

AMENDED IN ASSEMBLY FEBRUARY 4, 2010

AMENDED IN SENATE JANUARY 14, 2010

AMENDED IN SENATE DECEMBER 15, 2009

SENATE BILL

No. 189

Introduced by Senator Lowenthal

February 18, 2009

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 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, and to repeal Title 15 (commencing with Section 3082) of Part 4 of Division 3 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, 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 amended, 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 2010 calendar year that takes effect on or before January 1, 2011, 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, 2012.

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 that is required to be licensed under
4 this chapter shall insert in any contract, or be a party, with a
5 subcontractor that is licensed under this chapter to any contract
6 which contains, a provision, clause, covenant, or agreement which
7 is void or unenforceable under Section 2782 of the Civil Code.

8 (b) No contractor that is required to be licensed under this
9 chapter shall require a waiver of lien rights from any subcontractor,
10 employee, or supplier in violation of Section 8160 or 9250 of the
11 Civil Code.

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

14 7071.5. The contractor's bond required by this article shall be
15 executed by an admitted surety in favor of the State of California,
16 in a form acceptable to the registrar and filed with the registrar by
17 the licensee or applicant. The contractor's bond shall be for the
18 benefit of the following:

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

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

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

1 (d) An employee of the licensee damaged by the licensee’s
2 failure to pay wages.

3 (e) A person or entity, including a laborer described in
4 subdivision (b) of Section 8020 or subdivision (b) of Section 9012
5 of the Civil Code, to which a portion of the compensation of an
6 employee of a licensee is paid by agreement with that employee
7 or the collective bargaining agent of that employee, damaged as
8 the result of the licensee’s failure to pay fringe benefits for its
9 employees, including, but not limited to, employer payments
10 described in Section 1773.1 of the Labor Code and regulations
11 thereunder (without regard to whether the work was performed on
12 a private or public work). Damage to a person or entity under this
13 subdivision is limited to actual employer payments required to be
14 made on behalf of employees of the licensee, as part of the overall
15 compensation of those employees, which the licensee fails to pay.

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

18 7071.10. The qualifying individual’s bond required by this
19 article shall be executed by an admitted surety insurer in favor of
20 the State of California, in a form acceptable to the registrar and
21 filed with the registrar by the qualifying individual. The qualifying
22 individual’s bond shall not be required in addition to the
23 contractor’s bond when, as set forth under paragraph (1) of
24 subdivision (b) of Section 7068, the individual proprietor has
25 qualified for the license by his or her personal appearance, or the
26 qualifier is a general partner as set forth under paragraph (2) of
27 subdivision (b) of Section 7068. The qualifying individual’s bond
28 shall be for the benefit of the following persons:

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

32 (b) A property owner contracting for the construction of a
33 single-family dwelling who is damaged as a result of a violation
34 of this chapter by the licensee. That property owner shall only
35 recover under this subdivision if the single-family dwelling is not
36 intended for sale or offered for sale at the time the damages were
37 incurred.

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

1 (d) An employee of the licensee damaged by the licensee’s
2 failure to pay wages.

3 (e) A person or entity, including a laborer described in
4 subdivision (b) of Section 8020 or subdivision (b) of Section 9012
5 of the Civil Code, to which a portion of the compensation of an
6 employee of a licensee is paid by agreement with that employee
7 or the collective bargaining agent of that employee, that is damaged
8 as the result of the licensee’s failure to pay fringe benefits for its
9 employees including, but not limited to, employer payments
10 described in Section 1773.1 of the Labor Code and regulations
11 adopted thereunder (without regard to whether the work was
12 performed on a public or private work). Damage to a person or
13 entity under this subdivision is limited to employer payments
14 required to be made on behalf of employees of the licensee, as part
15 of the overall compensation of those employees, which the licensee
16 fails to pay.

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

19 7159. (a) (1) This section identifies the projects for which a
20 home improvement contract is required, outlines the contract
21 requirements, and lists the items that shall be included in the
22 contract, or may be provided as an attachment.

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

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

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

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

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

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

24 (1) The writing shall be legible.

25 (2) Any printed form shall be readable. Unless a larger typeface
26 is specified in this article, text in any printed form shall be in at
27 least 10-point typeface and the headings shall be in at least 10-point
28 boldface type.

29 (3) (A) Before any work is started, the contractor shall give the
30 buyer a copy of the contract signed and dated by both the contractor
31 and the buyer. The buyer’s receipt of the copy of the contract
32 initiates the buyer’s rights to cancel the contract pursuant to
33 Sections 1689.5 to 1689.14, inclusive, of the Civil Code.

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

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

38 (ii) The name and address of the contractor to which the
39 applicable “Notice of Cancellation” is to be mailed, immediately
40 preceded by a statement advising the buyer that the “Notice of

1 Cancellation” may be sent to the contractor at the address noted
2 on the contract.

3 (4) A statement that, upon satisfactory payment being made for
4 any portion of the work performed, the contractor, prior to any
5 further payment being made, shall furnish to the person contracting
6 for the home improvement or swimming pool work a full and
7 unconditional release from any claim or mechanic’s lien pursuant
8 to Section 8410 of the Civil Code for that portion of the work for
9 which payment has been made.

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

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

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

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

24 (d) A home improvement contract and any changes to the
25 contract shall be in writing and signed by the parties to the contract
26 prior to the commencement of work covered by the contract or an
27 applicable change order and, except as provided in paragraph (8)
28 of subdivision (a) of Section 7159.5, shall include or comply with
29 all of the following:

30 (1) The name, business address, and license number of the
31 contractor.

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

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

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

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

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

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

14 (8) If a downpayment will be charged, the details of the
15 downpayment shall be expressed in substantially the following
16 form, and shall include the text of the notice as specified in
17 subparagraph (C):

18 (A) The heading: “Downpayment.”

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

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

24 (9) If payments, other than the downpayment, are to be made
25 before the project is completed, the details of these payments,
26 known as progress payments, shall be expressed in substantially
27 the following form, and shall include the text of the statement as
28 specified in subparagraph (C):

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

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

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

37 “The schedule of progress payments must specifically describe
38 each phase of work, including the type and amount of work or
39 services scheduled to be supplied in each phase, along with the
40 amount of each proposed progress payment. IT IS AGAINST THE

1 LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR
2 WORK NOT YET COMPLETED, OR FOR MATERIALS NOT
3 YET DELIVERED. HOWEVER, A CONTRACTOR MAY
4 REQUIRE A DOWNPAYMENT.”

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

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

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

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

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

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

14 (B) The approximate date of completion.

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

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

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

26 (e) Except as provided in paragraph (8) of subdivision (a) of
27 Section 7159.5, all of the following notices shall be provided to
28 the owner as part of the contract form as specified or, if otherwise
29 authorized under this subdivision, may be provided as an
30 attachment to the contract:

31 (1) A notice concerning commercial general liability insurance.
32 This notice may be provided as an attachment to the contract if
33 the contract includes the following statement: “A notice concerning
34 commercial general liability insurance is attached to this contract.”
35 The notice shall include the heading “Commercial General Liability
36 Insurance (CGL),” followed by whichever of the following
37 statements is both relevant and correct:

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

1 (B) “(The name on the license or ‘This contractor’) carries
2 commercial general liability insurance written by (the insurance
3 company). You may call (the insurance company) at _____
4 to check the contractor’s insurance coverage.”

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

7 (2) A notice concerning workers’ compensation insurance. This
8 notice may be provided as an attachment to the contract if the
9 contract includes the statement: “A notice concerning workers’
10 compensation insurance is attached to this contract.” The notice
11 shall include the heading “Workers’ Compensation Insurance”
12 followed by whichever of the following statements is correct:

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

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

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

20 (A) A statement that the buyer may not require a contractor to
21 perform extra or change-order work without providing written
22 authorization prior to the commencement of work covered by the
23 new change order.

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

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

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

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

32 (C) A statement informing the buyer that the contractor’s failure
33 to comply with the requirements of this paragraph does not
34 preclude the recovery of compensation for work performed based
35 upon legal or equitable remedies designed to prevent unjust
36 enrichment.

37 (4) A notice with the heading “Mechanics Lien Warning” written
38 as follows:

39 “MECHANICS LIEN WARNING:

1 Anyone who helps improve your property, but who is not paid,
2 may record what is called a mechanics lien on your property. A
3 mechanics lien is a claim, like a mortgage or home equity loan,
4 made against your property and recorded with the county recorder.

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

11 To preserve their right to record a lien, each subcontractor and
12 material supplier must provide you with a document called a
13 ‘Preliminary Notice.’ This notice is not a lien. The purpose of the
14 notice is to let you know that the person who sends you the notice
15 has the right to record a lien on your property if he or she is not
16 paid.

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

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

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

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

36 For other ways to prevent liens, visit CSLB’s Internet Web site
37 at www.cslb.ca.gov or call CSLB at 800-321-CSLB (2752).

38 **REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING**
39 **A LIEN PLACED ON YOUR HOME.** This can mean that you

1 may have to pay twice, or face the forced sale of your home to pay
2 what you owe.”

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

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

8 Contact CSLB for information about the licensed contractor you
9 are considering, including information about disclosable
10 complaints, disciplinary actions, and civil judgments that are
11 reported to CSLB.

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

19 For more information:

20 Visit CSLB’s Internet Web site at www.cslb.ca.gov

21 Call CSLB at 800-321-CSLB (2752)

22 Write CSLB at P.O. Box 26000, Sacramento, CA 95826.”

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

26 (i) Negotiated at the contractor’s place of business.

27 (ii) Subject to the “Seven-Day Right to Cancel,” as set forth in
28 paragraph (7).

29 (iii) Subject to licensure under the Alarm Company Act (Chapter
30 11.6 (commencing with Section 7590)), provided the alarm
31 company licensee complies with Sections 1689.5, 1689.6, and
32 1689.7 of the Civil Code, as applicable.

33 (B) “Three-Day Right to Cancel

34 You, the buyer, have the right to cancel this contract within three
35 business days. You may cancel by e-mailing, mailing, faxing, or
36 delivering a written notice to the contractor at the contractor’s
37 place of business by midnight of the third business day after you
38 received a signed and dated copy of the contract that includes this
39 notice. Include your name, your address, and the date you received
40 the signed copy of the contract and this notice.

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

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

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

35
 36 “Notice of Cancellation”

37 /enter date of transaction/
 38

39 _____
 40 (Date)

1 “You may cancel this transaction, without any penalty or
2 obligation, within three business days from the above date.

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

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

13 If you do make the goods available to the seller and the seller
14 does not pick them up within 20 days of the date of your notice of
15 cancellation, you may retain or dispose of the goods without any
16 further obligation. If you fail to make the goods available to the
17 seller, or if you agree to return the goods to the seller and fail to
18 do so, then you remain liable for performance of all obligations
19 under the contract.”

20

21 To cancel this transaction, mail or deliver a signed and dated copy of this
22 cancellation notice, or any other written notice, or send a telegram

23 to _____,

24 /name of seller/

25 at _____

26 /address of seller’s place of business/

27 not later than midnight of _____.

28 (Date)

29 I hereby cancel this transaction. _____

30 (Date)

31 _____

32 (Buyer’s signature)

33

34 (7) (A) The following notice entitled “Seven-Day Right to
35 Cancel” shall be provided to the buyer for any contract that is
36 written for the repair or restoration of residential premises damaged
37 by any sudden or catastrophic event for which a state of emergency
38 has been declared by the President of the United States or the
39 Governor, or for which a local emergency has been declared by

1 the executive officer or governing body of any city, county, or city
2 and county:

3 “Seven-Day Right to Cancel

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

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

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

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

1 (vi) The notice shall be accompanied by a completed form in
2 duplicate, captioned "Notice of Cancellation," which shall also be
3 attached to the agreement or offer to purchase and be easily
4 detachable, and which shall contain the following statement written
5 in the same language, e.g., Spanish, as used in the contract:

6
7 "Notice of Cancellation"
8 /enter date of transaction/
9 _____
10 (Date)

11
12 "You may cancel this transaction, without any penalty or
13 obligation, within seven business days from the above date.

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

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

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

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

40 I hereby cancel this transaction. _____

(Date)

(Buyer's signature)

1
2
3
4
5 SEC. 5. Section 7159.1 of the Business and Professions Code
6 is amended to read:

7 7159.1. (a) In any contract for the sale of home improvement
8 goods or services offered by door-to-door sale that contains or is
9 secured by a lien on real property, the contract shall be
10 accompanied by the following notice in 18-point boldfaced type:

11 "WARNING TO BUYER: IF YOU SIGN THE CONTRACT
12 WHICH ACCOMPANIES THIS NOTICE, YOU WILL BE
13 PUTTING UP YOUR HOME AS SECURITY. THIS MEANS
14 THAT YOUR HOME COULD BE SOLD WITHOUT YOUR
15 PERMISSION AND WITHOUT ANY COURT ACTION IF YOU
16 MISS ANY PAYMENT REQUIRED BY THIS CONTRACT."

17 This notice shall be written in the same language as the rest of
18 the contract. It shall be on a separate piece of paper from the rest
19 of the contract and shall be signed and dated by the buyer. The
20 home improvement contractor or home improvement salesperson
21 shall deliver to the buyer at the time of the buyer's signing and
22 dating of the notice a legible copy of the signed and dated notice.
23 A security interest created in any contract described in this section
24 that does not provide the notice as required by this section shall
25 be void and unenforceable.

26 (b) This section shall not apply to any of the following:

27 (1) Any contract that is subject to Chapter 1 (commencing with
28 Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code.

29 (2) A mechanics lien established pursuant to Chapter 4
30 (commencing with Section 8400) of Part 6 of Division 4 of the
31 Civil Code.

32 (3) Any contract that is subject to subdivision (a) of Section
33 7159.2.

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

36 7159.5. This section applies to all home improvement contracts,
37 as defined in Section 7151.2, between an owner or tenant and a
38 contractor, whether a general contractor or a specialty contractor,
39 that is licensed or subject to be licensed pursuant to this chapter
40 with regard to the transaction.

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

4 (1) The contract shall be in writing and shall include the agreed
5 contract amount in dollars and cents. The contract amount shall
6 include the entire cost of the contract, including profit, labor, and
7 materials, but excluding finance charges.

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

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

14 (4) If, in addition to a downpayment, the contract provides for
15 payments to be made prior to completion of the work, the contract
16 shall include a schedule of payments in dollars and cents
17 specifically referencing the amount of work or services to be
18 performed and any materials and equipment to be supplied.

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

22 (6) Upon any payment by the person contracting for home
23 improvement, and prior to any further payment being made, the
24 contractor shall, if requested, obtain and furnish to the person a
25 full and unconditional release from any potential lien claimant
26 claim or mechanics lien pursuant to Section 8410 of the Civil Code
27 for any portion of the work for which payment has been made.
28 The person contracting for home improvement may withhold all
29 further payments until these releases are furnished.

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

35 (8) A contractor furnishing a performance and payment bond,
36 lien and completion bond, or a bond equivalent or joint control
37 approved by the registrar covering full performance and payment
38 is exempt from paragraphs (3), (4), and (5), and need not include,
39 as part of the contract, the statement regarding the downpayment
40 specified in subparagraph (C) of paragraph (8) of subdivision (d)

1 of Section 7159, the details and statement regarding progress
2 payments specified in paragraph (9) of subdivision (d) of Section
3 7159, or the Mechanics Lien Warning specified in paragraph (4)
4 of subdivision (e) of Section 7159. A contractor furnishing these
5 bonds, bond equivalents, or a joint control approved by the registrar
6 may accept payment prior to completion. If the contract provides
7 for a contractor to furnish joint control, the contractor shall not
8 have any financial or other interest in the joint control.

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

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

22 (2) An indictment or information against a person who is
23 licensed under this chapter shall be brought, or a criminal complaint
24 filed, for a violation of this section, in accordance with paragraph
25 (2) of subdivision (d) of Section 802 of the Penal Code, within
26 two years from the date of the contract or, if the contract is not
27 reduced to writing, from the date the buyer makes the first payment
28 to the contractor.

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

31 (c) Any person who violates this section as part of a plan or
32 scheme to defraud an owner or tenant of a residential or
33 nonresidential structure, including a mobilehome or manufactured
34 home, in connection with the offer or performance of repairs to
35 the structure for damage caused by a natural disaster, shall be
36 ordered by the court to make full restitution to the victim based
37 on the person's ability to pay, as defined in subdivision (e) of
38 Section 1203.1b of the Penal Code. In addition to full restitution,
39 and imprisonment authorized by this section, the court may impose
40 a fine of not less than five hundred dollars (\$500) nor more than

1 twenty-five thousand dollars (\$25,000), based upon the defendant's
2 ability to pay. This subdivision applies to natural disasters for
3 which a state of emergency is proclaimed by the Governor pursuant
4 to Section 8625 of the Government Code, or for which an
5 emergency or major disaster is declared by the President of the
6 United States.

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

9 7159.14. (a) This section applies to a service and repair
10 contract as defined in Section 7159.10. A violation of this section
11 by a licensee or a person subject to be licensed under this chapter,
12 or by his or her agent or salesperson, is cause for discipline.

13 (1) The contract may not exceed seven hundred fifty dollars
14 (\$750).

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

19 (3) The contract amount shall include the entire cost of the
20 contract including profit, labor, and materials, but excluding
21 finance charges.

22 (4) The actual contract amount of a time and materials contract
23 may not exceed the estimated contract amount without written
24 authorization from the buyer.

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

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

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

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

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

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

1 (11) Upon any payment by the buyer, the contractor shall, if
2 requested, obtain and furnish to the buyer a full and unconditional
3 release from any potential lien claimant claim or mechanics lien
4 pursuant to Section 8410 of the Civil Code for any portion of the
5 work for which payment has been made.

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

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

20 (2) An indictment or information against a person who is
21 licensed under this chapter shall be brought, or a criminal complaint
22 filed, for a violation of this section, in accordance with paragraph
23 (2) of subdivision (d) of Section 802 of the Penal Code, within
24 two years from the date of the contract or, if the contract is not
25 reduced to writing, from the date the buyer makes the first payment
26 to the contractor.

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

29 (c) Any person who violates this section as part of a plan or
30 scheme to defraud an owner or tenant of a residential or
31 nonresidential structure, including a mobilehome or manufactured
32 home, in connection with the offer or performance of repairs to
33 the structure for damage caused by a natural disaster, shall be
34 ordered by the court to make full restitution to the victim based
35 on the person's ability to pay, as defined in subdivision (e) of
36 Section 1203.1b of the Penal Code. In addition to full restitution,
37 and imprisonment authorized by this section, the court may impose
38 a fine of not less than five hundred dollars (\$500) nor more than
39 twenty-five thousand dollars (\$25,000), based upon the defendant's
40 ability to pay. This subdivision applies to natural disasters for

1 which a state of emergency is proclaimed by the Governor pursuant
 2 to Section 8625 of the Government Code, or for which an
 3 emergency or major disaster is declared by the President of the
 4 United States.

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

7 7164. (a) Notwithstanding Section 7044, every contract and
 8 any changes in a contract, between an owner and a contractor, for
 9 the construction of a single-family dwelling to be retained by the
 10 owner for at least one year shall be evidenced in writing signed
 11 by both parties.

12 (b) The writing shall contain the following:

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

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

16 (3) A legal description of the location where the work will be
 17 done.

18 (4) A statement with the heading “Mechanics Lien Warning”
 19 as follows:

20 “MECHANICS LIEN WARNING:

21 Anyone who helps improve your property, but who is not paid,
 22 may record what is called a mechanics lien on your property. A
 23 mechanics lien is a claim, like a mortgage or home equity loan,
 24 made against your property and recorded with the county recorder.

25 Even if you pay your contractor in full, unpaid subcontractors,
 26 suppliers, and laborers who helped to improve your property may
 27 record mechanics liens and sue you in court to foreclose the lien.
 28 If a court finds the lien is valid, you could be forced to pay twice
 29 or have a court officer sell your home to pay the lien. Liens can
 30 also affect your credit.

31 To preserve their right to record a lien, each subcontractor and
 32 material supplier must provide you with a document called a
 33 ‘Preliminary Notice.’ This notice is not a lien. The purpose of the
 34 notice is to let you know that the person who sends you the notice
 35 has the right to record a lien on your property if he or she is not
 36 paid.

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

1 You will not get Preliminary Notices from your prime contractor
2 or other persons you contract with directly or from laborers who
3 work on your project. The law assumes that you already know
4 they are improving your property.

5 **PROTECT YOURSELF FROM LIENS.** You can protect
6 yourself from liens by getting a list from your contractor of all the
7 subcontractors and material suppliers that work on your project.
8 Find out from your contractor when these subcontractors started
9 work and when these suppliers delivered goods or materials. Then
10 wait 20 days, paying attention to the Preliminary Notices you
11 receive.

12 **PAY WITH JOINT CHECKS.** One way to protect yourself is
13 to pay with a joint check. When your contractor tells you it is time
14 to pay for the work of a subcontractor or supplier who has provided
15 you with a Preliminary Notice, write a joint check payable to both
16 the contractor and the subcontractor or material supplier.

17 For other ways to prevent liens, visit CSLB's Web site at
18 www.cslb.ca.gov or call CSLB at 800-321-CSLB (2752).

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

23 (5) (A) A statement prepared by the board through regulation
24 that emphasizes the value of commercial general liability insurance
25 and encourages the owner to verify the contractor's insurance
26 coverage and status.

