence of security such as a  
12 surety bond or a letter of credit, the legislative body shall release  
13 the documentary evidence and return the original to the issuer upon  
14 performance of the act or final completion and acceptance of the  
15 required work. In the event that the legislative body is unable to  
16 return the original documentary evidence to the issuer, the security  
17 shall be released by written notice sent by certified mail to the  
18 subdivider and issuer of the documentary evidence within 30 days  
19 of the acceptance of the work. The written notice shall contain a  
20 statement that the work for which the security was furnished has  
21 been performed or completed and accepted by the legislative body,  
22 a description of the project subject to the documentary evidence  
23 and the notarized signature of the authorized representative of the  
24 legislative body.

25 (b) At the time that the subdivider believes that the obligation  
26 to perform the work for which security was required is complete,  
27 the subdivider may notify the local agency in writing of the  
28 completed work, including a list of work completed. Upon receipt  
29 of the written notice, the local agency shall have 45 days to review  
30 and comment or approve the completion of the required work. If  
31 the local agency does not agree that all work has been completed  
32 in accordance with the plans and specifications for the  
33 improvements, it shall supply a list of all remaining work to be  
34 completed.

35 (c) Within 45 days of receipt of the list of remaining work from  
36 the local agency, the subdivider may then provide cost estimates  
37 for all remaining work for review and approval by the local agency.  
38 Upon receipt of the cost estimates, the local agency shall then have  
39 45 days to review, comment, and approve, modify, or disapprove  
40 those cost estimates. No local agency shall be required to engage



1 in this process of partial release more than once between the start  
2 of work and completion and acceptance of all work; however,  
3 nothing in this section prohibits a local agency from allowing for  
4 a partial release as it otherwise deems appropriate.

5 (d) If the local agency approves the cost estimate, the local  
6 agency shall release all performance security except for security  
7 in an amount up to 200 percent of the cost estimate of the  
8 remaining work. The process allowing for a partial release of  
9 performance security shall occur when the cost estimate of the  
10 remaining work does not exceed 20 percent of the total original  
11 performance security unless the local agency allows for a release  
12 at an earlier time. Substitute bonds or other security may be used  
13 as a replacement for the performance security, subject to the  
14 approval of the local agency. If substitute bonds or other security  
15 is used as a replacement for the performance security released, the  
16 release shall not be effective unless and until the local agency  
17 receives and approves that form of replacement security. A  
18 reduction in the performance security, authorized under this section,  
19 is not, and shall not be deemed to be, an acceptance by the local  
20 agency of the completed improvements, and the risk of loss or  
21 damage to the improvements and the obligation to maintain the  
22 improvements shall remain the sole responsibility of the subdivider  
23 until all required public improvements have been accepted by the  
24 local agency and all other required improvements have been fully  
25 completed in accordance with the plans and specifications for the  
26 improvements.

27 (e) The subdivider shall complete the works of improvement  
28 until all remaining items are accepted by the local agency.

29 (f) Upon the completion of the improvements, the subdivider,  
30 or his or her assigns, shall be notified in writing by the local agency  
31 within 45 days.

32 (g) Within 45 days of the issuance of the notification by the  
33 local agency, the release of any remaining performance security  
34 shall be placed upon the agenda of the legislative body of the local  
35 agency for approval of the release of any remaining performance  
36 security. If the local agency delegates authority for the release of  
37 performance security to a public official or other employee, any  
38 remaining performance security shall be released within 60 days  
39 of the issuance of the written statement of completion.

1 (h) Security securing the payment to the contractor, his or her  
 2 subcontractors and to persons furnishing labor, materials or  
 3 equipment shall, after passage of the time within which claims of  
 4 lien are required to be recorded pursuant to Article ~~3 2~~  
 5 (commencing with Section ~~3114~~ 8410) of Chapter ~~2 4~~ of Title ~~15~~  
 6 of Part ~~4 6~~ of Division ~~3 4~~ of the Civil Code and after acceptance  
 7 of the work, be reduced to an amount equal to the total claimed  
 8 by all claimants for whom claims of lien have been recorded and  
 9 notice thereof given in writing to the legislative body, and if no  
 10 claims have been recorded, the security shall be released in full.

11 (i) The release shall not apply to any required guarantee and  
 12 warranty period required by Section 66499.9 for the guarantee or  
 13 warranty nor to the amount of the security deemed necessary by  
 14 the local agency for the guarantee and warranty period nor to costs  
 15 and reasonable expenses and fees, including reasonable attorneys'  
 16 fees.

17 (j) The legislative body may authorize any of its public officers  
 18 or employees to authorize release or reduction of the security in  
 19 accordance with the conditions hereinabove set forth and in  
 20 accordance with any rules that it may prescribe.

21 (k) This section shall remain in effect only until January 1, 2011,  
 22 and as of that date is repealed, unless a later enacted statute, that  
 23 is enacted before January 1, 2011, deletes or extends that date.

24 SEC. 39. Section 5463 of the Health and Safety Code is  
 25 amended to read:

26 5463. Any health officer or governing board of any city, county,  
 27 sanitary district, or other district having the power to operate and  
 28 maintain a sewerage system, having served written notice upon  
 29 the owner or reputed owner of land upon which there is a dwelling  
 30 house, and ~~such the~~ owner or reputed owner, after 30 days, having  
 31 refused, neglected, or failed to connect ~~such the~~ dwelling house,  
 32 together with all toilets, sinks, and other plumbing therein, properly  
 33 vented, and in a sanitary manner, with the adjoining street sewer,  
 34 may construct the same at a reasonable cost, and the person doing  
 35 ~~said that~~ work at the request of ~~such the~~ health officer or governing  
 36 board has a lien upon ~~said that~~ real estate for his *or her* work done  
 37 and materials furnished, and ~~such the~~ work done and materials  
 38 furnished shall be held to have been done and furnished at the  
 39 instance of ~~such the~~ owner or reputed owner, or person claiming  
 40 or having any interest therein. ~~Such The~~ governing board may pay

1 all or any part of the cost or price of such connection to the person  
2 or persons who furnished labor, materials, or equipment for the  
3 same, and, to the extent ~~such~~ *the* governing board pays the cost or  
4 price of ~~said~~ *the* connection, it shall succeed to and have all the  
5 rights, including the lien provided for above, of ~~such~~ *the* person  
6 or persons against the real estate and against the owner or reputed  
7 owner thereof.

8 As an alternative power to the enforcement of the lien provided  
9 for in this section, the governing body of the public agency  
10 performing the work of connection to the public sewer may, by  
11 order entered upon its minutes, declare that the amount of the costs  
12 of ~~such~~ *the* work and the administrative expenses incurred by the  
13 governing body incident to the proceedings, together with other  
14 charges uniformly applicable within the jurisdiction of the  
15 governing body for the connection of the premises to the public  
16 sewer, shall be transmitted to the assessor and tax collector of the  
17 public agency, whereupon it shall be the duty of those officers to  
18 add the amount of the assessment to the next regular bill for taxes  
19 levied against the lot or parcel of land.

20 The liens provided for by this section shall be enforced in the  
21 same manner as those provided for by ~~Title 15 Part 6~~ (commencing  
22 with Section ~~3082~~, ~~Part 4~~, ~~8000~~) of ~~Division 3~~ ~~4~~, of the Civil  
23 Code.

24 The governing board may also use the procedures in Section  
25 5474 for levying the costs incurred for the construction of the  
26 improvements for the connection of the premises to the public  
27 sewer.

28 SEC. 40. Section 16017.5 of the Health and Safety Code is  
29 amended to read:

30 16017.5. (a) Notwithstanding any provision of law to the  
31 contrary, including, but not limited to, ~~Title 15 Part 6~~ (commencing  
32 with Section ~~3082~~) ~~8000~~) of ~~Part~~ *Division* 4 of the Civil Code, the  
33 Department of General Services may issue a stop work order when  
34 construction work on an essential services facility is not being  
35 performed in accordance with existing law and would compromise  
36 the structural integrity of the building, thereby endangering the  
37 public safety. The Department of General Services shall allow  
38 construction of incidental and minor nonstructural additions or  
39 nonstructural alterations without invoking its stop work authority.

1 (b) A public board, body, or officer whose construction work  
 2 on an essential services facility is subject to a stop work order  
 3 issued pursuant to subdivision (a) shall not be held liable in any  
 4 action filed against the public board, body, or officer for stopping  
 5 work as required by the stop work order, or for any delays caused  
 6 by compliance with the stop work order, except to the extent that  
 7 an error or omission by the public board, body, or officer is the  
 8 basis for the issuance of the stop work order.

9 SEC. 41. Section 19825 of the Health and Safety Code is  
 10 amended to read:

11 19825. (a) Every city, county, or city and county, whether  
 12 general law or chartered, that requires the issuance of a permit as  
 13 a condition precedent to the construction, alteration, improvement,  
 14 demolition, or repair of any building or structure, shall require the  
 15 execution of a permit application, in substantially the same form  
 16 set forth under this subdivision, and require any individual who  
 17 executes the Owner-Builder Declaration to present documentation  
 18 sufficient to identify the property owner and, as necessary, verify  
 19 the signature of the property owner. A city, county, or city and  
 20 county may require additional information on the permit  
 21 application.

22  
 23 PERMIT APPLICATION  
 24 BUILDING PROJECT IDENTIFICATION

25 Applicant's Mailing Address \_\_\_\_\_  
 26 \_\_\_\_\_  
 27 \_\_\_\_\_  
 28 Property Location or Address \_\_\_\_\_  
 29 \_\_\_\_\_  
 30 Property Owner's Name \_\_\_\_\_  
 31 Property Owner's Telephone No. \_\_\_\_\_  
 32 Licensed Design Professional (Architect or  
 33 Engineer) in charge of the project \_\_\_\_\_  
 34 Mailing Address of Licensed Design  
 35 Professional \_\_\_\_\_  
 36 \_\_\_\_\_  
 37 License No. \_\_\_\_\_

38  
 39 LICENSED CONTRACTOR'S DECLARATION

1 I hereby affirm under penalty of perjury that I am licensed under provisions  
2 of Chapter 9 (commencing with Section 7000) of Division 3 of the Business  
3 and Professions Code, and my license is in full force and effect.

4 License Class \_\_\_\_\_ License No. \_\_\_\_\_  
5 Date \_\_\_\_\_ Contractor Signature \_\_\_\_\_  
6

7 OWNER-BUILDER DECLARATION

8 I hereby affirm under penalty of perjury that I am exempt from the  
9 Contractors' State License Law for the reason(s) indicated below by the  
10 checkmark(s) I have placed next to the applicable item(s) (Section 7031.5,  
11 Business and Professions Code: Any city or county that requires a permit to  
12 construct, alter, improve, demolish, or repair any structure, prior to its issuance,  
13 also requires the applicant for the permit to file a signed statement that he or  
14 she is licensed pursuant to the provisions of the Contractors' State License  
15 Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business  
16 and Professions Code) or that he or she is exempt from licensure and the basis  
17 for the alleged exemption. Any violation of Section 7031.5 by any applicant  
18 for a permit subjects the applicant to a civil penalty of not more than five  
19 hundred dollars (\$500).):

20  I, as owner of the property, or my employees with wages as their sole  
21 compensation, will do  all of or  portions of the work, and the structure  
22 is not intended or offered for sale (Section 7044, Business and Professions  
23 Code: The Contractors' State License Law does not apply to an owner of  
24 property who, through employees' or personal effort, builds or improves the  
25 property, provided that the improvements are not intended or offered for sale.  
26 If, however, the building or improvement is sold within one year of completion,  
27 the Owner-Builder will have the burden of proving that it was not built or  
28 improved for the purpose of sale.).  
29

30  I, as owner of the property, am exclusively contracting with licensed  
31 Contractors to construct the project (Section 7044, Business and Professions  
32 Code: The Contractors' State License Law does not apply to an owner of  
33 property who builds or improves thereon, and who contracts for the projects  
34 with a licensed Contractor pursuant to the Contractors' State License Law.).  
35

36  I am exempt from licensure under the Contractors' State License Law for  
37 the following reason:  
38 \_\_\_\_\_  
39

1 By my signature below I acknowledge that, except for my personal residence  
 2 in which I must have resided for at least one year prior to completion of the  
 3 improvements covered by this permit, I cannot legally sell a structure that I  
 4 have built as an owner-builder if it has not been constructed in its entirety by  
 5 licensed contractors. I understand that a copy of the applicable law, Section  
 6 7044 of the Business and Professions Code, is available upon request when  
 7 this application is submitted or at the following Web site:  
 8 <http://www.leginfo.ca.gov/calaw.html>.  
 9 Date \_\_\_\_\_

10  
 11 Signature of Property Owner or Authorized Agent  
 12 \_\_\_\_\_  
 13 \_\_\_\_\_  
 14 \_\_\_\_\_

WORKERS' COMPENSATION DECLARATION

15 WARNING: FAILURE TO SECURE WORKERS' COMPENSATION  
 16 COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER  
 17 TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED  
 18 THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF  
 19 COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706  
 20 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.  
 21

22 I hereby affirm under penalty of perjury one of the following declarations:  
 23 \_\_\_\_\_ I have and will maintain a certificate of consent to self-insure for workers'  
 24 compensation, issued by the Director of Industrial Relations as provided for  
 25 by Section 3700 of the Labor Code, for the performance of the work for which  
 26 this permit is issued.  
 27 Policy No. \_\_\_\_\_  
 28

29 \_\_\_\_\_ I have and will maintain workers' compensation insurance, as required  
 30 by Section 3700 of the Labor Code, for the performance of the work for which  
 31 this permit is issued. My workers' compensation insurance carrier and policy  
 32 number are:  
 33

34 Carrier \_\_\_\_\_ Policy Number \_\_\_\_\_ Expiration Date \_\_\_\_\_  
 35 Name of Agent \_\_\_\_\_ Phone # \_\_\_\_\_  
 36

37 \_\_\_\_\_ I certify that, in the performance of the work for which this permit is  
 38 issued, I shall not employ any person in any manner so as to become subject  
 39 to the workers' compensation laws of California, and agree that, if I should  
 40

1 become subject to the workers' compensation provisions of Section 3700 of  
2 the Labor Code, I shall forthwith comply with those provisions.

3 \_\_\_\_\_  
4 Signature of Applicant

\_\_\_\_\_ Date

5  
6 DECLARATION REGARDING CONSTRUCTION LENDING AGENCY

7  
8 I hereby affirm under penalty of perjury that there is a construction lending  
9 agency for the performance of the work for which this permit is issued (Section  
10 ~~3097~~ 8132, Civil Code).

11 Lender's Name \_\_\_\_\_

12  
13 *Branch Designation* \_\_\_\_\_

14  
15 Lender's Address \_\_\_\_\_

16  
17 By my signature below, I certify to each of the following:

18 I am the property owner or authorized to act on the property owner's behalf.

19 I have read this application and the information I have provided is correct.

20 I agree to comply with all applicable city and county ordinances and state laws  
21 relating to building construction.

22 I authorize representatives of this city or county to enter the above-identified  
23 property for inspection purposes.

24 Signature of Property Owner or Authorized Agent \_\_\_\_\_

25 Date \_\_\_\_\_

26  
27 (b) When the Permit Application and the Owner-Builder  
28 Declaration have been executed by a person other than the property  
29 owner, prior to issuing the permit, the following shall be completed  
30 by the property owner and returned to the agency responsible for  
31 issuing the permit:

32  
33 AUTHORIZATION OF AGENT TO ACT ON PROPERTY OWNER'S  
34 BEHALF

35  
36 Excluding the Notice to Property Owner, the execution of which I understand  
37 is my personal responsibility, I hereby authorize the following person(s) to act  
38 as my agent(s) to apply for, sign, and file the documents necessary to obtain  
39 an Owner-Builder Permit for my project.

1  
 2 Scope of Construction Project (or Description of Work):  
 3 \_\_\_\_\_  
 4 Project Location or Address: \_\_\_\_\_  
 5 Name of Authorized  
 6 Agent: \_\_\_\_\_  
 7  
 8 Address of Authorized  
 9 Agent: \_\_\_\_\_  
 10  
 11 Phone Number of Authorized  
 12 Agent: \_\_\_\_\_  
 13

14 I declare under penalty of perjury that I am the property owner for the address  
 15 listed above and I personally filled out the above information and certify its  
 16 accuracy.

17 Property Owner’s Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 18

19 Note: A copy of the owner’s driver’s license, form notarization, or other  
 20 verification acceptable to the agency is required to be presented when the  
 21 permit is issued to verify the property owner’s signature.  
 22

23 (c) When the Owner-Builder Declaration required under  
 24 subdivision (a) is executed, a Notice to Property Owner also shall  
 25 be executed by the property owner in substantially the same form  
 26 set forth under this section. The Notice to Property Owner shall  
 27 appear on the official letterhead of the issuer and shall be provided  
 28 to the applicant by one of the following methods chosen by the  
 29 permitting authority: regular mail, electronic format, or given  
 30 directly to the applicant at the time the application for the permit  
 31 is made. Except as otherwise provided, the Notice to Property  
 32 Owner pursuant to this section shall be completed and signed by  
 33 the property owner and returned prior to issuance of the permit.  
 34 An agent of the owner shall not execute this notice unless the  
 35 property owner obtains the prior approval of the permitting  
 36 authority. A permit shall not be issued unless the property owner  
 37 complies with this section.  
 38

39 NOTICE TO PROPERTY OWNER

40 Dear Property Owner:



1 An application for a building permit has been submitted in your name listing  
2 yourself as the builder of the property improvements specified at

3 \_\_\_\_\_.  
4 We are providing you with an Owner-Builder Acknowledgment and  
5 Information Verification Form to make you aware of your responsibilities and  
6 possible risk you may incur by having this permit issued in your name as the  
7 Owner-Builder.

8 We will not issue a building permit until you have read, initialed your  
9 understanding of each provision, signed, and returned this form to us at our  
10 official address indicated. An agent of the owner cannot execute this notice  
11 unless you, the property owner, obtain the prior approval of the permitting  
12 authority.

13  
14 OWNER’S ACKNOWLEDGMENT AND VERIFICATION OF  
15 INFORMATION  
16

17 DIRECTIONS: Read and initial each statement below to signify you understand  
18 or verify this information.

19  
20 \_\_\_\_ 1. I understand a frequent practice of unlicensed persons is to have the  
21 property owner obtain an “Owner-Builder” building permit that erroneously  
22 implies that the property owner is providing his or her own labor and material  
23 personally. I, as an Owner-Builder, may be held liable and subject to serious  
24 financial risk for any injuries sustained by an unlicensed person and his or her  
25 employees while working on my property. My homeowner’s insurance may  
26 not provide coverage for those injuries. I am willfully acting as an  
27 Owner-Builder and am aware of the limits of my insurance coverage for injuries  
28 to workers on my property.

29  
30 \_\_\_\_ 2. I understand building permits are not required to be signed by property  
31 owners unless they are *responsible* for the construction and are not hiring a  
32 licensed Contractor to assume this responsibility.

33  
34 \_\_\_\_ 3. I understand as an “Owner-Builder” I am the responsible party of record  
35 on the permit. I understand that I may protect myself from potential financial  
36 risk by hiring a licensed Contractor and having the permit filed in his or her  
37 name instead of my own.

38  
39 \_\_\_\_ 4. I understand Contractors are required by law to be licensed and bonded  
40 in California and to list their license numbers on permits and contracts.

1  
 2 \_\_\_\_5. I understand if I employ or otherwise engage any persons, other than  
 3 California licensed Contractors, and the total value of my construction is at  
 4 least five hundred dollars (\$500), including labor and materials, I may be  
 5 considered an “employer” under state and federal law.

6  
 7 \_\_\_\_6. I understand if I am considered an “employer” under state and federal  
 8 law, I must register with the state and federal government, withhold payroll  
 9 taxes, provide workers’ compensation disability insurance, and contribute to  
 10 unemployment compensation for each “employee.” I also understand my failure  
 11 to abide by these laws may subject me to serious financial risk.

12  
 13 \_\_\_\_7. I understand under California Contractors’ State License Law, an  
 14 Owner-Builder who builds single-family residential structures cannot legally  
 15 build them with the intent to offer them for sale, unless *all* work is performed  
 16 by licensed subcontractors and the number of structures does not exceed four  
 17 within any calendar year, or all of the work is performed under contract with  
 18 a licensed general building Contractor.

19  
 20 \_\_\_\_8. I understand as an Owner-Builder if I sell the property for which this  
 21 permit is issued, I may be held liable for any financial or personal injuries  
 22 sustained by any subsequent owner(s) that result from any latent construction  
 23 defects in the workmanship or materials.

24  
 25 \_\_\_\_9. I understand I may obtain more information regarding my obligations  
 26 as an “employer” from the Internal Revenue Service, the United States Small  
 27 Business Administration, the California Department of Benefit Payments, and  
 28 the California Division of Industrial Accidents. I also understand I may contact  
 29 the California Contractors’ State License Board (CSLB) at 1-800-321-CSLB  
 30 (2752) or [www.cslb.ca.gov](http://www.cslb.ca.gov) for more information about licensed contractors.

31  
 32 \_\_\_\_10. I am aware of and consent to an Owner-Builder building permit applied  
 33 for in my name, and understand that I am the party legally and financially  
 34 responsible for proposed construction activity at the following address:

35 \_\_\_\_\_  
 36

37 \_\_\_\_11. I agree that, as the party legally and financially responsible for this  
 38 proposed construction activity, I will abide by all applicable laws and  
 39 requirements that govern Owner-Builders as well as employers.

40

1 \_\_\_\_ 12. I agree to notify the issuer of this form immediately of any additions,  
2 deletions, or changes to any of the information I have provided on this form.

3  
4 Licensed contractors are regulated by laws designed to protect the public. If  
5 you contract with someone who does not have a license, the Contractors' State  
6 License Board may be unable to assist you with any financial loss you may  
7 sustain as a result of a complaint. Your only remedy against unlicensed  
8 Contractors may be in civil court. It is also important for you to understand  
9 that if an unlicensed Contractor or employee of that individual or firm is injured  
10 while working on your property, you may be held liable for damages. If you  
11 obtain a permit as Owner-Builder and wish to hire Contractors, you will be  
12 responsible for verifying whether or not those Contractors are properly licensed  
13 and the status of their workers' compensation insurance coverage.

14  
15 Before a building permit can be issued, this form must be completed and signed  
16 by the property owner and returned to the agency responsible for issuing the  
17 permit.

18 Note: A copy of the property owner's driver's license, form notarization, or  
19 other verification acceptable to the agency is required to be presented when  
20 the permit is issued to verify the property owner's signature.

21  
22 Signature of Property Owner \_\_\_\_\_ Date: \_\_\_\_\_

23  
24 SEC. 42. Section 34218 of the Health and Safety Code is  
25 amended to read:

26 34218. Chapter ~~7 5~~ (commencing with Section ~~3247~~ 45010)  
27 of ~~Title 15~~ of Part ~~4 6~~ of Division ~~3 2~~ of the ~~Civil~~ *Public Contract*  
28 Code applies to any housing project constructed under this chapter.  
29 Notwithstanding the provisions of this section, a housing authority  
30 may require a 20 percent cash escrow or a 25 percent irrevocable  
31 letter of credit or the payment bond required by this section if the  
32 contract is for work undertaken pursuant to the Comprehensive  
33 Improvement Assistance Program established by Section 14 of the  
34 United States Housing Act of 1937, as amended (42 U.S.C.A.  
35 Secs. 1437d and 1437l), or the Public Housing Modernization Act  
36 established by Section 5(c)(3)(C) of the United States Housing  
37 Act of 1937, as amended (42 U.S.C.A. Secs. 1437d and ~~1437-d~~  
38 *1437l*).

39 SEC. 43. Section 11751.82 of the Insurance Code is amended  
40 to read:

1 11751.82. (a) An insurer under a wrap-up insurance policy  
2 shall report workers' compensation losses and payroll information  
3 for each contractor and subcontractor to its rating organization on  
4 a timely basis and in accordance with the uniform statistical plan.  
5 Within 10 days, upon request, the insurer shall provide to each  
6 contractor and subcontractor copies of the report covering workers'  
7 compensation losses and payroll information for that contractor  
8 or subcontractor.

9 (b) For the purposes of this section, a "wrap-up insurance  
10 policy" is an insurance policy, or series of policies, written to cover  
11 risks associated with a work of improvement, as defined in Section  
12 ~~3106~~ 8050 of the Civil Code, and covering two or more of the  
13 contractors or subcontractors that work on that work of  
14 improvement.

15 SEC. 44. Section 218.5 of the Labor Code is amended to read:

16 218.5. In any action brought for the nonpayment of wages,  
17 fringe benefits, or health and welfare or pension fund contributions,  
18 the court shall award reasonable attorney's fees and costs to the  
19 prevailing party if any party to the action requests attorney's fees  
20 and costs upon the initiation of the action. This section shall not  
21 apply to an action brought by the Labor Commissioner. This  
22 section shall not apply to a surety issuing a bond pursuant to  
23 Chapter 9 (commencing with Section 7000) of Division 3 of the  
24 Business and Professions Code or to an action to enforce a  
25 mechanics lien brought under Chapter ~~2~~ 4 (commencing with  
26 Section ~~3109~~ 8400) of Title ~~15~~ of Part ~~4~~ 6 of Division ~~3~~ 2 of the  
27 Civil Code.