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

30 (c) The writing may also contain other matters agreed to by the
31 parties to the contract. The writing shall be legible and shall clearly
32 describe any other document which is to be incorporated into the
33 contract. Prior to commencement of any work, the owner shall be
34 furnished a copy of the written agreement, signed by the contractor.
35 The provisions of this section are not exclusive and do not relieve
36 the contractor from compliance with all other applicable provisions
37 of law.

38 (d) Every contract subject to the provisions of this section shall
39 contain, in close proximity to the signatures of the owner and
40 contractor, a notice in at least 10-point bold type or in all capital

1 letters, stating that the owner has the right to require the contractor
2 to have a performance and payment bond and that the expense of
3 the bond may be borne by the owner.

4 (e) The requirements in paragraph (5) of subdivision (b) shall
5 become operative three months after the board adopts the
6 regulations referenced in subparagraph (A) of paragraph (5) of
7 subdivision (b).

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

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

11 8513. (a) The board shall prescribe a form entitled “Notice to
12 Owner” that shall describe, in nontechnical language and in a clear
13 and coherent manner using words with common and everyday
14 meaning, the pertinent provisions of this state’s mechanics’ lien
15 laws and the rights and responsibilities of an owner of property
16 and a registered pest control company thereunder. Each company
17 registered under this chapter, prior to entering into a contract with
18 an owner for work for which a company registration is required,
19 shall give a copy of this “Notice to Owner” to the owner, his or
20 her agent, or the payer.

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

24 (c) Each company registered under this chapter that acts as a
25 subcontractor for another company registered under this chapter
26 shall, within 20 days of commencement of any work for which a
27 company registration is required, give the preliminary notice in
28 accordance with Chapter 2 (commencing with Section 8200) of
29 Part 6 of Division 4 of the Civil Code, to the owner, his or her
30 agent, or the payer.

31 (d) Each company registered under this chapter that acts as a
32 prime contractor for work for which a company registration is
33 required shall, prior to accepting payment for the work, furnish to
34 the owner, his or her agent, or the payer a full and unconditional
35 release from any claim of mechanics’ lien by any subcontractor
36 entitled to enforce a mechanics’ lien pursuant to Section 8172 of
37 the Civil Code.

38 (e) Each company registered under this chapter that subcontracts
39 to another company registered under this chapter work for which

1 a company registration is required shall furnish to the subcontractor
2 the name of the owner, his or her agent, or the payer.

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

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

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

10 17577.5. (a) No contract or offer for the sale, lease, or rental
11 of a home water treatment device and no purchase money loan, as
12 defined in subdivision (b), shall provide for a lien on real property.
13 Any lien taken in violation of this section is void and
14 unenforceable.

15 (b) For the purpose of this section, “purchase money loan”
16 means a loan or an advance under an open-end credit account if
17 both of the following occur:

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

22 (2) The creditor knows the primary purpose of the loan or the
23 primary purpose of establishing the open-end credit account when
24 the loan is initially made or the open-end credit account is
25 established.

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

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

34 (2) The seller, lessor, or renter arranges or guarantees the loan
35 or open-end account, or participates in the preparation of the
36 consumer’s application for credit or other loan documents, or
37 receives from the creditor a loan commission, brokerage, or referral
38 fee.

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

4 (e) This section does not apply to mechanics liens established
5 pursuant to Chapter 4 (commencing with Section 8400) of Part 6
6 of Division 4 of the Civil Code.

7 SEC. 11. Section 1917.166 of the Civil Code is amended to
8 read:

9 1917.166. The lien of a shared appreciation loan, including the
10 principal amount and all interest, whether accrued or to be accrued,
11 and all amounts of contingent deferred interest, shall attach from
12 the time of the recordation of the deed of trust securing the loan,
13 and the lien, including the lien of the interest accrued or to be
14 accrued and of the contingent deferred interest, shall have priority
15 over any other lien or encumbrance affecting the property secured
16 by the shared appreciation instrument, recorded after the time of
17 recordation of the shared appreciation instrument. However,
18 nothing in this section or Section 1917.165 shall preclude a junior
19 lien or encumbrance subordinate to the obligation of the shared
20 appreciation loan. In no case may a junior lien achieve priority
21 over the lien securing the obligation of the shared appreciation
22 loan, provided that nothing in this section shall be construed to
23 supersede Section 8450.

24 SEC. 12. Section 1917.615 of the Civil Code is amended to
25 read:

26 1917.615. The lien of a shared appreciation loan for seniors,
27 including the total loan obligation, shall attach from the time of
28 the recordation of the deed of trust securing the loan, and the lien,
29 including the lien of the total loan obligation accrued or to be
30 accrued, shall have priority over any other lien or encumbrance
31 affecting the property secured by the shared appreciation instrument
32 and recorded after the time of recordation of the shared appreciation
33 instrument. However, nothing in this section or Section 1917.614
34 shall preclude a junior lien or encumbrance subordinate to the total
35 loan obligation of the shared appreciation loan for seniors. In no
36 case may a junior lien achieve priority over the lien securing the
37 total loan obligation of the shared appreciation loan, provided that
38 nothing in this section shall be construed to supersede Section
39 8450.

40 SEC. 13. Section 3059 of the Civil Code is amended to read:

1 3059. The liens of mechanics, for materials and services upon
2 real property, are regulated by Chapter 4 (commencing with Section
3 8400) of Part 6 of Division 4.

4 SEC. 14. Section 3060 of the Civil Code is amended to read:

5 3060. (a) As used in this section, “mine” means a mining claim
6 or real property worked on as a mine.

7 (b) Any person who performs labor in a mine, either in its
8 development or in working on it by the subtractive process, or
9 furnishes materials to be used or consumed in it, has a lien upon
10 the mine and the works owned and used by the owners for milling
11 or reducing the ores from the mine, for the value of the work or
12 labor done or materials furnished by each, whether done or
13 furnished at the instance of the owner of the mine, or the owner’s
14 agent, and every contractor, subcontractor, superintendent, or other
15 person having charge of any mining or work or labor performed
16 in and about the mine, either as lessee or under a working bond or
17 contract thereon shall be held to be the agent of the owner for the
18 purposes of this section. The liens provided for by this section
19 shall be enforced in the same manner as those provided for by Part
20 6 (commencing with Section 8000) of Division 4.

21 SEC. 15. Chapter 8 (commencing with Section 3081.1) of Title
22 14 of Part 4 of Division 3 of the Civil Code is repealed.

23 SEC. 16. Title 15 (commencing with Section 3082) of Part 4
24 of Division 3 of the Civil Code is repealed.

25 SEC. 17. Section 3319 of the Civil Code is amended to read:

26 3319. (a) In each written contract for private works of
27 improvement entered into on or after January 1, 1996, the
28 contracting party and the design professional may agree to
29 contractual provisions that include a late payment penalty, in lieu
30 of any interest otherwise due. The terms of the late payment penalty
31 shall be specifically set forth in the written contract.

32 (b) The penalty authorized pursuant to subdivision (a) shall be
33 separate from, and in addition to, the design professionals liens
34 provided by Chapter 3 (commencing with Section 8300) of Part
35 6 of Division 4, mechanics liens provided by Chapter 4
36 (commencing with Section 8400) of Part 6 of Division 4, and stop
37 payment notices provided by Chapter 5 (commencing with Section
38 8500) of Part 6 of Division 4.

39 (c) None of the rights or obligations created or permitted by this
40 section between design professionals and contracting parties shall

1 apply to construction loan funds held by a lender pursuant to a
2 construction loan agreement.

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

4 (1) “Contracting party” means any person or entity entering into
5 a written contract with a design professional for professional design
6 services for a private work of improvement.

7 (2) “Design professional” means a person licensed as an
8 architect pursuant to Chapter 3 (commencing with Section 5500)
9 of Division 3 of the Business and Professions Code, registered as
10 a professional engineer pursuant to Chapter 7 (commencing with
11 Section 6700) of Division 3 of the Business and Professions Code,
12 or licensed as a land surveyor pursuant to Chapter 15 (commencing
13 with Section 8700) of Division 3 of the Business and Professions
14 Code.

15 SEC. 18. Section 3320 of the Civil Code is amended to read:

16 3320. (a) In each contract for public works of improvement,
17 entered into on or after January 1, 1996, the public agency shall
18 pay to the prime design professional any progress payment within
19 30 days of receipt of a written demand for payment in accordance
20 with the contract, and the final retention payment within 45 days
21 of receipt of a written demand for payment in accordance with the
22 contract. If the public agency disputes in good faith any portion
23 of the amount due, it may withhold from the payment an amount
24 not to exceed 150 percent of the disputed amount. The disputed
25 amount withheld is not subject to any penalty authorized by this
26 section.

27 (b) If any amount is wrongfully withheld or is not timely paid
28 in violation of this section, the prime design professional shall be
29 entitled to a penalty of 1½ percent for the improperly withheld
30 amount, in lieu of any interest otherwise due, per month for every
31 month that payment is not made. In any action for the collection
32 of amounts withheld in violation of this section, the prevailing
33 party is entitled to his or her reasonable attorney’s fees and costs.

34 (c) The penalty described in subdivision (b) is separate from,
35 and in addition to, the design professionals’ remedies for a public
36 works contract provided in Title 2 (commencing with Section
37 9000) of Part 6 of Division 4.

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

1 (e) None of the rights or obligations created by this section
2 between prime design professionals and public agencies apply to
3 construction loan funds held by a lender pursuant to a construction
4 loan agreement.

5 (f) For purposes of this section:

6 (1) “Public agency” means the state, any county, any city, any
7 city and county, any district, any public authority, any public
8 agency, any municipal corporation, or other political subdivision
9 or political corporation of the state.

10 (2) “Design professional” means a person licensed as an
11 architect pursuant to Chapter 3 (commencing with Section 5500)
12 of Division 3 of the Business and Professions Code, registered as
13 a professional engineer pursuant to Chapter 7 (commencing with
14 Section 6700) of Division 3 of the Business and Professions Code,
15 or licensed as a land surveyor pursuant to Chapter 15 (commencing
16 with Section 8700) of Division 3 of the Business and Professions
17 Code.

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

20 SEC. 19. Section 3321 of the Civil Code is amended to read:

21 3321. (a) In each contract for public works of improvement,
22 a prime design professional shall pay to each subconsultant design
23 professional the amount due him or her from the payment received,
24 not later than 15 days after receipt of each progress payment or
25 final retention payment. If the prime design professional disputes
26 in good faith any portion of the amount due, he or she may
27 withhold from the payment an amount not to exceed 150 percent
28 of the disputed amount. The disputed amount withheld shall not
29 be subject to any penalty authorized by this section.

30 (b) If any amount is wrongfully withheld or is not timely paid
31 in violation of this section, the subconsultant design professional
32 shall be entitled to a penalty of 1½ percent of the improperly
33 withheld amount, in lieu of any interest otherwise due, per month,
34 for each month that payment is not made. In any action for the
35 collection of amounts withheld in violation of this section, the
36 prevailing party shall be entitled to his or her reasonable attorney’s
37 fees and costs.

38 (c) The penalty described in subdivision (b) shall be separate
39 from, and in addition to, the design professionals’ remedies for a

1 public works contract provided in Title 2 (commencing with
2 Section 9000) of Part 6 of Division 4.

3 (d) None of the rights or obligations created by this section
4 between prime design professionals and subconsultant design
5 professionals shall apply to construction loan funds held by a lender
6 pursuant to a construction loan agreement.

7 (e) For purposes of this section:

8 (1) “Public agency” means the state, any county, any city, any
9 city and county, any district, any public authority, any public
10 agency, any municipal corporation, or other political subdivision
11 or political corporation of the state.

12 (2) “Design professional” means a person licensed as an
13 architect pursuant to Chapter 3 (commencing with Section 5500)
14 of Division 3 of the Business and Professions Code, registered as
15 a professional engineer pursuant to Chapter 7 (commencing with
16 Section 6700) of Division 3 of the Business and Professions Code,
17 or licensed as a land surveyor pursuant to Chapter 15 (commencing
18 with Section 8700) of Division 3 of the Business and Professions
19 Code.

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

22 (4) “Subconsultant design professional” means a design
23 professional having a written contract with a prime design
24 professional.

25 SEC. 20. Part 6 (commencing with Section 8000) is added to
26 Division 4 of the Civil Code, to read:

27
28 PART 6. WORKS OF IMPROVEMENT

29
30 TITLE 1. PRIVATE WORK OF IMPROVEMENT

31
32 CHAPTER 1. DEFINITIONS AND GENERAL PROVISIONS

33
34 Article 1. Definitions

35
36 8000. Unless the provision or context otherwise requires, the
37 definitions in this article govern the construction of this title.

38 8002. “Claimant” means a person that has a right under this
39 title to record a claim of lien, give a stop payment notice, or assert
40 a claim against a payment bond.

1 8006. “Construction lender” means either of the following:

2 (a) A mortgagee or beneficiary under a deed of trust lending
3 funds for payment of construction costs for all or part of a work
4 of improvement, or the assignee or successor in interest of the
5 mortgagee or beneficiary.

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

9 8008. “Contract” means an agreement that provides for all or
10 part of a work of improvement. The term includes a contract
11 change.

12 8010. “Contract price” means the price agreed to in a direct
13 contract for a work of improvement, including a contract change.
14 If the parties have not agreed to a price for the work of
15 improvement, the contract price is the reasonable value of the work
16 provided for the work of improvement.

17 8011. “Contractor” includes a direct contractor, subcontractor,
18 or both.

19 8012. “Design professional” means a person licensed as an
20 architect pursuant to Chapter 3 (commencing with Section 5500)
21 of Division 3 of the Business and Professions Code, licensed as a
22 landscape architect pursuant to Chapter 3.5 (commencing with
23 Section 5615) of Division 3 of the Business and Professions Code,
24 registered as a professional engineer pursuant to Chapter 7
25 (commencing with Section 6700) of Division 3 of the Business
26 and Professions Code, or licensed as a land surveyor pursuant to
27 Chapter 15 (commencing with Section 8700) of Division 3 of the
28 Business and Professions Code who provides services pursuant to
29 a written contract with a landowner for the design, engineering,
30 or planning of a work of improvement.

31 8013. “Direct contract” means a contract between an owner
32 and a direct contractor that provides for all or part of a work of
33 improvement. The term includes a contract change.

34 8014. “Direct contractor” means a contractor that has a direct
35 contractual relationship with an owner. A reference in another
36 statute to a “prime contractor” in connection with the provisions
37 in this title means a “direct contractor.”

38 8016. A person “knows” or “has knowledge” of information
39 if the person knows or should have known that information.

1 8018. “Labor, service, equipment, or material” includes, but
2 is not limited to, labor, skills, services, material, supplies,
3 equipment, appliances, power, and surveying provided for a work
4 of improvement.

5 8020. (a) “Laborer” means a person who, acting as an
6 employee, performs labor, or bestows skill or other necessary
7 services, on a work of improvement.

8 (b) “Laborer” includes a person or entity to which a portion of
9 a laborer’s compensation for a work of improvement, including,
10 but not limited to, employer payments described in Section 1773.1
11 of the Labor Code and implementing regulations, is paid by
12 agreement with that laborer or the collective bargaining agent of
13 that laborer.

14 (c) A person or entity described in subdivision (b) that has
15 standing under applicable law to maintain a direct legal action, in
16 its own name or as an assignee, to collect any portion of
17 compensation owed for a laborer for a work of improvement, shall
18 have standing to enforce any rights or claims of the laborer under
19 this title, to the extent of the compensation agreed to be paid to
20 the person or entity for labor on that improvement. This subdivision
21 is intended to give effect to the longstanding public policy of this
22 state to protect the entire compensation of a laborer on a work of
23 improvement, regardless of the form in which that compensation
24 is to be paid.

25 8022. “Lending institution” includes a commercial bank,
26 savings and loan institution, credit union, or other organization or
27 person engaged in the business of financing loans.

28 8024. “Lien” means a lien under this title and includes a lien
29 of a design professional under Section 8302, a lien for a work of
30 improvement under Section 8400, and a lien for a site improvement
31 under Section 8402.

32 8026. “Material supplier” means a person that provides material
33 or supplies to be used or consumed in a work of improvement.

34 8028. “Owner” means:

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

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

1 (c) A successor in interest of a person described in subdivision
2 (a) or (b).

3 8030. “Payment bond” means a bond given under Chapter 6
4 (commencing with 8600).

5 8032. “Person” means an individual, corporation, public entity,
6 business trust, estate, trust, partnership, limited liability company,
7 association, or other entity.

8 8034. “Preliminary notice” means the notice provided for in
9 Chapter 2 (commencing with Section 8200).

10 8036. “Public entity” means the state, Regents of the University
11 of California, a county, city, district, public authority, public
12 agency, and any other political subdivision or public corporation
13 in the state.

14 8038. (a) “Reputed construction lender” means a person that
15 a claimant reasonably and in good faith believes is a construction
16 lender.

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

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

21 8040. “Site” means the property on which a work of
22 improvement is situated or planned.

23 8042. “Site improvement” means any of the following work
24 on property:

25 (a) Demolition or removal of improvements, trees, or other
26 vegetation.

27 (b) Drilling test holes.

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

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

31 (e) Construction of areas, vaults, cellars, or rooms under
32 sidewalks.

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

35 8044. (a) “Stop payment notice” means the notice given under
36 Chapter 5 (commencing with Section 8500). A reference in another
37 statute to a “stop notice” in connection with the remedies provided
38 in this title means a stop payment notice.

39 (b) A stop payment notice may be bonded or unbonded. A
40 “bonded stop payment notice” is a notice given with a bond under

1 Section 8532. An “unbonded stop payment notice” is a notice not
2 given with a bond under Section 8532.

3 (c) Except to the extent this title distinguishes between a bonded
4 and an unbonded stop payment notice, a reference in this title to
5 a stop payment notice includes both a bonded and an unbonded
6 notice.

7 8046. “Subcontractor” means a contractor that does not have
8 a direct contractual relationship with an owner. The term includes
9 a contractor that has a contractual relationship with a direct
10 contractor or with another subcontractor.

11 8048. “Work” means labor, service, equipment, or material
12 provided to a work of improvement.

13 8050. (a) “Work of improvement” includes, but is not limited
14 to:

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

18 (2) Seeding, sodding, or planting of property for landscaping
19 purposes.

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

21 (b) Except as otherwise provided in this title, “work of
22 improvement” means the entire structure or scheme of
23 improvement as a whole, and includes site improvement.

24
25 Article 2. Miscellaneous Provisions

26
27 8051. (a) This title is operative on January 1, 2012.

28 (b) Except as otherwise provided in this section, this title 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 on
32 a work of improvement before the operative date is governed by
33 the applicable law in effect before the operative date and not by
34 this title.

35 (d) A provision of this title, insofar as it is substantially the same
36 as a previously existing provision relating to the same subject
37 matter, shall be construed as a restatement and continuation thereof
38 and not as a new enactment.

1 8052. This title applies only to a work of improvement that is
2 not governed by Title 2 (commencing with Section 9000) of this
3 part.

4 8054. Except as otherwise provided in this title, Part 2
5 (commencing with Section 307) of the Code of Civil Procedure
6 provides the rules of practice in proceedings under this title.

7 8056. For purposes of this title, “day” means a calendar day.

8 8058. (a) If this title provides for filing a contract, plan, or
9 other paper with the county recorder, the provision is satisfied by
10 filing the paper in the office of the county recorder of the county
11 in which the work of improvement or part of it is situated.

12 (b) If this title provides for recording a notice, claim of lien,
13 release of lien, payment bond, or other paper, the provision is
14 satisfied by filing the paper for record in the office of the county
15 recorder of the county in which the work of improvement or part
16 of it is situated.

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

23 (d) The county recorder shall charge and collect the fees
24 provided in Article 5 (commencing with Section 27360) of Chapter
25 6 of Part 3 of Division 2 of Title 3 of the Government Code for
26 performing duties under this section.

27 8060. No act of an owner in good faith and in compliance with
28 a provision of this title shall be construed to prevent a direct
29 contractor’s performance of the contract, or exonerate a surety on
30 a performance or payment bond.

31 8062. An owner may give a notice or execute or file a document
32 under this title on behalf of a co-owner if the owner acts on the
33 co-owner’s behalf and includes in the notice or document the name
34 and address of the co-owner on whose behalf the owner acts.

35 8064. An act that may be done by or to a person under this title
36 may be done by or to the person’s agent to the extent the act is
37 within the scope of the agent’s authority.

38 8066. (a) This title does not apply to a transaction governed
39 by the Oil and Gas Lien Act, Chapter 2.5 (commencing with

1 Section 1203.50) of Title 4 of Part 3 of the Code of Civil
2 Procedure.

3 (b) This title does not apply to or change improvement security
4 under the Subdivision Map Act, Division 2 (commencing with
5 Section 66410) of Title 7 of the Government Code.

6 (c) This title does not apply to a transaction governed by
7 Sections 20457 to 20464, inclusive, of the Public Contract Code.

8

9

Article 3. Notice

10

11 8100. (a) Notice under this title shall be in writing.

12

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

14

15 8102. (a) Notice under this title shall, in addition to any other
16 information required by statute for that type of notice, include all
17 of the following information to the extent known to the person
18 giving the notice:

18

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

19

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

20

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

21

(4) A description of the site sufficient for identification,
22 including the street address of the site, if any. If a sufficient legal
23 description of the site is given, the effectiveness of the notice is
24 not affected by the fact that the street address is erroneous or is
25 omitted.

26

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

28

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

29

(A) A general statement of the work provided.

30

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

31

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

33

(b) Notice is not invalid by reason of any variance from the
34 requirements of this section if the notice is sufficient to
35 substantially inform the person given notice of the information
36 required by this section and other information required in the
37 notice.

38

39 8104. (a) A direct contractor or subcontractor that employs a
40 laborer and fails to pay the full compensation due the laborer,
including any employer payments described in Section 1773.1 of

1 the Labor Code and implementing regulations, shall not later than
2 the date the compensation became delinquent, give the laborer,
3 the laborer's bargaining representative, if any, the construction
4 lender or reputed construction lender, if any, and the owner or
5 reputed owner, notice that includes all of the following information,
6 in addition to the information required by Section 8102:

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

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

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

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

17 8106. Except as otherwise provided by statute, notice under
18 this title shall be given by any of the following means:

19 (a) Personal delivery.

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

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

24 8108. Except as otherwise provided by this part, notice under
25 this title shall be given to the person to be notified at the person's
26 residence, the person's place of business, or at any of the following
27 addresses:

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

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

34 (c) If the person to be notified is a direct contractor or a
35 subcontractor, the contractor's address shown on the building
36 permit, on the contractor's contract, or on the records of the
37 Contractors' State License Board.

38 (d) If the person to be notified is a claimant, the claimant's
39 address shown on the claimant's contract, preliminary notice, claim

1 of lien, stop payment notice, or claim against a payment bond, or
2 on the records of the Contractors' State License Board.

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

6 8110. Except as otherwise provided by this title, notice by mail
7 under this title shall be given by registered or certified mail, express
8 mail, or overnight delivery by an express service carrier.

9 8112. (a) As used in this section, "electronic record" has the
10 meaning provided in Section 1633.2.

11 (b) A notice under this title may be given to a person in the form
12 of an electronic record if the person has agreed in writing to receive
13 the notice in the form of an electronic record.

14 (c) If a person that has agreed to receive a notice in the form of
15 an electronic record is a consumer within the meaning of Section
16 7006 of Title 15 of the United States Code, the person's agreement
17 shall satisfy the requirements of Section 7001 of Title 15 of the
18 United States Code relating to consumer consent to an electronic
19 record.

20 8114. A notice required by this title to be posted shall be
21 displayed in a conspicuous location at the site and at the main
22 office of the site, if one exists.

23 8116. Notice under this title is complete and deemed to have
24 been given at the following times:

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

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

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

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

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

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

37 8118. (a) Proof that notice was given to a person in the manner
38 required by this title shall be made by a proof of notice declaration
39 that states all of the following:

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

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

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

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

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

11 (2) Documentation provided by an express service carrier
12 showing that payment was made to send the notice using an
13 overnight delivery service.

14 (3) A return receipt, delivery confirmation, signature
15 confirmation, tracking record, or other proof of delivery or
16 attempted delivery provided by the United States Postal Service,
17 or a photocopy of the record of delivery and receipt maintained
18 by the United States Postal Service, showing the date of delivery
19 and to whom delivered, or in the event of nondelivery, by the
20 returned envelope itself.

21 (4) A tracking record or other documentation provided by an
22 express service carrier showing delivery or attempted delivery of
23 the notice.

24 (c) If notice is given in the form of an electronic record, the
25 declaration shall also state that the document was served
26 electronically and that no notice of nontransmission was received,
27 and shall be accompanied by the recipient’s written agreement to
28 receive the notice in the form of an electronic record.

29

30

Article 4. Construction Documents

31

32 8130. (a) A written direct contract shall provide a space for
33 the owner to enter the following information:

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

35 (2) The name and address of the construction lender, if any.

36 This paragraph does not apply to a home improvement contract
37 or swimming pool contract subject to Article 10 (commencing
38 with Section 7150) of Chapter 9 of Division 3 of the Business and
39 Professions Code.

1 (b) A written contract entered into between a direct contractor
2 and subcontractor, or between subcontractors, shall provide a space
3 for the name and address of the owner, direct contractor, and
4 construction lender, if any.

5 8132. (a) A public entity that issues building permits shall, in
6 its application form for a building permit, provide space and a
7 designation for the applicant to enter the name, branch designation,
8 if any, and address of the construction lender and shall keep the
9 information on file open for public inspection during the regular
10 business hours of the public entity.

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

13 (c) Failure of the applicant to indicate the name and address of
14 the construction lender on the application does not relieve a person
15 required to give the construction lender preliminary notice from
16 that duty.

17 8134. (a) A mortgage, deed of trust, or other instrument
18 securing a loan, any of the proceeds of which may be used for a
19 work of improvement, shall bear the designation “Construction
20 Trust Deed” prominently on its face and shall state all of the
21 following:

- 22 (1) The name and address of the construction lender.
- 23 (2) The name and address of the owner of the property described
24 in the instrument.
- 25 (3) A legal description of the property that secures the loan and,
26 if known, the street address of the property.

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

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

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

34

35 Article 5. Bonds

36

37 8140. The Bond and Undertaking Law, Chapter 2 (commencing
38 with Section 995.010) of Title 14 of Part 2 of the Code of Civil
39 Procedure, applies to a bond given under this title, except to the
40 extent this title prescribes a different rule or is inconsistent.

1 8142. None of the following releases a surety from liability on
2 a bond given under this title:

3 (a) A change to a contract, plan, specification, or agreement for
4 a work of improvement or for work provided for a work of
5 improvement.

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

8 (c) A rescission or attempted rescission of a contract, agreement,
9 or bond.

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

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

16 8144. (a) A bond given under this title shall be construed most
17 strongly against the surety and in favor of the beneficiary.

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

21 (c) Except as otherwise provided by statute, the sole conditions
22 of recovery on the bond are that the claimant is a person described
23 in Article 1 (commencing with Section 8400) of Chapter 4, and
24 has not been paid the full amount of the claim.

25

26 Article 6. Completion

27

28 8150. (a) For the purpose of this title, completion of a work
29 of improvement occurs at the earliest of the following times:

30 (1) Actual completion of the work of improvement.

31 (2) Occupation or use by the owner accompanied by cessation
32 of labor.

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

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

36 (b) Notwithstanding subdivision (a), if a work of improvement
37 is subject to acceptance by a public entity, completion occurs on
38 acceptance.

1 8152. (a) An owner may record a notice of completion on or
2 within 15 days after the date of completion of a work of
3 improvement.

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

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

8 (1) If the notice is given only of completion of a contract for a
9 particular portion of the work of improvement as provided in
10 Section 8154, the name of the direct contractor under that contract
11 and a general statement of the work provided pursuant to the
12 contract.

13 (2) If signed by the owner's successor in interest, the name and
14 address of the successor's transferor.

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

16 (4) The date of completion. An erroneous statement of the date
17 of completion does not affect the effectiveness of the notice if the
18 true date of completion is 15 days or less before the date of
19 recordation of the notice.

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

22 8153. A notice of completion in otherwise proper form, verified
23 and containing the information required by this title, shall be
24 accepted by the recorder for recording and is deemed duly recorded
25 without acknowledgment.

26 8154. If a work of improvement is made pursuant to two or
27 more direct contracts, each covering a portion of the work of
28 improvement:

29 (a) The owner may record a notice of completion of a direct
30 contract for a portion of the work of improvement. On recordation
31 of the notice of completion, for the purpose of Sections 8412 and
32 8414, a direct contractor is deemed to have completed the contract
33 for which the notice of completion is recorded and a claimant other
34 than a direct contractor is deemed to have ceased providing work.

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

38 8155. (a) An owner may record a notice of cessation if there
39 has been a continuous cessation of labor on a work of improvement

1 for at least 30 days prior to the recordation that continues through
2 the date of the recordation.

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

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

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

8 (2) A statement that the cessation has continued until the
9 recordation of the notice.

10 8156. (a) An owner that records a notice of completion or
11 cessation shall, within 10 days of the date the notice of completion
12 or cessation is filed for record, give a copy of the notice to all of
13 the following persons:

14 (1) A direct contractor.

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

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

18 (c) If the owner fails to give notice to a person as required by
19 subdivision (a), the notice is ineffective to shorten the time within
20 which that person may record a claim of lien under Sections 8412
21 and 8414. The ineffectiveness of the notice is the sole liability of
22 the owner for failure to give notice to a person under subdivision
23 (a).

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

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

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

28 (3) A person that obtains an interest in the property pursuant to
29 a transfer described in subdivision (b), (c), or (d) of Section 1102.2.
30

31 Article 7. Waiver and Release

32
33 8160. An owner, direct contractor, or subcontractor may not,
34 by contract or otherwise, waive, affect, or impair any other
35 claimant's rights under this title, whether with or without notice,
36 and any term of a contract that purports to do so is void and
37 unenforceable unless and until the claimant executes and delivers
38 a waiver and release under this article.

1 8162. A claimant's waiver and release does not release the
2 owner, construction lender, or surety on a payment bond from a
3 lien or claim unless both of the following conditions are satisfied:

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

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

11 8164. An oral or written statement purporting to waive, release,
12 impair or otherwise adversely affect a lien or claim is void and
13 unenforceable and does not create an estoppel or impairment of
14 the lien or claim unless either of the following conditions is
15 satisfied:

16 (a) The statement is pursuant to a waiver and release under this
17 article.

18 (b) The claimant has actually received payment in full for the
19 claim.

20 8166. (a) A claimant may reduce the amount of, or release in
21 its entirety, a stop payment notice. The reduction or release shall
22 be in writing and may be given in a form other than a waiver and
23 release form provided in this article.

24 (b) The writing shall identify whether it is a reduction of the
25 amount of the stop payment notice, or a release of the notice in its
26 entirety. If the writing is a reduction, it shall state the amount of
27 the reduction, and the amount to remain withheld after the
28 reduction.

29 (c) A claimant's reduction or release of a stop payment notice
30 has the following effect:

31 (1) The reduction or release releases the claimant's right to
32 enforce payment of the claim stated in the notice to the extent of
33 the reduction or release.

34 (2) The reduction or release releases the person given the notice
35 from the obligation to withhold funds pursuant to the notice to the
36 extent of the reduction or release.

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

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

4 8168. This article does not affect the enforceability of either
5 an accord and satisfaction concerning a good faith dispute or an
6 agreement made in settlement of an action pending in court if the
7 accord and satisfaction or agreement and settlement make specific
8 reference to the lien or claim.

9 8170. If a claimant is required to execute a waiver and release
10 in exchange for, or in order to induce payment of, a progress
11 payment and the claimant is not, in fact, paid in exchange for the
12 waiver and release or a single payee check or joint payee check is
13 given in exchange for the waiver and release, the waiver and release
14 shall be in substantially the following form:

15

16 Conditional Waiver and Release on Progress Payment

17

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

21

22 Identifying Information

23 Name of Claimant: _____

24 Name of Customer: _____

25 Job Location: _____

26 Owner: _____

27 Through Date: _____

28

29 Conditional Waiver and Release

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

35 Maker of Check: _____

36 Amount of Check: \$ _____

37 Check Payable to: _____

38

39 Exceptions

40 This document does not affect any of the following:

- 1 (1) Retentions.
- 2 (2) Extras for which the claimant has not received payment.
- 3 (3) The following progress payments for which the claimant has previously
- 4 given a conditional waiver and release but has not received payment:

5 Date(s) of waiver and release: _____

6 Amount(s) of unpaid progress payment(s): \$ _____

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

10

11 Signature

12 Claimant's Signature: _____

13 Claimant's Title: _____

14 Date of Signature: _____

15

16 8172. If the claimant is required to execute a waiver and release
17 in exchange for, or in order to induce payment of, a progress
18 payment and the claimant asserts in the waiver it has, in fact, been
19 paid the progress payment, the waiver and release shall be in
20 substantially the following form, with the text of the "Notice to
21 Claimant" in at least as large a type as the largest type otherwise
22 in the form:

23

24 Unconditional Waiver and Release on Progress Payment

25

26 NOTICE TO CLAIMANT: This document waives and releases rights
27 unconditionally and states that you have been paid for giving up those rights.
28 This document is enforceable against you if you sign it, even if you have not
29 been paid. If you have not been paid, use a conditional waiver and release
30 form.

31

32 Identifying Information

33 Name of Claimant: _____

34 Name of Customer: _____

35 Job Location: _____

36 Owner: _____

37 Through Date: _____

38

39 Unconditional Waiver and Release

1 This document waives and releases lien, stop payment notice, and payment
2 bond rights the claimant has for labor and service provided, and equipment
3 and material delivered, to the customer on this job through the Through Date
4 of this document.

5
6 The claimant has received the following progress payment:

7 \$ _____

8
9 Exceptions

10 This document does not affect any of the following:

- 11 (1) Retentions.
- 12 (2) Extras for which the claimant has not received payment. This document
- 13 does not affect contract rights, including (A) a right based on rescission,
- 14 abandonment, or breach of contract, and (B) the right to recover compensation
- 15 for work not compensated by the payment.

16
17 Signature

18 Claimant's Signature: _____

19 Claimant's Title: _____

20 Date of Signature: _____

21
22 8174. If the claimant is required to execute a waiver and release
23 in exchange for, or in order to induce payment of, a final payment
24 and the claimant is not, in fact, paid in exchange for the waiver
25 and release or a single payee check or joint payee check is given
26 in exchange for the waiver and release, the waiver and release shall
27 be in substantially the following form:

28
29 Conditional Waiver and Release on Final Payment

30
31 NOTICE: This document waives the claimant's lien and certain other rights
32 effective on receipt of payment. A person should not rely on this document
33 unless satisfied that the claimant has received payment.

34
35 Identifying Information

36 Name of Claimant: _____

37 Name of Customer: _____

38 Job Location: _____

39 Owner: _____

40

1 Conditional Waiver and Release

2 This document waives and releases lien, stop payment notice, and payment
3 bond rights the claimant has for labor and service provided, and equipment
4 and material delivered to the customer on this job. This document is effective
5 only on the claimant’s receipt of payment from the financial institution on
6 which the following check is drawn:

7 Maker of Check: _____
8 Amount of Check: \$ _____
9 Check Payable to: _____

10

11 Exceptions

12 This document does not affect any of the following:

- 13 (1) Disputed claims for extras in the amount of: \$ _____
- 14 (2) 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

19 Signature

20 Claimant’s Signature: _____
21 Claimant’s Title: _____
22 Date of Signature: _____

23

24 8176. If the claimant is required to execute a waiver and release
25 in exchange for, or in order to induce payment of, a final payment
26 and the claimant asserts in the waiver it has, in fact, been paid the
27 final payment, the waiver and release shall be in substantially the
28 following form, with the text of the “Notice to Claimant” in at
29 least as large a type as the largest type otherwise in the form:

30

31 Unconditional Waiver and Release on Final Payment

32

33 NOTICE TO CLAIMANT: This document waives and releases rights
34 unconditionally and states that you have been paid for giving up those rights.
35 This document is enforceable against you if you sign it, even if you have not
36 been paid. If you have not been paid, use a conditional waiver and release
37 form.

38

39 Identifying Information

40 Name of Claimant: _____

1 Name of Customer: _____

2 Job Location: _____

3 Owner: _____

4

5 Unconditional Waiver and Release

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

10

11 Exception

12 This document does not affect the following:

13 Disputed claims for extras in the amount of: \$ _____

14

15 Signature

16 Claimant's Signature: _____

17 Claimant's Title: _____

18 Date of Signature: _____

19

20 CHAPTER 2. PRELIMINARY NOTICE

21

22 8200. (a) Except as otherwise provided by statute, before
23 recording a lien claim, giving a stop payment notice, or asserting
24 a claim against a payment bond, a claimant shall give preliminary
25 notice to the following persons:

26 (1) The owner or reputed owner.

27 (2) The direct contractor or reputed direct contractor to which
28 the claimant provides work, either directly or through one or more
29 subcontractors.

30 (3) The construction lender or reputed construction lender, if
31 any.

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

34 (c) Compliance with this section is a necessary prerequisite to
35 the validity of a lien claim or stop payment notice under this title.

36 (d) Compliance with this section or with Section 8612 is a
37 necessary prerequisite to the validity of a claim against a payment
38 bond under this title.

39 (e) Notwithstanding the foregoing subdivisions:

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

- 1 (2) A claimant with a direct contractual relationship with an
- 2 owner or reputed owner is required to give preliminary notice only
- 3 to the construction lender or reputed construction lender, if any.
- 4 8202. (a) The preliminary notice shall comply with the
- 5 requirements of Section 8102, and shall also include:
- 6 (1) A general description of the work to be provided.
- 7 (2) An estimate of the total price of the work provided and to
- 8 be provided.
- 9 (3) The following statement in boldface type:

10
11

NOTICE TO PROPERTY OWNER

12
13
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15
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19
20

EVEN THOUGH YOU HAVE PAID YOUR CONTRACTOR IN FULL, if the person or firm that has given you this notice is not paid in full for labor, service, equipment, or material provided or to be provided to your construction project, a lien may be placed on your property. Foreclosure of the lien may lead to loss of all or part of your property. You may wish to protect yourself against this by (1) requiring your contractor to provide a signed release by the person or firm that has given you this notice before making payment to your contractor, or (2) any other method that is appropriate under the circumstances.

21
22
23
24

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

25
26
27
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31

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

32
33
34
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37

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

38
39
40

(c) If an invoice for material or certified payroll contains the information required by this section and Section 8102, a copy of the invoice or payroll, given in compliance with the requirements

1 of Article 3 (commencing with Section 8100) of Chapter 1, is
2 sufficient.

3 8204. (a) A preliminary notice shall be given not later than 20
4 days after the claimant has first furnished work on the work of
5 improvement. If work has been provided by a claimant who did
6 not give a preliminary notice, that claimant shall not be precluded
7 from giving a preliminary notice at any time thereafter. The
8 claimant shall, however, be entitled to record a lien, give a stop
9 payment notice, and assert a claim against a payment bond only
10 for work performed within 20 days prior to the service of the
11 preliminary notice, and at any time thereafter.

12 (b) A licensed architect, licensed landscape architect, registered
13 engineer, or licensed land surveyor who has furnished services for
14 the design of the work of improvement and who gives a preliminary
15 notice not later than 20 days after the work of improvement has
16 commenced shall be deemed to have complied with Section 8200
17 with respect to the design services furnished, or to be furnished.

18 8206. (a) Except as provided in subdivision (b), a claimant
19 need give only one preliminary notice to each person to which
20 notice must be given under this chapter with respect to all work
21 provided by the claimant for a work of improvement.

22 (b) If a claimant provides work pursuant to contracts with more
23 than one subcontractor, the claimant shall give a separate
24 preliminary notice with respect to work provided pursuant to each
25 contract.

26 (c) A preliminary notice that contains a general description of
27 work provided by the claimant through the date of the notice also
28 covers work provided by the claimant after the date of the notice
29 whether or not they are within the scope of the general description
30 contained in the notice.

31 8208. A direct contractor shall make available to any person
32 seeking to give preliminary notice the following information:

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

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

35 8210. If a construction loan is obtained after commencement
36 of a work of improvement, the owner shall give notice of the name
37 and address of the construction lender to each person that has given
38 the owner preliminary notice.

1 8212. An agreement made or entered into by an owner whereby
2 the owner agrees to waive the rights conferred on the owner by
3 this chapter is void and unenforceable.

4 8214. The county recorder may cause to be destroyed all
5 documents filed under subdivision (o) of former Section 3097 as
6 that section read on January 1, 2008.

7 8216. If the contract of any subcontractor on a particular work
8 of improvement provides for payment to the subcontractor of more
9 than four hundred dollars (\$400), the failure of that subcontractor,
10 licensed under the Contractors’ State License Law (Chapter 9
11 (commencing with Section 7000) of Division 3 of the Business
12 and Professions Code), to give the notice provided for in this
13 chapter, constitutes grounds for disciplinary action under the
14 Contractors’ State License Law.

15

16 CHAPTER 3. DESIGN PROFESSIONALS LIEN

17

18 8300. Notwithstanding Section 8028, for purposes of this
19 chapter “owner” means a fee owner of a site.

20 8302. (a) A design professional has, from the date of
21 recordation of a claim of lien under this chapter, a lien on the site
22 notwithstanding the absence of commencement of the planned
23 work of improvement, if the owner who contracted for the design
24 professional’s services is also the owner of the site at the time of
25 recordation of the claim of lien.

26 (b) The lien of the design professional is for the amount of the
27 design professional’s fee for services provided under the contract
28 or the reasonable value of those services, whichever is less. The
29 amount of the lien is reduced by the amount of any deposit or prior
30 payment under the contract.

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

36 8304. A design professional is not entitled to a lien under this
37 chapter unless all of the following conditions are satisfied:

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

1 (b) The owner defaults in a payment required under the contract
2 or refuses to pay the demand of the design professional made under
3 the contract.

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

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

- 10 (1) The name of the design professional.
11 (2) The amount of the claim.
12 (3) The current owner of record of the site.
13 (4) A legal description of the site.
14 (5) Identification of the building permit or other governmental
15 approval for the work of improvement.

16 8306. (a) On recordation of the claim of lien, a lien is created
17 in favor of the named design professional.

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

21 (1) The commencement of the work of improvement for which
22 the design professional provided services.

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

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

29 8308. (a) Except as provided in subdivision (b), no provision
30 of this title applies to a lien created under this chapter.

31 (b) The following provisions of this title apply to a lien created
32 under this chapter:

- 33 (1) This chapter.
34 (2) Article 1 (commencing with Section 8000) of Chapter 1.
35 (3) Section 8424.
36 (4) Article 6 (commencing with Section 8460) of Chapter 4.
37 (5) Article 7 (commencing with Section 8480) of Chapter 4.
38 (6) Article 8 (commencing with Section 8490) of Chapter 4.