28 This section does not apply to any action for which attorney's  
29 fees are recoverable under Section 1194.

30 SEC. 45. Section 4107.7 of the Public Contract Code is  
31 amended to read:

32 4107.7. If a contractor who enters into a contract with a public  
33 entity for investigation, removal or remedial action, or disposal  
34 relative to the release or presence of a hazardous material or  
35 hazardous waste fails to pay a subcontractor registered as a  
36 hazardous waste hauler pursuant to Section 25163 of the Health  
37 and Safety Code within 10 days after the investigation, removal  
38 or remedial action, or disposal is completed, the subcontractor may  
39 serve a stop notice upon the public entity in accordance with

1 Chapter 4 (commencing with Section ~~3179~~ 44110) of Title 15 of  
2 Part 4 6 of Division 3 of the Civil Code 2.

3 SEC. 46. Section 7103 of the Public Contract Code is amended  
4 to read:

5 7103. (a) (1) Every original contractor ~~to who~~ *that* is awarded  
6 a contract by a state entity, as defined in subdivision (d), involving  
7 an expenditure in excess of twenty-five thousand dollars (\$25,000)  
8 for any public work shall, before entering upon the performance  
9 of the work, file a payment bond with and approved by the officer  
10 or state entity ~~by who that awarded the contract was awarded~~  
11 *contract*. The bond shall be in a sum not less than ~~one hundred~~  
12 *100* percent of the total amount payable by the terms of the  
13 contract.

14 (2) The state entity shall state in its call for bids for any contract  
15 that a payment bond is required in the case of such an expenditure.

16 (b) A payment bond filed and approved in accordance with this  
17 section shall be sufficient to enter upon the performance of work  
18 under a duly authorized contract that supplements the contract for  
19 which the payment bond was filed if the requirement of a new  
20 bond is waived by the state entity.

21 (c) For purposes of this section, providers of architectural,  
22 engineering, and land surveying services pursuant to a contract  
23 with a state entity for a public work shall not be deemed an original  
24 contractor and shall not be required to post or file the payment  
25 bond required in subdivisions (a) and (b).

26 (d) For purposes of this section, “state entity” means every state  
27 office department, division, bureau, board, or commission, but  
28 does not include the Legislature, the courts, any agency in the  
29 judicial branch of government, or the University of California. All  
30 other public entities shall be governed by Section ~~3247~~ of the Civil  
31 Code 45010.

32 (e) For purposes of this section, “public work” includes the  
33 erection, construction, alteration, repair, or improvement of any  
34 state structure, building, road, or other state improvement of any  
35 kind.

36 SEC. 47. Section 10222 of the Public Contract Code is amended  
37 to read:

38 10222. (a) Each bond shall equal at least one-half of the  
39 contract price, except as otherwise provided in Section ~~3248~~ of  
40 the Civil Code 45030, in the California Toll Bridge Authority Act

1 (Chapter 1 (commencing with Section 30000) of Division 7 of the  
2 Streets and Highways Code), or in subdivision (b).

3 (b) Notwithstanding subdivision (a), for projects with a contract  
4 price greater than two hundred fifty million dollars (\$250,000,000),  
5 the Department of Transportation shall have the discretion to  
6 specify that the payment bond shall equal not less than one-half  
7 of the contract price or five hundred million dollars (\$500,000,000),  
8 whichever is less.

9 SEC. 48. Section 10822 of the Public Contract Code is amended  
10 to read:

11 10822. Each bond shall be in a sum equal to at least one-half  
12 of the contract price, except as otherwise provided in Section ~~3248~~  
13 ~~of the Civil Code 45030.~~

14 SEC. 49. Section 20104 of the Public Contract Code is amended  
15 to read:

16 20104. (a) (1) This article applies to all public works claims  
17 of three hundred seventy-five thousand dollars (\$375,000) or less  
18 which arise between a contractor and a local agency.

19 (2) This article shall not apply to any claims resulting from a  
20 contract between a contractor and a public agency when the public  
21 agency has elected to resolve any disputes pursuant to Article 7.1  
22 (commencing with Section 10240) of Chapter 1 of Part 2.

23 (b) (1) “Public work” ~~has the same meaning~~ *means* “public  
24 works contract” as defined in Sections 3100 and 3106 of the Civil  
25 Code, except that “public work” *Section 1101* but does not include  
26 any work or improvement contracted for by the state or the Regents  
27 of the University of California.

28 (2) “Claim” means a separate demand by the contractor for (A)  
29 a time extension, (B) payment of money or damages arising from  
30 work done by, or on behalf of, the contractor pursuant to the  
31 contract for a public work and payment of which is not otherwise  
32 expressly provided for or the claimant is not otherwise entitled to,  
33 or (C) an amount the payment of which is disputed by the local  
34 agency.

35 (c) The provisions of this article or a summary thereof shall be  
36 set forth in the plans or specifications for any work which may  
37 give rise to a claim under this article.

38 (d) This article applies only to contracts entered into on or after  
39 January 1, 1991.

1 SEC. 50. Section 20134 of the Public Contract Code is amended  
2 to read:

3 20134. (a) In cases of emergency, when repair or replacements  
4 are necessary to permit the continued conduct of county operations  
5 or services, the board of supervisors, by majority consent, may  
6 proceed at once to replace or repair any and all structures without  
7 adopting the plans, specifications, strain sheets, or working details  
8 or, subject to Chapter 2.5 (commencing with Section 22050), giving  
9 notice for bids to let contracts. If notice for bids to let contracts  
10 will not be given, the board shall comply with Chapter 2.5  
11 (commencing with Section 22050). The work may be done by day  
12 labor under the direction of the board, by contract, or by a  
13 combination of the two. If the work is done wholly or in part by  
14 contract, the contractor shall be paid the actual cost of the use of  
15 machinery and tools and of material, and labor and of workers'  
16 compensation insurance expended by him or her in doing the work,  
17 plus not more than 15 percent to cover all profits and  
18 administration. No more than the lowest current market prices  
19 shall be paid for materials whenever possible.

20 (b) In a county of the first, second, third, or fourth class, which  
21 is under court order to relieve jail overcrowding or in which the  
22 sheriff certifies that the inmate capacity of the county jail system  
23 is exceeded by more than 20 percent and that the overpopulation  
24 is likely to continue and poses a threat to public safety, health, and  
25 welfare, the board of supervisors may contract for the construction  
26 or expansion of jail facilities without the formality of obtaining  
27 bids, adopting plans and specifications, or complying with other  
28 requirements of this article, except as required by this subdivision.  
29 The person to whom the contract is awarded shall execute a bond  
30 for faithful performance in accordance with Section 20129. Any  
31 plans and specifications adopted by the board may only be altered  
32 or changed in accordance with Section 20135 and all contracts  
33 awarded pursuant to this subdivision may only be altered or  
34 changed in accordance with Sections 20136, 20137, and 20138.  
35 The award of the contract shall be made after a public hearing on  
36 the basis of a request for proposals advertised in accordance with  
37 Section 6062 or 6062a of the Government Code. The contract may  
38 be awarded only to a contractor who has responded to the request  
39 for proposals and who is licensed to do the work in accordance  
40 with Chapter 9 (commencing with Section 7000) of Division 3 of

1 the Business and Professions Code. The contract shall be upon  
2 terms which the board determines are necessary for the expeditious  
3 completion of the work. A contract shall not be entered into unless  
4 at least three proposals to do the work have been evaluated by a  
5 competitive process established by the board. If the board does  
6 not select the lowest bid, it shall make a finding stating the reasons  
7 that the lowest bid was not selected.

8 (c) In any county that has agreed to permit the transfer of  
9 prisoners or parole violators under Section 2910 or 2910.5 of the  
10 Penal Code or of wards under Section 1753.3 of the Welfare and  
11 Institutions Code, the board of supervisors may contract for the  
12 construction or expansion of the facilities to be used for that  
13 purpose without the formality of obtaining bids, adopting plans  
14 and specifications, or complying with other requirements of this  
15 article, except as required by this subdivision. The person to whom  
16 the contract is awarded shall execute a bond for faithful  
17 performance in accordance with Section 20129. Any plans and  
18 specifications adopted by the board may only be altered or changed  
19 in accordance with Section 20135 and all contracts awarded  
20 pursuant to this subdivision may only be altered or changed in  
21 accordance with Sections 20136, 20137, and 20138. The award  
22 of the contract shall be made after a public hearing on the basis of  
23 a request for proposals advertised in accordance with Section 6062  
24 or 6062a of the Government Code. The contract may be awarded  
25 only to a contractor who has responded to the request for proposals  
26 and who is licensed to do the work in accordance with Chapter 9  
27 (commencing with Section 7000) of Division 3 of the Business  
28 and Professions Code. The contract shall be upon terms which the  
29 board determines are necessary for the expeditious completion of  
30 the work. A contract shall not be entered into unless at least three  
31 proposals to do the work have been evaluated by a competitive  
32 process established by the board and the lowest bid is selected.

33 (d) Proposed construction or expansion of jail or  
34 return-to-custody facilities as authorized under subdivision (b) or  
35 (c) shall not commence in a county of the third class without the  
36 affirmative vote of a majority of the city council of the incorporated  
37 city within which the construction or expansion is proposed.

38 (e) The board of supervisors may waive the requirements of  
39 ~~Title 15 Part 6 (commencing with Section 3082) 41010) of Part~~



1 ~~4 of Division 3 of the Civil Code~~ *Division 2* for work performed  
2 pursuant to subdivision (b) or (c).

3 (f) If any county that is under court order to relieve  
4 overcrowding in a county juvenile facility, as defined by  
5 subdivision (c) of Section 4481 of the Penal Code or in which the  
6 chief probation officer certifies that the juvenile detention capacity  
7 of the county juvenile facilities is exceeded by more than 20  
8 percent and that the overpopulation is likely to continue and poses  
9 a threat to public safety, health, and welfare, the board of  
10 supervisors may contract for the construction or expansion of  
11 county juvenile facilities without the formality of obtaining bids,  
12 adopting plans and specifications, or complying with other  
13 requirements of this article, except as required by this subdivision.  
14 The person to whom the contract is awarded shall execute a bond  
15 for faithful performance in accordance with Section 20129. Any  
16 plans and specifications adopted by the board may only be altered  
17 or changed in accordance with Section 20135 and all contracts  
18 awarded pursuant to this subdivision may only be altered or  
19 changed in accordance with Sections 20136, 20137, and 20138.  
20 The award of the contract shall be made after a public hearing on  
21 the basis of a request for proposals advertised in accordance with  
22 Section 6062 or 6062a of the Government Code. The contract may  
23 be awarded only to a contractor who has responded to the request  
24 for proposals and who is licensed to do the work in accordance  
25 with Chapter 9 (commencing with Section 7000) of Division 3 of  
26 the Business and Professions Code. The contract shall be upon  
27 terms which the board determines are necessary for the expeditious  
28 completion of the work. A contract shall not be entered into unless  
29 at least three proposals to do the work have been evaluated by a  
30 competitive process established by the board. If the board does  
31 not select the lowest bidder, it shall make a finding stating the  
32 reasons that the lowest bidder was not selected.

33 (g) In a county of the third class in which there are no available  
34 courtrooms to accommodate all authorized judicial positions or in  
35 which the board of supervisors certifies that there is a significant  
36 need to expeditiously construct new court and court support  
37 facilities, the board of supervisors may contract for the construction  
38 or expansion of court and court support facilities without the  
39 formality of obtaining bids, adopting plans and specifications, or  
40 complying with other requirements of this article, except as

1 required by this subdivision. The person to whom the contract is  
 2 awarded shall execute a bond for faithful performance in  
 3 accordance with Section 20129. Any plans and specifications  
 4 adopted by the board may only be altered or changed in accordance  
 5 with Section 20135 and all contracts awarded pursuant to this  
 6 subdivision may only be altered or changed in accordance with  
 7 Sections 20136, 20137, and 20138. The award of the contract shall  
 8 be made after a public hearing on the basis of a request for  
 9 proposals advertised in accordance with Section 6062 or 6062a of  
 10 the Government Code. The contract may be awarded only to a  
 11 contractor who has responded to the request for proposals and who  
 12 is licensed to do the work in accordance with Chapter 9  
 13 (commencing with Section 7000) of Division 3 of the Business  
 14 and Professions Code. The contract shall be upon terms which the  
 15 board determines are necessary for the expeditious completion of  
 16 the work. A contract shall not be entered into unless at least three  
 17 proposals to do the work have been evaluated by a competitive  
 18 process established by the board and the lowest bid is selected.  
 19 This subdivision shall remain in effect until December 31, 1994.

20 SEC. 51. Section 20461 of the Public Contract Code is amended  
 21 to read:

22 20461. No assignment by the contractor of the whole or any  
 23 part of the money, assessment, partial assessment, any reassessment  
 24 and any bonds which may be issued to represent any assessment  
 25 or reassessment, due ~~him~~ or to be due ~~him~~ under the contract, or  
 26 for “extras” in connection therewith, whether made before or after  
 27 a verified claim is filed pursuant to this chapter, shall take priority  
 28 over ~~such the~~ claims, and ~~such the~~ assignment shall have no binding  
 29 force insofar as the rights of the claimants, or their assigns, are  
 30 concerned. None of the provisions of ~~Title 15 Part 6~~ (commencing  
 31 with Section ~~3082~~), ~~Part 4, Division 3, 41010~~ of the ~~Civil Code~~,  
 32 *Division 2* shall be applicable to any assessment, partial assessment,  
 33 reassessment, bonds, moneys or funds payable to the contractor  
 34 or ~~his~~ assignee under this division or to any matter contained in  
 35 this chapter.

36 SEC. 52. Section 20496 of the Public Contract Code is amended  
 37 to read:

38 20496. The provisions of ~~Title 15 Part 6~~ (commencing with  
 39 Section ~~3082~~), ~~Part 4, Division 3, 41010~~ of the ~~Civil Code~~ *Division*

1 2 are hereby expressly made applicable to the construction of works  
2 and improvements under this article.

3 SEC. 53. Section 20682.5 of the Public Contract Code is  
4 amended to read:

5 20682.5. (a) A district may construct or complete any building,  
6 structure, or improvement with its own forces or by contract  
7 without bidding when the cost does not exceed twenty-five  
8 thousand dollars (\$25,000).

9 (b) All contracts for the construction or completion of any  
10 building, structure, or improvement, when the cost exceeds  
11 twenty-five thousand dollars (\$25,000), shall be contracted for and  
12 let to the lowest responsible bidder after notice. If two or more  
13 bids are the same and the lowest, the district board may accept the  
14 one it chooses.

15 (c) The district shall publish a notice inviting bids for any  
16 contract for which competitive bidding is required at least one time  
17 in a newspaper of general circulation in the district at least 10 days  
18 before the time specified for receiving bids. The notice inviting  
19 bids shall set a date for opening the bids and distinctly state the  
20 work to be done.

21 (d) If the general manager recommends and the board of  
22 directors determines that the publication of advertisements of the  
23 notice in trade journals and papers in lieu of publication pursuant  
24 to subdivision (c) will increase the number of business enterprises  
25 receiving that notice, the board of directors may by resolution  
26 declare that those notices shall be published in trade journals and  
27 papers at least 10 days prior to the time specified for receiving  
28 bids.

29 (e) If plans and specifications are prepared describing the work,  
30 all bidders shall be afforded an opportunity to examine the plans  
31 and specifications, and the plans and specifications shall be  
32 attached to and become part of the contract, if one is awarded.

33 (f) At its discretion, the board of directors may reject any bids  
34 presented and readvertise.

35 (g) In the case of an emergency, the board of directors may act  
36 pursuant to Chapter 2.5 (commencing with Section 22050).

37 (h) The board of directors may, subject to Chapter ~~7~~ 5  
38 (commencing with Section ~~3247~~ 45010) of Title ~~15~~ of Part ~~4~~ 6  
39 of Division ~~3~~ of the Civil Code 2, require the posting of those

1 bonds it deems desirable as a condition to the filing of a bid or the  
 2 letting of a contract.

3 (i) The district shall keep cost records of the work in the manner  
 4 provided in Chapter 1 (commencing with Section 4000) of Division  
 5 5 of Title 1 of the Government Code.

6 (j) As an alternate to the procedures required by this section, a  
 7 district may rely on the Uniform Public Construction Cost  
 8 Accounting Act, Chapter 2 (commencing with Section 22000) of  
 9 Part 3 of Division 2.

10 SEC. 54. Section 20688.4 of the Public Contract Code is  
 11 amended to read:

12 20688.4. An agency shall require each successful bidder to file  
 13 with it good and sufficient bonds, to be approved by it. The bonds  
 14 shall be conditioned upon the faithful performance of the contract  
 15 and upon the payment of all claims for labor and material in  
 16 connection with the contract. The bonds shall contain the terms  
 17 and conditions set forth in Chapter ~~7 5~~ (commencing with Section  
 18 ~~3247~~) 45010) of Title ~~15~~ of Part ~~4 6~~ of Division ~~3~~ of the Civil Code  
 19 2 and are subject to the provisions of that chapter.

20 SEC. 55. Section 20813 of the Public Contract Code is amended  
 21 to read:

22 20813. (a) All contracts for the construction or completion of  
 23 any building, structure, or improvement, when the expenditure  
 24 required for the work exceeds ten thousand dollars (\$10,000), shall  
 25 be contracted for and let to the lowest responsible bidder after  
 26 notice. If two or more bids are the same and the lowest, the district  
 27 board may accept the one it chooses.

28 (b) The notice inviting bids shall set a date for the opening of  
 29 bids. The first publication or posting of the notice shall be at least  
 30 10 days before the date of opening the bids. Notice shall be  
 31 published at least twice, not less than five days apart, in a  
 32 newspaper of general circulation in the district, or if there is none,  
 33 it shall be posted in at least three public places in the district. The  
 34 notice shall distinctly state the work to be done.

35 (c) In its discretion, the district board may reject any bids  
 36 presented and readvertise.

37 (d) In the case of an emergency, the district board may act  
 38 pursuant to Chapter 2.5 (commencing with Section 22050).

39 (e) The district board may, subject to the provisions of Chapter  
 40 ~~7 5~~ (commencing with Section ~~3247~~) 45010) of Title ~~15~~ of Part ~~4~~

1 6 of Division ~~3 of the Civil Code~~ 2, require the posting of those  
2 bonds it deems desirable as a condition to the filing of a bid or the  
3 letting of a contract.

4 (f) Cost records of the work shall be kept in the manner provided  
5 in Chapter 1 (commencing with Section 4000) of Division 5 of  
6 Title 1 of the Government Code.

7 SEC. 56. Section 20815.3 of the Public Contract Code is  
8 amended to read:

9 20815.3. (a) A district shall publish notice inviting bids for  
10 any contract for which competitive bidding is required at least one  
11 time in a newspaper of general circulation in the district at least  
12 one week before the time specified for receiving bids. The notice  
13 shall distinctly state the work to be done.

14 (b) In its discretion, the board of directors may do any of the  
15 following:

16 (1) Reject all bids and readvertise.

17 (2) By a four-fifths vote, elect to purchase the materials or  
18 supplies in the open market.

19 (3) By a four-fifths vote, elect to construct the building,  
20 structure, or improvement by force account.

21 (c) In the case of an emergency, the board of directors may act  
22 pursuant to Chapter 2.5 (commencing with Section 22050).

23 (d) The board of directors may, subject to the provisions of  
24 Chapter ~~7 5~~ (commencing with Section ~~3247~~) 45010) of Title ~~15~~  
25 of Part ~~4 6~~ of Division ~~3 of the Civil Code~~ 2, require the posting  
26 of those bonds it deems as a condition to the filing of a bid or the  
27 letting of a contract.

28 (e) The district shall keep cost records of the work pursuant to  
29 Chapter 1 (commencing with Section 4000) of Division 5 of Title  
30 1 of the Government Code.

31 SEC. 57. Section 20991 of the Public Contract Code is amended  
32 to read:

33 20991. All contracts for any improvement or unit of work,  
34 except as provided in this article, estimated to cost in excess of  
35 twenty-five thousand dollars (\$25,000), shall be let to the lowest  
36 responsible bidder in the manner provided in this article. The board  
37 of supervisors of the district shall advertise by five or more  
38 insertions in a daily newspaper of general circulation, or by two  
39 or more insertions in a weekly newspaper of general circulation,  
40 printed and published in the district, inviting sealed proposals for

1 the construction of the improvement or work. The board shall  
2 require the successful bidder or bidders to file with the board good  
3 and sufficient bonds, to be approved by the board, conditioned  
4 upon the faithful performance of the contract and upon the payment  
5 of all claims for labor and material. The bonds shall contain the  
6 terms and conditions set forth in Chapter ~~7 5~~ (commencing with  
7 Section ~~3247~~ 45010) of Title ~~15~~ of Part ~~4 6~~ of Division ~~3~~ of the  
8 Civil Code 2 and shall be subject to the provisions of that chapter.  
9 The board shall have the right to reject any bid not suitable to the  
10 best interests of the district. In the event all proposals are rejected  
11 or no proposals are received pursuant to advertisement, or the  
12 estimated cost of the work does not exceed ten thousand dollars  
13 (\$10,000), or the work consists of channel protection, dam  
14 protection, temporary work, maintenance work, or emergency  
15 work, the board of supervisors may, without advertising for bids,  
16 have the work done by force account. Emergency work may also  
17 be done by negotiated contract without advertising for bids. In  
18 case of an emergency, if notice for bids to let contracts will not be  
19 given, the board shall comply with Chapter 2.5 (commencing with  
20 Section 22050).

21 SEC. 58. Section 21061 of the Public Contract Code is amended  
22 to read:

23 21061. (a) All contracts for any improvement or unit of work,  
24 except as provided in this article, estimated to cost in excess of  
25 twenty-five thousand dollars (\$25,000), shall be let to the lowest  
26 responsible bidder in the manner provided in this article.

27 (b) The board of supervisors of the district shall advertise by  
28 five or more insertions in a daily newspaper of general circulation,  
29 or by two or more insertions in a weekly newspaper of general  
30 circulation, printed and published in the district, inviting sealed  
31 proposals for the construction of the improvement or work. The  
32 board shall require the successful bidder or bidders to file with the  
33 board good and sufficient bonds, to be approved by the board,  
34 conditioned upon the faithful performance of the contract and upon  
35 the payment of all claims for labor and material, the bonds to  
36 contain the terms and conditions set forth in Chapter ~~7 5~~  
37 (commencing with Section ~~3247~~ 45010) of Title ~~15~~ of Part ~~4 6~~  
38 of Division ~~3~~ of the Civil Code 2 and to be subject to that chapter.

39 (c) The board may also reject any bid not suitable to the best  
40 interests of the district. If all proposals are rejected or no proposals

1 are received pursuant to advertisement therefor, or the work  
2 consists of channel protection, dam protection, temporary work,  
3 maintenance work, or of emergency work, the board of supervisors  
4 may, without advertising for bids, have the work done by force  
5 account. Emergency work may also be done by negotiated contract  
6 without advertising for bids or requiring bonds. In case of an  
7 emergency, if notice for bids to let contracts will not be given, the  
8 board shall comply with Chapter 2.5 (commencing with Section  
9 22050).

10 (d) The board of supervisors, acting as the board of the district,  
11 may, by ordinance, resolution, or board order, authorize the flood  
12 control engineer or other county officer to order changes or  
13 additions in work being performed under a construction contract.  
14 When so authorized, any change or addition in the work shall be  
15 ordered in writing by the flood control engineer, or other designated  
16 officer, and the extra cost for any change or addition to the work  
17 so ordered shall not exceed five thousand dollars (\$5,000) when  
18 the total amount of the original contract does not exceed fifty  
19 thousand dollars (\$50,000), nor 10 percent of the amount of any  
20 original contract that exceeds fifty thousand dollars (\$50,000), but  
21 does not exceed two hundred fifty thousand dollars (\$250,000).  
22 For contracts whose original cost exceeds two hundred fifty  
23 thousand dollars (\$250,000), the extra cost for any change or  
24 addition to the work so ordered shall not exceed twenty-five  
25 thousand dollars (\$25,000), plus 5 percent of the amount of the  
26 original contract costs in excess of two hundred fifty thousand  
27 dollars (\$250,000). In no event shall any such change or alteration  
28 exceed one hundred fifty thousand dollars (\$150,000).