1 8310. This chapter does not affect the ability of a design
2 professional to obtain a lien for a work of improvement under
3 Section 8400.

4 8312. A design professional shall record a claim of lien under
5 this chapter no later than 90 days after the design professional
6 knows or has reason to know that the work of improvement will
7 not be commenced.

8 8314. The creation of a lien under this chapter does not affect
9 the ability of the design professional to pursue other remedies.

10 8316. (a) No lien created under this chapter affects or takes
11 priority over the interest of record of a purchaser, lessee, or
12 encumbrancer, if the interest of the purchaser, lessee, or
13 encumbrancer in the property was duly recorded before recordation
14 of the claim of lien.

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

19 8318. A design professional may not obtain a lien under this
20 chapter for services provided for a work of improvement relating
21 to a single-family, owner-occupied residence for which the
22 expected construction cost is less than one hundred thousand
23 dollars (\$100,000).

24

CHAPTER 4. MECHANICS LIEN

25

Article 1. Who is Entitled to Lien

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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.

1 8404. Work is authorized for a work of improvement or for a
2 site improvement in any of the following circumstances:

3 (a) It is provided at the request of or agreed to by the owner.

4 (b) It is provided or authorized by a direct contractor,
5 subcontractor, architect, project manager, or other person having
6 charge of all or part of the work of improvement or site
7 improvement.

8

9

Article 2. Conditions to Enforcing a Lien

10

11 8410. A claimant may enforce a lien only if the claimant has
12 given preliminary notice to the extent required by Chapter 2
13 (commencing with Section 8200) and made proof of notice.

14 8412. A direct contractor may not enforce a lien unless the
15 contractor records a claim of lien after the contractor completes
16 the direct contract, and before the earlier of the following times:

17 (a) Ninety days after completion of the work of improvement.

18 (b) Sixty days after the owner records a notice of completion
19 or cessation.

20 8414. A claimant other than a direct contractor may not enforce
21 a lien unless the claimant records a claim of lien within the
22 following times:

23 (a) After the claimant ceases to provide work.

24 (b) Before the earlier of the following times:

25 (1) Ninety days after completion of the work of improvement.

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

28 8416. (a) A claim of *mechanics* lien shall be ~~in writing a~~
29 *written statement*, signed and verified by the claimant, containing
30 all of the following:

31 (1) A statement of the claimant's demand after deducting all
32 just credits and offsets.

33 (2) The name of the owner or reputed owner, if known.

34 (3) A general statement of the kind of work ~~provided~~ *furnished*
35 by the claimant.

36 (4) The name of the person by whom the claimant was employed
37 or to whom the claimant furnished work.

38 (5) A description of the site sufficient for identification.

39 (6) The claimant's address.

1 (7) A proof of service affidavit completed and signed by the
 2 person serving *a copy* of the claim of *mechanics* lien pursuant to
 3 ~~Section 8418 subdivision (c)~~. The affidavit shall show the date,
 4 place, and manner of service, and facts showing that the service
 5 was made in ~~compliance~~ *accordance* with ~~Section 8418 this~~
 6 *section*. The affidavit shall show the name and address of the
 7 person or persons upon whom *the copy* of the claim of *mechanics*
 8 lien was served, and, if appropriate, the title or capacity in which
 9 he or she was served.

10 (8) The following statement, printed in at least 10-point boldface
 11 type. The letters of the last sentence shall be printed in uppercase
 12 type, excepting the Internet Web site address of the Contractors’
 13 State License Board, which shall be printed in lowercase type:

14
 15 “NOTICE OF MECHANICS LIEN
 16 ATTENTION!
 17

18 Upon the recording of the enclosed ~~claim of lien~~ *MECHANICS LIEN* with
 19 the county recorder’s office of the county where the property is located, your
 20 property is subject to the filing of a legal action seeking a court-ordered
 21 foreclosure sale of the real property on which the lien has been recorded. That
 22 legal action must be filed with the court no later than 90 days after the date
 23 the ~~claim of mechanics~~ lien is recorded.

24 The party identified in the ~~claim of~~ *enclosed mechanics* lien may have
 25 provided labor or materials for improvements to your property and may not
 26 have been paid for these items. You are receiving this notice because it is a
 27 required step in filing a mechanics lien foreclosure action against your property.
 28 The foreclosure action will seek a sale of your property in order to pay for
 29 unpaid labor, materials, or improvements provided to your property. This may
 30 affect your ability to borrow against, refinance, or sell the property until the
 31 mechanics lien is released.

32 BECAUSE THE LIEN AFFECTS YOUR PROPERTY, YOU MAY WISH
 33 TO SPEAK WITH YOUR CONTRACTOR IMMEDIATELY, OR CONTACT
 34 AN ATTORNEY, OR FOR MORE INFORMATION ON MECHANICS
 35 LIENS GO TO THE CONTRACTORS’ STATE LICENSE BOARD WEB
 36 SITE AT www.cslb.ca.gov.”
 37

38 (b) A claim of *mechanics* lien in otherwise proper form, verified
 39 and containing the information required in subdivision (a), shall

1 be accepted by the recorder for recording and shall be deemed
2 duly recorded without acknowledgment.

3 (c) A copy of the claim of mechanics lien, which includes the
4 Notice of Mechanics Lien required by paragraph (8) of subdivision
5 (a), shall be served on the owner or reputed owner. Service shall
6 be made as follows:

7 (1) For an owner or reputed owner to be notified who resides
8 in or outside this state, by registered mail, certified mail, or
9 first-class mail, evidenced by a certificate of mailing, postage
10 prepaid, addressed to the owner or reputed owner at the owner's
11 or reputed owner's residence or place of business address or at
12 the address shown by the building permit on file with the authority
13 issuing a building permit for the work, or as otherwise provided
14 in Section 8134.

15 (2) If the owner or reputed owner cannot be served by this
16 method, then the copy of the claim of mechanics lien may be given
17 by registered mail, certified mail, or first-class mail, evidenced by
18 a certificate of mailing, postage prepaid, addressed to the
19 construction lender or to the original contractor.

20 (d) Service of the copy of the claim of mechanics lien by
21 registered mail, certified mail, or first-class mail, evidenced by a
22 certificate of mailing, postage prepaid, is complete at the time of
23 the deposit of that first-class, certified, or registered mail.

24 (e) Failure to serve the copy of the claim of mechanics lien as
25 prescribed by this section, including the Notice of Mechanics Lien
26 required by paragraph (8) of subdivision (a), shall cause the claim
27 of mechanics lien to be unenforceable as a matter of law.

28 ~~8418. (a) The claim of lien described in Section 8416 shall be~~
29 ~~served on the owner or reputed owner. Service shall be made as~~
30 ~~follows:~~

31 ~~(1) For an owner or reputed owner to be notified who resides~~
32 ~~in or outside this state, by registered mail, certified mail, or~~
33 ~~first-class mail, evidenced by a certificate of mailing, postage~~
34 ~~prepaid, addressed to the owner or reputed owner at the owner's~~
35 ~~or reputed owner's residence or place of business address or at the~~
36 ~~address shown by the building permit on file with the authority~~
37 ~~issuing a building permit for the work, or as otherwise provided~~
38 ~~in Section 8134.~~

39 ~~(2) If the owner or reputed owner cannot be served by this~~
40 ~~method, then the notice may be given by registered mail, certified~~

1 ~~mail, or first-class mail, evidenced by a certificate of mailing,~~
2 ~~postage prepaid, addressed to the construction lender or to the~~
3 ~~original contractor.~~

4 ~~(b) Service by registered mail, certified mail, or first-class mail,~~
5 ~~evidenced by a certificate of mailing, postage prepaid, is complete~~
6 ~~at the time of the deposit of that first-class, certified, or registered~~
7 ~~mail.~~

8 ~~(c) Failure to serve the claim of lien as prescribed by this section~~
9 ~~shall cause the claim of lien to be unenforceable as a matter of~~
10 ~~law.~~

11 8422. (a) Except as provided in subdivision (b), erroneous
12 information contained in a claim of lien relating to the claimant's
13 demand, credits and offsets deducted, the work provided, or the
14 description of the site, does not invalidate the claim of lien.

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

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

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

26 8424. (a) An owner of property subject to a recorded claim of
27 lien or a direct contractor or subcontractor affected by the claim
28 of lien that disputes the correctness or validity of the claim may
29 obtain release of the property from the claim of lien by recording
30 a lien release bond. The principal on the bond may be the owner
31 of the property, the direct contractor, or the subcontractor.

32 (b) The bond shall be conditioned on payment of any judgment
33 and costs the claimant recovers on the lien. The bond shall be in
34 an amount equal to 150 percent of the amount of the claim of lien
35 or 150 percent of the amount allocated in the claim of lien to the
36 property to be released. The bond shall be executed by an admitted
37 surety insurer.

38 (c) The bond may be recorded either before or after
39 commencement of an action to enforce the lien. On recordation of

1 the bond, the property is released from the claim of lien and from
2 any action to enforce the lien.

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

11

12 Article 3. Amount of Lien

13

14 8430. (a) The lien is a direct lien for the lesser of the following
15 amounts:

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

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

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

21 (c) This section does not preclude the claimant from including
22 in a claim of lien work performed as a result of rescission,
23 abandonment, or breach of the contract. If there is a rescission,
24 abandonment, or breach of the contract, the amount of the lien
25 may not exceed the reasonable value of the work provided by the
26 claimant.

27 8432. (a) A lien does not extend to work, whether or not the
28 work is authorized by a direct contractor or subcontractor, if the
29 work is not included in a direct contract, and the claimant had
30 actual knowledge or constructive notice of the provisions of that
31 contract before providing the work.

32 (b) The filing of a contract with the county recorder, before the
33 commencement of a work of improvement, is constructive notice
34 of the provisions of the contract to a person providing work on
35 that work of improvement.

36 8434. A direct contractor or a subcontractor may enforce a lien
37 only for the amount due pursuant to that contractor's contract after
38 deducting all lien claims of other claimants for work provided and
39 embraced within that contract.

Article 4. Property Subject to Lien

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

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

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

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

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

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

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

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

- (1) The nature of the owner’s title or interest.
- (2) The name of a purchaser under contract, if any, or lessee, if known.
- (3) A statement that the person giving the notice is not responsible for claims arising from the work of improvement.

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

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

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

(b) The claimant in the claim of lien designates the amount due for each work of improvement. If the claimant contracted for a

1 lump sum payment for work provided for the works of
2 improvement and the contract does not segregate the amount due
3 for each work of improvement separately, the claimant may
4 estimate an equitable distribution of the amount due for each work
5 of improvement based on the proportionate amount of work
6 provided for each. If the claimant does not designate the amount
7 due for each work of improvement, the lien is subordinate to other
8 liens.

9 (c) If there is a single structure on property of different owners,
10 the claimant need not segregate the proportion of work provided
11 for the portion of the structure situated on property of each owner.
12 In the lien enforcement action the court may, if it determines it
13 equitable to do so, designate an equitable distribution of the lien
14 among the property of the owners.

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

19 8448. (a) As used in this section, “separate residential unit”
20 means one residential structure, including a residential structure
21 containing multiple condominium units, together with any common
22 area, garage, or other appurtenant improvements.

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

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

29 (2) Material provided for the work of improvement is deemed
30 to be provided for use or consumption in each separate residential
31 unit in which the material is actually used or consumed; but if the
32 claimant is unable to segregate the amounts used or consumed in
33 separate residential units, the claimant has the right to all the
34 benefits of Section 8446.

35

36

Article 5. Priorities

37

38 8450. (a) A lien under this chapter, other than a lien provided
39 for in Section 8402, has priority over a lien, mortgage, deed of
40 trust, or other encumbrance on the work of improvement or the

1 property on which the work of improvement is situated, that (1)
2 attaches after commencement of the work of improvement or (2)
3 was unrecorded at the commencement of the work of improvement
4 and of which the claimant had no notice.

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

7 8452. A mortgage or deed of trust, otherwise subordinate to a
8 lien under Section 8450, has priority over a lien for work provided
9 after recordation of a payment bond that satisfies all of the
10 following requirements:

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

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

14 8454. If a site improvement is provided for in a direct contract
15 separate from the direct contract for the remainder of the work of
16 improvement, the site improvement is deemed a separate work of
17 improvement and commencement of the site improvement is not
18 commencement of the remainder of the work of improvement.

19 8456. (a) This section applies to a construction loan secured
20 by a mortgage or deed of trust that has priority over a lien under
21 this chapter.

22 (b) An optional advance of funds by the construction lender that
23 is used for construction costs has the same priority as a mandatory
24 advance of funds by the construction lender, provided that the total
25 of all advances does not exceed the amount of the original
26 construction loan.

27 8458. (a) Except as provided in subdivision (b), a lien provided
28 for in Section 8402 has priority over:

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

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

34 (3) A mortgage, deed of trust, or other encumbrance that was
35 recorded before commencement of the site improvement, if given
36 for the sole or primary purpose of financing the site improvement.
37 This subdivision does not apply if the loan proceeds are, in good
38 faith, placed in the control of the lender pursuant to a binding
39 agreement with the borrower to the effect that (A) the proceeds
40 are to be applied to the payment of claimants and (B) no portion

1 of the proceeds will be paid to the borrower in the absence of
2 satisfactory evidence that all claims have been paid or that the time
3 for recording a claim of lien has expired and no claim of lien has
4 been recorded.

5 (b) A mortgage or deed of trust, otherwise subordinate under
6 subdivision (a), has priority over a lien provided for in Section
7 8402 if a payment bond in an amount not less than 50 percent of
8 the principal amount of the mortgage or deed of trust is recorded
9 before completion of the work of improvement.

10

11

Article 6. Enforcement of Lien

12

13 8460. (a) The claimant shall commence an action to enforce
14 a lien within 90 days after recordation of the claim of lien. If the
15 claimant does not commence an action to enforce the lien within
16 that time, the claim of lien expires and is unenforceable.

17 (b) Subdivision (a) does not apply if the claimant and owner
18 agree to extend credit, and notice of the fact and terms of the
19 extension of credit is recorded (1) within 90 days after recordation
20 of the claim of lien or (2) more than 90 days after recordation of
21 the claim of lien but before a purchaser or encumbrancer for value
22 and in good faith acquires rights in the property. In that event the
23 claimant shall commence an action to enforce the lien within 90
24 days after the expiration of the credit, but in no case later than one
25 year after completion of the work of improvement. If the claimant
26 does not commence an action to enforce the lien within that time,
27 the claim of lien expires and is unenforceable.

28 8461. After commencement of an action to enforce a lien, the
29 plaintiff shall record in the office of the county recorder of the
30 county, or of the several counties in which the property is situated,
31 a notice of the pendency of the action, as provided in Title 4.5
32 (commencing with Section 405) of Part 2 of the Code of Civil
33 Procedure, on or before 20 days after the commencement of the
34 action. Only from the time of recording that notice shall a purchaser
35 or encumbrancer of the property affected thereby be deemed to
36 have constructive notice of the pendency of the action, and in that
37 event only of its pendency against parties designated by their real
38 names.

39 8462. Notwithstanding Section 583.420 of the Code of Civil
40 Procedure, the court may dismiss an action to enforce a lien that

1 is not brought to trial within two years after commencement of the
2 action.

3 8464. In addition to any other costs allowed by law, the court
4 in an action to enforce a lien shall allow as costs to each claimant
5 whose lien is established the amount paid to verify and record the
6 claim of lien, whether the claimant is a plaintiff or defendant.

7 8466. If there is a deficiency of proceeds from the sale of
8 property on a judgment for enforcement of a lien, a deficiency
9 judgment may be entered against a party personally liable for the
10 deficiency in the same manner and with the same effect as in an
11 action to foreclose a mortgage.

12 8468. (a) This chapter does not affect any of the following
13 rights of a claimant:

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

17 (2) The right to a writ of attachment. In an application for a writ
18 of attachment, the claimant shall refer to this section. The
19 claimant’s recording of a claim of lien does not affect the right to
20 a writ of attachment.

21 (3) The right to enforce a judgment.

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

26 8470. In an action to enforce a lien for work provided to a
27 contractor:

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

31 (b) If the judgment in the action is against the owner or the
32 owner’s property, the owner may deduct the amount of the
33 judgment and costs from any amount owed to the direct contractor.
34 If the amount of the judgment and costs exceeds the amount owed
35 to the direct contractor, or if the owner has settled with the direct
36 contractor in full, the owner may recover from the direct contractor,
37 or the sureties on a bond given by the direct contractor for faithful
38 performance of the direct contract, the amount of the judgment
39 and costs that exceed the contract price and for which the direct
40 contractor was originally liable.

Article 7. Release Order

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8480. (a) The owner of property subject to a claim of lien may petition the court for an order to release the property from the claim of lien if the claimant has not commenced an action to enforce the lien within the time provided in Section 8460.

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

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

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

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

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

- (a) The date of recordation of the claim of lien. A certified copy of the claim of lien shall be attached to the petition.
- (b) The county in which the claim of lien is recorded.
- (c) The book and page or series number of the place in the official records where the claim of lien is recorded.
- (d) The legal description of the property subject to the claim of lien.
- (e) The facts on which the petition is based. If the petition is based on expiration of the time to enforce the lien, the petition shall state whether an extension of credit has been granted under Section 8460, if so to what date, and shall allege that the time for commencement of an action to enforce the lien has expired.

1 (f) That the owner has given the claimant notice under Section
2 8482 demanding that the claimant execute and record a release of
3 the lien and that the claimant is unable or unwilling to do so or
4 cannot with reasonable diligence be found.

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

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

9 8486. (a) On the filing of a petition for a release order, the
10 clerk shall set a hearing date. The date shall be not more than 30
11 days after the filing of the petition. The court may continue the
12 hearing only on a showing of good cause, but in any event the
13 court shall rule and make any necessary orders on the petition not
14 later than 60 days after the filing of the petition.

15 (b) The petitioner shall serve a copy of the petition and a notice
16 of hearing on the claimant at least 15 days before the hearing.
17 Service shall be made in the same manner as service of summons,
18 or by certified or registered mail, postage prepaid, return receipt
19 requested, addressed to the claimant as provided in Section 8108.

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

23 8488. (a) At the hearing both (1) the petition and (2) the issue
24 of compliance with the service and date for hearing requirements
25 of this article are deemed controverted by the claimant. The
26 petitioner has the initial burden of producing evidence on those
27 matters. The petitioner has the burden of proof as to the issue of
28 compliance with the service and date for hearing requirements of
29 this article. The claimant has the burden of proof as to the validity
30 of the lien.

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

33 (c) The prevailing party is entitled to reasonable attorney’s fees.
34

35 Article 8. Removal of Claim of Lien from Record
36

37 8490. (a) A court order dismissing a cause of action to enforce
38 a lien or releasing property from a claim of lien, or a judgment
39 that no lien exists, shall include all of the following information:

40 (1) The date of recordation of the claim of lien.

- 1 (2) The county in which the claim of lien is recorded.
- 2 (3) The book and page or series number of the place in the
- 3 official records where the claim of lien is recorded.
- 4 (4) The legal description of the property.
- 5 (b) A court order or judgment under this section is equivalent
- 6 to cancellation of the claim of lien and its removal from the record.
- 7 (c) A court order or judgment under this section is a recordable
- 8 instrument. On recordation of a certified copy of the court order
- 9 or judgment, the property described in the order or judgment is
- 10 released from the claim of lien.
- 11 (d) This section does not apply to a court order dismissing an
- 12 action to enforce a lien that is expressly stated to be without
- 13 prejudice.
- 14 8494. If a claim of lien expires and is unenforceable under
- 15 Section 8460, or if a court order or judgment is recorded under
- 16 Section 8490, the claim of lien does not constitute actual or
- 17 constructive notice of any of the matters contained, claimed,
- 18 alleged, or contended in the claim of lien, or create a duty of
- 19 inquiry in any person thereafter dealing with the affected property.

20
21 CHAPTER 5. STOP PAYMENT NOTICE

22
23 Article 1. General Provisions

- 24
- 25 8500. The rights of all persons furnishing work for any work
- 26 of improvement, with respect to any fund for payment of
- 27 construction costs, are governed exclusively by this chapter, and
- 28 no person may assert any legal or equitable right with respect to
- 29 the fund, other than a right created by a written contract between
- 30 that person and the person holding the fund, except pursuant to
- 31 the provisions of this chapter.
- 32 8502. (a) A stop payment notice shall comply with the
- 33 requirements of Section 8102, and shall be signed and verified by
- 34 the claimant.
- 35 (b) The notice shall include a general description of work to be
- 36 provided, and an estimate of the total amount in value of the work
- 37 to be provided.
- 38 (c) The amount claimed in the notice may include only the
- 39 amount due the claimant for work provided through the date of
- 40 the notice.

1 8504. A claimant that willfully gives a false stop payment
2 notice or that willfully includes in the notice a demand to withhold
3 for work that has not been provided forfeits all right to participate
4 in the distribution of the funds withheld and all right to a lien under
5 Chapter 4 (commencing with Section 8400).

6 8506. (a) A stop payment notice to an owner shall be given
7 to the owner or to the owner’s architect, if any.

8 (b) A stop payment notice to a construction lender holding
9 construction funds shall not be effective unless given to the
10 manager or other responsible officer or person at the office or
11 branch of the lender administering or holding the construction
12 funds.

13 (c) A stop payment notice shall comply with the requirements
14 of Article 3 (commencing with Section 8100) of Chapter 1.

15 8508. A stop payment notice is not valid unless both of the
16 following conditions are satisfied:

17 (a) The claimant gave preliminary notice to the extent required
18 by Chapter 2 (commencing with Section 8200).