29 SEC. 59. Section 21071 of the Public Contract Code is amended  
30 to read:

31 21071. (a) All contracts for any improvement or unit of work  
32 except as provided in this article estimated to cost in excess of ten  
33 thousand dollars (\$10,000) shall be let to the lowest responsible  
34 bidder in the manner provided in this article. The board of  
35 supervisors of the district shall advertise by three insertions in a  
36 daily newspaper of general circulation or two insertions in a weekly  
37 newspaper of general circulation printed and published in the  
38 district inviting sealed proposals for the construction of, the  
39 improvement or work before any contract shall be made for the  
40 improvement or work, and may let by contract separately any part

1 of the work or improvement. The board shall require the successful  
2 bidder to file with the board good and sufficient bonds to be  
3 approved by the board conditioned upon the faithful performance  
4 of the contract and upon the payment of their claims for labor and  
5 material in connection with the contract. The bonds shall contain  
6 the terms and conditions set forth in Chapter ~~7~~ 5 (commencing  
7 with Section ~~3247~~ 45010) of Title ~~15~~ of Part ~~4~~ 6 of the Civil Code  
8 *Division 2* and be subject to the provisions of that chapter. The  
9 board shall also have the right to reject any and all bids. If all  
10 proposals are rejected or no proposals are received pursuant to the  
11 advertisement, the estimated cost of the work does not exceed the  
12 sum of ten thousand dollars (\$10,000), or the work consists of  
13 channel protection, maintenance work, or emergency work when  
14 necessary in order to protect life and property from impending  
15 flood damage, the board of supervisors may, without advertising  
16 for bids, have the work done by force account or negotiated  
17 contract.

18 (b) The district shall have the power to purchase in the open  
19 market without advertising for bids, materials, supplies, equipment,  
20 and other personal property for use in any work either under  
21 contract or by force account if the costs do not exceed ten thousand  
22 dollars (\$10,000). It shall be the duty of the purchasing agent of  
23 Ventura County, as the ex officio purchasing agent of the Ventura  
24 County Watershed Protection District, unless otherwise ordered  
25 by the board of supervisors, to purchase for the district all  
26 materials, supplies, equipment, and other personal property  
27 necessary to carry out the purposes of this article, and to engage  
28 independent contractors to perform sundry services for the district,  
29 if the aggregate cost of such work, exclusive of materials to be  
30 furnished by the district, does not exceed ten thousand dollars  
31 (\$10,000).

32 (c) The purchasing agent shall make all purchases and contracts  
33 upon proper requisition, signed by the engineer-manager of the  
34 district, or his or her authorized representative.

35 (d) If the work consists of the maintenance or alteration of  
36 existing facilities, including electrical, painting, and roofing if the  
37 cost of labor and materials for the work according to the engineer's  
38 estimate will exceed five thousand dollars (\$5,000), and if the  
39 work is not of the type of work referred to in this section, the  
40 maintenance and alteration work shall be performed under a



1 contract or contracts that shall be let to the lowest responsible  
2 bidder or bidders in the manner described in this section.

3 SEC. 60. Section 21081 of the Public Contract Code is amended  
4 to read:

5 21081. All contracts for any improvement or unit of work,  
6 when the cost, according to the estimate of the engineer, will  
7 exceed five thousand dollars (\$5,000), shall be let to the lowest  
8 responsible bidder or bidders in the manner provided in this article.  
9 The board shall first determine whether the contract shall be let as  
10 a single unit for the whole of the work, or shall be divided into  
11 severable parts, or both, according to the best interests of the  
12 district. The board shall call for bids and advertise the call by three  
13 insertions in a daily newspaper of general circulation or by two  
14 insertions in a weekly newspaper of general circulation printed  
15 and published in the district inviting sealed proposals for the  
16 construction or performance of the improvement or work before  
17 any contract is made. The call for bids shall state whether the work  
18 is to be performed as a unit or divided into severable specific parts,  
19 or both, as stated in the call. The board may let the work by single  
20 contract for the whole or it may divide such work into severable  
21 parts by separate contracts, as stated in such call, according to the  
22 best interests of the district. The board shall require the successful  
23 bidder or bidders to file with the board good and sufficient bonds  
24 to be approved by the board conditioned upon the faithful  
25 performance of the contract and upon the payment of their claims  
26 for labor and material, the bonds to contain the terms and  
27 conditions set forth in ~~Title 15 Part 6~~ (commencing with Section  
28 ~~3082) 41010~~) of ~~Part 4 of Division 3 of the Civil Code 2~~ and to be  
29 subject to the provisions of that ~~title part~~. The board shall also  
30 have the right to reject any bid. In the event all proposals are  
31 rejected or no proposals are received pursuant to advertisement,  
32 or the estimated cost of such work does not exceed five thousand  
33 dollars (\$5,000), or the work consists of channel protection,  
34 maintenance work, or emergency work, the board of supervisors  
35 may, without advertising for bids, have the work done by force  
36 account. The district may purchase in the open market, without  
37 advertising for bids, materials and supplies for use in any work  
38 either under contract or by force account.

39 SEC. 61. Section 21091 of the Public Contract Code is amended  
40 to read:

1 21091. All contracts for any improvement or unit of work,  
2 except as otherwise provided in this act, estimated to cost in excess  
3 of fifteen thousand dollars (\$15,000) shall be let to the lowest  
4 responsible bidder in the manner provided in this article. The board  
5 of supervisors of the district shall advertise by three insertions in  
6 a daily newspaper of general circulation or two insertions in a  
7 weekly newspaper of general circulation printed and published in  
8 the district inviting sealed proposals for the construction of the  
9 improvement or work before any contract is made, and may let by  
10 contract separately any part of the work or improvement. The board  
11 shall require the successful bidder to file with the board good and  
12 sufficient bonds to be approved by the board conditioned upon the  
13 faithful performance of the contract and upon the payment of their  
14 claims for labor and material. The bonds shall contain the terms  
15 and conditions set forth in Sections 10223, 10224, and ~~10224~~ of  
16 ~~the Public Contract Code 45030 and Section 3248 of the Civil~~  
17 ~~Code~~ and be subject to those sections. The board shall also have  
18 the right to reject any bid. If all proposals are rejected or no  
19 proposals are received pursuant to advertisement, or where the  
20 estimated cost of the work does not exceed fifteen thousand dollars  
21 (\$15,000), or the work consists of channel protection, maintenance  
22 work, or emergency work, the board of supervisors may, without  
23 advertising for bids, have the work done by force account. In case  
24 of an emergency, if notice for bids to let contracts will not be given,  
25 the board shall comply with Chapter 2.5 (commencing with Section  
26 22050). The district may purchase in the open market, without  
27 advertising for bids, materials and supplies for use in any  
28 improvement or unit of work either under contract or by force  
29 account.

30 SEC. 62. Section 21101 of the Public Contract Code is amended  
31 to read:

32 21101. All contracts for any improvement or unit of work,  
33 when the cost, according to the estimate of the engineer, will  
34 exceed five thousand dollars (\$5,000), shall be let to the lowest  
35 responsible bidder or bidders in the manner provided in this article.  
36 The board shall first determine whether the contract shall be let as  
37 a single unit for the whole of the work, or shall be divided into  
38 parts, or both, according to the best interests of the district. The  
39 board shall call for bids and advertise the call by three insertions  
40 in a daily newspaper of general circulation or two insertions in a

1 weekly newspaper of general circulation printed and published in  
2 the district inviting sealed proposals for the construction or  
3 performance of the improvement or work before any contract shall  
4 be made. The call for bids shall state whether the work is to be  
5 performed as a unit or is to be divided into severable specific parts,  
6 or both, as stated in the call. The board may let the work by single  
7 contract for the whole as a unit or it may divide the work into  
8 severable parts by separate contracts, as stated in the call, according  
9 to the best interests of the district. The board shall require the  
10 successful bidder or bidders to file with the board good and  
11 sufficient bonds to be approved by the board conditioned upon the  
12 faithful performance of the contract and upon the payment of their  
13 claims for labor and material, the bonds to contain the terms and  
14 conditions set forth in ~~Title 15 Part 6~~ (commencing with Section  
15 ~~3082) 41010~~) of ~~Part 4 of Division 3 of the Civil Code 2~~ and to be  
16 subject to the provisions of that ~~title part~~. The board shall also  
17 have the right to reject any bid. In the event all proposals are  
18 rejected or no proposals are received pursuant to advertisement,  
19 or the estimated cost of the work does not exceed five thousand  
20 dollars (\$5,000), or the work consists of channel protection,  
21 maintenance work, or emergency work, the board of supervisors  
22 may, without advertising for bids, have the work done by force  
23 account. In case of an emergency, if notice for bids to let contracts  
24 will not be given, the board shall comply with Chapter 2.5  
25 (commencing with Section 22050). The district shall have the  
26 power to purchase in the open market without advertising for bids,  
27 materials and supplies for use in any work either under contract  
28 or by force account.

29 SEC. 63. Section 21111 of the Public Contract Code is amended  
30 to read:

31 21111. (a) All contracts for the construction of any unit of  
32 work, except as provided in this article, estimated to cost in excess  
33 of ten thousand dollars (\$10,000) shall be let to the lowest  
34 responsible bidder in the manner provided in this article. The board  
35 of directors of the agency shall advertise by three insertions in a  
36 daily newspaper of general circulation or two insertions in a weekly  
37 newspaper of general circulation published in the agency's  
38 jurisdiction inviting sealed proposals for the construction of the  
39 work before any contract shall be made, and may let by contract  
40 separately any part of the work. The board shall require the

1 successful bidder to file with the board good and sufficient bonds  
2 to be approved by the board conditioned upon the faithful  
3 performance of the contract and upon the payment of the claims  
4 for labor and material. The faithful performance bond shall contain  
5 terms and conditions as the board may specify, and the payment  
6 bond shall be subject to the provisions of, and shall contain the  
7 terms and conditions set forth in ~~Title 15 Part 6~~ (commencing with  
8 ~~Section 3082~~ 41010) of ~~Part 4 of Division 3 of the Civil Code 2,~~  
9 as applicable. The board shall also have the right to reject any bid,  
10 in which case the board may advertise for new bids. In the event  
11 no proposals are received pursuant to advertisement, or where the  
12 estimated cost of the work does not exceed ten thousand dollars  
13 (\$10,000), or the work consists of emergency work, the board of  
14 directors by unanimous vote of all members present may, without  
15 advertising for bids, have the work done by force account. In case  
16 of an emergency, if notice for bids to let contracts will not be given,  
17 the board shall comply with Chapter 2.5 (commencing with Section  
18 22050). The agency may purchase in the open market, and may  
19 authorize the Purchasing Agent of the County of Santa Barbara to  
20 purchase, without advertisement for bids, materials and supplies  
21 for use in any work either under contract or by force account.

22 (b) If the work to be performed by or on behalf of the agency  
23 does not involve an expenditure of ten thousand dollars (\$10,000)  
24 or more, or if the work consists of emergency work, the agency  
25 may require a faithful performance bond. The agency may require  
26 a payment bond on work performed on behalf of the agency which  
27 does not involve an expenditure of more than ten thousand dollars  
28 (\$10,000).

29 SEC. 64. Section 21121 of the Public Contract Code is amended  
30 to read:

31 21121. (a) All contracts for any improvement or unit of work,  
32 if the cost according to the estimate of the engineer, exceeds five  
33 thousand dollars (\$5,000), shall be let to the lowest responsible  
34 bidder or bidders.

35 (b) The board shall first determine whether the contract shall  
36 be let as a single unit for the whole of the work, or shall be divided  
37 into severable parts, or both, according to the best interests of the  
38 agency.

39 (c) The board shall call for bids and advertise the call by three  
40 insertions in a daily newspaper of general circulation or by two

1 insertions in a weekly newspaper of general circulation printed  
2 and published in the territory of the agency inviting sealed  
3 proposals for the construction or performance of the improvement  
4 or work before any contract is entered into. The call for bids shall  
5 state whether the work is to be performed as a unit or shall be  
6 divided into severable specific parts, or both, as stated in the call.  
7 The board may let the work by single contract or it may divide the  
8 work into severable parts by separate contracts, as stated in the  
9 call, according to the best interests of the agency.

10 (d) The board shall require the successful bidder or bidders to  
11 file with the board good and sufficient bonds to be approved by  
12 the board conditioned upon the faithful performance of the contract  
13 and upon the payment of their claims for labor and material in  
14 connection with the contract. The bonds shall contain the terms  
15 and conditions set forth in ~~Title 15 Part 6~~ (commencing with  
16 ~~Section 3082) 41010~~) of ~~Part 4 of Division 3 of the Civil Code 2~~  
17 and are subject to the provisions of that ~~title part~~.

18 (e) The board may reject any bid. The board of supervisors may,  
19 without advertising for bids, have the work done by force account  
20 if any of the following requirements are met:

- 21 (1) All the projects are rejected.
- 22 (2) No proposals are received in response to the advertisement.
- 23 (3) The estimated cost of the work does not exceed five thousand  
24 dollars (\$5,000).
- 25 (4) The work consists of channel protection, maintenance work,  
26 or emergency work. In case of an emergency, if notice for bids to  
27 let contracts will not be given, the board shall comply with Chapter  
28 2.5 (commencing with Section 22050).

29 (f) The agency may purchase in the open market, without  
30 advertising for bids, materials and supplies for use in any work  
31 either under contract or by force account.

32 (g) The Monterey County Board of Supervisors may grant to  
33 the board of directors, appointed pursuant to Section 49 of the  
34 Monterey County Water Resources Agency Act (Chapter 1159 of  
35 the Statutes of 1990), any of the powers or duties granted to the  
36 Monterey County Board of Supervisors by this section.

37 SEC. 65. Section 21131 of the Public Contract Code is amended  
38 to read:

39 21131. (a) All contracts for the construction of any unit of  
40 work, except as provided in this article, estimated to cost in excess

1 of two thousand five hundred dollars (\$2,500) shall be let to the  
2 lowest responsible bidder in the manner provided in this article.  
3 The board shall advertise by three placements in a daily newspaper  
4 of general circulation or two insertions in a weekly newspaper of  
5 general circulation published in the district inviting sealed  
6 proposals for the construction of the work before any contract is  
7 made, and may let by contract separately any part of the work. The  
8 board shall require the successful bidder to file with the board  
9 good and sufficient bonds to be approved by the board conditioned  
10 upon the faithful performance of the contract and upon the payment  
11 of the claims for labor and material in connection therewith, the  
12 bonds to contain the terms and conditions set forth in ~~Title 15 Part~~  
13 ~~6 (commencing with Section 3082)~~ 41010) of ~~Part 4 of Division~~  
14 ~~3 of the Civil Code 2~~, and to be subject to the provisions of that  
15 ~~title part~~. The board may reject any bid, in which case the board  
16 may advertise for new bids.

17 (b) In the event no proposals are received pursuant to  
18 advertisement therefor, or where the work consists of emergency  
19 work, the board of directors, by unanimous vote of all members  
20 present, may, without advertising for bids, have the work done by  
21 force account. In case of an emergency, if notice for bids to let  
22 contracts will not be given, the board shall comply with Chapter  
23 2.5 (commencing with Section 22050).

24 (c) The district may purchase in the open market without  
25 advertisement for bids, materials and supplies for use in any work  
26 either under contract or by force account; provided, however, that  
27 materials and supplies for use in any new construction work or  
28 improvement, except work authorized and required under  
29 circumstances referred to in subdivision (b), may not be purchased  
30 if the cost exceeds two thousand five hundred dollars (\$2,500),  
31 without advertising for bids and awarding the contract to the lowest  
32 responsible bidder.

33 (d) This section does not apply to a contract entered into with  
34 the United States or the State of California or other governmental  
35 agency under the authority of Section 3 of Chapter 2126 of the  
36 Statutes of 1959, or to a contract authorized by a vote of the  
37 electorate of the district.

38 (e) The district may rent or otherwise contract for equipment  
39 with or without an operator and use it on works of the district, if  
40 the contract is approved by the board.

1 SEC. 66. Section 21141 of the Public Contract Code is amended  
2 to read:

3 21141. (a) All contracts for the construction of any unit of  
4 work, except as provided in this article, estimated to cost in excess  
5 of two thousand dollars (\$2,000) shall be let to the lowest  
6 responsible bidder in the manner provided in this article. The board  
7 shall advertise by three insertions in a daily newspaper of general  
8 circulation or two insertions in a weekly newspaper of general  
9 circulation published in the district inviting sealed proposals for  
10 the construction of the work before any contract shall be made,  
11 and may let by contract separately any part of the work. The board  
12 shall require the successful bidder to file with the board good and  
13 sufficient bonds to be approved by the board conditioned upon the  
14 faithful performance of the contract and upon the payment of the  
15 claims for labor and material, the bonds to contain the terms and  
16 conditions set forth in ~~Title 15 Part 6~~ (commencing with Section  
17 ~~3082~~) ~~41010~~ of ~~Part 4 of Division 3 of the Civil Code~~ 2, and to  
18 be subject to the provisions of that ~~title~~ *part*. The board shall also  
19 have the right to reject any bid, in which case the board may  
20 advertise for new bids.

21 (b) In the event no proposals are received pursuant to  
22 advertisement, where the estimated cost of the work does not  
23 exceed the sum of two thousand dollars (\$2,000), or where the  
24 work consists of emergency work, the board of directors, by  
25 unanimous vote of all members present, may, without advertising  
26 for bids, have the work done by force account. In case of an  
27 emergency, if notice for bids to let contracts will not be given, the  
28 board shall comply with Chapter 2.5 (commencing with Section  
29 22050).

30 (c) The district may purchase in the open market, without  
31 advertisement for bids, materials and supplies for use in any work  
32 either under contract or by force account; provided, however, that  
33 materials and supplies for use in any new construction work or  
34 improvement, except work referred to in subdivision (b), may not  
35 be purchased if the cost exceeds two thousand five hundred dollars  
36 (\$2,500), without advertising for bids and awarding the contract  
37 therefor to the lowest responsible bidder.

38 (d) The provisions of this section have no application to a  
39 contract entered into with the United States under the authority of

1 Section 3, or to a contract authorized by a vote of the electorate  
2 of the district.

3 SEC. 67. Section 21151 of the Public Contract Code is amended  
4 to read:

5 21151. All contracts for any improvement or unit of work when  
6 the cost according to the estimate of the engineer will exceed  
7 twenty-five thousand dollars (\$25,000), with or without the  
8 furnishing of materials or supplies, shall be let to the lowest  
9 responsible bidder or bidders in the manner provided in this article.  
10 Construction of improvements or works shall not be staged to  
11 avoid the bidding process. The board shall first determine whether  
12 the contract shall be let as a single unit for the whole of the work,  
13 or shall be divided into severable parts, or both, according to the  
14 best interests of the district. The board shall call for bids and  
15 advertise the call by inviting sealed proposals for the construction  
16 or performance of the improvement or work before any contract  
17 is made. The board shall invite the bids by publishing a notice of  
18 the call for bids pursuant to Section 6062 or 6066 of the  
19 Government Code in a newspaper of general circulation in the  
20 county. The call for bids shall state whether the work is to be  
21 performed as a unit or shall be divided into severable specific parts,  
22 or both, as stated in the call. The board may let the work by single  
23 contract or it may divide the work into severable parts by separate  
24 contracts, as stated in the call, according to the best interests of  
25 the district. The board shall require the successful bidder or bidders  
26 to file with the board good and sufficient bonds to be approved by  
27 the board conditioned upon the faithful performance of the contract  
28 and upon the payment of their claims for labor and material, the  
29 bonds to contain the terms and conditions set forth in ~~Title 15 Part~~  
30 ~~6 (commencing with Section 3082) 41010) of Part 4 of Division~~  
31 ~~3 of the Civil Code 2~~ and to be subject to the provisions of that  
32 ~~title part~~. The board shall also have the right to reject any bid. In  
33 the event the engineer's estimate is twenty-five thousand dollars  
34 (\$25,000) or less, or in the event no proposals are received pursuant  
35 to advertisement therefor, or in the event the work consists of  
36 channel protection or maintenance work, or emergency work, the  
37 board of supervisors may, without advertising for bids, have the  
38 work done by day labor under the direction of the board, by  
39 contract, or by a combination of the two. In case of an emergency,  
40 if notice for bids to let contracts will not be given, the board shall



1 comply with Chapter 2.5 (commencing with Section 22050). The  
2 district may acquire in the open market without advertising for  
3 bids, materials, equipment, and supplies for use in any work or for  
4 any other purpose.

5 SEC. 68. Section 21161 of the Public Contract Code is amended  
6 to read:

7 21161. (a) Any improvement or unit of work not performed  
8 by district personnel and estimated by the engineer to cost in excess  
9 of twenty-five thousand dollars (\$25,000) shall be done by contract.  
10 All contracts shall be let to the lowest responsible bidder or bidders  
11 in the manner provided in this article. The board shall first  
12 determine whether the contract shall be let as a single unit for the  
13 whole of the work, or shall be divided into severable parts, or both,  
14 according to the best interests of the district. The board shall call  
15 for bids and advertise the call by three insertions in a daily  
16 newspaper of general circulation or by two insertions in a weekly  
17 newspaper of general circulation printed and published in the  
18 district inviting sealed proposals for the construction or  
19 performance of the improvement or work before any contract is  
20 made. The call for bids shall state whether the work is to be  
21 performed as a unit for the whole thereof or shall be divided into  
22 severable specific parts, or both, as stated in the call. The board  
23 may let the work by single contract or it may divide the work into  
24 severable parts by separate contracts, as stated in the call, according  
25 to the best interests of the district. The board shall require the  
26 successful bidder or bidders to file with the board good and  
27 sufficient bonds to be approved by the board conditioned upon the  
28 faithful performance of the contract and upon the payment of their  
29 claims for labor and material, the bonds to contain the terms and  
30 conditions set forth in ~~Title 15 Part 6~~ (commencing with Section  
31 ~~3082) 41010~~) of ~~Part 4 of Division 3 of the Civil Code 2~~ and to be  
32 subject to the provisions of that ~~title part~~. The board shall also  
33 have the right to reject any bid. In the event all proposals are  
34 rejected or no proposals are received pursuant to advertisement,  
35 or the estimated cost of the work does not exceed five thousand  
36 dollars (\$5,000), or the work consists of channel protection,  
37 maintenance work, or emergency work, the board may, without  
38 advertising for bids, have the work done by force account. In case  
39 of an emergency, if notice for bids to let contracts will not be given,  
40 the board shall comply with Chapter 2.5 (commencing with Section

1 22050). The district may purchase in the open market, without  
2 advertising for bids, materials and supplies for use in any work  
3 either under contract or by force account.

4 (b) The provisions of this section requiring competitive bidding  
5 and the award of contracts to the lowest responsible bidder are  
6 inapplicable to the extent the improvement or unit of work is to  
7 be performed on its own facilities by a public utility subject to the  
8 jurisdiction of the California Public Utilities Commission.

9 SEC. 69. Section 21171 of the Public Contract Code is amended  
10 to read:

11 21171. (a) All contracts for any improvement or unit of work  
12 when the cost, according to the estimate of the engineer, will  
13 exceed two thousand dollars (\$2,000), shall be let to the lowest  
14 responsible bidder or bidders in the manner provided in this article.  
15 The board shall first determine whether the contract shall be let as  
16 a single unit for the whole of the work, or shall be divided into  
17 severable parts, or both, according to the best interests of the  
18 district. The board shall call for bids and advertise the call by three  
19 insertions in a daily newspaper of general circulation or by two  
20 insertions in a weekly newspaper of general circulation printed  
21 and published in the district inviting sealed proposals for the  
22 construction or performance of the improvement or work before  
23 any contract is made. The call for bids shall state whether the work  
24 is to be performed as a unit for the whole thereof or shall be divided  
25 into severable specific parts, or both, as stated in the call. The  
26 board may let the work by single contract as a unit or it may divide  
27 the work into severable parts by separate contracts, as stated in the  
28 call, according to the best interests of the district. The board shall  
29 require the successful bidder or bidders to file with the board good  
30 and sufficient bonds to be approved by the board conditioned upon  
31 the faithful performance of the contract and upon the payment of  
32 their claims for labor and material, the bonds to contain the terms  
33 and conditions set forth in ~~Title 15 Part 6~~ (commencing with  
34 Section ~~3082~~ 41010) of ~~Part 4 of Division 3 of the Civil Code 2~~  
35 and to be subject to the provisions of that ~~title part~~. The board shall  
36 also have the right to reject any bid.

37 (b) In the event all proposals are rejected or no proposals are  
38 received pursuant to advertisement, or the estimated cost of the  
39 work does not exceed two thousand dollars (\$2,000), or the work  
40 consists of channel protection, maintenance work, or emergency

1 work, the board of supervisors may, without advertising for bids,  
2 have the work done by force account. In case of an emergency, if  
3 notice for bids to let contracts will not be given, the board shall  
4 comply with Chapter 2.5 (commencing with Section 22050).

5 (c) The district may purchase in the open market, without  
6 advertising for bids, materials and supplies for use in any work  
7 either under contract or by force account; provided, however, that  
8 materials and supplies for use in any new construction work or  
9 improvements, except work referred to in subdivision (b), may not  
10 be purchased if the cost exceeds two thousand five hundred dollars  
11 (\$2,500), without advertising for bids and awarding the contract  
12 to the lowest responsible bidder.

13 SEC. 70. Section 21181 of the Public Contract Code is amended  
14 to read:

15 21181. (a) All contracts for any improvement or unit of work  
16 when the cost according to the estimate of the engineer, will exceed  
17 four thousand dollars (\$4,000), shall be let to the lowest responsible  
18 bidder or bidders in the manner provided in this article. The board  
19 shall first determine whether the contract shall be let as a single  
20 unit or shall be divided into severable parts, or both, according to  
21 the best interests of the district. The board shall call for bids and  
22 advertise the call in the district pursuant to Section 6066 of the  
23 Government Code inviting sealed proposals for the construction  
24 or performance of the improvement or before any contract is made.  
25 The call for bids shall state whether the work is to be performed  
26 as a unit or shall be divided into severable specific parts, or both,  
27 as stated in the call. The board may let the work by single contract  
28 or it may divide the work into severable parts by separate contracts,  
29 as stated in the call, according to the best interests of the district.  
30 The board shall require the successful bidder or bidders to file with  
31 the board good and sufficient bonds to be approved by the board  
32 conditioned upon the faithful performance of the contract and upon  
33 the payment of their claims for labor and material, the bonds to  
34 contain the terms and conditions set forth in ~~Title 15 Part 6~~  
35 (commencing with Section ~~3082~~) 41010) of ~~Part 4~~ of Division 3  
36 of the Civil Code 2 and to be subject to the provisions of that ~~title~~  
37 *part*. The board shall also have the right to reject any bid.

38 (b) In the event no proposals are received pursuant to  
39 advertisement or the estimated cost of the work does not exceed  
40 four thousand dollars (\$4,000), or the work consists of channel

1 protection, maintenance work, or emergency work, the board of  
2 supervisors may, without advertising for bids, have the work done  
3 by day labor, under the direction of the board, by contract, or by  
4 the combination of the two. In case of an emergency, if notice for  
5 bids to let contracts will not be given, the board shall comply with  
6 Chapter 2.5 (commencing with Section 22050).

7 (c) The district may acquire in the open market, without  
8 advertising for bids, materials, equipment, and supplies for use in  
9 any work or for any other purpose; provided, however, that  
10 materials and supplies for use in any new construction work or  
11 improvement, except work referred to in subdivision (b), may not  
12 be purchased if the cost exceeds two thousand five hundred dollars  
13 (\$2,500), without advertising for bids and awarding the contract  
14 to the lowest responsible bidder.

15 SEC. 71. Section 21196 of the Public Contract Code is amended  
16 to read:

17 21196. (a) All contracts for the construction of any unit of  
18 work, except as provided in this article, estimated to cost in excess  
19 of two thousand five hundred dollars (\$2,500) shall be let to the  
20 lowest responsible bidder in the manner provided in this article.  
21 The board of directors of the district shall call for bids and advertise  
22 the call by three insertions in a daily newspaper of general  
23 circulation or two insertions in a weekly newspaper of general  
24 circulation published in the district inviting sealed proposals for  
25 the construction of the work before any contract is made, and may  
26 let by contract separately any part of the work. The board shall  
27 require the successful bidder to file with the board good and  
28 sufficient bonds to be approved by the board conditioned upon the  
29 faithful performance of the contract and upon the payment of the  
30 claims for labor and material, the bonds to contain the terms and  
31 conditions set forth in ~~Title 15 Part 6~~ (commencing with Section  
32 ~~3082) 41010~~ of ~~Part 4 of Division 3 of the Civil Code 2~~ and to be  
33 subject to the provisions of this ~~title part~~. The board shall also  
34 have the right to reject any bid, in which case the board may  
35 advertise for new bids.

36 (b) In the event no proposals are received pursuant to  
37 advertisement, or where the estimated cost of the work does not  
38 exceed two thousand five hundred dollars (\$2,500), or the work  
39 consists of emergency work, the board of directors by unanimous  
40 vote of all members present, may, without advertising for bids,

1 have the work done by force account. In case of an emergency, if  
2 notice for bids to let contracts will not be given, the board shall  
3 comply with Chapter 2.5 (commencing with Section 22050). The  
4 district may purchase in the open market, without advertisement  
5 for bids, materials and supplies for use in any work either under  
6 contract or by force account.

7 (c) The provisions of this section have no application to a  
8 contract entered into with the United States under the authority of  
9 the Solano County Flood Control and Water Conservation District  
10 Act, or to a contract authorized by a vote of the electorate of the  
11 district.

12 SEC. 72. Section 21212 of the Public Contract Code is amended  
13 to read:

14 21212. (a) All contracts for the construction of any unit of  
15 work, except as provided in this article, estimated to cost in excess  
16 of three thousand dollars (\$3,000), shall be let to the lowest  
17 responsible bidder in the manner provided in this article. The board  
18 of directors of the agency shall advertise pursuant to Section 6066  
19 of the Government Code in a newspaper of general circulation  
20 published in the agency's jurisdiction inviting sealed proposals  
21 for the construction of the work before any contract is made, and  
22 may let by contract separately any part of the work. The board  
23 shall require the successful bidder to file with the board good and  
24 sufficient bonds to be approved by the board conditioned upon the  
25 faithful performance of the contract and upon the payment of any  
26 claims for labor and material and containing the terms and  
27 conditions set forth in ~~Title 15 Part 6~~ (commencing with Section  
28 ~~3082) 41010~~) of ~~Part 4 of Division 3 of the Civil Code 2~~ and to be  
29 subject to the provisions of that ~~title part~~. The board shall also  
30 have the right to reject any bid, in which case the board may  
31 advertise for new bids.

32 (b) In the event no proposals are received pursuant to  
33 advertisement, or where the estimated cost of the work does not  
34 exceed three thousand dollars (\$3,000), or the work consists of  
35 emergency work, the board of directors, by unanimous vote of all  
36 members present, may, without advertising for bids, have the work  
37 done by force account. In case of an emergency, if notice for bids  
38 to let contracts will not be given, the board shall comply with  
39 Chapter 2.5 (commencing with Section 22050).

1 (c) The agency may purchase in the open market without  
2 advertisement for bids, materials and supplies for use in any work  
3 either under contract or by force account.

4 (d) The provisions of this section have no application to a  
5 contract entered into with the United States under the authority of  
6 Section 6 of Chapter 10 of the Statutes of the 1952 First  
7 Extraordinary Session, or to a contract authorized by a vote of the  
8 electorate of the agency.

9 SEC. 73. Section 21231 of the Public Contract Code is amended  
10 to read:

11 21231. Any improvement or unit of work when the cost,  
12 according to the estimate of the engineer, will exceed five thousand  
13 dollars (\$5,000), shall be done by contract let to the lowest  
14 responsible bidder or bidders in the manner provided in this article.  
15 The board shall first determine whether the contract will be let as  
16 a single unit, or will be divided into severable parts, or both,  
17 according to the best interests of the district. The board shall call  
18 for bids and advertise the call pursuant to Section 6066 of the  
19 Government Code in the district, inviting sealed proposals for the  
20 construction or performance of the improvement or before any  
21 contract is made. The call for bids shall state whether the work is  
22 to be performed as a unit or shall be divided into separate specific  
23 parts, or both, as stated in the call. The board may let the work by  
24 single contract or it may divide the work into severable parts by  
25 separate contracts, as stated in the call, according to the best  
26 interests of the district. The board shall require the successful  
27 bidder or bidders to file with the board good and sufficient bonds  
28 to be approved by the board conditioned upon the faithful  
29 performance of the contract and upon the payment of their claims  
30 for labor and material, the bonds to contain the terms and  
31 conditions set forth in ~~Title 15 Part 6~~ (commencing with Section  
32 ~~3082) 41010~~ of ~~Part 4 of Division 3 of the Civil Code 2~~ and to be  
33 subject to the provisions of that ~~title part~~. The board shall also  
34 have the right to reject any bid. In the event no proposals are  
35 received pursuant to advertisement, or the estimated cost of the  
36 work does not exceed five thousand dollars (\$5,000), or the work  
37 consists of channel protection, maintenance work, or emergency  
38 work, the board of supervisors may, without advertising for bids,  
39 have the work done by day labor, under the direction of the board,  
40 by contract, or by a combination of the two. In case of an

1 emergency, if notice for bids to let contracts will not be given, the  
2 board shall comply with Chapter 2.5 (commencing with Section  
3 22050). The district may acquire in the open market without  
4 advertising for bids, materials, equipment and supplies for use in  
5 any work or for any other purpose; provided, however, that  
6 materials and supplies for use in any new construction work or  
7 improvement, except work referred to in the preceding sentence,  
8 may not be purchased if the cost exceeds five thousand dollars  
9 (\$5,000), without advertising for bids and awarding the contract  
10 to the lowest responsible bidder.

11 SEC. 74. Section 21241 of the Public Contract Code is amended  
12 to read:

13 21241. All contracts for any improvement or unit of work when  
14 the cost, according to the estimate of the engineer, will exceed two  
15 thousand dollars (\$2,000), shall be let to the lowest responsible  
16 bidder or bidders in the manner provided in this article. The board  
17 shall first determine whether the contract shall be let as a single  
18 unit or shall be divided into severable parts, or both, according to  
19 the best interests of the zone. The board shall call for bids and  
20 advertise the call pursuant to Section 6066 of the Government  
21 Code in the district inviting sealed proposals for the construction  
22 or performance of the improvement or work before any contract  
23 is made. The call for bids shall state whether the work is to be  
24 performed as a unit or shall be divided into severable specific parts,  
25 or both, as stated in the call. The board may let the work by single  
26 contract or it may divide the work into severable parts by separate  
27 contracts, as stated in the call, according to the best interests of  
28 the district. The board shall require the successful bidder or bidders  
29 to file with the board good and sufficient bonds to be approved by  
30 the board conditioned upon the faithful performance of the contract  
31 and upon the payment of their claims for labor and material, the  
32 bonds to contain the terms and conditions set forth in ~~Title 15 Part~~  
33 ~~6 (commencing with Section 3082) 41010) of Part 4 of Division~~  
34 ~~3 of the Civil Code 2~~ and to be subject to the provisions of that  
35 ~~title part~~. The board shall also have the right to reject any bid. In  
36 the event no proposals are received pursuant to advertisement, or  
37 the estimated cost of the work does not exceed two thousand dollars  
38 (\$2,000), or the work consists of emergency work, the board of  
39 supervisors may, without advertising for bids, have the work done  
40 by day labor, under the direction of the board, by contract, or by

1 a combination of the two. In case of an emergency, if notice for  
2 bids to let contracts will not be given, the board shall comply with  
3 Chapter 2.5 (commencing with Section 22050). The board may  
4 acquire in the open market, without advertising for bids, materials,  
5 equipment, and supplies for use in any work or for any other  
6 purpose; provided, however, that materials and supplies for use in  
7 any new construction work or improvement, except work referred  
8 to in the preceding sentence, may not be purchased if the cost  
9 exceeds two thousand five hundred dollars (\$2,500), without  
10 advertising for bids and awarding the contract to the lowest  
11 responsible bidder.

12 SEC. 75. Section 21251 of the Public Contract Code is amended  
13 to read:

14 21251. (a) (1) All contracts for any improvement or unit of  
15 work, if the cost according to the estimate of the engineer will  
16 exceed thirty thousand dollars (\$30,000), shall be let to the lowest  
17 responsible bidder or bidders as provided in this article. The board  
18 shall first determine whether the contract shall be let as a single  
19 unit or divided into severable parts, or both.

20 (2) All contracts for any improvement or unit of work, if the  
21 cost according to the estimate of the engineer is thirty thousand  
22 dollars (\$30,000) or less, may be let without advertising for bids  
23 in accordance with procedures adopted by the board.

24 (b) The board shall call for bids and advertise the call pursuant  
25 to Section 6063 of the Government Code in the district, inviting  
26 sealed proposals for the construction or performance of the  
27 improvement or work before any contract is made. The call for  
28 bids shall state whether the work is to be performed as one unit or  
29 divided into severable specific parts.

30 (c) The work may be let under a single contract or several  
31 contracts, or both, as stated in the call. The board shall require the  
32 successful bidder or bidders to file with the board good and  
33 sufficient bonds to be approved by the board conditioned upon the  
34 faithful performance of the contract and upon the payment of their  
35 claims for labor and material. The bonds shall comply with ~~Title~~  
36 ~~15 Part 6~~ (commencing with Section ~~3082~~) ~~41010~~ of ~~Part 4~~ of  
37 ~~Division 3 of the Civil Code~~ 2. The board may reject any bid.

38 (d) If all proposals are rejected or no proposals are received, or  
39 the estimated cost of the work does not exceed five thousand  
40 dollars (\$5,000), or the work consists of channel protection,



1 maintenance work, or emergency work, the board may have the  
2 work done by force account without advertising for bids. In case  
3 of an emergency, if notice for bids to let contracts will not be given,  
4 the board shall comply with Chapter 2.5 (commencing with Section  
5 22050).

6 (e) The district may purchase in the open market, without  
7 advertising for bids, materials and supplies for use in any work  
8 either under contract or by force account.

9 SEC. 76. Section 21261 of the Public Contract Code is amended  
10 to read:

11 21261. All contracts for any improvement or unit of work when  
12 the cost, according to the estimate of the engineer, will exceed two  
13 thousand dollars (\$2,000), shall be let to the lowest responsible  
14 bidder or bidders in the manner provided in this article. The board  
15 shall first determine whether the contract shall be let as a single  
16 unit for the work, or shall be divided into severable parts, or both,  
17 according to the best interests of the district. The board shall call  
18 for bids and advertise the call pursuant to Section 6066 of the  
19 Government Code in the district inviting sealed proposals for the  
20 construction or performance of the improvement or work before  
21 any contract is made. The call for bids shall state whether the work  
22 is to be performed as a unit or shall be divided into severable  
23 specific parts, or both, as stated in the call. The board may let the  
24 work by single contract or it may divide the work into severable  
25 parts by separate contracts, as stated in the call, according to the  
26 best interests of the district. The board shall require the successful  
27 bidder or bidders to file with the board good and sufficient bonds  
28 to be approved by the board conditioned upon the faithful  
29 performance of the contract and upon the payment of their claims  
30 for labor and material, the bonds to contain the terms and  
31 conditions set forth in ~~Title 15 Part 6~~ (commencing with Section  
32 ~~3082) 41010~~) of ~~Part 4 of Division 3 of the Civil Code 2~~ and to be  
33 subject to the provisions of that ~~title part~~. The board shall also  
34 have the right to reject any bid. In the event all proposals are  
35 rejected or no proposals are received pursuant to advertisement,  
36 or the estimated cost of the work does not exceed two thousand  
37 dollars (\$2,000), or the work consists of channel protection,  
38 maintenance work, or emergency work, the board of supervisors  
39 may, without advertising for bids, have the work done by force  
40 account. In case of an emergency, if notice for bids to let contracts

1 will not be given, the board shall comply with Chapter 2.5  
2 (commencing with Section 22050). The district may purchase in  
3 the open market, without advertising for bids, materials and  
4 supplies for use in any work either under contract or by force  
5 account.

6 SEC. 77. Section 21271 of the Public Contract Code is amended  
7 to read:

8 21271. All improvement and units of work to be performed by  
9 or for the district shall be performed in accordance with the  
10 following procedures and requirements:

11 (a) If the work consists of the protection or maintenance of  
12 channels, storm drains, dams or other flood control works, or  
13 emergency work, the board of directors may, without advertising  
14 for bids therefor, have the work done by day labor under the  
15 direction of the board, by contract, or by a combination of the two.  
16 In case of an emergency, if notice for bids to let contracts will not  
17 be given, the board shall comply with Chapter 2.5 (commencing  
18 with Section 22050).

19 (b) If the work consists of the construction of new flood control  
20 channels, storm drains, dams, or other unit or units of work, and  
21 if the cost of the work, according to the estimate of the engineer,  
22 will exceed ten thousand dollars (\$10,000), and if the work is not  
23 the type of work referred to in subdivision (a) or (c) of this section,  
24 the new construction shall be performed under a contract or  
25 contracts which shall be let to the lowest responsible bidder or  
26 bidders in the manner provided in subdivision (d) of this section.

27 (c) If the work consists of the maintenance or alteration of  
28 existing facilities, including electrical, painting, and roofing work,  
29 and if the cost of labor and materials for the work according to the  
30 engineer's estimate, will exceed three thousand five hundred dollars  
31 (\$3,500), and if the work is not the type of work referred to in  
32 subdivision (a) or (b) of this section, the maintenance and alteration  
33 work shall be performed under a contract or contracts which shall  
34 be let to the lowest responsible bidder or bidders in the manner  
35 provided in subdivision (d) of this section.

36 (d) The board shall first determine whether the work shall be  
37 let as a single unit or shall be divided into severable parts, or both,  
38 according to the best interests of the district. The board shall call  
39 for bids and advertise the call pursuant to Section 6066 of the  
40 Government Code in the district inviting sealed proposals for the

1 construction or performance of the work before any contract is  
2 made. The call for bids shall state whether the work is to be  
3 performed as a unit or shall be divided into severable, specific  
4 parts, or both, as stated in the call. The board may let the work by  
5 single contract or it may divide the work into severable parts by  
6 separate contracts, as stated in the call, according to the best  
7 interests of the district. The board shall require the successful  
8 bidder or bidders to file with the board good and sufficient bond  
9 to be approved by the board conditioned upon the faithful  
10 performance of the contract and upon the payment of the claims  
11 for labor and material. The faithful performance bond shall contain  
12 the terms and conditions as the board may specify, and the payment  
13 bond shall contain the terms and conditions set forth in, and shall  
14 be subject to, the provisions of ~~Title 15 Part 6~~ (commencing with  
15 ~~Section 3082~~) *41010* of ~~Part 4 of Division 3 of the Civil Code 2.~~  
16 If the work to be performed on behalf of the district does not  
17 involve an expenditure of fifteen thousand dollars (\$15,000) or  
18 more, the district may require a faithful performance bond or a  
19 payment bond. The board shall also have the right to reject any  
20 bid.

21 (e) If no proposals are received pursuant to advertisement, or  
22 if the estimated cost of work of the type referred to in subdivision  
23 (b) of this section does not exceed ten thousand dollars (\$10,000),  
24 or if the estimated cost of work of the type referred to in  
25 subdivision (c) of this section does not exceed three thousand five  
26 hundred dollars (\$3,500), the board of directors may, without  
27 advertising for bids, have the work done by day labor, under the  
28 direction of the board, by contract, or by combination of the two.  
29 If any change or alteration in a contract awarded under the  
30 provisions of this section for work of the type referred to in  
31 subdivision (b) or (c) is deemed necessary and the cost does not  
32 exceed 10 percent of the original contract price, the board may  
33 authorize the contractor to proceed with the change or alteration  
34 without the formality of obtaining bids.

35 (f) Notwithstanding the foregoing provisions, the district shall  
36 have the power to acquire in the open market, and may authorize  
37 the Purchasing Agents of the County of Santa Barbara to acquire  
38 in the open market, without advertising for bids, materials,  
39 equipment and supplies for use in any work or for any other  
40 purpose; provided, however, that materials and supplies for use in

1 any new construction work or improvement, except work referred  
2 to in subdivision (a) of this section, may not be purchased without  
3 advertising for bids and awarding the contract to the lowest  
4 responsible bidder if the cost exceeds two thousand five hundred  
5 dollars (\$2,500), unless the purchase is made by the county  
6 purchasing agent at the request of the district, in which case the  
7 cost shall not exceed six thousand five hundred dollars (\$6,500).

8 SEC. 78. Section 21311 of the Public Contract Code is amended  
9 to read:

10 21311. (a) All contracts for any improvement or unit of work  
11 when the cost, according to the estimate of the engineer, will  
12 exceed two thousand dollars (\$2,000), shall be let to the lowest  
13 responsible bidder or bidders in the manner provided in this article.  
14 The board shall first determine whether the contract shall be let as  
15 a single unit, or shall be divided into severable parts, or both,  
16 according to the best interests of the district. The board shall call  
17 for bids and advertise the call by three insertions in a daily  
18 newspaper of general circulation or by two insertions in a weekly  
19 newspaper of general circulation printed and published in the  
20 district inviting sealed proposals for the construction or  
21 performance of the improvement or work before any contract is  
22 made. The call for bids shall state whether the work is to be  
23 performed as a unit or shall be divided into severable specific parts,  
24 or both, as stated in the call. The board may let the work by single  
25 contract for the whole as a unit or it may divide the work into  
26 severable parts by separate contracts, as stated in the call, according  
27 to the best interests of the district. The board shall require the  
28 successful bidder or bidders to file with the board good and  
29 sufficient bonds to be approved by the board conditioned upon the  
30 faithful performance of the contract and upon the payment of their  
31 claims for labor and material, the bonds to contain the terms and  
32 conditions set forth in ~~Title 15 Part 6~~ (commencing with Section  
33 ~~3082) 41010~~ of ~~Part 4 of Division 3 of the Civil Code 2~~ and to be  
34 subject to the provisions of that ~~title part~~. The board shall also  
35 have the right to reject any bid.

36 (b) In the event no proposals are received pursuant to  
37 advertisement, or the estimated cost of the work does not exceed  
38 two thousand dollars (\$2,000), or the work consists of channel  
39 protection, maintenance work, or emergency work, the board of  
40 supervisors may, without advertising for bids, have the work done

1 by day labor, under the direction of the board, by contract, or by  
2 a combination of the two. In case of an emergency, if notice for  
3 bids to let contracts will not be given, the board shall comply with  
4 Chapter 2.5 (commencing with Section 22050).

5 (c) The district may acquire in the open market, without  
6 advertising for bids, materials, equipment, and supplies for use in  
7 any work or for any other purpose; provided, however, that  
8 materials and supplies for use in any new construction work or  
9 improvement, except work referred to in subdivision (b), shall not  
10 be purchased if the cost exceeds two thousand five hundred dollars  
11 (\$2,500), without advertising for bids and awarding the contract  
12 to the lowest responsible bidder.

13 SEC. 79. Section 21321 of the Public Contract Code is amended  
14 to read:

15 21321. (a) All contracts for any improvement or unit of work,  
16 when the cost according to the estimate of the engineer will exceed  
17 thirty thousand dollars (\$30,000), shall be let to the lowest  
18 responsible bidder or bidders as provided in this article. The board  
19 shall first determine whether the contract shall be let as a single  
20 unit, or divided into severable parts. The board shall advertise for  
21 bids by three insertions in a daily newspaper of general circulation  
22 or by two insertions in a weekly newspaper of general circulation  
23 printed and published in the agency's jurisdiction, inviting sealed  
24 proposals for the construction or performance of the improvement  
25 or work. The call for bids shall state whether the work shall be  
26 performed in one unit or divided into parts. The work may be let  
27 under a single contract or several contracts, as stated in the call.

28 The board shall require the successful bidders to file with the  
29 board good and sufficient bonds to be approved by the board  
30 conditioned upon the faithful performance of the contract and upon  
31 the payment of their claims for labor and material. The bonds shall  
32 comply with ~~Title 15 Part 6~~ (commencing with Section ~~3082~~)  
33 ~~41010~~ of ~~Part 4 of Division 3 of the Civil Code 2.~~

34 (b) The board may reject any bid. In the event all proposals are  
35 rejected or no proposals are received, or the estimated cost of the  
36 work does not exceed five thousand dollars (\$5,000), or the work  
37 consists of channel protection, maintenance, or emergency work,  
38 the board may have the work done by force account without  
39 advertising for bids. In case of an emergency, if notice for bids to  
40 let contracts will not be given, the board shall comply with Chapter

1 2.5 (commencing with Section 22050). In the event that no  
 2 proposals are received, or if only one responsive proposal is  
 3 received, the board may negotiate a contract for construction or  
 4 performance of the work or improvement or substantially similar  
 5 work or improvement. However, if only one responsive proposal  
 6 is received, the contract must be negotiated with the bidder.

7 (c) The agency may purchase in the open market without  
 8 advertising for bids, materials and supplies for use in any work,  
 9 either under contract or by force account.

10 (d) Sections 4300 to 4305, inclusive, of the Government Code  
 11 do not apply to the agency's Middle Fork American River Project.

12 (e) This section applies to all proposals or contracts whether or  
 13 not received or entered into prior to the effective date of the  
 14 amendment of this provision made at the 1963 Regular Session of  
 15 the Legislature.

16 SEC. 80. Section 21331 of the Public Contract Code is amended  
 17 to read:

18 21331. (a) All contracts for the construction of any unit of  
 19 work, except as provided in this article, estimated to cost in excess  
 20 of three thousand five hundred dollars (\$3,500) shall be let to the  
 21 lowest responsible bidder in the manner provided in this article.  
 22 The board shall advertise by three insertions in a daily newspaper  
 23 of general circulation or two insertions in a weekly newspaper of  
 24 general circulation published in the district inviting sealed  
 25 proposals for the construction of the work before any contract shall  
 26 be made, and may let by contract separately any part of the work.  
 27 The board shall require the successful bidder to file with the board  
 28 good and sufficient bonds to be approved by the board conditioned  
 29 upon the faithful performance of the contract and upon the payment  
 30 of all claims for labor and material, the bonds to contain the terms  
 31 and conditions set forth in ~~Title 15 Part 6~~ (commencing with  
 32 Section ~~3082~~) 41010) of ~~Part 4 of Division 3 of the Civil Code 2,~~  
 33 and to be subject to the provisions of that ~~title part~~. The board shall  
 34 also have the right to reject any bid, in which case the board may  
 35 advertise for new bids.