19 (b) The claimant gave the stop payment notice before expiration
20 of the time within which a claim of lien must be recorded under
21 Chapter 4 (commencing with Section 8400).

22 8510. (a) A person may obtain release of funds withheld
23 pursuant to a stop payment notice by giving the person withholding
24 the funds a release bond.

25 (b) A release bond shall be given by an admitted surety insurer
26 and shall be conditioned for payment of any amount not exceeding
27 the penal obligation of the bond that the claimant recovers on the
28 claim, together with costs of suit awarded in the action. The bond
29 shall be in an amount equal to 125 percent of the amount claimed
30 in the stop payment notice.

31 (c) On receipt of a release bond, the person withholding funds
32 pursuant to the stop payment notice shall release them.

33

34 Article 2. Stop Payment Notice to Owner

35

36 8520. (a) A person that has a lien right under Chapter 4
37 (commencing with Section 8400), other than a direct contractor,
38 may give the owner a stop payment notice.

39 (b) The owner may give notice, in compliance with the
40 requirements of Article 3 (commencing with Section 8100) of

1 Chapter 1, demanding that a person that has a lien right under
2 Chapter 4 (commencing with Section 8400) give the owner a stop
3 payment notice. If the person fails to give the owner a bonded or
4 unbonded stop payment notice, the person forfeits the right to a
5 lien under Chapter 4 (commencing with Section 8400).

6 8522. (a) Except as provided in subdivision (b), on receipt of
7 a stop payment notice an owner shall withhold from the direct
8 contractor or from any person acting under authority of a direct
9 contractor a sufficient amount due or to become due to the direct
10 contractor to pay the claim stated in the notice.

11 (b) The owner may, but is not required to, withhold funds if the
12 owner has previously recorded a payment bond under Section
13 8602. If the owner does not withhold funds, the owner shall, within
14 30 days after receipt of the stop payment notice, give notice to the
15 claimant that a payment bond has been recorded and provide the
16 claimant a copy of the bond. The notice shall comply with the
17 requirements of Article 3 (commencing with Section 8100) of
18 Chapter 1.

19
20 Article 3. Stop Payment Notice to Construction Lender
21

22 8530. A person that has a lien right under Chapter 4
23 (commencing with Section 8400) may give a construction lender
24 a stop payment notice.

25 8532. A claimant may give a construction lender a stop
26 payment notice accompanied by a bond in an amount equal to 125
27 percent of the amount of the claim. The bond shall be conditioned
28 that if the defendant recovers judgment in an action to enforce
29 payment of the claim stated in the stop payment notice or to enforce
30 a claim of lien recorded by the claimant, the claimant will pay all
31 costs that are awarded the owner, direct contractor, or construction
32 lender, and all damages to the owner, direct contractor, or
33 construction lender that result from the stop payment notice or
34 recordation of the claim of lien, not exceeding the amount of the
35 bond.

36 8534. (a) A construction lender that objects to the sufficiency
37 of sureties on the bond given with a bonded stop payment notice
38 shall give notice to the claimant of the objection, within 20 days
39 after the bonded stop payment notice is given. The notice shall

1 comply with the requirements of Article 3 (commencing with
2 Section 8100) of Chapter 1.

3 (b) The claimant may within 10 days after notice of the objection
4 is given substitute for the initial bond a bond executed by an
5 admitted surety insurer. If the claimant does not substitute a bond
6 executed by an admitted surety insurer, the construction lender
7 may disregard the bonded stop payment notice and release all funds
8 withheld in response to that notice.

9 8536. (a) Except as provided in subdivision (b), on receipt of
10 a stop payment notice a construction lender shall withhold from
11 the borrower or other person to whom the lender or the owner is
12 obligated to make payments or advancement out of the construction
13 fund sufficient funds to pay the claim stated in the notice.

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

16 (1) The stop payment notice is unbonded.

17 (2) The stop payment notice is given by a claimant other than
18 a direct contractor, and a payment bond is recorded before the
19 lender is given any stop payment notice.

20 8538. (a) The claimant may make a written request for notice
21 of an election by the construction lender under Section 8536 not
22 to withhold funds. The request shall be made at the time the
23 claimant gives the construction lender the stop payment notice and
24 shall be accompanied by a preaddressed, stamped envelope.

25 (b) If the construction lender elects not to withhold funds under
26 Section 8536, the lender shall, within 30 days after making the
27 election, give notice of that fact to a claimant who has requested
28 notice of the election under subdivision (a). The notice shall
29 comply with the requirements of Article 3 (commencing with
30 Section 8100) of Chapter 1. If the basis of the election is the
31 recordation of a payment bond under Section 8600, the construction
32 lender shall include a copy of the bond with the notice.

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

36 (1) The failure was not intentional and resulted from a bona fide
37 error.

38 (2) The lender maintains reasonable procedures to avoid an
39 error of that type.

1 (3) The lender corrected the error not later than 20 days after
2 the date the lender discovered the violation.

3
4 Article 4. Priorities
5

6 8540. (a) Funds withheld pursuant to a stop payment notice
7 shall be distributed in the following order of priority:

8 (1) First, to pay claims of persons that have given a bonded stop
9 payment notice. If funds are insufficient to pay the claims of those
10 persons in full, the funds shall be distributed pro rata among the
11 claimants in the ratio that the claim of each bears to the aggregate
12 of all claims for which a bonded stop payment notice is given.

13 (2) Second, to pay claims of persons that have given an
14 unbonded stop payment notice. If funds are insufficient to pay the
15 claims of those persons in full, the funds shall be distributed among
16 the claimants in the ratio that the claim of each bears to the
17 aggregate of all claims for which an unbonded stop payment notice
18 is given.

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

23 8542. Notwithstanding Section 8540:

24 (a) If funds are withheld pursuant to a stop payment notice given
25 to a construction lender by a direct contractor or subcontractor,
26 the direct contractor or subcontractor may recover only the net
27 amount due the direct contractor or subcontractor after deducting
28 any funds that are withheld by the construction lender pursuant to
29 the claims of subcontractors and material suppliers that have given
30 a stop payment notice for work done on behalf of the direct
31 contractor or subcontractor.

32 (b) In no event is the construction lender required to withhold,
33 pursuant to a stop payment notice, more than the net amount
34 provided in subdivision (a). Notwithstanding any other provision
35 of this chapter, a construction lender is not liable for failure to
36 withhold more than that net amount on receipt of a stop payment
37 notice.

38 8544. The rights of a claimant who gives a construction lender
39 a stop payment notice are not affected by an assignment of
40 construction loan funds made by the owner or direct contractor,

1 and the stop payment notice has priority over the assignment,
2 whether the assignment is made before or after the stop payment
3 notice is given.

4

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

6

7 8550. (a) A claimant shall commence an action to enforce
8 payment of the claim stated in a stop payment notice not earlier
9 than 10 days after the date the claimant gives the notice and not
10 later than 90 days after expiration of the time within which a stop
11 payment notice must be given. The action may not be brought to
12 trial or judgment entered before expiration of the time prescribed
13 in this subdivision.

14 (b) If a claimant does not commence an action to enforce
15 payment of the claim stated in a stop payment notice within the
16 time prescribed in subdivision (a), the notice ceases to be effective
17 and the person withholding funds pursuant to the notice shall
18 release them.

19 (c) Within five days after commencement of an action to enforce
20 payment of the claim stated in a stop payment notice, the claimant
21 shall give notice of commencement of the action to the persons to
22 whom the stop payment notice was given. The notice shall comply
23 with the requirements of Article 3 (commencing with Section
24 8100) of Chapter 1.

25 8552. If more than one claimant has given a stop payment
26 notice:

27 (a) Any number of claimants may join in the same enforcement
28 action.

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

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

34 8554. Notwithstanding Section 583.420 of the Code of Civil
35 Procedure, the court may dismiss an action to enforce payment of
36 the claim stated in a stop payment notice that is not brought to trial
37 within two years after commencement of the action.

38 8556. A stop payment notice ceases to be effective, and a
39 person withholding funds pursuant to the notice shall release them,
40 in either of the following circumstances:

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

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

6 8558. (a) In an action to enforce payment of the claim stated
7 in a bonded stop payment notice, the prevailing party is entitled
8 to a reasonable attorney’s fee in addition to costs and damages.

9 (b) The court, on notice and motion by a party, shall determine
10 who is the prevailing party or that there is no prevailing party for
11 the purpose of this section, regardless of whether the action
12 proceeds to final judgment. The prevailing party is the party that
13 recovers greater relief in the action, subject to the following
14 limitations:

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

17 (2) If the defendant tenders to the claimant the full amount to
18 which the claimant is entitled, and deposits in court for the claimant
19 the amount so tendered, and alleges those facts in the answer and
20 the allegation is determined to be true, the defendant is deemed to
21 be the prevailing party.

22 8560. If the claimant is the prevailing party in an action to
23 enforce payment of the claim stated in a bonded stop payment
24 notice, any amount awarded on the claim shall include interest at
25 the legal rate calculated from the date the stop payment notice is
26 given.

27
28 CHAPTER 6. PAYMENT BOND
29

30 8600. (a) This section applies if, before the commencement
31 of work, the owner in good faith files a direct contract with the
32 county recorder, and records a payment bond of the direct
33 contractor in an amount not less than 50 percent of the price stated
34 in the direct contract.

35 (b) If the conditions of subdivision (a) are satisfied, the court
36 shall, where equitable to do so, restrict lien enforcement under this
37 title to the aggregate amount due from the owner to the direct
38 contractor and shall enter judgment against the direct contractor
39 and surety on the bond for any deficiency that remains between

1 the amount due to the direct contractor and the whole amount due
2 to claimants.

3 8602. Section 8600 does not preclude an owner from requiring
4 a performance bond, payment bond, or other security as protection
5 against a direct contractor’s failure to perform the direct contract
6 or to make full payment for all work provided pursuant to the
7 contract.

8 8604. If a lending institution requires that a payment bond be
9 given as a condition of lending money to finance a work of
10 improvement, and accepts in writing as sufficient a bond given in
11 fulfillment of the requirement, the lending institution may not
12 thereafter object to the borrower as to the validity of the bond or
13 refuse to make the loan based on an objection to the bond if the
14 bond is given by an admitted surety insurer.

15 8606. (a) A payment bond under this title shall be conditioned
16 for the payment in full of the claims of all claimants and shall by
17 its terms inure to the benefit of all claimants so as to give a claimant
18 a right of action to enforce the liability on the bond. The bond shall
19 be given by an admitted surety insurer.

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

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

24 8608. (a) This title does not give a claimant a right to recover
25 on a direct contractor’s payment bond given under this chapter
26 unless the claimant provided work to the direct contractor either
27 directly or through one or more subcontractors, pursuant to a direct
28 contract.

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

32 8609. Any provision in a payment bond attempting by contract
33 to shorten the period prescribed in Section 337 of the Code of Civil
34 Procedure for the commencement of an action on the bond shall
35 not be valid under either of the following circumstances:

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

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

1 8610. Notwithstanding Section 8609, if a payment bond under
2 this title is recorded before completion of a work of improvement,
3 an action to enforce the liability on the bond may not be
4 commenced later than six months after completion of the work of
5 improvement.

6 8612. (a) In order to enforce a claim against a payment bond
7 under this title, a claimant shall give the preliminary notice
8 provided in Chapter 2 (commencing with Section 8200).

9 (b) If preliminary notice was not given as provided in Chapter
10 2 (commencing with Section 8200), a claimant may enforce a
11 claim by giving written notice to the surety and the bond principal
12 within 15 days after recordation of a notice of completion. If no
13 notice of completion has been recorded, the time for giving written
14 notice to the surety and the bond principal is extended to 75 days
15 after completion of the work of improvement.

16
17 CHAPTER 7. SECURITY FOR LARGE PROJECT

18
19 Article 1. Application of Chapter

20
21 8700. (a) This chapter applies if any of the following
22 conditions is satisfied:

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

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

29 (b) For the purpose of this section:

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

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

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

38 (B) The lease covers one or more lawful parcels under the
39 Subdivision Map Act, Division 2 (commencing with Section
40 66410) of Title 7 of the Government Code, and any applicable

1 local ordinance adopted under that act, in their entirety, including,
2 but not limited to, a parcel approved pursuant to a certificate of
3 compliance proceeding.

4 8702. This chapter does not apply to any of the following works
5 of improvement:

6 (a) A single-family residence, including a single-family
7 residence located within a subdivision, and any associated fixed
8 work that requires the services of a general engineering contractor
9 as defined in Section 7056 of the Business and Professions Code.
10 As used in this subdivision, “single-family residence” means a
11 real property improvement used or intended to be used as a
12 dwelling unit for one family.

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

15 8704. This chapter does not apply to any of the following
16 owners:

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

34 (b) A qualified private company or a wholly owned subsidiary
35 of a qualified private company, if the obligations of the subsidiary
36 pursuant to the contract for the work of improvement are
37 guaranteed by the parent. As used in this subdivision, “qualified
38 private company” means a company that has no equity securities
39 listed for trading on the New York Stock Exchange, the American
40 Stock Exchange, or the NASDAQ stock market, and that has a net

1 worth determined in accordance with generally accepted accounting
2 principles in excess of fifty million dollars (\$50,000,000). If at
3 any time before final payment of all amounts due pursuant to the
4 contract the net worth of the qualified private company is reduced
5 below that level, the owner is no longer exempt from this chapter.

6
7 Article 2. Security Requirement

8
9 8710. An owner shall provide the direct contractor all of the
10 following:

11 (a) Security for the owner's payment obligation pursuant to the
12 contract. The security shall be used only if the owner defaults on
13 the payment obligation to the direct contractor. This subdivision
14 does not apply to an owner that is the majority owner of the direct
15 contractor.

16 (b) A copy, certified by the county recorder, of any recorded
17 mortgage or deed of trust that secures the construction loan of a
18 lending institution for the work of improvement, disclosing the
19 amount of the loan.

20 8712. If an owner fails to provide or maintain the security
21 required by this chapter, the direct contractor may give the owner
22 notice demanding security. The notice shall comply with the
23 requirements of Article 3 (commencing with Section 8100) of
24 Chapter 1. If the owner does not provide or maintain the security
25 within 10 days after notice demanding security is given, the direct
26 contractor may suspend work until the owner provides or maintains
27 the security.

28 8714. It is against public policy to waive the provisions of this
29 chapter by contract.

30 8716. This chapter does not affect any statute providing a
31 subcontractor the right to record a claim of lien, give a stop
32 payment notice, assert a claim against a payment bond, or receive
33 prompt payment, including the direct contractor's payment
34 responsibilities under Section 7108.5 of the Business and
35 Professions Code.

36
37 Article 3. Form of Security

38
39 8720. An owner shall provide security by any of the following
40 means:

- 1 (a) A bond that satisfies Section 8722.
- 2 (b) An irrevocable letter of credit that satisfies Section 8724.
- 3 (c) An escrow account that satisfies Section 8726.

4 8722. A bond under this chapter shall satisfy all of the
 5 following requirements:

6 (a) The bond shall be executed by an admitted surety insurer
 7 that is either listed in the Department of the Treasury’s Listing of
 8 Approved Sureties (Department Circular 570) or that has an A.M.
 9 Best rating of A or better and has an underwriting limitation, under
 10 Section 12090 of the Insurance Code, greater than the amount of
 11 the bond.

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

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

20 8724. An irrevocable letter of credit under this chapter shall
 21 satisfy all of the following requirements:

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

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

30 (c) The maturity date and other terms of the letter of credit shall
 31 be determined by agreement between the owner, the direct
 32 contractor, and the financial institution, except that the owner shall
 33 maintain the letter of credit in effect until the owner has satisfied
 34 its payment obligation to the direct contractor.

35 8726. An escrow account under this chapter shall satisfy all of
 36 the following requirements:

37 (a) The account shall be designated as a “construction security
 38 escrow account.”

39 (b) The account shall be located in this state and maintained
 40 with an escrow agent licensed under the Escrow Law, Division 6

1 (commencing with Section 17000) of the Financial Code, or with
2 any person exempt from the Escrow Law under paragraph (1) or
3 (3) of subdivision (a) of Section 17006 of the Financial Code.

4 (c) The owner shall deposit funds in the account in the amount
5 provided in Section 8728. This chapter does not require a
6 construction lender to agree to deposit proceeds of a construction
7 loan in the account.

8 (d) The owner shall grant the direct contractor a perfected, first
9 priority security interest in the account and in all funds deposited
10 by the owner in the account and in their proceeds, established to
11 the reasonable satisfaction of the direct contractor, which may be
12 by a written opinion of legal counsel for the owner.

13 (e) The funds on deposit in the account shall be the sole property
14 of the owner, subject to the security interest of the direct contractor.
15 The owner and the direct contractor shall instruct the escrow holder
16 to hold the funds on deposit in the account for the purpose of
17 perfecting the direct contractor's security interest in the account
18 and to disburse those funds only on joint authorization of the owner
19 and the direct contractor, or pursuant to a court order that is binding
20 on both of them.

21 8728. The following provisions govern a deposit to or
22 disbursement from a construction security escrow account under
23 this chapter:

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

30 (b) If the contract provides for a retention to be withheld from
31 a periodic payment to the direct contractor, the owner shall deposit
32 to the account the amount withheld as retention at the time the
33 owner makes the corresponding payment to the direct contractor
34 from which the retention is withheld.

35 (c) The amount required to be maintained on deposit shall not
36 exceed the total amount remaining to be paid to the direct
37 contractor pursuant to the contract or as adjusted by agreement
38 between the owner and the direct contractor. If the amount on
39 deposit equals or exceeds the total amount remaining to be paid
40 to the direct contractor, the owner and the direct contractor shall

1 authorize disbursement to the direct contractor for progress
2 payments then due the direct contractor, but a party is not obligated
3 to authorize disbursement that would cause the amount remaining
4 on deposit following the disbursement to be less than the total
5 amount remaining to be paid to the direct contractor.

6 (d) The owner and the direct contractor shall authorize the
7 disbursement to the owner of any funds remaining on deposit after
8 the direct contractor has been paid all amounts due pursuant to the
9 contract. The owner and the direct contractor shall authorize the
10 disbursement of funds on deposit pursuant to a court order that is
11 binding on both of them. The owner and the direct contractor may
12 agree in the contract to additional conditions for the disbursement
13 of funds on deposit, except that the conditions may not cause the
14 amount remaining on deposit to be less than the amount required
15 under this section.

16 8730. If the contract price for a work of improvement is not a
17 fixed price, the amount of security provided under this chapter
18 shall be the guaranteed maximum price or, if there is no guaranteed
19 maximum price, the owner’s and direct contractor’s good faith
20 estimate of the reasonable value of the work to be provided
21 pursuant to the contract.

22
23 CHAPTER 8. PROMPT PAYMENT

24
25 Article 1. Progress Payment

26
27 8800. (a) Except as otherwise agreed in writing by the owner
28 and direct contractor, the owner shall pay the direct contractor,
29 within 30 days after notice demanding payment pursuant to the
30 contract, any progress payment due as to which there is no good
31 faith dispute between them. The notice given shall comply with
32 the requirements of Article 3 (commencing with Section 8100) of
33 Chapter 1.

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

38 (c) An owner that violates this section is liable to the direct
39 contractor for a penalty of 2 percent per month on the amount
40 wrongfully withheld, in place of any interest otherwise due. In an

1 action for collection of the amount wrongfully withheld, the
2 prevailing party is entitled to costs and a reasonable attorney’s fee.

3 (d) This section does not supersede any requirement of Article
4 2 (commencing with Section 8810) relating to the withholding of
5 a retention.

6 8802. (a) This section applies to a contract between a public
7 utility and a direct contractor for all or part of a work of
8 improvement.

9 (b) Unless the direct contractor and a subcontractor otherwise
10 agree in writing, within 21 days after receipt of a progress payment
11 from the public utility the direct contractor shall pay the
12 subcontractor the amount allowed the direct contractor on account
13 of the work performed by the subcontractor to the extent of the
14 subcontractor’s interest in the work. If there is a good faith dispute
15 over all or part of the amount due on a progress payment from the
16 direct contractor to a subcontractor, the direct contractor may
17 withhold an amount not in excess of 150 percent of the disputed
18 amount.

19 (c) A direct contractor that violates this section is liable to the
20 subcontractor for a penalty of 2 percent of the disputed amount
21 due per month for every month that payment is not made. In an
22 action for collection of the amount wrongfully withheld, the
23 prevailing party is entitled to costs and a reasonable attorney’s fee.

24 (d) This section does not limit or impair a contractual,
25 administrative, or judicial remedy otherwise available to a
26 contractor or subcontractor in a dispute involving late payment or
27 nonpayment by the contractor or deficient performance or
28 nonperformance by the subcontractor.

29

30

Article 2. Retention Payment

31

32 8810. This article governs a retention payment withheld by an
33 owner from a direct contractor or by a direct contractor from a
34 subcontractor.

35 8812. (a) If an owner withholds a retention from a direct
36 contractor, the owner shall, within 45 days after completion of the
37 work of improvement, pay the retention to the contractor.

38 (b) If part of a work of improvement ultimately will become
39 the property of a public entity, the owner may condition payment

1 of a retention allocable to that part on acceptance of the part by
2 the public entity.

3 (c) If there is a good faith dispute between the owner and direct
4 contractor as to a retention payment due, the owner may withhold
5 from final payment an amount not in excess of 150 percent of the
6 disputed amount.