36 (b) In the event no proposals are received pursuant to  
 37 advertisement, where the estimated cost of the work does not  
 38 exceed five thousand dollars (\$5,000), or where the work consists  
 39 of emergency work, the board of directors, by unanimous vote of  
 40 all members present, may, without advertising for bids, have the

1 work done by force account. In case of an emergency, if notice  
2 for bids to let contracts will not be given, the board shall comply  
3 with Chapter 2.5 (commencing with Section 22050).

4 (c) The district may purchase in the open market, without  
5 advertisement for bids, materials and supplies for use in any work  
6 either under contract or by force account; provided, however, that  
7 materials and supplies for use in any new construction work or  
8 improvement, except work referred to in subdivision (b), may not  
9 be purchased if the cost exceeds five thousand dollars (\$5,000),  
10 without advertising for bids and awarding the contract to the lowest  
11 responsible bidder.

12 (d) The provisions of this section have no application to a  
13 contract entered into with the United States under the authority of  
14 Section 3 of Chapter 1280 of the Statutes of 1957, or to a contract  
15 authorized by a vote of the electorate of the district.

16 SEC. 81. Section 21341 of the Public Contract Code is amended  
17 to read:

18 21341. (a) All contracts for the construction of any unit of  
19 work, except as provided in this article, estimated to cost in excess  
20 of five thousand dollars (\$5,000) shall be let to the lowest  
21 responsible bidder. The board shall advertise by three insertions  
22 in a daily newspaper of general circulation or two insertions in a  
23 weekly newspaper of general circulation published by the agency  
24 inviting sealed proposals for the construction of the work before  
25 any contract is made, and may let by contract separately any part  
26 of the work. The board shall require the successful bidder to file  
27 with the board good and sufficient bonds to be approved by the  
28 board conditioned upon the faithful performance of the contract  
29 and upon the payment of the claims for labor and material, the  
30 bonds to contain the terms and conditions set forth in ~~Title 15 Part~~  
31 ~~6 (commencing with Section 3082) 41010) of Part 4 of Division~~  
32 ~~3 of the Civil Code 2~~, and to be subject to the provisions of that  
33 ~~title part~~. The board shall also have the right to reject any bid, in  
34 which case the board may advertise for new bids. In the event no  
35 proposals are received pursuant to advertisement or where the  
36 estimated cost of the work does not exceed five thousand dollars  
37 (\$5,000), or where the work consists of emergency work, the board,  
38 by unanimous vote of all members present, may, without  
39 advertising for bids, have the work done by force account. In case  
40 of an emergency, if notice for bids to let contracts will not be given,

1 the board shall comply with Chapter 2.5 (commencing with Section  
2 22050). The agency may purchase in the open market, without  
3 advertisement for bids, materials and supplies for use in any work  
4 either under contract or by force account.

5 (b) The provisions of this section have no application to a  
6 contract entered into with the United States under the authority of  
7 Section 59 of Chapter 1512 of the Statutes of 1957, or to a contract  
8 authorized by a vote of the electorate of the agency.

9 SEC. 82. Section 21351 of the Public Contract Code is amended  
10 to read:

11 21351. All contracts for any improvement or unit of work,  
12 when the cost according to the estimate of the engineer will exceed  
13 five thousand dollars (\$5,000), shall be let to the lowest responsible  
14 bidder or bidders as provided in this article. The board shall first  
15 determine whether the contract shall be let as a single unit, or  
16 divided into severable parts. The board shall advertise for bids by  
17 three insertions in a daily newspaper of general circulation or by  
18 two insertions in a weekly newspaper of general circulation printed  
19 and published by the agency, inviting sealed proposals for the  
20 construction or performance of the improvement or work. The call  
21 for bids shall state whether the work shall be performed in one  
22 unit or divided into parts. The work may be let under a single  
23 contract or several contracts, as stated in the call. The board shall  
24 require the successful bidders to file with the board good and  
25 sufficient bonds to be approved by the board conditioned upon the  
26 faithful performance of the contract and upon the payment of their  
27 claims for labor and material. The bonds shall comply with ~~Title~~  
28 ~~15 Part 6~~ (commencing with Section ~~3082~~) *41010*) of ~~Part 4~~ of  
29 ~~Division 3 of the Civil Code~~ 2. The board may reject any bid. In  
30 the event all proposals are rejected or no proposals are received,  
31 or the estimated cost of the work does not exceed five thousand  
32 dollars (\$5,000), or the work consists of channel protection,  
33 maintenance work, or emergency work, the board may have the  
34 work done by force account without advertising for bids. In case  
35 of an emergency, if notice for bids to let contracts will not be given,  
36 the board shall comply with Chapter 2.5 (commencing with Section  
37 22050). The board may purchase in the open market without  
38 advertising for bids, materials and supplies for use in any work,  
39 either under contract or by force account. In awarding any contract  
40 or authorizing any work, the board shall comply with the provisions



1 of Article 2 (commencing with Section 1770) of Chapter 1 of Part  
2 7 of Division 2 of the Labor Code.

3 SEC. 83. Section 21361 of the Public Contract Code is amended  
4 to read:

5 21361. All contracts for any improvement or unit of work,  
6 when the cost according to the estimate of the engineer will exceed  
7 five thousand dollars (\$5,000), shall be let to the lowest responsible  
8 bidder or bidders as provided in this article. The board shall first  
9 determine whether the contract shall be let as a single unit, or  
10 divided into severable parts. The board shall advertise for bids by  
11 three insertions in a daily newspaper of general circulation or by  
12 two insertions in a weekly newspaper of general circulation printed  
13 and published in the agency's jurisdiction, inviting sealed proposals  
14 for the construction or performance of the improvement or work.  
15 The call for bids shall state whether the work shall be performed  
16 in one unit or divided into parts. The work may be let under a  
17 single contract or several contracts, as stated in the call. The board  
18 shall require the successful bidders to file with the board good and  
19 sufficient bonds to be approved by the board conditioned upon the  
20 faithful performance of the contract and upon the payment of their  
21 claims for labor and material. The bonds shall comply with ~~Title~~  
22 ~~15 Part 6~~ (commencing with Section ~~3082~~) *41010*) of ~~Part 4~~ of  
23 ~~Division 3 of the Civil Code~~ 2. The board may reject any bid. In  
24 the event all proposals are rejected or no proposals are received,  
25 or the estimated cost of the work does not exceed five thousand  
26 dollars (\$5,000), or the work consists of channel protection,  
27 maintenance work, or emergency work, the board of supervisors  
28 may have the work done by force account without advertising for  
29 bids. In case of an emergency, if notice for bids to let contracts  
30 will not be given, the board shall comply with Chapter 2.5  
31 (commencing with Section 22050). The district may purchase in  
32 the open market without advertising for bids, materials and supplies  
33 for use in any work, either under contract or by force account.

34 SEC. 84. Section 21371 of the Public Contract Code is amended  
35 to read:

36 21371. All contracts for any improvement or unit of work,  
37 when the cost according to the estimate of the engineer will exceed  
38 five thousand dollars (\$5,000), shall be let to the lowest responsible  
39 bidder or bidders as provided in this article. The board shall first  
40 determine whether the contract shall be let as a single unit, or

1 divided into severable parts. The board shall advertise for bids by  
2 three insertions in a daily newspaper of general circulation or by  
3 two insertions in a weekly newspaper of general circulation printed  
4 and published in the agency's jurisdiction, inviting sealed proposals  
5 for the construction or performance of the improvement or work.  
6 The call for bids shall state whether the work shall be performed  
7 in one unit or divided into parts. The work may be let under a  
8 single contract or several contracts, as stated in the call. The board  
9 shall require the successful bidders to file with the board good and  
10 sufficient bonds to be approved by the board conditioned upon the  
11 faithful performance of the contract and upon the payment of their  
12 claims for labor and material. The bonds shall comply with ~~Title~~  
13 ~~15 Part 6~~ (commencing with Section ~~3082~~) ~~41010~~ of ~~Part 4~~ of  
14 ~~Division 3 of the Civil Code~~ 2. The board may reject any bid. In  
15 the event all proposals are rejected or no proposals are received,  
16 or the estimated cost of the work does not exceed five thousand  
17 dollars (\$5,000), or the work consists of emergency work, the  
18 board may have the work done by force account without advertising  
19 for bids. In case of an emergency, if notice for bids to let contracts  
20 will not be given, the board shall comply with Chapter 2.5  
21 (commencing with Section 22050). The district may purchase in  
22 the open market without advertising for bids, materials and supplies  
23 for use in any work, either under contract or by force account.

24 SEC. 85. Section 21381 of the Public Contract Code is amended  
25 to read:

26 21381. All contracts for any improvement or unit of work,  
27 except as provided in this article, estimated to cost in excess of  
28 five thousand dollars (\$5,000) shall be let to the lowest responsible  
29 bidder in the manner provided in this article. The board of  
30 supervisors of the district shall advertise by three insertions in a  
31 daily newspaper of general circulation or two insertions in a weekly  
32 newspaper of general circulation printed and published in the  
33 district inviting sealed proposals for the construction of the  
34 improvement or work before any contract shall be made, and may  
35 let by contract separately any part of said work or improvement.  
36 The board shall require the successful bidder to file with the board  
37 good and sufficient bonds to be approved by the board conditioned  
38 upon the faithful performance of the contract and upon the payment  
39 of their claims for labor and material, the bonds to contain the  
40 terms and conditions set forth in ~~Title 15 Part 6~~ (commencing with

1 Section ~~3082) 41010~~ of ~~Part 4 of Division 3 of the Civil Code 2~~  
2 and to be subject to the provisions of that ~~title part~~. The board shall  
3 also have the right to reject any bid. In the event all proposals are  
4 rejected or no proposals are received pursuant to advertisement,  
5 or where the estimated cost of the work does not exceed five  
6 thousand dollars (\$5,000), or the work consists of channel  
7 protection, maintenance work, or emergency work, the board of  
8 supervisors may, without advertising for bids, have the work done  
9 by force account. In case of an emergency, if notice for bids to let  
10 contracts will not be given, the board shall comply with Chapter  
11 2.5 (commencing with Section 22050). The district may purchase  
12 in the open market without advertising for bids, materials and  
13 supplies for use in any work either under contract or by force  
14 account.

15 SEC. 86. Section 21391 of the Public Contract Code is amended  
16 to read:

17 21391. (a) All contracts for the construction of any unit of  
18 work, except as provided in this article, estimated to cost in excess  
19 of two thousand dollars (\$2,000) shall be let to the lowest  
20 responsible bidder in the manner provided in this article. The board  
21 shall advertise by three insertions in a daily newspaper of general  
22 circulation or two insertions in a weekly newspaper of general  
23 circulation published in the district, inviting sealed proposals for  
24 the construction of the work before any contract shall be made,  
25 and may let by contract separately any part of the work. The board  
26 shall require the successful bidder to file with the board good and  
27 sufficient bonds to be approved by the board conditioned upon the  
28 faithful performance of the contract and upon the payment of all  
29 claims for labor and material, the bonds to contain the terms and  
30 conditions set forth in ~~Title 15 Part 6~~ (commencing with Section  
31 ~~3082) 41010~~) of ~~Part 4 of Division 3 of the Civil Code 2~~, and to  
32 be subject to the provisions of that ~~title part~~. The board shall also  
33 have the right to reject any and all bids, in which case the board  
34 may advertise for new bids.

35 (b) In the event no proposals are received pursuant to  
36 advertisement therefor, where the estimated cost of the work does  
37 not exceed two thousand dollars (\$2,000), or where the work  
38 consists of emergency work necessary in order to protect life and  
39 property, the board of directors, by unanimous vote of all members  
40 present, may, without advertising for bids, have the work done by

1 force account. In case of an emergency, if notice for bids to let  
2 contracts will not be given, the board shall comply with Chapter  
3 2.5 (commencing with Section 22050).

4 (c) The district may purchase in the open market without  
5 advertisement for bids, materials and supplies for use in any work  
6 either under contract or by force account; provided, however, that  
7 materials and supplies for use in any new construction work or  
8 improvement, except work referred to in subdivision (b), may not  
9 be purchased if the cost exceeds two thousand five hundred dollars  
10 (\$2,500), without advertising for bids and awarding the contract  
11 to the lowest responsible bidder.

12 (d) The provisions of this section have no application to a  
13 contract entered into with the United States under the authority of  
14 Section 3 of Chapter 2114 of the Statutes of 1959, or to a contract  
15 authorized by a vote of the electorate of the district.

16 SEC. 87. Section 21401 of the Public Contract Code is amended  
17 to read:

18 21401. (a) All contracts for the construction of any unit of  
19 work, except as provided in this article, estimated to cost in excess  
20 of two thousand dollars (\$2,000) shall be let to the lowest  
21 responsible bidder in the manner provided in this article. The board  
22 shall advertise by three insertions in a daily newspaper of general  
23 circulation or two insertions in a weekly newspaper of general  
24 circulation published in the district inviting sealed proposals for  
25 the construction of the work before any contract shall be made,  
26 and may let by contract separately any part of the work. The board  
27 shall require the successful bidder to file with the board good and  
28 sufficient bonds to be approved by the board conditioned upon the  
29 faithful performance of the contract and upon the payment of all  
30 claims for labor and material, the bonds to contain the terms and  
31 conditions set forth in ~~Title 15 Part 6~~ (commencing with Section  
32 ~~3082) 41010~~) of ~~Part 4 of Division 3 of the Civil Code 2~~, and to  
33 be subject to the provisions of that ~~title part~~. The board shall also  
34 have the right to reject any bids, in which case the board may  
35 advertise for new bids.

36 (b) In the event no proposals are received pursuant to  
37 advertisement, where the estimated cost of the work does not  
38 exceed two thousand dollars (\$2,000), or where work consists of  
39 emergency work, the board of directors, by unanimous vote of all  
40 members present, may, without advertising for bids, have the work

1 done by force account. In case of an emergency, if notice for bids  
2 to let contracts will not be given, the board shall comply with  
3 Chapter 2.5 (commencing with Section 22050).

4 (c) The district may purchase in the open market without  
5 advertisement for bids, materials and supplies for use in any work  
6 either under contract or by force account; provided, however, that  
7 materials and supplies for use in any new construction work or  
8 improvement, except work referred to in subdivision (b), may not  
9 be purchased if the cost exceeds two thousand five hundred dollars  
10 (\$2,500), without advertising for bids and awarding the contract  
11 to the lowest responsible bidder.

12 (d) The provisions of this section have no application to a  
13 contract entered into with the United States under the authority of  
14 Section 3 of Chapter 2121 of the Statutes of 1959, or to a contract  
15 authorized by a vote of the electorate of the district.

16 SEC. 88. Section 21411 of the Public Contract Code is amended  
17 to read:

18 21411. All contracts for any improvement or unit of work,  
19 when the cost according to the estimate of the engineer will exceed  
20 five thousand dollars (\$5,000) shall be let to the lowest responsible  
21 bidder or bidders as provided in this article. The board shall first  
22 determine whether the contract shall be let as a single unit, or  
23 divided into severable parts. The board shall advertise for bids by  
24 three insertions in a daily newspaper of general circulation or by  
25 two insertions in a weekly newspaper of general circulation printed  
26 and published in the agency's jurisdiction, inviting sealed proposals  
27 for the construction or performance of the improvement or work.  
28 The call for bids shall state whether the work shall be performed  
29 in one unit or divided into parts. The work may be let under a  
30 single contract or several contracts, as stated in the call. The board  
31 shall require the successful bidders to file with the board good and  
32 sufficient bonds to be approved by the board conditioned upon the  
33 faithful performance of the contract and upon the payment of their  
34 claims for labor and material. The bonds shall comply with ~~Title~~  
35 ~~15 Part 6~~ (commencing with Section ~~3082~~) ~~41010~~ of ~~Part 4~~ of  
36 ~~Division 3 of the Civil Code~~ 2. The board may reject any bid. In  
37 the event all proposals are rejected or no proposals are received,  
38 or the estimated cost of the work does not exceed five thousand  
39 dollars (\$5,000), or the work consists of channel protection,  
40 maintenance work, or emergency work, the board may have the

1 work done by force account without advertising for bids. In case  
2 of an emergency, if notice for bids to let contracts will not be given,  
3 the board shall comply with Chapter 2.5 (commencing with Section  
4 22050). In that event a majority vote of all board members shall  
5 be required. The board may purchase in the open market, without  
6 advertising for bids, materials and supplies for use in any work,  
7 either under contract or by force account.

8 SEC. 89. Section 21421 of the Public Contract Code is amended  
9 to read:

10 21421. (a) All contracts for the construction of any unit of  
11 work, except as provided in this article, estimated to cost in excess  
12 of two thousand dollars (\$2,000), shall be let to the lowest  
13 responsible bidder in the manner provided in this article. The board  
14 shall advertise by three insertions in a daily newspaper of general  
15 circulation or two insertions in a weekly newspaper of general  
16 circulation published in the district inviting sealed proposals for  
17 the construction of the work before any contract shall be made,  
18 and may let by contract separately any part of the work. The board  
19 shall require the successful bidder to file with the board good and  
20 sufficient bonds to be approved by the board conditioned upon the  
21 faithful performance of the contract and upon the payment of all  
22 claims for labor and material, the bonds to contain the terms and  
23 conditions set forth in ~~Title 15 Part 6~~ (commencing with Section  
24 ~~3082~~) ~~41010~~ of ~~Part 4~~ of ~~Division 3~~ of the ~~Civil Code~~ 2, and to  
25 be subject to the provisions of that ~~title~~ *part*. The board shall also  
26 have the right to reject any bid, in which case the board may  
27 advertise for new bids.

28 (b) In the event no proposals are received pursuant to  
29 advertisement, where the estimated cost of the work does not  
30 exceed two thousand dollars (\$2,000), or where the work consists  
31 of emergency work, the board of directors, by unanimous vote of  
32 all members present, may, without advertising for bids, have the  
33 work done by force account. In case of an emergency, if notice  
34 for bids to let contracts will not be given, the board shall comply  
35 with Chapter 2.5 (commencing with Section 22050).

36 (c) The district may purchase in the open market without  
37 advertisement for bids, materials and supplies for use in any work  
38 either under contract or by force account; provided, however, that  
39 materials and supplies for use in any new construction work or  
40 improvement, except work referred to in subdivision (b), may not

1 be purchased if the cost exceeds two thousand five hundred dollars  
2 (\$2,500), without advertising for bids and awarding the contract  
3 to the lowest responsible bidder.

4 (d) The provisions of this section have no application to a  
5 contract entered into with the United States under the authority of  
6 Section 3 of Chapter 2123 of the Statutes of 1959, or to a contract  
7 authorized by a vote of the electorate of the district.

8 SEC. 90. Section 21431 of the Public Contract Code is amended  
9 to read:

10 21431. (a) All contracts for the construction of any unit of  
11 work, except as provided in this article, estimated to cost in excess  
12 of two thousand dollars (\$2,000), shall be let to the lowest  
13 responsible bidder in the manner provided in this article. The board  
14 shall advertise by three insertions in a daily newspaper of general  
15 circulation or two insertions in a weekly newspaper of general  
16 circulation published in the district inviting sealed proposals for  
17 the construction of the work before any contract shall be made,  
18 and may let by contract separately any part of the work. The board  
19 shall require the successful bidder to file with the board good and  
20 sufficient bonds to be approved by the board conditioned upon the  
21 faithful performance of the contract and upon the payment of all  
22 claims for labor and material, the bonds to contain the terms and  
23 conditions set forth in ~~Title 15 Part 6~~ (commencing with Section  
24 ~~3082) 41010~~) of ~~Part 4 of Division 3 of the Civil Code 2~~, and to  
25 be subject to the provisions of that ~~title part~~. The board shall also  
26 have the right to reject any bid, in which case the board may  
27 advertise for new bids.

28 (b) In the event no proposals are received pursuant to  
29 advertisement, where the estimated cost of the work does not  
30 exceed two thousand dollars (\$2,000), the board of directors, by  
31 unanimous vote of all members present, may without advertising  
32 for bids, have the work done by force account. In case of an  
33 emergency, if notice for bids to let contracts will not be given, the  
34 board shall comply with Chapter 2.5 (commencing with Section  
35 22050).

36 (c) The district may purchase in the open market without  
37 advertisement for bids, materials and supplies for use in any work  
38 either under contract or by force account; provided, however, that  
39 materials and supplies for use in any new construction work or  
40 improvement, except work referred to in subdivision (b), may not

1 be purchased if the cost exceeds two thousand five hundred dollars  
2 (\$2,500), without advertising for bids and awarding the contract  
3 to the lowest responsible bidder.

4 (d) The provisions of this section have no application to a  
5 contract entered into with the United States under the authority of  
6 Section 3 of Chapter 2127 of the Statutes of 1959, or to a contract  
7 authorized by a vote of the electorate of the district.

8 SEC. 91. Section 21441 of the Public Contract Code is amended  
9 to read:

10 21441. (a) All contracts for any improvement or unit of work,  
11 when the cost according to the estimate of the engineer will exceed  
12 five thousand dollars (\$5,000) shall be let to the lowest responsible  
13 bidder or bidders as provided in this article. The board shall first  
14 determine whether the contract shall be let as a single unit, or  
15 divided into severable parts. The board shall advertise for bids by  
16 three insertions in a daily newspaper of general circulation or by  
17 two insertions in a weekly newspaper of general circulation printed  
18 and published in the authority, inviting sealed proposals for the  
19 construction or performance of the improvement work. The call  
20 for bids shall state whether the work shall be performed in one  
21 unit or divided into parts. The work may be let under a single  
22 contract or several contracts, as stated in the call. The board shall  
23 require the successful bidders to file with the board good and  
24 sufficient bonds to be approved by the board conditioned upon the  
25 faithful performance of the contract and upon the payment of their  
26 claims for labor and material. The bonds shall comply with ~~Title~~  
27 ~~15 Part 6 (commencing with Section 3082) 41010) of Part 4 of~~  
28 ~~Division 3 of the Civil Code 2.~~ The board may reject any bid. In  
29 the event all proposals are rejected or no proposals are received,  
30 or the estimated cost of the work does not exceed five thousand  
31 dollars (\$5,000), or the work consists of channel protection,  
32 maintenance work, or emergency work, the board may have the  
33 work done by force account without advertising for bids. ~~In case~~  
34 ~~of an emergency, if notice for bids to let contracts will not be given,~~  
35 ~~the board shall comply with Chapter 2.5 (commencing with Section~~  
36 ~~22050). The authority may purchase in the open market without~~  
37 ~~advertising for bids, materials and supplies for use in any work,~~  
38 ~~either under contract or by force account.~~

39 (b) *In case of an emergency, if notice for bids to let contracts*  
40 *will not be given, the board shall comply with Chapter 2.5*



1 (*commencing with Section 22050*). *The authority may purchase*  
2 *in the open market without advertising for bids, materials, and*  
3 *supplies for use in any work, either under contract or by force*  
4 *account.*

5 SEC. 92. Section 21451 of the Public Contract Code is amended  
6 to read:

7 21451. All contracts for any improvement or unit of work,  
8 when the cost according to the estimate of the engineer will exceed  
9 twelve thousand five hundred dollars (\$12,500), shall be let to the  
10 lowest responsible bidder or bidders as provided in this article.  
11 The board shall first determine whether the contract shall be let as  
12 a single unit or divided into severable parts. The board shall  
13 advertise for bids by three insertions in a daily newspaper of  
14 general circulation or by two insertions in a weekly newspaper of  
15 general circulation printed and published in the agency, inviting  
16 sealed proposals for the construction or performance of the  
17 improvement or work. The call for bids shall state whether the  
18 work shall be performed in one unit or divided into parts. The work  
19 may be let under a single contract or several contracts, as stated  
20 in the call. The board shall require the successful bidders to file  
21 with the board good and sufficient bonds to be approved by the  
22 board conditioned upon the faithful performance of the contract  
23 and upon the payment of their claims for labor and material. The  
24 payment bonds shall comply with Chapter 7 5 (~~commencing with~~  
25 ~~Section 3247) 45010) of Division 3 Part 6 of Title 15 of the Civil~~  
26 ~~Code Division 2~~. The board may reject any bid. If all proposals  
27 are rejected or no proposals are received, or the estimated cost of  
28 the work does not exceed twelve thousand five hundred dollars  
29 (\$12,500), or the work consists of channel protection, maintenance  
30 work, or emergency work, the board may have the work done by  
31 force account without advertising for bids. In case of an emergency,  
32 if notice for bids to let contracts will not be given, the board shall  
33 comply with Chapter 2.5 (*commencing with Section 22050*). The  
34 agency may purchase in the open market without advertising for  
35 bids, materials and supplies for use in any work, either under  
36 contract or by force account.

37 SEC. 93. Section 21461 of the Public Contract Code is amended  
38 to read:

39 21461. All contracts for any improvement or unit of work,  
40 when the cost according to the estimate of the engineer will exceed

1 five thousand dollars (\$5,000), shall be let to the lowest responsible  
2 bidder or bidders as provided in this article. The board shall first  
3 determine whether the contract shall be let as a single unit, or  
4 divided into severable parts. The board shall advertise for bids by  
5 three insertions in a daily newspaper of general circulation or by  
6 two insertions in a weekly newspaper of general circulation printed  
7 and published in the agency, inviting sealed proposals for the  
8 construction or performance of the improvement or work. The call  
9 for bids shall state whether the work shall be performed in one  
10 unit or divided into parts. The work may be let under a single  
11 contract or several contracts, as stated in such call. The board shall  
12 require the successful bidders to file with the board good and  
13 sufficient bonds to be approved by the board conditioned upon the  
14 faithful performance of the contract and upon payment of their  
15 claims for labor and material. The bonds shall comply with ~~Title~~  
16 ~~45 Part 6 (commencing with Section 3082) 41010) of Part 4 of~~  
17 ~~Division 3 of the Civil Code 2.~~ The board may reject any and all  
18 bids. In the event all proposals are rejected or no proposals are  
19 received, or the estimated cost of the work does not exceed five  
20 thousand dollars (\$5,000), or the work consists of channel  
21 protection, maintenance work, or emergency work, the board of  
22 supervisors may have the work done by force account without  
23 advertising for bids. In case of an emergency, if notice for bids to  
24 let contracts will not be given, the board shall comply with Chapter  
25 2.5 (commencing with Section 22050). The district may purchase  
26 in the open market without advertising for bids, materials and  
27 supplies for use in any work, either under contract or by force  
28 account.

29 SEC. 94. Section 21491 of the Public Contract Code is amended  
30 to read:

31 21491. (a) All contracts for any improvement or unit of work,  
32 when the cost according to the estimate of the engineer will exceed  
33 ten thousand dollars (\$10,000), shall be let to the lowest responsible  
34 bidder or bidders as provided in this article. The board shall first  
35 determine whether the contract shall be let as a single unit, or  
36 divided into severable parts. The board shall advertise for bids by  
37 three insertions in a daily newspaper of general circulation or by  
38 two insertions in a weekly newspaper of general circulation printed  
39 and published in the agency, inviting sealed proposals for the  
40 construction or performance of the improvement or work. The call

1 for bids shall state whether the work shall be performed in one  
2 unit or divided into parts. The work may be let under a single  
3 contract or several contracts, as stated in such call. The board shall  
4 require the successful bidders to file with the board good and  
5 sufficient bonds to be approved by the board conditioned upon the  
6 faithful performance of the contract and upon the payment of their  
7 claims for labor and material. The bonds shall comply with ~~Title~~  
8 ~~15 Part 6~~ (commencing with Section ~~3082~~) ~~41010~~ of ~~Part 4 of~~  
9 ~~Division 3 of the Civil Code~~ 2. The board may reject any bid.

10 (b) In the event all proposals are rejected or no proposals are  
11 received, or the estimated cost of the work does not exceed ten  
12 thousand dollars (\$10,000), or the work consists of channel  
13 protection, maintenance work, or emergency work, the board may  
14 have the work done by force account without advertising for bids.  
15 In case of an emergency, if notice for bids to let contracts will not  
16 be given, the board shall comply with Chapter 2.5 (commencing  
17 with Section 22050).

18 (c) The agency may purchase in the open market without  
19 advertising for bids, materials and supplies for use in any work,  
20 either under contract or by force account; provided, however, that  
21 materials and supplies for use in any new construction work or  
22 improvement, except work referred to in subdivision (b), may not  
23 be purchased if the cost exceeds ten thousand dollars (\$10,000),  
24 without advertising for bids and awarding the contract to the lowest  
25 responsible bidder.

26 SEC. 95. Section 21501 of the Public Contract Code is amended  
27 to read:

28 21501. (a) All contracts for any improvement or unit of work,  
29 when the cost according to the estimate of the engineer will exceed  
30 fifteen thousand dollars (\$15,000), shall be let to the lowest  
31 responsible bidder or bidders as provided in this article. The board  
32 shall first determine whether the contract shall be let as a single  
33 unit, or divided into severable parts. The board shall advertise for  
34 bids by three insertions in a daily newspaper of general circulation  
35 or by two insertions in a weekly newspaper of general circulation  
36 printed and published in the agency, inviting sealed proposals for  
37 the construction or performance of the improvement or work. The  
38 call for bids shall state whether the work shall be performed in one  
39 unit or divided into parts. The work may be let under a single  
40 contract or several contracts, as stated in such call. The board shall

1 require the successful bidders to file with the board good and  
2 sufficient bonds to be approved by the board conditioned upon the  
3 faithful performance of the contract and upon the payment of their  
4 claims for labor and material. The bonds shall comply with Chapter  
5 7 5 (commencing with Section ~~3247~~ 45010) of ~~Title 15 of Part 4~~  
6 6 of Division 3 of the Civil Code 2. The board may reject any and  
7 all bids.

8 (b) The board may have work done by force account without  
9 advertising for bids or by informal bidding procedures in any of  
10 the following situations:

11 (1) All proposals are rejected.

12 (2) No proposals are received.

13 (3) The estimated cost of the work does not exceed fifteen  
14 thousand dollars (\$15,000) until January 1, 1989. After January  
15 1, 1989, the estimated cost of the work shall not exceed ten  
16 thousand dollars (\$10,000).

17 (4) The work consists of channel protection.

18 (5) The work consists of maintenance work, except that informal  
19 bidding procedures may be used only where the estimated cost  
20 does not exceed twenty-five thousand dollars (\$25,000).

21 (6) The work consists of emergency work. In case of an  
22 emergency, if notice for bids to let contracts will not be given, the  
23 board shall comply with Chapter 2.5 (commencing with Section  
24 22050).

25 (c) The agency may purchase in the open market without  
26 advertising for bids, materials and supplies for use in any work,  
27 either under contract or by force account, except that, materials  
28 and supplies for use in any new construction work or improvement,  
29 except work referred to in subdivision (b), may not be purchased,  
30 if the cost exceeds fifteen thousand dollars (\$15,000), without  
31 advertising for bids and awarding the contract to the lowest  
32 responsible bidder.

33 (d) As used in this section, “informal bidding procedures” means  
34 that the board shall, at a minimum, award a contract to the lowest  
35 responsible bidder after publishing a notice which generally  
36 describes the work to be performed and invites written bids in a  
37 newspaper of general circulation in the agency once a week for  
38 two successive weeks. The board shall obtain a minimum of three  
39 written bids.

1 SEC. 96. Section 21511 of the Public Contract Code is amended  
2 to read:

3 21511. (a) All contracts for any improvement or unit of work,  
4 when the cost according to the estimate of the engineer will exceed  
5 fifty thousand dollars (\$50,000), shall be let to the lowest  
6 responsible bidder or bidders as provided in this article. The board  
7 shall first determine whether the contract shall be let as a single  
8 unit or divided into severable parts. The board shall advertise for  
9 bids by three insertions in a daily newspaper of general circulation  
10 or by two insertions in a weekly newspaper of general circulation  
11 printed and published in the agency, inviting sealed proposals for  
12 the construction or performance of the improvement or work. The  
13 call for bids shall state whether the work shall be performed in one  
14 unit or divided into parts. The work may be let under a single  
15 contract or several contracts, as stated in the call. The board shall  
16 require the successful bidders to file with the board good and  
17 sufficient bonds to be approved by the board conditioned upon the  
18 faithful performance of the contract and upon the payment of their  
19 claims for labor and material. The bonds shall comply with ~~Title~~  
20 ~~15 Part 6~~ (commencing with Section ~~3082~~) *41010* of ~~Part 4 of~~  
21 ~~Division 3 of the Civil Code~~ 2. The board may reject any and all  
22 bids.

23 (b) In the event all proposals are rejected or no proposals are  
24 received, or the estimated cost of the work does not exceed ten  
25 thousand dollars (\$10,000), or the work consists of channel  
26 protection, maintenance work, or emergency work, the board may  
27 have the work done by force account without advertising for bids.  
28 In case of an emergency, if notice for bids to let contracts will not  
29 be given, the board shall comply with Chapter 2.5 (commencing  
30 with Section 22050).

31 (c) The agency may purchase in the open market without  
32 advertising for bids, materials and supplies for use in any work,  
33 either under contract or by force account. However, materials and  
34 supplies for use in any new construction work or improvement,  
35 except work referred to in subdivision (b), may not be purchased,  
36 if the cost exceeds fifty thousand dollars (\$50,000), without  
37 advertising for bids and awarding the contract to the lowest  
38 responsible bidder.

39 SEC. 97. Section 21521 of the Public Contract Code is amended  
40 to read:

1 21521. All contracts for any improvement or unit of work,  
2 when the cost according to the estimate of the engineer will exceed  
3 five thousand dollars (\$5,000) shall be let to the lowest responsible  
4 bidder or bidders as provided in this article. The board shall first  
5 determine whether the contract shall be let as a single unit, or  
6 divided into severable parts. The board shall advertise for bids by  
7 three insertions in a daily newspaper of general circulation or by  
8 two insertions in a weekly newspaper of general circulation printed  
9 and published in the agency, inviting sealed proposals for the  
10 construction or performance of the improvement or work. The call  
11 for bids shall state whether the work shall be performed in one  
12 unit or divided into parts. The work may be let under a single  
13 contract or several contracts, as stated in the call. The board shall  
14 require the successful bidders to file with the board good and  
15 sufficient bonds to be approved by the board conditioned upon the  
16 faithful performance of the contract and upon the payment of their  
17 claims for labor and material. The bonds shall comply with ~~Title~~  
18 ~~15 Part 6~~ (commencing with Section ~~3082~~) ~~41010~~ of ~~Part 4~~ of  
19 ~~Division 3 of the Civil Code~~ 2. The board may reject any bid. In  
20 the event all proposals are rejected or no proposals are received,  
21 or the estimated cost of the work does not exceed five thousand  
22 dollars (\$5,000), or the work consists of channel protection,  
23 maintenance work, or emergency work, the board may have the  
24 work done by force account without advertising for bids. In case  
25 of an emergency, if notice for bids to let contracts will not be given,  
26 the board shall comply with Chapter 2.5 (commencing with Section  
27 22050). In that event a majority vote of all board members shall  
28 be required. The board may purchase in the open market without  
29 advertising for bids, materials and supplies for use in any work,  
30 either under contract or by force account.

31 SEC. 98. Section 21531 of the Public Contract Code is amended  
32 to read:

33 21531. (a) The Castaic Lake Water Agency shall have power  
34 to prescribe methods for the construction of works and for the  
35 letting of contracts for the construction of works, structures, or  
36 equipment, or the performance or furnishing of labor, materials,  
37 or supplies, necessary or convenient for carrying out any of the  
38 purposes of this act or for the acquisition or disposal of any real  
39 or personal property; provided, that all contracts for any  
40 improvement or unit of work, when the cost according to the

1 estimate of the engineer will exceed five thousand dollars (\$5,000),  
2 shall be let to the lowest responsible bidder or bidders as provided  
3 in this article. The board shall first determine whether the contract  
4 shall be let as a single unit or divided into severable parts. The  
5 board shall advertise for bids by three insertions in a daily  
6 newspaper of general circulation published in the agency or by  
7 two insertions in a nondaily newspaper of general circulation  
8 published in the agency or, if no newspaper is published in the  
9 agency, in any newspaper of general circulation distributed in the  
10 agency, inviting sealed proposals for the construction or  
11 performance of the improvement or work. The call for bids shall  
12 state whether the work shall be performed in one unit or divided  
13 into parts. The work may be let under a single contract or several  
14 contracts, as stated in the call. The board shall require the  
15 successful bidders to file with the board good and sufficient bonds  
16 to be approved by the board conditioned upon the faithful  
17 performance of the contract and upon the payment of their claims  
18 for labor and material. The bonds shall comply with ~~Title 15 Part~~  
19 ~~6 (commencing with Section 3082) 41010) of Part 4 of Division~~  
20 ~~3 of the Civil Code 2.~~ The board may reject any bid.

21 (b) In the event all proposals are rejected or no proposals are  
22 received, or the estimated cost of the work does not exceed five  
23 thousand dollars (\$5,000), or the work consists of channel  
24 protection, maintenance work, or emergency work, the board may  
25 have the work done by force account without advertising for bids.  
26 In case of an emergency, if notice for bids to let contracts will not  
27 be given. ~~The given, the~~ board shall comply with Chapter 2.5  
28 (commencing with Section 22050).

29 (c) The agency may purchase in the open market without  
30 advertising for bids, materials and supplies for use in any work,  
31 either under contract or by force account; provided, however, that  
32 materials and supplies for use in any new construction work or  
33 improvement, except work referred to in subdivision (b), may not  
34 be purchased if the cost exceeds five thousand dollars (\$5,000),  
35 without advertising for bids and awarding the contract to the lowest  
36 responsible bidder.

37 SEC. 99. Section 21541 of the Public Contract Code is amended  
38 to read:

39 21541. (a) The Crestline-Lake Arrowhead Water Agency shall  
40 have power to prescribe methods for the construction of works

1 and for the letting of contracts for the construction of works,  
2 structures, or equipment, or the performance or furnishing of labor,  
3 materials, or supplies, necessary or convenient for carrying out  
4 any of the purposes of this act or for the acquisition or disposal of  
5 any real or personal property. However, all contracts for the  
6 construction of any improvement or unit of work, when the cost,  
7 according to the estimate of the engineer, will exceed twenty-five  
8 thousand dollars (\$25,000), shall be let to the lowest responsible  
9 bidder or bidders as provided in this article. The board shall first  
10 determine whether the contract shall be let as a single unit or  
11 divided into severable parts. The board shall advertise for bids by  
12 three insertions in a daily newspaper of general circulation or by  
13 two insertions in a weekly newspaper of general circulation printed  
14 and published in the agency, inviting sealed proposals for the  
15 construction or performance of the improvement or work. The call  
16 for bids shall state whether the work shall be performed in one  
17 unit or divided into parts. The work may be let under a single  
18 contract or several contracts, as stated in the call.

19 The board shall require the successful bidders to file with the  
20 board good and sufficient bonds to be approved by the board  
21 conditioned upon the faithful performance of the contract and upon  
22 the payment of their claims for labor and material. The bonds shall  
23 comply with ~~Title 15 Part 6 (commencing with Section 3082)~~  
24 ~~41010) of Part 4 of Division 3 of the Civil Code 2.~~ The board may  
25 reject any bid.

26 (b) In the event all proposals are rejected or no proposals are  
27 received, or the estimated cost of the work does not exceed five  
28 thousand dollars (\$5,000), or the work consists of channel  
29 protection, maintenance work, or emergency work, the board may  
30 have the work done by force account without advertising for bids.  
31 In case of an emergency, if notice for bids to let contracts will not  
32 be given, the board shall comply with Chapter 2.5 (commencing  
33 with Section 22050).

34 (c) The agency may purchase in the open market without  
35 advertising for bids, materials and supplies for use in any work,  
36 either under contract or by force account. However, materials and  
37 supplies for use in any new construction work or improvement,  
38 except work referred to in subdivision (b), may not be purchased  
39 if the cost exceeds twenty-five thousand dollars (\$25,000), without



1 advertising for bids and awarding the contract to the lowest  
2 responsible bidder.

3 SEC. 100. Section 21572 of the Public Contract Code is  
4 amended to read:

5 21572. Any improvement or unit of work, except as provided  
6 in this article, estimated to cost in excess of five thousand dollars  
7 (\$5,000), shall be done by contract and let to the lowest responsible  
8 bidder in the manner provided in this article. The board of directors  
9 of the agency shall advertise by three insertions in a daily  
10 newspaper of general circulation or two insertions in a weekly  
11 newspaper of general circulation published in the agency, inviting  
12 sealed proposals for the construction of the work before any  
13 contract shall be made, and may let by contract separately any part  
14 of the work. The board shall require the successful bidder to file  
15 with the board good and sufficient bonds to be approved by the  
16 board, conditioned upon the faithful performance of the contract,  
17 and upon the payment of the claims for labor and material, the  
18 bonds to contain the terms and conditions set forth in ~~Title 15 Part~~  
19 ~~6 (commencing with Section 3082) 41010~~ of ~~Part 4~~ of Division  
20 ~~3 of the Civil Code 2~~, and to be subject to the provisions of that  
21 ~~title part~~. The board shall also have the right to reject any and all  
22 bids, and readvertise for new bids, or by a two-thirds vote may  
23 elect to undertake the work by force account. In the event no  
24 proposals are received pursuant to advertisement, or where the  
25 estimated cost of such work does not exceed five thousand dollars  
26 (\$5,000), the board of directors by unanimous vote of all members  
27 present may without advertising for bids have the work done by  
28 force account. In case of an emergency, if notice for bids to let  
29 contracts will not be given, the board shall comply with Chapter  
30 2.5 (commencing with Section 22050). The agency may purchase  
31 in the open market without advertisement for bids, materials and  
32 supplies for use in any work either under contract or by force  
33 account.

34 SEC. 101. Section 21581 of the Public Contract Code is  
35 amended to read:

36 21581. (a) Any improvement or unit of work when the cost  
37 according to the estimate of the engineer will exceed five thousand  
38 dollars (\$5,000), shall be done by contract and shall be let to the  
39 lowest responsible bidder or bidders in the manner provided in  
40 this article. The board shall first determine whether the contract

1 shall be let as a single unit or shall be divided into severable parts,  
2 or both, according to the best interests of the district. The board  
3 shall call for bids and advertise the call by three insertions in a  
4 daily newspaper of general circulation or by two insertions in a  
5 weekly newspaper of general circulation printed in the district  
6 inviting sealed proposals for the construction or performance of  
7 the improvement or work before any contract is made. The call  
8 for bids shall state whether the work is to be performed as a unit  
9 or shall be divided into severable specific parts, or both, as stated  
10 in the call. The board may let the work by single contract for the  
11 whole or it may divide the work into severable parts by separate  
12 contracts, as stated in the call, according to the best interests of  
13 the district. The board shall require the successful bidder or bidders  
14 to file with the board a good and sufficient bond to be approved  
15 by the board conditioned upon the payment of their claims for  
16 labor and material, the bond to contain the terms and conditions  
17 set forth in ~~Title 15 Part 6~~ (commencing with Section ~~3082~~ 41010)  
18 of ~~Part 4 of Division 3 of the Civil Code~~ 2 and to be subject to the  
19 provisions of that ~~title~~ *part*. The board shall also have the right to  
20 reject any and all bids and readvertise for new bids, or by a  
21 two-thirds vote may elect to undertake the work by force account.

22 (b) In the event no proposals are received pursuant to  
23 advertisement, or the estimated cost of the work does not exceed  
24 five thousand dollars (\$5,000), or the work consists of channel  
25 protection, maintenance work, or emergency work, the board of  
26 supervisors may, without advertising for bids, have the work done  
27 by employees of the district, by day labor, under the direction of  
28 the board, by contract, or by any combination of those methods.  
29 In case of an emergency, if notice for bids to let contracts will not  
30 be given, the board shall comply with Chapter 2.5 (commencing  
31 with Section 22050).

32 (c) The district may acquire in the open market without  
33 advertising for bids, materials, equipment, and supplies for use in  
34 any work or for any other purpose; provided, however, that  
35 materials and supplies for use in any new construction work or  
36 improvement, except work referred to in subdivision (b), may not  
37 be purchased if the cost exceeds five thousand dollars (\$5,000),  
38 without advertising for bids and awarding the contract to the lowest  
39 responsible bidder.

1 SEC. 102. Section 21591 of the Public Contract Code is  
2 amended to read:

3 21591. (a) Any improvement or unit of work, when the cost,  
4 according to the estimate of the engineer, will exceed twenty-five  
5 thousand dollars (\$25,000), shall be done by contract and shall be  
6 let to the lowest responsible bidder or bidders as provided in this  
7 article. The board shall first determine whether the contract shall  
8 be let as a single unit or divided into severable parts. The board  
9 shall advertise for bids by three insertions in a daily newspaper of  
10 general circulation or by two insertions in a weekly newspaper of  
11 general circulation printed and published in the agency, if there is  
12 a newspaper printed and published in the agency, inviting sealed  
13 proposals for the construction or performance of the improvement  
14 or work. The call for bids shall state whether the work shall be  
15 performed in one unit or divided into parts. The work may be let  
16 under a single contract or several contracts, as stated in the call.  
17 The board shall require the successful bidders to file with the board  
18 good and sufficient bonds to be approved by the board conditioned  
19 upon the faithful performance of the contract and upon the payment  
20 of their claims for labor and material. The bonds shall comply with  
21 ~~Title 15 Part 6~~ (commencing with Section ~~3082~~) *41010* of ~~Part~~  
22 ~~4 of Division 3 of the Civil Code~~ 2. The board may reject any and  
23 all bids and readvertise, or by a two-thirds vote may elect to  
24 undertake work by force account.

25 (b) If no proposals are received, or the estimated cost of the  
26 work does not exceed twenty-five thousand dollars (\$25,000), or  
27 the work consists of channel protection, maintenance work, or  
28 emergency work, the board may have the work done by force  
29 account without advertising for bids. In case of an emergency, if  
30 notice for bids to let contracts will not be given, the board shall  
31 comply with Chapter 2.5 (commencing with Section 22050).

32 (c) The agency may purchase in the open market without  
33 advertising for bids, materials and supplies for use in any work,  
34 either under contract or by force account; provided, however, that  
35 materials and supplies for use in any new construction work or  
36 improvement, except work referred to in subdivision (b), may not  
37 be purchased if the cost exceeds twenty-five thousand dollars  
38 (\$25,000), without advertising for bids and awarding the contract  
39 to the lowest responsible bidder.

1 SEC. 103. Section 21601 of the Public Contract Code is  
2 amended to read:

3 21601. Any improvement or unit of work, when the cost,  
4 according to the estimate of the engineer, will exceed five thousand  
5 dollars (\$5,000), shall be done by contract and let to the lowest  
6 responsible bidder or bidders as provided in this article. The board  
7 shall first determine whether the contract shall be let as a single  
8 unit or divided into severable parts. The board shall advertise for  
9 bids by three insertions in a daily newspaper of general circulation,  
10 or by two insertions in a weekly newspaper of general circulation,  
11 printed and published in the agency, inviting sealed proposals for  
12 the construction or performance of the improvement or work. The  
13 call for bids shall state whether the work shall be performed in one  
14 unit or divided into parts. The work may be let under a single  
15 contract or several contracts, as stated in the call. The board shall  
16 require the successful bidders to file with the board good and  
17 sufficient bonds to be approved by the board conditioned upon the  
18 faithful performance of the contract and upon payment of their  
19 claims for labor and material. The bonds shall comply with ~~Title~~  
20 ~~15 Part 6~~ (commencing with Section ~~3082~~) ~~41010~~ of ~~Part 4~~ of  
21 ~~Division 3 of the Civil Code~~ 2. The board may reject any and all  
22 bids and readvertise, or, by a two-thirds vote, may elect to  
23 undertake the work by force account. If no proposals are received,  
24 the estimated cost of the work does not exceed five thousand  
25 dollars (\$5,000), or the work consists of channel protection,  
26 maintenance work, or emergency work, the board of supervisors  
27 may have the work done by force account without advertising for  
28 bids. In case of an emergency, if notice for bids to let contracts  
29 will not be given, the board shall comply with Chapter 2.5  
30 (commencing with Section 22050). The district may purchase in  
31 the open market without advertising for bids, materials, and  
32 supplies for use in any work, either under contract or by force  
33 account.

34 SEC. 104. Section 21622 of the Public Contract Code is  
35 amended to read:

36 21622. The board shall require the successful bidder or bidders  
37 to file with the board, good and sufficient bonds, to be approved  
38 by the board conditioned upon the faithful performance of the  
39 contract and upon the payment of their claims for labor and  
40 material in connection therewith. Such contracts shall be subject

1 to the provisions of ~~Title 15 Part 6~~ (commencing with Section  
2 ~~3200) 41010~~) of ~~Part 4 of Division 3 of the Civil Code 2~~.