7 8814. (a) If a direct contractor has withheld a retention from
8 a subcontractor, the direct contractor shall, within 10 days after
9 receiving all or part of a retention payment, pay the subcontractor
10 its share of the payment.

11 (b) If a retention received by the direct contractor is specifically
12 designated for a particular subcontractor, the direct contractor shall
13 pay the retention payment to the designated subcontractor, if
14 consistent with the terms of the subcontract.

15 (c) If a good faith dispute exists between the direct contractor
16 and a subcontractor, the direct contractor may withhold from the
17 retention to the subcontractor an amount not in excess of 150
18 percent of the estimated value of the disputed amount.

19 8816. (a) If the direct contractor gives the owner, or a
20 subcontractor gives the direct contractor, notice that work in dispute
21 has been completed in accordance with the contract, the owner or
22 direct contractor shall within 10 days give notice advising the
23 notifying party of the acceptance or rejection of the disputed work.
24 Both notices shall comply with the requirements of Article 3
25 (commencing with Section 8100) of Chapter 1.

26 (b) Within 10 days after acceptance of disputed work, the owner
27 or direct contractor shall pay the portion of the retention relating
28 to the disputed work.

29 8818. If an owner or direct contractor does not make a retention
30 payment within the time required by this article:

31 (a) The owner or direct contractor is liable to the person to which
32 payment is owed for a penalty of 2 percent per month on the
33 amount wrongfully withheld, in place of any interest otherwise
34 due.

35 (b) In an action for collection of the amount wrongfully
36 withheld, the prevailing party is entitled to costs and reasonable
37 attorney’s fees.

38 8820. It is against public policy to waive the provisions of this
39 article by contract.

1 8822. This article does not apply to a retention payment
2 withheld by a lender pursuant to a construction loan agreement.

3
4 Article 3. Stop Work Notice
5

6 8830. “Stop work notice” means notice given under this article
7 by a direct contractor to an owner that the contractor will stop
8 work if the amount owed the contractor is not paid within 10 days
9 after notice is given.

10 8832. If a direct contractor is not paid the amount due pursuant
11 to a written contract within 35 days after the date payment is due
12 under the contract, and there is no dispute as to the satisfactory
13 performance of the contractor, the contractor may give the owner
14 a stop work notice. The notice shall comply with the requirements
15 of Article 3 (commencing with Section 8100) of Chapter 1.

16 8834. A direct contractor that gives an owner a stop work notice
17 shall give the following additional notice:

18 (a) At least five days before giving the stop work notice, the
19 contractor shall post notice of intent to give a stop work notice.
20 The notice shall comply with the requirements of Article 3
21 (commencing with Section 8100) of Chapter 1.

22 (b) At the same time the contractor gives the stop work notice,
23 the contractor shall give a copy of the stop work notice to all
24 subcontractors with whom the contractor has a direct contractual
25 relationship on the work of improvement.

26 8836. Within five days after receipt of a stop work notice from
27 a direct contractor, the owner shall give a copy of the notice to the
28 construction lender, if any. The copy of the notice shall be given
29 in compliance with the requirements of Article 3 (commencing
30 with Section 8100) of Chapter 1.

31 8838. (a) The direct contractor or the direct contractor’s surety,
32 or a subcontractor or a subcontractor’s surety, is not liable for
33 delay or damage that the owner or a subcontractor may suffer as
34 a result of the direct contractor giving a stop work notice and
35 subsequently stopping work for nonpayment, if the notice and
36 posting requirements of this article are satisfied.

37 (b) A direct contractor’s or subcontractor’s liability to a
38 subcontractor or material supplier after the direct contractor stops
39 work under this article is limited to the amount the subcontractor
40 or material supplier could otherwise recover under this title for

1 work provided up to the date the subcontractor or material supplier
2 ceases work, subject to the following exceptions:

3 (1) The direct contractor’s or subcontractor’s liability continues
4 for work provided up to and including the 10-day notice period
5 and not beyond.

6 (2) This subdivision does not limit liability for custom work,
7 including materials that have been fabricated, manufactured, or
8 ordered to specifications that are unique to the job.

9 8840. On resolution of the claim in the stop work notice or the
10 direct contractor’s cancellation of the stop work notice, the
11 contractor shall post, and give subcontractors with whom the
12 contractor has a direct contractual relationship on the work of
13 improvement, notice of the resolution or cancellation. The notice
14 shall comply with the requirements of Article 3 (commencing with
15 Section 8100) of Chapter 1.

16 8842. A direct contractor’s right to stop work under this article
17 is in addition to other rights the direct contractor may have under
18 the law.

19 8844. (a) If payment of the amount claimed is not made within
20 10 days after a stop work notice is given, the direct contractor, the
21 direct contractor’s surety, or an owner may in an expedited
22 proceeding in the superior court in the county in which the private
23 work of improvement is located, seek a judicial determination of
24 liability for the amount due.

25 (b) The expedited proceeding shall be set for hearing or trial at
26 the earliest possible date in order that it shall be quickly heard and
27 determined, and shall take precedence over all other cases except
28 older matter of the same character and other matters to which
29 special precedence has been given.

30 8846. It is against public policy to waive the provisions of this
31 article by contract.

32 8848. (a) This article applies to a contract entered into on or
33 after January 1, 1999.

34 (b) This article does not apply to a retention withheld by a lender
35 pursuant to a construction loan agreement.

1 TITLE 2. PUBLIC WORK OF IMPROVEMENT

2
3 CHAPTER 1. DEFINITIONS

4
5 9000. Unless the provision or context otherwise requires, the
6 definitions in this chapter govern the construction of this title.

7 9002. “Claimant” means a person that has a right under this
8 title to give a stop payment notice or assert a claim against a
9 payment bond.

10 9004. “Design professional” means a person licensed as an
11 architect pursuant to Chapter 3 (commencing with Section 5500)
12 of Division 3 of the Business and Professions Code, licensed as a
13 landscape architect pursuant to Chapter 3.5 (commencing with
14 Section 5615) of Division 3 of the Business and Professions Code,
15 registered as a professional engineer pursuant to Chapter 7
16 (commencing with Section 6700) of Division 3 of the Business
17 and Professions Code, or licensed as a land surveyor pursuant to
18 Chapter 15 (commencing with Section 8700) of Division 3 of the
19 Business and Professions Code.

20 9006. “Direct contractor” means a contractor that has a direct
21 contractual relationship with a public entity. With respect to the
22 amount due or to become due to a direct contractor, the term
23 includes the direct contractor’s assignee.

24 9008. “Funds” means warrant, check, money, or bonds (if
25 bonds are to be issued in payment of the public works contract).

26 9010. “Labor, service, equipment, or material” includes, but
27 is not limited to, labor, skills, services, material, supplies,
28 equipment, appliances, power, and surveying, provided pursuant
29 to a public works contract.

30 9012. (a) “Laborer” means a person who, acting as an
31 employee, performs labor, or bestows skill or other necessary
32 services, pursuant to a public works contract.

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

39 (c) A person or entity described in subdivision (b) that has
40 standing under applicable law to maintain a direct legal action, in

1 its own name or as an assignee, to collect any portion of
2 compensation owed for a laborer for work pursuant to a public
3 works contract, shall have standing to enforce any rights or claims
4 of the laborer under this title, to the extent of the compensation
5 agreed to be paid to the person or entity for that work. This
6 subdivision is intended to give effect to the longstanding public
7 policy of this state to protect the entire compensation of a laborer,
8 regardless of the form in which that compensation is to be paid.

9 9014. “Payment bond” means a payment bond required by
10 Section 9550.

11 9016. “Person” means an individual, corporation, public entity,
12 business trust, estate, trust, partnership, limited liability company,
13 association, or other entity.

14 9018. “Preliminary notice” means the notice provided for in
15 Chapter 3 (commencing with Section 9300).

16 9020. (a) “Public entity” has the meaning provided in Section
17 1100 of the Public Contract Code and includes all of the following:

18 (1) The Regents of the University of California.

19 (2) An officer authorized to act for a public entity.

20 (b) A reference in this title to a public entity means the public
21 entity that awarded the public works contract.

22 9022. “Public works contract” has the meaning provided in
23 Section 1101 of the Public Contract Code.

24 9024. “Site” means the property on which a public works
25 contract is performed or is to be performed.

26 9026. “Stop payment notice” means a notice given under
27 Chapter 4 (commencing with Section 9350). A reference in another
28 statute to a “stop notice” in connection with the remedies provided
29 in this title means a stop payment notice.

30 9028. “Subcontractor” means a contractor that does not have
31 a direct contractual relationship with a public entity. The term
32 includes a contractor who has a contractual relationship with a
33 direct contractor or with another subcontractor.

34 9030. “Work” means labor, service, equipment, or material
35 provided pursuant to a public works contract.

36 9032. (a) “Work of improvement” includes, but is not limited
37 to:

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

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

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

4 (b) Except as otherwise provided in this title, “work of
5 improvement” means the entire structure or scheme of
6 improvement as a whole, and includes site improvement.

7

8

CHAPTER 2. GENERAL PROVISIONS

9

10 Article 1. Miscellaneous Provisions

11

12 9050. (a) This title is operative on January 1, 2012.

13 (b) Except as otherwise provided in this section, this title applies
14 to a public works contract executed before, on, or after the
15 operative date.

16 (c) The effectiveness of a notice given or other action taken on
17 a public works contract before the operative date is governed by
18 the applicable law in effect before the operative date and not by
19 this title.

20 (d) A provision of this title, insofar as it is substantially the same
21 as a previously existing provision relating to the same subject
22 matter, shall be construed as a restatement and continuation thereof
23 and not as a new enactment.

24 9052. (a) This title applies to a public works contract awarded
25 by a public entity.

26 (b) This title does not apply to a transaction governed by
27 Sections 20457 to 20464, inclusive, of the Public Contract Code.

28 9054. (a) This title does not apply to or change improvement
29 security under the Subdivision Map Act, Division 2 (commencing
30 with Section 66410) of Title 7 of the Government Code.

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

35 9056. (a) Except as provided in subdivision (b), any of the
36 following persons that have not been paid in full may give a stop
37 payment notice to the public entity or assert a claim against a
38 payment bond:

39 (1) A person that provides work for a public works contract, if
40 the work is authorized by a direct contractor, subcontractor,

1 architect, project manager, or other person having charge of all or
2 part of the public works contract.

3 (2) A laborer.

4 (3) A person described in Section 4107.7 of the Public Contract
5 Code.

6 (b) A direct contractor may not give a stop payment notice or
7 assert a claim against a payment bond under this title.

8 9058. Except as otherwise provided in this title, Part 2
9 (commencing with Section 307) of the Code of Civil Procedure
10 provides the rules of practice in proceedings under this title.

11 9060. For purposes of this title, the term “day” means a
12 calendar day.

13 9062. An act that may be done by or to a person under this title
14 may be done by or to the person’s agent to the extent the act is
15 within the scope of the agent’s authority.

16 9064. None of the following releases a surety from liability on
17 a bond given under this title:

18 (a) A change to a contract, plan, specification, or agreement for
19 a public works contract or for work provided for a public works
20 contract.

21 (b) A change to the terms of payment or an extension of the
22 time for payment for a public works contract.

23 (c) A rescission or attempted rescission of a contract, agreement,
24 or bond.

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

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

31
32 Article 2. Notice

33
34 9100. (a) Notice under this title shall be in writing. Writing
35 includes printing and typewriting.

36 (b) Written notice under this title may be given by electronic
37 communication to the extent authorized under Section 9112.

38 9102. (a) Notice under this title shall, in addition to any other
39 information required by statute for that type of notice, include all

1 of the following information to the extent known to the person
2 giving the notice:

3 (1) The name and address of the public entity.

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

5 (3) A description of the site sufficient for identification,
6 including the street address of the site, if any. If a sufficient legal
7 description of the site is given, the effectiveness of the notice is
8 not affected by the fact that the street address is erroneous or is
9 omitted.

10 (4) The name, address, and relationship to the parties of the
11 person giving the notice.

12 (5) If the person giving the notice is a claimant:

13 (A) A general statement of the labor, service, equipment, or
14 material provided or to be provided by the claimant.

15 (B) The name of the person that contracted for the labor, service,
16 equipment, or material provided or to be provided.

17 (C) A statement or estimate of the claimant's demand, if any,
18 after deducting all just credits and offsets.

19 (b) Notice is not invalid by reason of any variance from the
20 requirements of this section if the notice is sufficient to
21 substantially inform the person given notice of the information
22 required by this section and other information required in the
23 notice.

24 9104. (a) A direct contractor or subcontractor that employs a
25 laborer and fails to pay the full compensation due the laborer,
26 including any employer payments described in Section 1773.1 of
27 the Labor Code and implementing regulations, shall not later than
28 the date the compensation became delinquent, give the laborer,
29 the laborer's bargaining representative, if any, and the public entity,
30 notice that includes all of the following information, in addition
31 to the information specified in Section 9102:

32 (1) The name and address of the laborer, and of any person or
33 entity described in subdivision (b) of Section 9012 to which
34 employer payments are due.

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

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

38 (b) Failure to give the notice required by subdivision (a)
39 constitutes grounds for disciplinary action under the Contractors'

1 State License Law, Chapter 9 (commencing with Section 7000)
2 of Division 3 of the Business and Professions Code.

3 9106. Except as otherwise provided by statute, notice under
4 this title shall be given by any of the following means:

- 5 (a) Personal delivery.
- 6 (b) Mail in the manner provided in Section 9112.
- 7 (c) Leaving the notice and mailing a copy in the manner
8 provided in Section 415.20 of the Code of Civil Procedure for
9 service of summons and complaint in a civil action.

10 9108. Except as otherwise provided under this title, notice
11 under this title shall be given to the person to be notified at the
12 following addresses:

- 13 (a) If the person to be notified is the public entity, at the office
14 of the public entity or at another address specified by the public
15 entity in the contract or elsewhere for service of notices, papers,
16 and other documents.
- 17 (b) If the person to be notified is a direct contractor or a
18 subcontractor, at the contractor’s residence or place of business,
19 or at the contractor’s address shown on the building permit, on the
20 contractor’s contract, or on the records of the Contractors’ State
21 License Board.
- 22 (c) If the person to be notified is a claimant, at the claimant’s
23 residence or place of business, or at the claimant’s address shown
24 on the claimant’s contract, preliminary notice, stop payment notice,
25 or claim against a payment bond, or on the records of the
26 Contractors’ State License Board.
- 27 (d) If the person to be notified is the surety on a bond, at the
28 surety’s residence or place of business, or at the surety’s address
29 shown on the bond for service of notices, papers, and other
30 documents, or on the records of the Department of Insurance.

31 9110. Notice given by mail under this title shall be given by
32 registered or certified mail, express mail, or overnight delivery by
33 an express service carrier.

34 9112. (a) As used in this section, “electronic record” has the
35 meaning provided in Section 1633.2 of the Civil Code.

36 (b) A notice under this title may be given to a person in the form
37 of an electronic record if the person has agreed in writing to receive
38 the notice in the form of an electronic record.

39 (c) If a person that has agreed to receive a notice in the form of
40 an electronic record is a consumer within the meaning of Section

1 7006 of Title 15 of the United States Code, the person's agreement
2 shall satisfy the requirements of Section 7001 of Title 15 of the
3 United States Code relating to consumer consent to an electronic
4 record.

5 9114. Notice under this title is complete and deemed to have
6 been given at the following times:

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

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

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

14 (d) If given in the form of an electronic record, when the
15 electronic record is transmitted.

16 9116. (a) Proof that notice was given to a person in the manner
17 required by this title shall be made by a proof of notice declaration
18 that states all of the following:

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

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

22 (3) The name and address of the person to which notice was
23 given, and, if appropriate, the title or capacity in which the person
24 was given notice.

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

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

30 (2) Documentation provided by an express service carrier
31 showing that payment was made to send the notice using an
32 overnight delivery service.

33 (3) A return receipt, delivery confirmation, signature
34 confirmation, tracking record, or other proof of delivery or
35 attempted delivery provided by the United States Postal Service,
36 or a photocopy of the record of delivery and receipt maintained
37 by the United States Postal Service, showing the date of delivery
38 and to whom delivered, or in the event of nondelivery, by the
39 returned envelope itself.

1 (4) A tracking record or other documentation provided by an
2 express service carrier showing delivery or attempted delivery of
3 the notice.

4 (c) If notice is given in the form of an electronic record, the
5 declaration shall also state that the document was served
6 electronically and that no notice of nontransmission was received,
7 and shall be accompanied by the recipient’s written agreement to
8 receive the notice in the form of an electronic record.

9

10 Article 3. Completion

11

12 9200. For the purpose of this title, completion of a work of
13 improvement occurs at the earliest of the following times:

14 (a) Acceptance of the work of improvement by the public entity.

15 (b) Cessation of labor on the work of improvement for a
16 continuous period of 60 days. This subdivision does not apply to
17 a contract awarded under the State Contract Act, Part 2
18 (commencing with Section 10100) of Division 2 of the Public
19 Contract Code.

20 9202. (a) A public entity may record a notice of cessation if
21 there has been a continuous cessation of labor for at least 30 days
22 prior to the recordation that continues through the date of the
23 recordation.

24 (b) The notice shall be signed and verified by the public entity
25 or its agent.

26 (c) The notice shall comply with the requirements of Article 2
27 (commencing with Section 9100), and shall also include all of the
28 following information:

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

30 (2) A statement that the cessation has continued until the
31 recordation of the notice.

32 9204. (a) A public entity may record a notice of completion
33 on or within 15 days after the date of completion of a work of
34 improvement.

35 (b) The notice shall be signed and verified by the public entity
36 or its agent.

37 (c) The notice shall comply with the requirements of Article 2
38 (commencing with Section 9100), and shall also include the date
39 of completion. An erroneous statement of the date of completion
40 does not affect the effectiveness of the notice if the true date of

1 completion is 15 days or less before the date of recordation of the
2 notice.

3 9208. (a) A notice of cessation or completion is recorded when
4 filed for record in the office of the county recorder of the county
5 in which the public works contract or part of it is performed. A
6 notice of completion in otherwise proper form containing the
7 information required by Section 9204 shall be accepted by the
8 recorder for recording and is deemed duly recorded without
9 acknowledgment.

10 (b) The county recorder shall number, index, and preserve a
11 notice of cessation or completion presented for filing under this
12 title, and shall number, index, and transcribe into the official
13 records, in the same manner as a conveyance of real property, a
14 notice of completion or cessation recorded under this title.

15 (c) The county recorder shall charge and collect the fees
16 provided in Article 5 (commencing with Section 27360) of Chapter
17 6 of Part 3 of Division 2 of Title 3 of the Government Code for
18 performing duties under this section.

19

20 Article 4. Waiver and Release

21

22 9250. (a) A public entity or direct contractor may not, by
23 contract or otherwise, waive, affect, or impair a claimant's rights
24 under this title, whether with or without notice, except with the
25 claimant's written consent, and any term of a contract that purports
26 to do so is void and unenforceable.

27 (b) A claimant's written consent is void and unenforceable
28 unless and until the claimant executes and delivers a waiver and
29 release under this article.

30 9252. A claimant's waiver and release does not release the
31 public entity or surety on a payment bond from a claim unless both
32 of the following conditions are satisfied:

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

35 (b) If the release is a conditional release, there is evidence of
36 payment to the claimant. Evidence of payment may be either of
37 the following:

38 (1) The claimant's endorsement on a single or joint payee check
39 that has been paid by the financial institution on which it was
40 drawn.

1 (2) Written acknowledgment of payment by the claimant.

2 9254. An oral or written statement purporting to waive, release,
3 impair, or otherwise adversely affect a claim is void and
4 unenforceable and does not create an estoppel or impairment of
5 the claim unless either of the following conditions is satisfied:

6 (a) The statement is pursuant to a waiver and release under this
7 article.

8 (b) The claimant has actually received payment in full for the
9 claim.

10 9256. (a) A claimant may reduce the amount of, or release in
11 its entirety, a stop payment notice. The reduction or release shall
12 be in writing and may be given in a form other than a waiver and
13 release form provided in this article.

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

19 (c) A claimant's reduction or release of a stop payment notice
20 has the following effect:

21 (1) The reduction or release releases the claimant's right to
22 enforce payment of the claim stated in the notice to the extent of
23 the reduction or release.

24 (2) The reduction or release releases the public entity from the
25 obligation to withhold funds pursuant to the notice to the extent
26 of the reduction or release.

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

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

32 9258. This article does not affect the enforceability of either
33 an accord and satisfaction concerning a good faith dispute or an
34 agreement made in settlement of an action pending in court if the
35 accord and satisfaction or agreement and settlement make specific
36 reference to the claim.

37 9260. If a claimant is required to execute a waiver and release
38 in exchange for, or in order to induce payment of, a progress
39 payment and the claimant is not, in fact, paid in exchange for the
40 waiver and release or a single payee check or joint payee check is

1 given in exchange for the waiver and release, the waiver and release
2 shall be in substantially the following form:

3

4 Conditional Waiver and Release on Progress Payment

5

6 NOTICE: This document waives certain rights of the claimant effective on
7 receipt of payment. A person should not rely on this document unless satisfied
8 that the claimant has received payment.

9

10 Identifying Information

11

12 Name of Claimant: _____

13 Name of Customer: _____

14 Job Location: _____

15 Public Entity: _____

16 Through Date: _____

17

18 Conditional Waiver and Release

19

20 This document waives and releases stop payment notice and payment bond
21 rights the claimant has for labor and service provided, and equipment and
22 material delivered, to the customer on this job through the Through Date of
23 this document. This document is effective only on the claimant's receipt of
24 payment from the financial institution on which the following check is drawn:

25 Maker of Check: _____

26 Amount of Check: \$ _____

27 Check Payable to: _____

28

29 Exceptions

30

31 This document does not affect any of the following:

32

(1) Retentions.

33

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

34

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

36

Date(s) of waiver and release: _____

37

Amount(s) of unpaid progress payment(s): \$ _____

38

39

(4) Contract rights, including (A) a right based on rescission, abandonment,
39 or breach of contract, and (B) the right to recover compensation for work not
40 compensated by the payment.

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Signature

Claimant’s Signature: _____

Claimant’s Title: _____

Date of Signature: _____

9262. If the claimant is required to execute a waiver and release in exchange for, or in order to induce payment of, a progress payment and the claimant asserts in the waiver it has, in fact, been paid the progress payment, the waiver and release shall be in substantially the following form, with the text of the “Notice to Claimant” in at least as large a type as the largest type otherwise in the form:

Unconditional Waiver and Release on Progress Payment

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

Identifying Information

Name of Claimant: _____

Name of Customer: _____

Job Location: _____

Public Entity: _____

Through Date: _____

Unconditional Waiver and Release

This document waives and releases stop payment notice and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. The claimant has received the following progress payment: \$ _____

Exceptions

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This document does not affect any of the following:

- (1) Retentions.
- (2) Extras for which the claimant has not received payment.
- (3) Contract rights, including (A) a right based on rescission, abandonment, or breach of contract, and (B) the right to recover compensation for work not compensated by the payment.

Signature

Claimant’s Signature: _____

Claimant’s Title: _____

Date of Signature: _____

9264. If the claimant is required to execute a waiver and release in exchange for, or in order to induce payment of, a final payment and the claimant is not, in fact, paid in exchange for the waiver and release or a single payee check or joint payee check is given in exchange for the waiver and release, the waiver and release shall be in substantially the following form:

Conditional Waiver and Release on Final Payment

NOTICE: This document waives certain rights of the claimant effective on receipt of payment. A person should not rely on this document unless satisfied that the claimant has received payment.

Identifying Information

Name of Claimant: _____

Name of Customer: _____

Job Location: _____

Public Entity: _____

Conditional Waiver and Release

This document waives and releases stop payment notice and payment bond rights the claimant has for all labor and service provided, and equipment and material delivered, to the customer on this job. This document is effective only

1 on the claimant’s receipt of payment from the financial institution on which
2 the following check is drawn:

3 Maker of Check: _____

4 Amount of Check: \$ _____

5 Check Payable to: _____

6

7 Exceptions

8

9 This document does not affect any of the following:

10 (1) Disputed claims for extras in the amount of: \$ _____

11 (2) The following progress payments for which the claimant has previously
12 given a conditional waiver and release but has not received payment:

13 Date(s) of waiver and release: _____

14 Amount(s) of unpaid progress payment(s): _____

15

16 Signature

17

18 Claimant’s Signature: _____

19 Claimant’s Title: _____

20 Date of Signature: _____

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22 9266. If the claimant is required to execute a waiver and release
23 in exchange for, or in order to induce payment of, a final payment
24 and the claimant asserts in the waiver that he or she has, in fact,
25 been paid the final payment, the waiver and release shall be in
26 substantially the following form, with the text of the “Notice to
27 Claimant” in at least as large a type as the largest type otherwise
28 in the form:

29

30 Unconditional Waiver and Release on Final Payment

31

32 NOTICE TO CLAIMANT: This document waives and releases rights
33 unconditionally and states that you have been paid for giving up those rights.
34 This document is enforceable against you if you sign it, even if you have not
35 been paid. If you have not been paid, use a conditional waiver and release
36 form.

37

38 Identifying Information

39

40 Name of Claimant: _____

1 Name of Customer: _____
 2 Job Location: _____
 3 Public Entity: _____

4

5 Unconditional Waiver and Release

6

7 This document waives and releases stop payment notice and payment bond
 8 rights the claimant has for all labor and service provided, and equipment and
 9 material delivered, to the customer on this job. The claimant has been paid in
 10 full.

11

12 Exception

13

14 This document does not affect the following:
 15 Disputed claims for extras in the amount of: \$ _____

16

17 Signature

18

19 Claimant's Signature: _____

20 Claimant's Title: _____

21 Date of Signature: _____

22

23 CHAPTER 3. PRELIMINARY NOTICE

24

25 9300. (a) Except as otherwise provided by statute, before
 26 giving a stop payment notice or asserting a claim against a payment
 27 bond, a claimant shall give preliminary notice to the following
 28 persons:

- 29 (1) The public entity.
- 30 (2) The direct contractor to which the claimant provides work.
- 31 (b) Notwithstanding subdivision (a):
- 32 (1) A laborer is not required to give preliminary notice.
- 33 (2) A claimant that has a direct contractual relationship with a
 34 direct contractor is not required to give preliminary notice.
- 35 (c) Compliance with this section is a necessary prerequisite to
 36 the validity of a stop payment notice under this title.
- 37 (d) Compliance with this section or with Section 9562 is a
 38 necessary prerequisite to the validity of a claim against a payment
 39 bond under this title.

1 9302. (a) Except as provided in subdivision (b), preliminary
2 notice shall be given in compliance with the requirements of Article
3 2 (commencing with Section 9100) of Chapter 2.

4 (b) If the public works contract is for work constructed by the
5 Department of Public Works or the Department of General Services
6 of the state, preliminary notice to the public entity shall be given
7 to the disbursing officer of the department constructing the work.

8 9304. A claimant may give a stop payment notice or assert a
9 claim against a payment bond only for work provided within 20
10 days before giving preliminary notice and at any time thereafter.

11 9306. If the contract of any subcontractor on a particular work
12 of improvement provides for payment to the subcontractor of more
13 than four hundred dollars (\$400), the failure of that subcontractor,
14 licensed under the Contractors' State License Law (Chapter 9
15 (commencing with Section 7000) of Division 3 of the Business
16 and Professions Code), to give the notice provided for in this
17 chapter, constitutes grounds for disciplinary action under the
18 Contractors' State License Law.

19

20 CHAPTER 4. STOP PAYMENT NOTICE

21

22 Article 1. General Provisions

23

24 9350. The rights of all persons furnishing work pursuant to a
25 public works contract, with respect to any fund for payment of
26 construction costs, are governed exclusively by this chapter, and
27 no person may assert any legal or equitable right with respect to
28 that fund, other than a right created by direct written contract
29 between the person and the person holding the fund, except
30 pursuant to the provisions of this chapter.

31 9352. (a) A stop payment notice shall comply with the
32 requirements of Section 9102, and shall be signed and verified by
33 the claimant.

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

37 (c) The amount claimed in the notice may include only the
38 amount due the claimant for work provided through the date of
39 the notice.

1 9354. (a) Except as provided in subdivision (b), a stop payment
2 notice shall be given in compliance with the requirements of Article
3 2 (commencing with Section 9100) of Chapter 2.

4 (b) A stop payment notice shall be given to the public entity by
5 giving the notice to the following person:

6 (1) In the case of a public works contract of the state, the director
7 of the department that awarded the contract.

8 (2) In the case of a public works contract of a public entity other
9 than the state, the office of the controller, auditor, or other public
10 disbursing officer whose duty it is to make payment pursuant to
11 the contract, or the commissioners, managers, trustees, officers,
12 board of supervisors, board of trustees, common council, or other
13 body by which the contract was awarded.

14 9356. A stop payment notice is not effective unless given before
15 the earlier of the following times:

16 (a) Ninety days after cessation or completion.

17 (b) Thirty days after recordation of a notice of cessation or
18 completion.

19 9358. (a) The public entity shall, on receipt of a stop payment
20 notice, withhold from the direct contractor sufficient funds due or
21 to become due to the direct contractor to pay the claim stated in
22 the stop payment notice and to provide for the public entity's
23 reasonable cost of any litigation pursuant to the stop payment
24 notice.

25 (b) The public entity may satisfy its duty under this section by
26 refusing to release funds held in escrow under Section 10263 or
27 22300 of the Public Contract Code.

28 9360. (a) This chapter does not prohibit payment of funds to
29 a direct contractor if a stop payment notice is not received before
30 the disbursing officer actually surrenders possession of the funds.

31 (b) This chapter does not prohibit payment of any amount due
32 to a direct contractor in excess of the amount necessary to pay the
33 total amount of all claims stated in stop payment notices received
34 by the public entity at the time of payment plus any interest and
35 court costs that might reasonably be anticipated in connection with
36 the claims.

37 9362. (a) Not later than 10 days after each of the following
38 events, the public entity shall give notice to a claimant that has
39 given a stop payment notice of the time within which an action to

1 enforce payment of the claim stated in the stop payment notice
2 must be commenced:

3 (1) Completion of a public works contract, whether by
4 acceptance or cessation.

5 (2) Recordation of a notice of cessation or completion.

6 (b) The notice shall comply with the requirements of Article 2
7 (commencing with Section 9100) of Chapter 2.

8 (c) A public entity need not give notice under this section unless
9 the claimant has paid the public entity ten dollars (\$10) at the time
10 of giving the stop payment notice.

11 9364. (a) A public entity may, in its discretion, permit the
12 direct contractor to give the public entity a release bond. The bond
13 shall be executed by an admitted surety insurer, in an amount equal
14 to 125 percent of the claim stated in the stop payment notice,
15 conditioned for the payment of any amount the claimant recovers
16 in an action on the claim, together with court costs if the claimant
17 prevails.

18 (b) On receipt of a release bond, the public entity shall not
19 withhold funds from the direct contractor pursuant to the stop
20 payment notice.

21 (c) The surety on a release bond is jointly and severally liable
22 to the claimant with the sureties on any payment bond given under
23 Chapter 5 (commencing with Section 9550).

24

25 Article 2. Summary Proceeding for Release of Funds

26

27 9400. A direct contractor may obtain release of funds withheld
28 pursuant to a stop payment notice under the summary proceeding
29 provided in this article on any of the following grounds:

30 (a) The claim on which the notice is based is not a type for
31 which a stop payment notice is authorized under this chapter.

32 (b) The claimant is not a person authorized under Section 9056
33 to give a stop payment notice.

34 (c) The amount of the claim stated in the stop payment notice
35 is excessive.

36 (d) There is no basis for the claim stated in the stop payment
37 notice.

38 9402. The direct contractor shall serve on the public entity an
39 affidavit, together with a copy of the affidavit, in compliance with

1 the requirements of Article 2 (commencing with Section 9100) of
2 Chapter 2, that includes all of the following information:

3 (a) An allegation of the grounds for release of the funds and a
4 statement of the facts supporting the allegation.

5 (b) A demand for the release of all or the portion of the funds
6 that are alleged to be withheld improperly or in an excessive
7 amount.

8 (c) A statement of the address of the contractor within the state
9 for the purpose of permitting service by mail on the contractor of
10 any notice or document.

11 9404. The public entity shall serve on the claimant a copy of
12 the direct contractor's affidavit, together with a notice stating that
13 the public entity will release the funds withheld, or the portion of
14 the funds demanded, unless the claimant serves on the public entity
15 a counteraffidavit on or before the time stated in the notice. The
16 time stated in the notice shall be not less than 10 days nor more
17 than 20 days after service on the claimant of the copy of the
18 affidavit. The notice shall comply with the requirements of Article
19 2 (commencing with Section 9100) of Chapter 2.

20 9406. (a) A claimant that contests the direct contractor's
21 affidavit shall serve on the public entity a counteraffidavit alleging
22 the details of the claim and describing the specific basis on which
23 the claimant contests or rebuts the allegations of the contractor's
24 affidavit. The counteraffidavit shall be served within the time stated
25 in the public entity's notice, together with proof of service of a
26 copy of the counteraffidavit on the direct contractor. The service
27 of the counteraffidavit on the public entity and the copy of the
28 affidavit on the direct contractor shall comply with the
29 requirements of Article 2 (commencing with Section 9100).

30 (b) If no counteraffidavit with proof of service is served on the
31 public entity within the time stated in the public entity's notice,
32 the public entity shall immediately release the funds, or the portion
33 of the funds demanded by the affidavit, without further notice to
34 the claimant, and the public entity is not liable in any manner for
35 their release.

36 (c) The public entity is not responsible for the validity of an
37 affidavit or counteraffidavit under this article.

38 9408. (a) If a counteraffidavit, together with proof of service,
39 is served under Section 9406, either the direct contractor or the

1 claimant may commence an action for a declaration of the rights
2 of the parties.

3 (b) After commencement of the action, either the direct
4 contractor or the claimant may move the court for a determination
5 of rights under the affidavit and counteraffidavit. The party making
6 the motion shall give not less than five days' notice of the hearing
7 to the public entity and to the other party.

8 (c) The notice of hearing shall comply with the requirements
9 of Article 2 (commencing with Section 9100). Notwithstanding
10 Section 9114, when notice of the hearing is made by mail, the
11 notice is complete on the fifth day following deposit of the notice
12 in the mail.

13 (d) The court shall hear the motion within 15 days after the date
14 of the motion, unless the court continues the hearing for good
15 cause.

16 9410. (a) The affidavit and counteraffidavit shall be filed with
17 the court by the public entity and shall constitute the pleadings,
18 subject to the power of the court to permit an amendment in the
19 interest of justice. The affidavit of the direct contractor shall be
20 deemed controverted by the counteraffidavit of the claimant, and
21 both shall be received in evidence.

22 (b) At the hearing, the direct contractor has the burden of proof.

23 9412. (a) No findings are required in a summary proceeding
24 under this article.

25 (b) If at the hearing no evidence other than the affidavit and
26 counteraffidavit is offered, the court may, if satisfied that sufficient
27 facts are shown, make a determination on the basis of the affidavit
28 and counteraffidavit. If the court is not satisfied that sufficient
29 facts are shown, the court shall order the hearing continued for
30 production of other evidence, oral or documentary, or the filing
31 of other affidavits and counteraffidavits.

32 (c) At the conclusion of the hearing, the court shall make an
33 order determining whether the demand for release is allowed. The
34 court's order is determinative of the right of the claimant to have
35 funds further withheld by the public entity.

36 (d) The direct contractor shall serve a copy of the court's order
37 on the public entity in compliance with the requirements of Article
38 2 (commencing with Section 9100).

39 9414. A determination in a summary proceeding under this
40 article is not res judicata with respect to a right of action by the

1 claimant against either the principal or surety on a payment bond
2 or with respect to a right of action against a party personally liable
3 to the claimant.

4
5 Article 3. Distribution of Funds Withheld
6

7 9450. If funds withheld pursuant to a stop payment notice are
8 insufficient to pay in full the claims of all persons who have given
9 a stop payment notice, the funds shall be distributed among the
10 claimants in the ratio that the claim of each bears to the aggregate
11 of all claims for which a stop payment notice is given, without
12 regard to the order in which the notices were given or enforcement
13 actions were commenced.

14 9452. Nothing in this chapter impairs the right of a claimant
15 to recover from the direct contractor or the contractor's sureties
16 in an action on a payment bond under Chapter 5 (commencing
17 with Section 9550) any deficit that remains unpaid after the
18 distribution under Section 9450.

19 9454. A person that willfully gives a false stop payment notice
20 to the public entity or that willfully includes in the notice work
21 not provided for the public works contract for which the stop
22 payment notice is given forfeits all right to participate in the
23 distribution under Section 9450.

24 9456. (a) A stop payment notice takes priority over an
25 assignment by a direct contractor of any amount due or to become
26 due pursuant to a public works contract, including contract changes,
27 whether made before or after the giving of a stop payment notice,
28 and the assignment has no effect on the rights of the claimant.

29 (b) Any garnishment of an amount due or to become due
30 pursuant to a public works contract by a creditor of a direct
31 contractor under Article 8 (commencing with Section 708.710) of
32 Chapter 6 of Division 2 of Title 9 of Part 2 of the Code of Civil
33 Procedure and any statutory lien on that amount is subordinate to
34 the rights of a claimant.

1 Article 4. Enforcement of Payment of Claim Stated in Stop
2 Payment Notice

3
4 9500. (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 9300).

9 (2) The claimant has given the stop payment notice within the
10 time provided in Section 9356.

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 9502. (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 9504. 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 9506. 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 9508. 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 9510. 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 9550. (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 of
38 the Public Contract Code.

39 9552. If a payment bond is not given and approved as required
40 by Section 9550:

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 9350).

7 9554. (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 9056 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 9056 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 9556. (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 any obligee named
40 in the bond.

1 (c) Except as otherwise provided by statute, the sole conditions
2 of recovery on the bond are that the claimant is a person authorized
3 under Section 9056 to assert a claim against a payment bond, and
4 has not been paid the full amount of the claim.

5 9558. A claimant may commence an action to enforce the
6 liability on the bond at any time after the claimant ceases to provide
7 work, but not later than six months after the period in which a stop
8 payment notice may be given under Section 9356.

9 9560. (a) In order to enforce a claim against a payment bond,
10 a claimant shall give the preliminary notice provided in Chapter
11 3 (commencing with Section 9300).

12 (b) If preliminary notice was not given as provided in Chapter
13 3 (commencing with Section 9300), a claimant may enforce a
14 claim by giving written notice to the surety and the bond principal
15 within 15 days after recordation of a notice of completion. If no
16 notice of completion has been recorded, the time for giving written
17 notice to the surety and the bond principal is extended to 75 days
18 after completion of the work of improvement.

19 9562. Notice to the principal and surety under Section 9560
20 shall comply with the requirements of Article 2 (commencing with
21 Section 9100) of Chapter 2.

22 9564. (a) A claimant may maintain an action to enforce the
23 liability of a surety on a payment bond whether or not the claimant
24 has given the public entity a stop payment notice.

25 (b) A claimant may maintain an action to enforce the liability
26 on the bond separately from and without commencement of an
27 action against the public entity.

28 (c) In an action to enforce the liability on the bond, the court
29 shall award the prevailing party a reasonable attorney's fee.

30 9566. (a) A claimant does not have a right to recover on a
31 payment bond unless the claimant provided work to the direct
32 contractor either directly or through one or more subcontractors
33 pursuant to a public works contract.

34 (b) Nothing in this section affects the stop payment notice rights
35 of, and relative priorities among, design professionals.

36 SEC. 21. Section 86 of the Code of Civil Procedure is amended
37 to read:

38 86. (a) The following civil cases and proceedings are limited
39 civil cases:

- 1 (1) A case at law in which the demand, exclusive of interest, or
2 the value of the property in controversy amounts to twenty-five
3 thousand dollars (\$25,000) or less. This paragraph does not apply
4 to a case that involves the legality of any tax, impost, assessment,
5 toll, or municipal fine, except an action to enforce payment of
6 delinquent unsecured personal property taxes if the legality of the
7 tax is not contested by the defendant.
- 8 (2) An action for dissolution of partnership where the total assets
9 of the partnership do not exceed twenty-five thousand dollars
10 (\$25,000); an action of interpleader where the amount of money
11 or the value of the property involved does not exceed twenty-five
12 thousand dollars (\$25,000).
- 13 (3) An action to cancel or rescind a contract when the relief is
14 sought in connection with an action to recover money not
15 exceeding twenty-five thousand dollars (\$25,000) or property of
16 a value not exceeding twenty-five thousand dollars (\$25,000), paid
17 or delivered under, or in consideration of, the contract; an action
18 to revise a contract where the relief is sought in an action upon the
19 contract if the action otherwise is a limited civil case.
- 20 (4) A proceeding in forcible entry or forcible or unlawful
21 detainer where the whole amount of damages claimed is
22 twenty-five thousand dollars (\$25,000) or less.
- 23 (5) An action to enforce and foreclose a lien on personal
24 property where the amount of the lien is twenty-five thousand
25 dollars (\$25,000) or less.
- 26 (6) An action to enforce and foreclose, or a petition to release,
27 a lien arising under the provisions of Chapter 4 (commencing with
28 Section 8400) of Part 6 of Division 4 of the Civil Code, or to
29 enforce and foreclose an assessment lien on a common interest
30 development as defined in Section 1351 of the Civil Code, where
31 the amount of the liens is twenty-five thousand dollars (\$25,000)
32 or less. However, if an action to enforce the lien affects property
33 that is also affected by a similar pending action that is not a limited
34 civil case, or if the total amount of liens sought to be foreclosed
35 against the same property aggregates an amount in excess of
36 twenty-five thousand dollars (\$25,000), the action is not a limited
37 civil case.
- 38 (7) An action for declaratory relief when brought pursuant to
39 either of the following:

1 (A) By way of cross-complaint as to a right of indemnity with
2 respect to the relief demanded in the complaint or a cross-complaint
3 in an action or proceeding that is otherwise a limited civil case.

4 (B) To conduct a trial after a nonbinding fee arbitration between
5 an attorney and client, pursuant to Article 13 (commencing with
6 Section 6200) of Chapter 4 of Division 3 of the Business and
7 Professions Code, where the amount in controversy is twenty-five
8 thousand dollars (\$25,000) or less.

9 (8) An action to issue a temporary restraining order or
10 preliminary injunction; to take an account, where necessary to
11 preserve the property or rights of any party to a limited civil case;
12 to make any order or perform any act, pursuant to Title 9
13 (commencing with Section 680.010) of Part 2 (enforcement of
14 judgments) in a limited civil case; to appoint a receiver pursuant
15 to Section 564 in a limited civil case; to determine title to personal
16 property seized in a limited civil case.