3 SEC. 105. Section 21631 of the Public Contract Code is  
4 amended to read:

5 21631. (a) Any improvement or unit of work when the cost,  
6 according to the estimate of the engineer, will exceed six thousand  
7 five hundred dollars (\$6,500), shall be done by contract and shall  
8 be let to the lowest responsible bidder or bidders in the manner  
9 provided in this article. The board shall first determine whether  
10 the contract shall be let as a single unit, or shall be divided into  
11 severable parts, or both, according to the best interests of the  
12 district. The board shall call for bids and advertise the call by three  
13 insertions in a daily newspaper of general circulation or by two  
14 insertions in a weekly newspaper of general circulation printed in  
15 the district inviting sealed proposals for the construction or  
16 performance of the improvement or work before any contract is  
17 made. The call for bids shall state whether the work is to be  
18 performed as a unit or shall be divided into severable parts, or  
19 both, as stated in the call. The board may let the work by single  
20 contract or it may divide the work into severable parts by separate  
21 contracts, as stated in the call, according to the best interests of  
22 the district. The board shall require the successful bidder or bidders  
23 to file with the board a good and sufficient bond, to be approved  
24 by the board, conditioned upon the payment of their claims for  
25 labor and material. The bond shall contain the terms and conditions  
26 set forth in ~~Title 15 Part 6~~ (commencing with Section ~~3082) 41010~~)  
27 of ~~Part 4 of Division 3 of the Civil Code 2~~ and be subject to the  
28 provisions of that ~~title part~~. The board may reject any and all bids  
29 and readvertise for new bids, or by a two-thirds vote may elect to  
30 undertake the work by force account.

31 (b) If no proposals are received pursuant to advertisement or  
32 the estimated cost of the work does not exceed six thousand five  
33 hundred dollars (\$6,500), or the work consists of channel  
34 protection, maintenance work, or emergency work, the board of  
35 supervisors may, without advertising for bids, have the work done  
36 by employees of the district, by day labor, under the direction of  
37 the board, by contract, or by a combination of those methods. In  
38 case of an emergency, if notice for bids to let contracts will not be  
39 given, the board shall comply with Chapter 2.5 (commencing with  
40 Section 22050).

1 (c) The district may acquire in the open market, without  
 2 advertising for bids, materials, equipment, and supplies for use in  
 3 any work or for any other purpose; provided, however, that  
 4 materials and supplies for use in any new construction work or  
 5 improvement, except that work referred to in subdivision (b), may  
 6 not be purchased if the cost exceeds six thousand five hundred  
 7 dollars (\$6,500), without advertising for bids and awarding the  
 8 contract to the lowest responsible bidder.

9 SEC. 106. Part 6 (commencing with Section 41010) is added  
 10 to Division 2 of the Public Contract Code, to read:

11  
 12 PART 6. PUBLIC WORKS CONTRACT REMEDIES

13  
 14 CHAPTER 1. DEFINITIONS

15  
 16 41010. Unless the provision or context otherwise requires, the  
 17 definitions in this chapter govern the construction of this part.

18 41020. “Claimant” means a person that has a right under this  
 19 part to give a stop payment notice or assert a claim against a  
 20 payment bond.

21 41030. “Design professional” means a person licensed as an  
 22 architect pursuant to Chapter 3 (commencing with Section 5500)  
 23 of Division 3 of the Business and Professions Code, registered as  
 24 a professional engineer pursuant to Chapter 7 (commencing with  
 25 Section 6700) of Division 3 of the Business and Professions Code,  
 26 or licensed as a land surveyor pursuant to Chapter 15 (commencing  
 27 with Section 8700) of Division 3 of the Business and Professions  
 28 Code.

29 41040. “Direct contractor” means a contractor that has a direct  
 30 contractual relationship with a public entity. With respect to the  
 31 amount due or to become due to a direct contractor, the term  
 32 includes the direct contractor’s assignee.

33 41050. “Funds” means warrant, check, money, or bonds (if  
 34 bonds are to be issued in payment of the public works contract).

35 41060. “Labor, service, equipment, or material” includes, but  
 36 is not limited to, labor, skills, services, material, supplies,  
 37 equipment, appliances, power, and surveying, provided pursuant  
 38 to a public works contract.

1 41070. (a) “Laborer” means a person who, acting as an  
2 employee, performs labor, or bestows skill or other necessary  
3 services, pursuant to a public works contract.

4 (b) “Laborer” includes a person or entity to which a portion of  
5 a laborer’s compensation for a public works contract, including,  
6 but not limited to, employer payments described in Section 1773.1  
7 of the Labor Code and implementing regulations, is paid by  
8 agreement with that laborer or the collective bargaining agent of  
9 that laborer.

10 (c) A person or entity described in subdivision (b) that has  
11 standing under applicable law to maintain a direct legal action, in  
12 its own name or as an assignee, to collect any portion of  
13 compensation owed for a laborer for work pursuant to a public  
14 works contract, shall have standing to enforce any rights or claims  
15 of the laborer under this part, to the extent of the compensation  
16 agreed to be paid to the person or entity for that work. This  
17 subdivision is intended to give effect to the long-standing public  
18 policy of this state to protect the entire compensation of a laborer,  
19 regardless of the form in which that compensation is to be paid.

20 41080. “Payment bond” means a payment bond required by  
21 Section 45010.

22 41090. “Person” means an individual, corporation, public  
23 entity, business trust, estate, trust, partnership, limited liability  
24 company, association, or other entity.

25 41100. “Preliminary notice” means the notice provided for in  
26 Chapter 3 (commencing with Section 43010).

27 41110. (a) “Public entity” has the meaning provided in Section  
28 1100 and includes all of the following:

29 (1) The Regents of the University of California.

30 (2) An officer authorized to act for a public entity.

31 (b) A reference in this part to a public entity means the public  
32 entity that awarded the public works contract.

33 41120. “Public works contract” has the meaning provided in  
34 Section 1101.

35 41130. “Site” means the property on which a public works  
36 contract is performed or is to be performed.

37 41140. “Stop payment notice” means a notice given under  
38 Chapter 4 (commencing with Section 44110).

39 41150. “Subcontractor” means a contractor that does not have  
40 a direct contractual relationship with a public entity. The term

1 includes a contractor who has a contractual relationship with a  
2 direct contractor or with another subcontractor.

3 41160. “Work” means labor, service, equipment, or material  
4 provided pursuant to a public works contract.

5 41170. (a) “Work of improvement” includes, but is not limited  
6 to:

7 (1) Construction, alteration, repair, demolition, or removal, in  
8 whole or in part, of, or addition to, a building, wharf, bridge, ditch,  
9 flume, aqueduct, well, tunnel, fence, machinery, railroad, or road.

10 (2) Seeding, sodding, or planting of property for landscaping  
11 purposes.

12 (3) Filling, leveling, or grading of property.

13 (b) Except as otherwise provided in this part, “work of  
14 improvement” means the entire structure or scheme of  
15 improvement as a whole, and includes site improvement.

16  
17 CHAPTER 2. GENERAL PROVISIONS

18  
19 Article 1. Miscellaneous Provisions

20  
21 42005. (a) This part is operative on January 1, 2011.

22 (b) Except as otherwise provided in this section, this part applies  
23 to a public works contract executed before, on, or after the  
24 operative date.

25 (c) The effectiveness of a notice given or other action taken on  
26 a public works contract before the operative date is governed by  
27 the applicable law in effect before the operative date and not by  
28 this part.

29 (d) A provision of this part, insofar as it is substantially the same  
30 as a previously existing provision relating to the same subject  
31 matter, shall be construed as a restatement and continuation thereof  
32 and not as a new enactment.

33 42010. (a) This part applies to a public works contract awarded  
34 by a public entity.

35 (b) This part does not apply to a transaction governed by  
36 Sections 20457 to 20464, inclusive.

37 42020. (a) This part does not apply to or change improvement  
38 security under the Subdivision Map Act, Division 2 (commencing  
39 with Section 66410) of Title 7 of the Government Code.



1 (b) The Bond and Undertaking Law, Chapter 2 (commencing  
2 with Section 995.010) of Title 14 of Part 2 of the Code of Civil  
3 Procedure, applies to a bond given under this part, except to the  
4 extent this part prescribes a different rule or is inconsistent.

5 42030. (a) Except as provided in subdivision (b), any of the  
6 following persons that have not been paid in full may give a stop  
7 payment notice to the public entity or assert a claim against a  
8 payment bond:

9 (1) A person that provides work for a public works contract, if  
10 the work is authorized by a direct contractor, subcontractor,  
11 architect, project manager, or other person having charge of all or  
12 part of the public works contract.

13 (2) A laborer.

14 (3) A person described in Section 4107.7.

15 (b) A direct contractor may not give a stop payment notice or  
16 assert a claim against a payment bond under this part.

17 42040. Except as otherwise provided in this part, Part 2  
18 (commencing with Section 307) of the Code of Civil Procedure  
19 provides the rules of practice in proceedings under this part.

20 42050. For purposes of this part, the term “day” means a  
21 calendar day.

22 42060. An act that may be done by or to a person under this  
23 part may be done by or to the person’s agent to the extent the act  
24 is within the scope of the agent’s authority.

25 42070. None of the following releases a surety from liability  
26 on a bond given under this part:

27 (a) A change to a contract, plan, specification, or agreement for  
28 a public works contract or for work provided for a public works  
29 contract.

30 (b) A change to the terms of payment or an extension of the  
31 time for payment for a public works contract.

32 (c) A rescission or attempted rescission of a contract, agreement,  
33 or bond.

34 (d) A condition precedent or subsequent in the bond purporting  
35 to limit the right of recovery of a claimant otherwise entitled to  
36 recover pursuant to a contract, agreement, or bond.

37 (e) In the case of a bond given for the benefit of claimants, the  
38 fraud of a person other than the claimant seeking to recover on the  
39 bond.

Article 2. Notice

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42110. (a) Notice under this part shall be in writing. Writing includes printing and typewriting.

(b) Written notice under this part may be given by electronic communication to the extent authorized under Section 42170.

42120. (a) Notice under this part shall, in addition to any other information required by statute for that type of notice, include all of the following information to the extent known to the person giving the notice:

- (1) The name and address of the public entity.
- (2) The name and address of the direct contractor.
- (3) A description of the site sufficient for identification, including the street address of the site, if any. If a sufficient legal description of the site is given, the effectiveness of the notice is not affected by the fact that the street address is erroneous or is omitted.
- (4) The name, address, and relationship to the parties of the person giving the notice.
- (5) If the person giving the notice is a claimant:
  - (A) A general statement of the labor, service, equipment, or material provided or to be provided by the claimant.
  - (B) The name of the person that contracted for the labor, service, equipment, or material provided or to be provided.
  - (C) A statement or estimate of the claimant’s demand, if any, after deducting all just credits and offsets.

(b) Notice is not invalid by reason of any variance from the requirements of this section if the notice is sufficient to substantially inform the person given notice of the information required by this section and other information required in the notice.

42130. (a) A direct contractor or subcontractor that employs a laborer and fails to pay the full compensation due the laborer, including any employer payments described in Section 1773.1 of the Labor Code and implementing regulations, shall not later than the date the compensation became delinquent, give the laborer, the laborer’s bargaining representative, if any, and the public entity, notice that includes all of the following information, in addition to the information specified in Section 42120:

1 (1) The name and address of the laborer, and of any person or  
2 entity described in subdivision (b) of Section 41070 to which  
3 employer payments are due.

4 (2) The total number of straight time and overtime hours worked  
5 by the laborer on each job.

6 (3) The amount then past due and owing.

7 (b) Failure to give the notice required by subdivision (a)  
8 constitutes grounds for disciplinary action under the Contractors'  
9 State License Law, Chapter 9 (commencing with Section 7000)  
10 of Division 3 of the Business and Professions Code.

11 42140. Except as otherwise provided by statute, notice under  
12 this part shall be given by any of the following means:

13 (a) Personal delivery.

14 (b) Mail in the manner provided in Section 42160.

15 (c) Leaving the notice and mailing a copy in the manner  
16 provided in Section 415.20 of the Code of Civil Procedure for  
17 service of summons and complaint in a civil action.

18 42150. Except as otherwise provided under this part, notice  
19 under this part shall be given to the person to be notified at the  
20 following addresses:

21 (a) If the person to be notified is the public entity, at the office  
22 of the public entity or at another address specified by the public  
23 entity in the contract or elsewhere for service of notices, papers,  
24 and other documents.

25 (b) If the person to be notified is a direct contractor or a  
26 subcontractor, at the contractor's residence or place of business,  
27 or at the contractor's address shown on the building permit, on the  
28 contractor's contract, or on the records of the Contractors' State  
29 License Board.

30 (c) If the person to be notified is a claimant, at the claimant's  
31 residence or place of business, or at the claimant's address shown  
32 on the claimant's contract, preliminary notice, stop payment notice,  
33 or claim against a payment bond, or on the records of the  
34 Contractors' State License Board.

35 (d) If the person to be notified is the surety on a bond, at the  
36 surety's residence or place of business, or at the surety's address  
37 shown on the bond for service of notices, papers, and other  
38 documents, or on the records of the Department of Insurance.

1 42160. Notice given by mail under this part shall be given by  
2 registered or certified mail, express mail, or overnight delivery by  
3 an express service carrier.

4 42170. (a) As used in this section, “electronic record” has the  
5 meaning provided in Section 1633.2 of the Civil Code.

6 (b) A notice under this part may be given to a person in the form  
7 of an electronic record if the person has agreed in writing to receive  
8 the notice in the form of an electronic record.

9 (c) If a person that has agreed to receive a notice in the form of  
10 an electronic record is a consumer within the meaning of Section  
11 7006 of Title 15 of the United States Code, the person’s agreement  
12 shall satisfy the requirements of Section 7001 of Title 15 of the  
13 United States Code relating to consumer consent to an electronic  
14 record.

15 42180. Notice under this part is complete and deemed to have  
16 been given at the following times:

17 (a) If given by personal delivery, when delivered.

18 (b) If given by mail, when deposited in the mail or with an  
19 express service carrier in the manner provided in Section 1013 of  
20 the Code of Civil Procedure.

21 (c) If given by leaving the notice and mailing a copy in the  
22 manner provided in Section 415.20 of the Code of Civil Procedure  
23 for service of summons in a civil action, five days after mailing.

24 (d) If given in the form of an electronic record, when the  
25 electronic record is transmitted.

26 42190. (a) Proof that notice was given to a person in the  
27 manner required by this part shall be made by a proof of notice  
28 declaration that states all of the following:

29 (1) The type or description of the notice given.

30 (2) The date, place, and manner of notice and facts showing  
31 that notice was given in the manner required by statute.

32 (3) The name and address of the person to which notice was  
33 given, and, if appropriate, the title or capacity in which the person  
34 was given notice.

35 (b) If the notice is given by mail, the declaration shall be  
36 accompanied by one of the following:

37 (1) Documentation provided by the United States Postal Service  
38 showing that payment was made to mail the notice using registered  
39 or certified mail, or express mail.

1 (2) Documentation provided by an express service carrier  
2 showing that payment was made to send the notice using an  
3 overnight delivery service.

4 (3) A return receipt, delivery confirmation, signature  
5 confirmation, or other proof of delivery or attempted delivery  
6 provided by the United States Postal Service, or a photocopy of  
7 the record of delivery and receipt maintained by the United States  
8 Postal Service, showing the date of delivery and to whom delivered,  
9 or in the event of nondelivery, by the returned envelope itself.

10 (4) A tracking record or other documentation provided by an  
11 express service carrier showing delivery or attempted delivery of  
12 the notice.

13 (c) If notice is given in the form of an electronic record, the  
14 declaration shall also state that the document was served  
15 electronically and that no notice of nontransmission was received,  
16 and shall be accompanied by the recipient's written agreement to  
17 receive the notice in the form of an electronic record.

18  
19 Article 3. Completion

20  
21 42210. For the purpose of this part, completion of a work of  
22 improvement occurs at the earliest of the following times:

23 (a) Acceptance of the work of improvement by the public entity.

24 (b) Cessation of labor on the work of improvement for a  
25 continuous period of 60 days. This subdivision does not apply to  
26 a contract awarded under the State Contract Act, Part 2  
27 (commencing with Section 10100).

28 42220. (a) A public entity may record a notice of cessation if  
29 there has been a continuous cessation of labor for at least 30 days  
30 prior to the recordation that continues through the date of the  
31 recordation.

32 (b) The notice shall be signed and verified by the public entity  
33 or its agent.

34 (c) The notice shall comply with the requirements of Article 2  
35 (commencing with Section 42110), and shall also include all of  
36 the following information:

37 (1) The date on or about which the labor ceased.

38 (2) A statement that the cessation has continued until the  
39 recordation of the notice.

1 42230. (a) A public entity may record a notice of completion  
2 on or within 15 days after the date of completion of a work of  
3 improvement.

4 (b) The notice shall be signed and verified by the public entity  
5 or its agent.

6 (c) The notice shall comply with the requirements of Article 2  
7 (commencing with Section 42110), and shall also include all of  
8 the following information:

9 (1) The date of completion. An erroneous statement of the date  
10 of completion does not affect the effectiveness of the notice if the  
11 true date of completion is 15 days or less before the date of  
12 recordation of the notice.

13 (2) If the notice is given only of completion of a contract with  
14 the public entity for a portion of the work of improvement as  
15 provided in Section 42240, the name of the direct contractor under  
16 that contract and a general statement of the work provided pursuant  
17 to the contract.

18 42240. (a) If a work of improvement is made pursuant to two  
19 or more contracts with a public entity, each covering a portion of  
20 the work of improvement, the public entity may record a notice  
21 of completion of a contract with the public entity for a portion of  
22 the work of improvement.

23 (b) The recordation of a notice of completion of a contract under  
24 this section governs only work provided pursuant to that contract.

25 42250. (a) A notice of cessation or completion is recorded  
26 when filed for record in the office of the county recorder of the  
27 county in which the public works contract or part of it is performed.  
28 A notice in otherwise proper form containing the information  
29 required by Section 42220 or 42230 shall be accepted by the  
30 recorder for recording and is deemed duly recorded without  
31 acknowledgment.

32 (b) The county recorder shall number, index, and preserve a  
33 notice of cessation or completion presented for filing under this  
34 part, and shall number, index, and transcribe into the official  
35 records, in the same manner as a conveyance of real property, a  
36 notice of completion or cessation recorded under this part.

37 (c) The county recorder shall charge and collect the fees  
38 provided in Article 5 (commencing with Section 27460) of Chapter  
39 6 of Part 3 of Division 2 of Title 3 of the Government Code for  
40 performing duties under this section.

Article 4. Waiver and Release

1  
2  
3 42310. (a) A public entity or direct contractor may not, by  
4 contract or otherwise, waive, affect, or impair a claimant's rights  
5 under this part, whether with or without notice, except with the  
6 claimant's written consent, and any term of a contract that purports  
7 to do so is void and unenforceable.

8 (b) A claimant's written consent is void and unenforceable  
9 unless and until the claimant executes and delivers a waiver and  
10 release under this article.

11 42320. A claimant's waiver and release does not release the  
12 public entity or surety on a payment bond from a claim unless both  
13 of the following conditions are satisfied:

14 (a) The waiver and release is in substantially the form provided  
15 in this article and is signed by the claimant.

16 (b) If the release is a conditional release, there is evidence of  
17 payment to the claimant. Evidence of payment may be either of  
18 the following:

19 (1) The claimant's endorsement on a single or joint payee check  
20 that has been paid by the financial institution on which it was  
21 drawn.

22 (2) Written acknowledgment of payment by the claimant.

23 42330. An oral or written statement purporting to waive,  
24 release, impair, or otherwise adversely affect a claim is void and  
25 unenforceable and does not create an estoppel or impairment of  
26 the claim unless either of the following conditions is satisfied:

27 (a) The statement is pursuant to a waiver and release under this  
28 article.

29 (b) The claimant has actually received payment in full for the  
30 claim.

31 42340. (a) A claimant may reduce the amount of, or release  
32 in its entirety, a stop payment notice. The reduction or release shall  
33 comply with Article 2 (commencing with Section 42100). The  
34 reduction or release may be given in a form other than a waiver  
35 and release form provided in this article.

36 (b) The writing shall identify whether it is a reduction of the  
37 amount of the stop payment notice, or a release of the notice in its  
38 entirety. If the writing is a reduction, it shall state the amount of  
39 the reduction, and the amount to remain withheld after the  
40 reduction.

1 (c) A claimant’s reduction or release of a stop payment notice  
2 has the following effect:

3 (1) The reduction or release releases the claimant’s right to  
4 enforce payment of the claim stated in the notice to the extent of  
5 the reduction or release.

6 (2) The reduction or release releases the public entity from the  
7 obligation to withhold funds pursuant to the notice to the extent  
8 of the reduction or release.

9 (3) The reduction or release does not preclude the claimant from  
10 giving a subsequent stop payment notice that is timely and proper.

11 (4) The reduction or release does not release any right of the  
12 claimant other than the right to enforce payment of the claim stated  
13 in the stop payment notice to the extent of the reduction or release.

14 42350. This article does not affect the enforceability of either  
15 an accord and satisfaction concerning a good faith dispute or an  
16 agreement made in settlement of an action pending in court if the  
17 accord and satisfaction or agreement and settlement make specific  
18 reference to the claim.

19 42360. If a claimant is required to execute a waiver and release  
20 in exchange for, or in order to induce payment of, a progress  
21 payment and the claimant is not, in fact, paid in exchange for the  
22 waiver and release or a single payee check or joint payee check is  
23 given in exchange for the waiver and release, the waiver and release  
24 shall be in substantially the following form:

25

26 Conditional Waiver and Release on Progress Payment

27

28 NOTICE: This document waives certain rights of the claimant effective on  
29 receipt of payment. A person should not rely on this document unless satisfied  
30 that the claimant has received payment.

31

32 Identifying Information

33 Name of Claimant: \_\_\_\_\_

34 Name of Customer: \_\_\_\_\_

35 Job Location: \_\_\_\_\_

36 Public Entity: \_\_\_\_\_

37 Through Date: \_\_\_\_\_

38

39 Conditional Waiver and Release



1 This document waives and releases stop payment notice and payment bond  
 2 rights the claimant has for labor and service provided, and equipment and  
 3 material delivered, to the customer on this job through the Through Date of  
 4 this document. This document is effective only on the claimant's receipt of  
 5 payment from the financial institution on which the following check is drawn:  
 6 Maker of Check: \_\_\_\_\_  
 7 Amount of Check: \$ \_\_\_\_\_  
 8 Check Payable to: \_\_\_\_\_  
 9

10 Exceptions

11 This document does not affect any of the following:

- 12 (1) Retentions.
- 13 (2) Extras for which the claimant has not received payment.
- 14 (3) The following progress payments for which the claimant has previously  
 15 given a conditional waiver and release but has not received payment:  
 16 Date(s) of waiver and release: \_\_\_\_\_  
 17 Amount(s) of unpaid progress payment(s): \$ \_\_\_\_\_
- 18 (4) Contract rights, including (A) a right based on rescission, abandonment,  
 19 or breach of contract, and (B) the right to recover compensation for work not  
 20 compensated by the payment.

21 Signature

22  
 23 Claimant's Signature: \_\_\_\_\_  
 24 Claimant's Title: \_\_\_\_\_  
 25 Date of Signature: \_\_\_\_\_  
 26

27 42370. If the claimant is required to execute a waiver and  
 28 release in exchange for, or in order to induce payment of, a progress  
 29 payment and the claimant asserts in the waiver it has, in fact, been  
 30 paid the progress payment, the waiver and release shall be in  
 31 substantially the following form, with the text of the "Notice to  
 32 Claimant" in at least as large a type as the largest type otherwise  
 33 in the form:

34  
35 Unconditional Waiver and Release on Progress Payment

36  
 37 NOTICE TO CLAIMANT: This document waives and releases rights  
 38 unconditionally and states that you have been paid for giving up those rights.  
 39 This document is enforceable against you if you sign it, even if you have not

1 been paid. If you have not been paid, use a conditional waiver and release  
2 form.

3  
4 Identifying Information

5 Name of Claimant: \_\_\_\_\_

6 Name of Customer: \_\_\_\_\_

7 Job Location: \_\_\_\_\_

8 Public Entity: \_\_\_\_\_

9 Through Date: \_\_\_\_\_

10  
11 Unconditional Waiver and Release

12 This document waives and releases stop payment notice and payment bond  
13 rights the claimant has for labor and service provided, and equipment and  
14 material delivered, to the customer on this job through the Through Date of  
15 this document.

16 The claimant has received the following progress payment:

17 \$ \_\_\_\_\_

18  
19 Exceptions

20 This document does not affect any of the following:

21 (1) Retentions.

22 (2) Extras for which the claimant has not received payment.

23 (3) Contract rights, including (A) a right based on rescission, abandonment,  
24 or breach of contract, and (B) the right to recover compensation for work not  
25 compensated by the payment.

26  
27 Signature

28 Claimant's Signature: \_\_\_\_\_

29 Claimant's Title: \_\_\_\_\_

30 Date of Signature: \_\_\_\_\_

31  
32 42380. If the claimant is required to execute a waiver and  
33 release in exchange for, or in order to induce payment of, a final  
34 payment and the claimant is not, in fact, paid in exchange for the  
35 waiver and release or a single payee check or joint payee check is  
36 given in exchange for the waiver and release, the waiver and release  
37 shall be in substantially the following form:

38  
39 Conditional Waiver and Release on Final Payment  
40

1 NOTICE: This document waives certain rights of the claimant effective on  
2 receipt of payment. A person should not rely on this document unless satisfied  
3 that the claimant has received payment.

4

5 Identifying Information

6 Name of Claimant: \_\_\_\_\_

7 Name of Customer: \_\_\_\_\_

8 Job Location: \_\_\_\_\_

9 Public Entity: \_\_\_\_\_

10

11 Conditional Waiver and Release

12 This document waives and releases stop payment notice and payment bond  
13 rights the claimant has for all labor and service provided, and equipment and  
14 material delivered, to the customer on this job. This document is effective only  
15 on the claimant’s receipt of payment from the financial institution on which  
16 the following check is drawn:

17 Maker of Check: \_\_\_\_\_

18 Amount of Check: \$ \_\_\_\_\_

19 Check Payable to: \_\_\_\_\_

20

21 Exceptions

22 This document does not affect any of the following:

23 (1) Disputed claims for extras in the amount of: \$ \_\_\_\_\_

24 (2) The following progress payments for which the claimant has previously  
25 given a conditional waiver and release but has not received payment:

26 Date(s) of waiver and release: \_\_\_\_\_

27 Amount(s) of unpaid progress payment(s): \_\_\_\_\_

28

29 Signature

30 Claimant’s Signature: \_\_\_\_\_

31 Claimant’s Title: \_\_\_\_\_

32 Date of Signature: \_\_\_\_\_

33

34 42390. If the claimant is required to execute a waiver and  
35 release in exchange for, or in order to induce payment of, a final  
36 payment and the claimant asserts in the waiver that he or she has,  
37 in fact, been paid the final payment, the waiver and release shall  
38 be in substantially the following form, with the text of the “Notice  
39 to Claimant” in at least as large a type as the largest type otherwise  
40 in the form:

1 Unconditional Waiver and Release on Final Payment

2  
3 NOTICE TO CLAIMANT: This document waives and releases rights  
4 unconditionally and states that you have been paid for giving up those rights.  
5 This document is enforceable against you if you sign it, even if you have not  
6 been paid. If you have not been paid, use a conditional waiver and release  
7 form.

8  
9 Identifying Information

10 Name of Claimant: \_\_\_\_\_  
11 Name of Customer: \_\_\_\_\_  
12 Job Location: \_\_\_\_\_  
13 Public Entity: \_\_\_\_\_

14  
15 Unconditional Waiver and Release

16 This document waives and releases stop payment notice and payment bond  
17 rights the claimant has for all labor and service provided, and equipment and  
18 material delivered, to the customer on this job. The claimant has been paid in  
19 full.

20  
21 Exception

22 This document does not affect the following:  
23 Disputed claims for extras in the amount of: \$ \_\_\_\_\_

24  
25 Signature

26 Claimant's Signature: \_\_\_\_\_  
27 Claimant's Title: \_\_\_\_\_  
28 Date of Signature: \_\_\_\_\_

29  
30 CHAPTER 3. PRELIMINARY NOTICE

31  
32 43010. (a) Except as otherwise provided by statute, before  
33 giving a stop payment notice or asserting a claim against a payment  
34 bond, a claimant shall give preliminary notice to the following  
35 persons:

- 36 (1) The public entity.
- 37 (2) The direct contractor to which the claimant provides work.
- 38 (b) Notwithstanding subdivision (a):
- 39 (1) A laborer is not required to give preliminary notice.

1 (2) A claimant that has a direct contractual relationship with a  
2 direct contractor is not required to give preliminary notice.

3 (c) Compliance with this section is a necessary prerequisite to  
4 the validity of a stop payment notice under this part.

5 (d) Compliance with this section or with Section 45070 is a  
6 necessary prerequisite to the validity of a claim against a payment  
7 bond under this part.

8 43040. (a) Except as provided in subdivision (b), preliminary  
9 notice shall be given in compliance with the requirements of Article  
10 2 (commencing with Section 42110) of Chapter 2.

11 (b) If the public works contract is for work constructed by the  
12 Department of Public Works or the Department of General Services  
13 of the state, preliminary notice to the public entity shall be given  
14 to the disbursing officer of the department constructing the work.

15 43050. A claimant may give a stop payment notice or assert a  
16 claim against a payment bond only for work provided within 20  
17 days before giving preliminary notice and at any time thereafter.

18 43060. If the contract of any subcontractor on a particular work  
19 of improvement provides for payment to the subcontractor of more  
20 than four hundred dollars (\$400), the failure of that subcontractor,  
21 licensed under the Contractors' State License Law (Chapter 9  
22 (commencing with Section 7000) of Division 3 of the Business  
23 and Professions Code), to give the notice provided for in this  
24 chapter, constitutes grounds for disciplinary action under the  
25 Contractors' State License Law.

26  
27 CHAPTER 4. STOP PAYMENT NOTICE

28  
29 Article 1. General Provisions

30  
31 44110. The rights of all persons furnishing work pursuant to  
32 a public works contract, with respect to any fund for payment of  
33 construction costs, are governed exclusively by this chapter, and  
34 no person may assert any legal or equitable right with respect to  
35 that fund, other than a right created by direct written contract  
36 between the person and the person holding the fund, except  
37 pursuant to the provisions of this chapter.

38 44120. (a) A stop payment notice shall comply with the  
39 requirements of Section 42120, and shall be signed and verified  
40 by the claimant.

1 (b) The notice shall include a general description of work to be  
2 provided, and an estimate of the total amount in value of the work  
3 to be provided.

4 (c) The amount claimed in the notice may include only the  
5 amount due the claimant for work provided through the date of  
6 the notice.

7 44130. (a) Except as provided in subdivision (b), a stop  
8 payment notice shall be given in compliance with the requirements  
9 of Article 2 (commencing with Section 42110) of Chapter 2.

10 (b) A stop payment notice shall be given to the public entity by  
11 giving the notice to the following person:

12 (1) In the case of a public works contract of the state, the director  
13 of the department that awarded the contract.

14 (2) In the case of a public works contract of a public entity other  
15 than the state, the office of the controller, auditor, or other public  
16 disbursing officer whose duty it is to make payment pursuant to  
17 the contract, or the commissioners, managers, trustees, officers,  
18 board of supervisors, board of trustees, common council, or other  
19 body by which the contract was awarded.

20 44140. A stop payment notice is not effective unless given  
21 before the earlier of the following times:

22 (a) Ninety days after cessation or completion.

23 (b) Thirty days after recordation of a notice of cessation or  
24 completion.

25 44150. (a) The public entity shall, on receipt of a stop payment  
26 notice, withhold from the direct contractor sufficient funds due or  
27 to become due to the direct contractor to pay the claim stated in  
28 the stop payment notice and to provide for the public entity's  
29 reasonable cost of any litigation pursuant to the stop payment  
30 notice.

31 (b) The public entity may satisfy its duty under this section by  
32 refusing to release funds held in escrow under Section 10263 or  
33 22300.

34 44160. (a) This chapter does not prohibit payment of funds to  
35 a direct contractor if a stop payment notice is not received before  
36 the disbursing officer actually surrenders possession of the funds.

37 (b) This chapter does not prohibit payment of any amount due  
38 to a direct contractor in excess of the amount necessary to pay the  
39 total amount of all claims stated in stop payment notices received  
40 by the public entity at the time of payment plus any interest and

1 court costs that might reasonably be anticipated in connection with  
2 the claims.

3 44170. (a) Not later than 10 days after each of the following  
4 events, the public entity shall give notice to a claimant that has  
5 given a stop payment notice of the time within which an action to  
6 enforce payment of the claim stated in the stop payment notice  
7 must be commenced:

8 (1) Completion of a public works contract, whether by  
9 acceptance or cessation.

10 (2) Recordation of a notice of cessation or completion.

11 (b) The notice shall comply with the requirements of Article 2  
12 (commencing with Section 42110) of Chapter 2.

13 (c) A public entity need not give notice under this section unless  
14 the claimant has paid the public entity ten dollars (\$10) at the time  
15 of giving the stop payment notice.

16 44180. (a) A public entity may, in its discretion, permit the  
17 direct contractor to give the public entity a release bond. The bond  
18 shall be executed by an admitted surety insurer, in an amount equal  
19 to 125 percent of the claim stated in the stop payment notice,  
20 conditioned for the payment of any amount the claimant recovers  
21 in an action on the claim, together with court costs if the claimant  
22 prevails.

23 (b) On receipt of a release bond, the public entity shall not  
24 withhold funds from the direct contractor pursuant to the stop  
25 payment notice.

26 (c) The surety on a release bond is jointly and severally liable  
27 to the claimant with the sureties on any payment bond given under  
28 Chapter 5 (commencing with Section 45010).

29

30 Article 2. Summary Proceeding for Release of Funds

31

32 44210. A direct contractor may obtain release of funds withheld  
33 pursuant to a stop payment notice under the summary proceeding  
34 provided in this article on any of the following grounds:

35 (a) The claim on which the notice is based is not a type for  
36 which a stop payment notice is authorized under this chapter.

37 (b) The claimant is not a person authorized under Section 42030  
38 to give a stop payment notice.

39 (c) The amount of the claim stated in the stop payment notice  
40 is excessive.

1 (d) There is no basis for the claim stated in the stop payment  
2 notice.

3 44220. The direct contractor shall serve on the public entity  
4 an affidavit, together with a copy of the affidavit, in compliance  
5 with the requirements of Article 2 (commencing with Section  
6 42110) of Chapter 2, that includes all of the following information:

7 (a) An allegation of the grounds for release of the funds and a  
8 statement of the facts supporting the allegation.

9 (b) A demand for the release of all or the portion of the funds  
10 that are alleged to be withheld improperly or in an excessive  
11 amount.

12 (c) A statement of the address of the contractor within the state  
13 for the purpose of permitting service by mail on the contractor of  
14 any notice or document.

15 44230. The public entity shall serve on the claimant a copy of  
16 the direct contractor's affidavit, together with a notice stating that  
17 the public entity will release the funds withheld, or the portion of  
18 the funds demanded, unless the claimant serves on the public entity  
19 a counteraffidavit on or before the time stated in the notice. The  
20 time stated in the notice shall be not less than 10 days nor more  
21 than 20 days after service on the claimant of the copy of the  
22 affidavit. The notice shall comply with the requirements of Article  
23 2 (commencing with Section 42110) of Chapter 2.

24 44240. (a) A claimant that contests the direct contractor's  
25 affidavit shall serve on the public entity a counteraffidavit alleging  
26 the details of the claim and describing the specific basis on which  
27 the claimant contests or rebuts the allegations of the contractor's  
28 affidavit. The counteraffidavit shall be served within the time stated  
29 in the public entity's notice, together with proof of service of a  
30 copy of the counteraffidavit on the direct contractor. The service  
31 of the counteraffidavit on the public entity and the copy of the  
32 affidavit on the direct contractor shall comply with the  
33 requirements of Article 2 (commencing with Section 42110).

34 (b) If no counteraffidavit with proof of service is served on the  
35 public entity within the time stated in the public entity's notice,  
36 the public entity shall immediately release the funds, or the portion  
37 of the funds demanded by the affidavit, without further notice to  
38 the claimant, and the public entity is not liable in any manner for  
39 their release.



1 (c) The public entity is not responsible for the validity of an  
2 affidavit or counteraffidavit under this article.

3 44250. (a) If a counteraffidavit, together with proof of service,  
4 is served under Section 44240, either the direct contractor or the  
5 claimant may commence an action for a declaration of the rights  
6 of the parties.

7 (b) After commencement of the action, either the direct  
8 contractor or the claimant may move the court for a determination  
9 of rights under the affidavit and counteraffidavit. The party making  
10 the motion shall give not less than five days' notice of the hearing  
11 to the public entity and to the other party.

12 (c) The notice of hearing shall comply with the requirements  
13 of Article 2 (commencing with Section 42110). Notwithstanding  
14 Section 42180, when notice of the hearing is made by mail, the  
15 notice is complete on the fifth day following deposit of the notice  
16 in the mail.

17 (d) The court shall hear the motion within 15 days after the date  
18 of the motion, unless the court continues the hearing for good  
19 cause.

20 44260. (a) The affidavit and counteraffidavit shall be filed  
21 with the court by the public entity and shall constitute the  
22 pleadings, subject to the power of the court to permit an amendment  
23 in the interest of justice. The affidavit of the direct contractor shall  
24 be deemed controverted by the counteraffidavit of the claimant,  
25 and both shall be received in evidence.

26 (b) At the hearing, the direct contractor has the burden of proof.

27 44270. (a) No findings are required in a summary proceeding  
28 under this article.

29 (b) If at the hearing no evidence other than the affidavit and  
30 counteraffidavit is offered, the court may, if satisfied that sufficient  
31 facts are shown, make a determination on the basis of the affidavit  
32 and counteraffidavit. If the court is not satisfied that sufficient  
33 facts are shown, the court shall order the hearing continued for  
34 production of other evidence, oral or documentary, or the filing  
35 of other affidavits and counteraffidavits.

36 (c) At the conclusion of the hearing, the court shall make an  
37 order determining whether the demand for release is allowed. The  
38 court's order is determinative of the right of the claimant to have  
39 funds further withheld by the public entity.

1 (d) The direct contractor shall serve a copy of the court’s order  
 2 on the public entity in compliance with the requirements of Article  
 3 2 (commencing with Section 42110).  
 4 44280. A determination in a summary proceeding under this  
 5 article is not res judicata with respect to a right of action by the  
 6 claimant against either the principal or surety on a payment bond  
 7 or with respect to a right of action against a party personally liable  
 8 to the claimant.

9  
 10 Article 3. Distribution of Funds Withheld

11  
 12 44310. If funds withheld pursuant to a stop payment notice are  
 13 insufficient to pay in full the claims of all persons who have given  
 14 a stop payment notice, the funds shall be distributed among the  
 15 claimants in the ratio that the claim of each bears to the aggregate  
 16 of all claims for which a stop payment notice is given, without  
 17 regard to the order in which the notices were given or enforcement  
 18 actions were commenced.

19 44320. Nothing in this chapter impairs the right of a claimant  
 20 to recover from the direct contractor or the contractor’s sureties  
 21 in an action on a payment bond under Chapter 5 (commencing  
 22 with Section 45010) any deficit that remains unpaid after the  
 23 distribution under Section 44310.

24 44330. A person that willfully gives a false stop payment notice  
 25 to the public entity or that willfully includes in the notice work  
 26 not provided for the public works contract for which the stop  
 27 payment notice is given forfeits all right to participate in the  
 28 distribution under Section 44310.

29 44340. (a) A stop payment notice takes priority over an  
 30 assignment by a direct contractor of any amount due or to become  
 31 due pursuant to a public works contract, including contract changes,  
 32 whether made before or after the giving of a stop payment notice,  
 33 and the assignment has no effect on the rights of the claimant.

34 (b) Any garnishment of an amount due or to become due  
 35 pursuant to a public works contract by a creditor of a direct  
 36 contractor under Article 8 (commencing with Section 708.710) of  
 37 Chapter 6 of Division 2 of Title 9 of Part 2 of the Code of Civil  
 38 Procedure and any statutory lien on that amount is subordinate to  
 39 the rights of a claimant.

1 Article 4. Enforcement of Payment of Claim Stated in Stop  
2 Payment Notice  
3

4 44410. (a) A claimant may not enforce payment of the claim  
5 stated in a stop payment notice unless the claimant has complied  
6 with all of the following conditions:

7 (1) The claimant has given preliminary notice to the extent  
8 required by Chapter 3 (commencing with Section 43010).

9 (2) The claimant has given the stop payment notice within the  
10 time provided in Section 44140.

11 (b) The claim filing procedures of Part 3 (commencing with  
12 Section 900) of Division 3.6 of Title 1 of the Government Code  
13 do not apply to an action under this article.

14 44420. (a) The claimant shall commence an action against the  
15 public entity and the direct contractor to enforce payment of the  
16 claim stated in a stop payment notice not earlier than 10 days after  
17 the date the claimant gives the stop payment notice.

18 (b) The claimant shall commence an action against the public  
19 entity and the direct contractor to enforce payment of the claim  
20 stated in a stop payment notice not later than 90 days after  
21 expiration of the time within which a stop payment notice must  
22 be given.

23 (c) An action under this section may not be brought to trial or  
24 judgment entered before expiration of the time provided in  
25 subdivision (b).

26 (d) If a claimant does not commence an action to enforce  
27 payment of the claim stated in a stop payment notice within the  
28 time provided in subdivision (b), the notice ceases to be effective  
29 and the public entity shall release funds withheld pursuant to the  
30 notice.

31 44430. Within five days after commencement of an action to  
32 enforce payment of the claim stated in a stop payment notice, the  
33 claimant shall give notice of commencement of the action to the  
34 public entity in the same manner that a stop payment notice is  
35 given.

36 44440. If more than one claimant has given a stop payment  
37 notice:

38 (a) Any number of claimants may join in the same enforcement  
39 action.

1 (b) If claimants commence separate actions, the court that first  
2 acquires jurisdiction may order the actions consolidated.

3 (c) On request of the public entity, the court shall require that  
4 all claimants be impleaded in one action and shall adjudicate the  
5 rights of all parties in the action.

6 44450. Notwithstanding Section 583.420 of the Code of Civil  
7 Procedure, the court may dismiss an action to enforce payment of  
8 the claim stated in a stop payment notice that is not brought to trial  
9 within two years after commencement of the action.

10 44460. A stop payment notice ceases to be effective, and the  
11 public entity shall release funds withheld, in either of the following  
12 circumstances:

13 (a) An action to enforce payment of the claim stated in the stop  
14 payment notice is dismissed, unless expressly stated to be without  
15 prejudice.

16 (b) Judgment in an action to enforce payment of the claim stated  
17 in the stop payment notice is against the claimant.

18

19

CHAPTER 5. PAYMENT BOND

20

21 45010. (a) A direct contractor that is awarded a public works  
22 contract involving an expenditure in excess of twenty-five thousand  
23 dollars (\$25,000) shall, before commencement of work, give a  
24 payment bond to and approved by the public entity.

25 (b) A public entity shall state in its call for bids that a payment  
26 bond is required for a public works contract involving an  
27 expenditure in excess of twenty-five thousand dollars (\$25,000).

28 (c) A payment bond given and approved under this section will  
29 permit performance of and provide coverage for work pursuant to  
30 a public works contract that supplements the contract for which  
31 the bond is given, if the requirement of a new bond is waived by  
32 the public entity.

33 (d) For the purpose of this section, a design professional is not  
34 deemed a direct contractor and is not required to give a payment  
35 bond.

36 (e) This section does not apply to a public works contract with  
37 a “state entity” as defined in subdivision (d) of Section 7103.

38 45020. If a payment bond is not given and approved as required  
39 by Section 45010:

1 (a) The public entity awarding the public works contract shall  
2 not audit, allow, or pay a claim of the direct contractor pursuant  
3 to the contract.

4 (b) A claimant shall receive payment of a claim pursuant to a  
5 stop payment notice in the manner provided by Chapter 4  
6 (commencing with Section 44110).

7 45030. (a) A payment bond shall be in an amount not less than  
8 100 percent of the total amount payable pursuant to the public  
9 works contract. The bond shall be in the form of a bond and not a  
10 deposit in lieu of a bond. The bond shall be executed by an  
11 admitted surety insurer.

12 (b) The payment bond shall provide that if the direct contractor  
13 or a subcontractor fails to pay any of the following, the surety will  
14 pay the obligation and, if an action is brought to enforce the  
15 liability on the bond, a reasonable attorney's fee, to be fixed by  
16 the court:

17 (1) A person authorized under Section 42030 to assert a claim  
18 against a payment bond.

19 (2) Amounts due under the Unemployment Insurance Code with  
20 respect to work or labor performed pursuant to the public works  
21 contract.

22 (3) Amounts required to be deducted, withheld, and paid over  
23 to the Employment Development Department from the wages of  
24 employees of the contractor and subcontractors under Section  
25 13020 of the Unemployment Insurance Code with respect to the  
26 work and labor.

27 (c) The payment bond shall by its terms inure to the benefit of  
28 any person authorized under Section 42030 to assert a claim against  
29 a payment bond so as to give a right of action to that person or that  
30 person's assigns in an action to enforce the liability on the bond.

31 (d) The direct contractor may require that a subcontractor give  
32 a bond to indemnify the direct contractor for any loss sustained  
33 by the direct contractor because of any default of the subcontractor  
34 under this section.

35 45040. (a) A payment bond shall be construed most strongly  
36 against the surety and in favor of the beneficiary.

37 (b) A surety is not released from liability to the beneficiary by  
38 reason of a breach of the public works contract between the public  
39 entity and the direct contractor or on the part of the beneficiary.

1 (c) Except as otherwise provided by statute, the sole conditions  
2 of recovery on the bond are that the beneficiary is a person  
3 authorized under Section 42030 to assert a claim against a payment  
4 bond and the beneficiary has not been paid the full amount of the  
5 claim.

6 45050. A claimant may commence an action to enforce the  
7 liability on the bond at any time after the claimant ceases to provide  
8 work, but not later than six months after the period in which a stop  
9 payment notice may be given under Section 44140.

10 45060. (a) In order to enforce a claim against a payment bond,  
11 a claimant shall give the preliminary notice provided in Chapter  
12 3 (commencing with Section 43010).

13 (b) If preliminary notice was not given as provided in Chapter  
14 3 (commencing with Section 43010), a claimant may enforce a  
15 claim by giving written notice to the surety and the bond principal  
16 within 15 days after recordation of a notice of completion. If no  
17 notice of completion has been recorded, the time for giving written  
18 notice to the surety and the bond principal is extended to 75 days  
19 after completion of the work of improvement.

20 45070. Notice to the principal and surety under Section 45060  
21 shall comply with the requirements of Article 2 (commencing with  
22 Section 42110) of Chapter 2.

23 45080. (a) A claimant may maintain an action to enforce the  
24 liability of a surety on a payment bond whether or not the claimant  
25 has given the public entity a stop payment notice.

26 (b) A claimant may maintain an action to enforce the liability  
27 on the bond separately from and without commencement of an  
28 action against the public entity.

29 (c) In an action to enforce the liability on the bond, the court  
30 shall award the prevailing party a reasonable attorney's fee.

31 45090. (a) A claimant does not have a right to recover on a  
32 payment bond unless the claimant provided work to the direct  
33 contractor either directly or through one or more subcontractors  
34 pursuant to a public works contract.

35 (b) Nothing in this section affects the stop payment notice rights  
36 of, and relative priorities among, design professionals.

37 SEC. 107. Section 136.5 of the Streets and Highways Code is  
38 amended to read:

39 136.5. (a) The contracts referred to in Sections 135, 136, and  
40 136.1 are not subject to the State Contract Act (Part 2 (commencing

1 with Section 10100) of Division 2 of the Public Contract Code).  
2 Except for emergency work of the type described in subdivision  
3 (b), whenever the estimated amount of a contract exceeds two  
4 thousand five hundred dollars (\$2,500), it shall be awarded to the  
5 lowest responsible bidder, after competitive bidding on any  
6 reasonable notice that the department may prescribe. Posting of  
7 notice for five days in a public place in the district office within  
8 which the work is to be done, or the equipment used, is sufficient.  
9 Those contracts shall be subject to the applicable payment bond  
10 provisions of Chapter ~~7 5~~ (commencing with Section ~~3247~~) *45010*  
11 of Part ~~4 6~~ of Division ~~3 2~~ of the *Civil Public Contract Code*. The  
12 department may require faithful performance bonds when  
13 considered necessary. The advertisement for each contract shall  
14 state whether or not a bond shall be required.

15 (b) In cases of emergency work necessitated by the imminence  
16 or occurrence of a landslide, flood, storm damage, accident, or  
17 other casualty, tools or equipment may be rented for a period of  
18 not to exceed 60 days without competitive bidding, and the  
19 department may waive the requirements of Chapter ~~7 5~~  
20 (commencing with Section ~~3247~~) *45010* of Part ~~4 6~~ of Division  
21 ~~3 2~~ of the *Civil Public Contract Code* to the extent that a contractor  
22 may commence performance of the work under the contract for  
23 the rental of tools or equipment prior to filing a payment bond with  
24 the department. In that case, no payment shall be made to the  
25 contractor until a payment bond covering all work of the contract  
26 is filed with the department.

27 SEC. 108. (a) This act is operative on January 1, 2011.

28 (b) Except as otherwise provided in this section, this act applies  
29 to a contract for a work of improvement executed before, on, or  
30 after the operative date.

31 (c) The effectiveness of a notice given, or other action taken,  
32 before the operative date is governed by the applicable law in effect  
33 before the operative date and not by this act.

34 SEC. 109. Any section of any act enacted by the Legislature  
35 during the 2009 calendar year that takes effect on or before January  
36 1, 2010, and that amends, amends and renumbers, amends and  
37 repeals, adds, repeals and adds, or repeals a section that is amended,  
38 amended and renumbered, amended and repealed, added, repealed  
39 and added, or repealed by this act, shall prevail over this act,  
40 whether that act is chaptered before or after this act.

1     SEC. 110. No reimbursement is required by this act pursuant  
2 to Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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