17 (9) An action under Article 3 (commencing with Section
18 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the
19 recovery of an interest in personal property or to enforce the
20 liability of the debtor of a judgment debtor where the interest
21 claimed adversely is of a value not exceeding twenty-five thousand
22 dollars (\$25,000) or the debt denied does not exceed twenty-five
23 thousand dollars (\$25,000).

24 (10) An arbitration-related petition filed pursuant to either of
25 the following:

26 (A) Article 2 (commencing with Section 1292) of Chapter 5 of
27 Title 9 of Part 3, except for uninsured motorist arbitration
28 proceedings in accordance with Section 11580.2 of the Insurance
29 Code, if the petition is filed before the arbitration award becomes
30 final and the matter to be resolved by arbitration is a limited civil
31 case under paragraphs (1) to (9), inclusive, of subdivision (a) or
32 if the petition is filed after the arbitration award becomes final and
33 the amount of the award and all other rulings, pronouncements,
34 and decisions made in the award are within paragraphs (1) to (9),
35 inclusive, of subdivision (a).

36 (B) To confirm, correct, or vacate a fee arbitration award
37 between an attorney and client that is binding or has become
38 binding, pursuant to Article 13 (commencing with Section 6200)
39 of Chapter 4 of Division 3 of the Business and Professions Code,

1 where the arbitration award is twenty-five thousand dollars
2 (\$25,000) or less.

3 (b) The following cases in equity are limited civil cases:

4 (1) A case to try title to personal property when the amount
5 involved is not more than twenty-five thousand dollars (\$25,000).

6 (2) A case when equity is pleaded as a defensive matter in any
7 case that is otherwise a limited civil case.

8 (3) A case to vacate a judgment or order of the court obtained
9 in a limited civil case through extrinsic fraud, mistake,
10 inadvertence, or excusable neglect.

11 SEC. 22. Section 410.42 of the Code of Civil Procedure is
12 amended to read:

13 410.42. (a) The following provisions of a contract between
14 the contractor and a subcontractor with principal offices in this
15 state, for the construction of a public or private work of
16 improvement in this state, shall be void and unenforceable:

17 (1) A provision which purports to require any dispute between
18 the parties to be litigated, arbitrated, or otherwise determined
19 outside this state.

20 (2) A provision which purports to preclude a party from
21 commencing such a proceeding or obtaining a judgment or other
22 resolution in this state or the courts of this state.

23 (b) For purposes of this section, “construction” means any work
24 or services performed on, or materials provided for, a work of
25 improvement, as defined in Section 8050 of the Civil Code, and
26 for which a lien may be claimed pursuant to Section 8400 of the
27 Civil Code (whether or not a lien is in fact claimed) or for which
28 such a lien could be claimed but for Section 8052 of the Civil
29 Code.

30 SEC. 23. Section 708.760 of the Code of Civil Procedure is
31 amended to read:

32 708.760. (a) If the judgment debtor named in the abstract or
33 certified copy of the judgment filed pursuant to this article is a
34 contractor upon a public work, the cost of which is to be paid out
35 of public moneys voted, appropriated, or otherwise set apart for
36 such purpose, only so much of the contract price shall be deemed
37 owing and unpaid within the meaning of Section 708.740 or
38 708.750 as may remain payable under the terms of the contractor’s
39 contract, upon the completion thereof, after deducting sums due
40 and to become due to persons described in Section 9056 of the

1 Civil Code. In ascertaining the sums due or to become due to such
2 persons, only claims which are filed against the moneys due or to
3 become due to the judgment debtor in accordance with Chapter 4
4 (commencing with Section 9350) of Title 2 of Part 6 of Division
5 4 of the Civil Code shall be considered.

6 (b) The Controller, auditor, or other public disbursing officer
7 whose duty it is to make payments under the provisions of the
8 contract may not deposit an amount with the court pursuant to this
9 article until the contract is completed, but may deposit an amount
10 with the court to satisfy the claim of the judgment debtor before
11 the payments specified in subdivision (a) are made so long as a
12 sufficient amount is retained for the satisfaction of the claims of
13 persons described in Section 9056 of the Civil Code.

14 SEC. 24. Section 1203.61 of the Code of Civil Procedure is
15 amended to read:

16 1203.61. (a) Any lien provided for by this chapter shall be
17 enforced in the same manner as provided in Chapter 4
18 (commencing with Section 8400) of Part 6 of Division 4 of the
19 Civil Code. The action shall be filed within 180 days from the time
20 of the recording of the lien. If a credit is given and notice of the
21 fact and terms of the credit is filed in the office of the county
22 recorder subsequent to the filing of the lien and prior to the
23 expiration of the 180-day period, then the lien continues in force
24 until 180 days after the expiration of the credit, but no lien
25 continues in force by reason of any agreement to give credit for a
26 longer time than one year from the time the work is completed. If
27 the proceedings to enforce the lien are not prosecuted to trial within
28 two years after commencement, the court may in its discretion
29 dismiss the action for want of prosecution, and in all cases the
30 dismissal of the action (unless it is expressly stated that it is without
31 prejudice) or a judgment in the action that no lien exists is
32 equivalent to the cancellation and removal from the record of the
33 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 the lien, no giving of
37 credit or extension of the lien or time to enforce the lien shall be
38 effective unless evidenced by a notice or agreement filed for record
39 in the office of the county recorder prior to the acquisition of the
40 rights of the purchaser or encumbrancer.

1 SEC. 25. 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 Chapter
5 4 (commencing with Section 8400) of Part 6 Division 4 of the
6 Civil Code, does not thereby waive any right of arbitration the
7 person may have pursuant to a written agreement to arbitrate, if,
8 in filing an action to enforce the claim of lien, the claimant does
9 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. 26. 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 8002
22 or Section 9002 of the Civil Code, in exchange for the claimant's
23 waiver or release of any potential or asserted claim of lien, stop
24 payment notice, or right to recover on a payment bond, or any
25 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. 27. 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 2 (commencing with
7 Section 9000) of Part 6 of Division 4 of the Civil Code, the
8 Department of General Services may issue a stop work order when
9 construction work on a public school is not being performed in
10 accordance with existing law and would compromise the structural
11 integrity of the building, thereby endangering the public safety.
12 The Department of General Services shall allow construction of
13 incidental and minor nonstructural additions or nonstructural
14 alterations without invoking its stop work authority.

15 (b) A school district, county superintendent of schools, county
16 board of education, or other public board, body, or officer whose
17 construction work on a public school is subject to a stop work
18 order issued pursuant to subdivision (a) shall not be held liable in
19 any action filed against the public board, body, or officer for
20 stopping work as required by the stop work order, or for any delays
21 caused by compliance with the stop work order, except to the extent
22 that an error or omission by the public board, body, or officer is
23 the basis for the issuance of the stop work order.

24 SEC. 28. Section 81133.5 of the Education Code is amended
25 to read:

26 81133.5. (a) Notwithstanding any provision of law to the
27 contrary, including, but not limited to, Title 2 (commencing with
28 Section 9000) of Part 6 of Division 4 of the Civil Code, the
29 Department of General Services may issue a stop work order when
30 construction work on a community college is not being performed
31 in accordance with existing law and would compromise the
32 structural integrity of the building, thereby endangering the public
33 safety. The Department of General Services shall allow
34 construction of incidental and minor nonstructural additions or
35 nonstructural alterations without invoking its stop work authority.

36 (b) A community college district or other public board, body,
37 or officer whose construction work on a community college is
38 subject to a stop work order issued pursuant to subdivision (a)
39 shall not be held liable in any action filed against the public board,
40 body, or officer for stopping work as required by the stop work

1 order, or for any delays caused by compliance with the stop work
2 order, except to the extent that an error or omission by the public
3 board, body, or officer is that basis for the issuance of the stop
4 work order.

5 SEC. 29. Section 7480 of the Government Code, as amended
6 by Section 1 of Chapter 234 of the Statutes of 2008, is amended
7 to read:

8 7480. Nothing in this chapter shall prohibit any of the
9 following:

10 (a) The dissemination of any financial information that is not
11 identified with, or identifiable as being derived from, the financial
12 records of a particular customer.

13 (b) When any police or sheriff's department or district attorney
14 in this state certifies to a bank, credit union, or savings association
15 in writing that a crime report has been filed that involves the
16 alleged fraudulent use of drafts, checks, access cards, or other
17 orders drawn upon any bank, credit union, or savings association
18 in this state, the police or sheriff's department or district attorney,
19 a county adult protective services office when investigating the
20 financial abuse of an elder or dependent adult, or a long-term care
21 ombudsman when investigating the financial abuse of an elder or
22 dependent adult, may request a bank, credit union, or savings
23 association to furnish, and a bank, credit union, or savings
24 association shall furnish, a statement setting forth the following
25 information with respect to a customer account specified by the
26 requesting party for a period 30 days prior to, and up to 30 days
27 following, the date of occurrence of the alleged illegal act involving
28 the account:

29 (1) The number of items dishonored.

30 (2) The number of items paid that created overdrafts.

31 (3) The dollar volume of the dishonored items and items paid
32 which created overdrafts and a statement explaining any credit
33 arrangement between the bank, credit union, or savings association
34 and customer to pay overdrafts.

35 (4) The dates and amounts of deposits and debits and the account
36 balance on these dates.

37 (5) A copy of the signature card, including the signature and
38 any addresses appearing on a customer's signature card.

39 (6) The date the account opened and, if applicable, the date the
40 account closed.

1 (7) Surveillance photographs and video recordings of persons
2 accessing the crime victim's financial account via an automated
3 teller machine (ATM) or from within the financial institution for
4 dates on which illegal acts involving the account were alleged to
5 have occurred. Nothing in this paragraph does any of the following:

6 (A) Requires a financial institution to produce a photograph or
7 video recording if it does not possess the photograph or video
8 recording.

9 (B) Affects any existing civil immunities as provided in Section
10 47 of the Civil Code or any other provision of law.

11 (8) A bank, credit union, or savings association that provides
12 the requesting party with copies of one or more complete account
13 statements prepared in the regular course of business shall be
14 deemed to be in compliance with paragraphs (1), (2), (3), and (4).

15 (c) 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 doing business in this state, the police or sheriff's department or
21 district attorney, a county adult protective services office when
22 investigating the financial abuse of an elder or dependent adult,
23 or a long-term care ombudsman when investigating the financial
24 abuse of an elder or dependent adult, may request, with the consent
25 of the accountholder, the bank, credit union, or savings association
26 to furnish, and the bank, credit union, or savings association shall
27 furnish, a statement setting forth the following information with
28 respect to a customer account specified by the requesting party for
29 a period 30 days prior to, and up to 30 days following, the date of
30 occurrence of the alleged illegal act involving 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 this 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 doing business
14 in this state that provides the requesting party with copies of one
15 or more complete account statements prepared in the regular course
16 of business shall be deemed to be in compliance with paragraphs
17 (1), (2), (3), and (4).

18 (d) For purposes of subdivision (c), consent of the accountholder
19 shall be satisfied if an accountholder provides to the financial
20 institution and the person or entity seeking disclosure, a signed
21 and dated statement containing all of the following:

22 (1) Authorization of the disclosure for the period specified in
23 subdivision (c).

24 (2) The name of the agency or department to which disclosure
25 is authorized and, if applicable, the statutory purpose for which
26 the information is to be obtained.

27 (3) A description of the financial records that are authorized to
28 be disclosed.

29 (e) (1) The Attorney General, a supervisory agency, the
30 Franchise Tax Board, the State Board of Equalization, the
31 Employment Development Department, the Controller or an
32 inheritance tax referee when administering the Prohibition of Gift
33 and Death Taxes (Part 8 (commencing with Section 13301) of
34 Division 2 of the Revenue and Taxation Code), a police or sheriff's
35 department or district attorney, a county adult protective services
36 office when investigating the financial abuse of an elder or
37 dependent adult, a long-term care ombudsman when investigating
38 the financial abuse of an elder or dependent adult, a county welfare
39 department when investigating welfare fraud, a county
40 auditor-controller or director of finance when investigating fraud

1 against the county, or the Department of Corporations when
2 conducting investigations in connection with the enforcement of
3 laws administered by the Commissioner of Corporations, from
4 requesting of an office or branch of a financial institution, and the
5 office or branch from responding to a request, as to whether a
6 person has an account or accounts at that office or branch and, if
7 so, any identifying numbers of the account or accounts.

8 (2) No additional information beyond that specified in this
9 section shall be released to a county welfare department without
10 either the accountholder's written consent or a judicial writ, search
11 warrant, subpoena, or other judicial order.

12 (3) A county auditor-controller or director of finance who
13 unlawfully discloses information he or she is authorized to request
14 under this subdivision is guilty of the unlawful disclosure of
15 confidential data, a misdemeanor, which shall be punishable as
16 set forth in Section 7485.

17 (f) The examination by, or disclosure to, any supervisory agency
18 of financial records that relate solely to the exercise of its
19 supervisory function. The scope of an agency's supervisory
20 function shall be determined by reference to statutes that grant
21 authority to examine, audit, or require reports of financial records
22 or financial institutions as follows:

23 (1) With respect to the Commissioner of Financial Institutions
24 by reference to Division 1 (commencing with Section 99), Division
25 1.5 (commencing with Section 4800), Division 2 (commencing
26 with Section 5000), Division 5 (commencing with Section 14000),
27 Division 7 (commencing with Section 18000), Division 16
28 (commencing with Section 33000), and Division 16 (commencing
29 with Section 33000), of the Financial Code.

30 (2) With respect to the Controller by reference to Title 10
31 (commencing with Section 1300) of Part 3 of the Code of Civil
32 Procedure.

33 (3) With respect to the Administrator of Local Agency Security
34 by reference to Article 2 (commencing with Section 53630) of
35 Chapter 4 of Part 1 of Division 2 of Title 5 of the Government
36 Code.

37 (g) The disclosure to the Franchise Tax Board of (1) the amount
38 of any security interest that a financial institution has in a specified
39 asset of a customer or (2) financial records in connection with the
40 filing or audit of a tax return or tax information return that are

1 required to be filed by the financial institution pursuant to Part 10
2 (commencing with Section 17001), Part 11 (commencing with
3 Section 23001), or Part 18 (commencing with Section 38001), of
4 the Revenue and Taxation Code.

5 (h) The disclosure to the State Board of Equalization of any of
6 the following:

7 (1) The information required by Sections 6702, 6703, 8954,
8 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155,
9 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404,
10 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the
11 Revenue and Taxation Code.

12 (2) The financial records in connection with the filing or audit
13 of a tax return required to be filed by the financial institution
14 pursuant to Part 1 (commencing with Section 6001), Part 2
15 (commencing with Section 7301), Part 3 (commencing with Section
16 8601), Part 13 (commencing with Section 30001), Part 14
17 (commencing with Section 32001), and Part 17 (commencing with
18 Section 37001), of Division 2 of the Revenue and Taxation Code.

19 (3) The amount of any security interest a financial institution
20 has in a specified asset of a customer, if the inquiry is directed to
21 the branch or office where the interest is held.

22 (i) The disclosure to the Controller of the information required
23 by Section 7853 of the Revenue and Taxation Code.

24 (j) The disclosure to the Employment Development Department
25 of the amount of any security interest a financial institution has in
26 a specified asset of a customer, if the inquiry is directed to the
27 branch or office where the interest is held.

28 (k) The disclosure by a construction lender, as defined in Section
29 8006 of the Civil Code, to the Registrar of Contractors, of
30 information concerning the making of progress payments to a
31 prime contractor requested by the registrar in connection with an
32 investigation under Section 7108.5 of the Business and Professions
33 Code.

34 (l) Upon receipt of a written request from a local child support
35 agency referring to a support order pursuant to Section 17400 of
36 the Family Code, a financial institution shall disclose the following
37 information concerning the account or the person named in the
38 request, whom the local child support agency shall identify,
39 whenever possible, by social security number:

1 (1) If the request states the identifying number of an account at
2 a financial institution, the name of each owner of the account.

3 (2) Each account maintained by the person at the branch to
4 which the request is delivered, and, if the branch is able to make
5 a computerized search, each account maintained by the person at
6 any other branch of the financial institution located in this state.

7 (3) For each account disclosed pursuant to paragraphs (1) and
8 (2), the account number, current balance, street address of the
9 branch where the account is maintained, and, to the extent available
10 through the branch's computerized search, the name and address
11 of any other person listed as an owner.

12 (4) Whenever the request prohibits the disclosure, a financial
13 institution shall not disclose either the request or its response, to
14 an owner of the account or to any other person, except the officers
15 and employees of the financial institution who are involved in
16 responding to the request and to attorneys, employees of the local
17 child support agencies, auditors, and regulatory authorities who
18 have a need to know in order to perform their duties, and except
19 as disclosure may be required by legal process.

20 (5) No financial institution, or any officer, employee, or agent
21 thereof, shall be liable to any person for (A) disclosing information
22 in response to a request pursuant to this subdivision, (B) failing to
23 notify the owner of an account, or complying with a request under
24 this paragraph not to disclose to the owner, the request or disclosure
25 under this subdivision, or (C) failing to discover any account owned
26 by the person named in the request pursuant to a computerized
27 search of the records of the financial institution.

28 (6) The local child support agency may request information
29 pursuant to this subdivision only when the local child support
30 agency has received at least one of the following types of physical
31 evidence:

32 (A) Any of the following, dated within the last three years:

33 (i) Form 599.

34 (ii) Form 1099.

35 (iii) A bank statement.

36 (iv) A check.

37 (v) A bank passbook.

38 (vi) A deposit slip.

39 (vii) A copy of a federal or state income tax return.

40 (viii) A debit or credit advice.

1 (ix) Correspondence that identifies the child support obligor by
2 name, the bank, and the account number.

3 (x) Correspondence that identifies the child support obligor by
4 name, the bank, and the banking services related to the account of
5 the obligor.

6 (xi) An asset identification report from a federal agency.

7 (B) A sworn declaration of the custodial parent during the 12
8 months immediately preceding the request that the person named
9 in the request has had or may have had an account at an office or
10 branch of the financial institution to which the request is made.

11 (7) Information obtained by a local child support agency
12 pursuant to this subdivision shall be used only for purposes that
13 are directly connected with the administration of the duties of the
14 local child support agency pursuant to Section 17400 of the Family
15 Code.

16 (m) (1) As provided in paragraph (1) of subdivision (c) of
17 Section 666 of Title 42 of the United States Code, upon receipt of
18 an administrative subpoena on the current federally approved
19 interstate child support enforcement form, as approved by the
20 federal Office of Management and Budget, a financial institution
21 shall provide the information or documents requested by the
22 administrative subpoena.

23 (2) The administrative subpoena shall refer to the current federal
24 Office of Management and Budget control number and be signed
25 by a person who states that he or she is an authorized agent of a
26 state or county agency responsible for implementing the child
27 support enforcement program set forth in Part D (commencing
28 with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the
29 United States Code. A financial institution may rely on the
30 statements made in the subpoena and has no duty to inquire into
31 the truth of any statement in the subpoena.

32 (3) If the person who signs the administrative subpoena directs
33 a financial institution in writing not to disclose either the subpoena
34 or its response to any owner of an account covered by the subpoena,
35 the financial institution shall not disclose the subpoena or its
36 response to the owner.

37 (4) No financial institution, or any officer, employee, or agent
38 thereof, shall be liable to any person for (A) disclosing information
39 or providing documents in response to a subpoena pursuant to this
40 subdivision, (B) failing to notify any owner of an account covered

1 by the subpoena or complying with a request not to disclose to the
2 owner, the subpoena or disclosure under this subdivision, or (C)
3 failing to discover any account owned by the person named in the
4 subpoena pursuant to a computerized search of the records of the
5 financial institution.

6 (n) The dissemination of financial information and records
7 pursuant to any of the following:

8 (1) Compliance by a financial institution with the requirements
9 of Section 2892 of the Probate Code.

10 (2) Compliance by a financial institution with the requirements
11 of Section 2893 of the Probate Code.

12 (3) An order by a judge upon a written ex parte application by
13 a peace officer showing specific and articulable facts that there
14 are reasonable grounds to believe that the records or information
15 sought are relevant and material to an ongoing investigation of a
16 felony violation of Section 186.10 or of any felony subject to the
17 enhancement set forth in Section 186.11.

18 (A) The ex parte application shall specify with particularity the
19 records to be produced, which shall be only those of the individual
20 or individuals who are the subject of the criminal investigation.

21 (B) The ex parte application and any subsequent judicial order
22 shall be open to the public as a judicial record unless ordered sealed
23 by the court, for a period of 60 days. The sealing of these records
24 may be extended for 60-day periods upon a showing to the court
25 that it is necessary for the continuance of the investigation.
26 Sixty-day extensions may continue for up to one year or until
27 termination of the investigation of the individual or individuals,
28 whichever is sooner.

29 (C) The records ordered to be produced shall be returned to the
30 peace officer applicant or his or her designee within a reasonable
31 time period after service of the order upon the financial institution.

32 (D) Nothing in this subdivision shall preclude the financial
33 institution from notifying a customer of the receipt of the order
34 for production of records unless a court orders the financial
35 institution to withhold notification to the customer upon a finding
36 that the notice would impede the investigation.

37 (E) Where a court has made an order pursuant to this paragraph
38 to withhold notification to the customer under this paragraph, the
39 peace officer or law enforcement agency who obtained the financial
40 information shall notify the customer by delivering a copy of the

1 ex parte order to the customer within 10 days of the termination
2 of the investigation.

3 (4) No financial institution, or any officer, employee, or agent
4 thereof, shall be liable to any person for any of the following:

5 (A) Disclosing information to a probate court pursuant to
6 Sections 2892 and 2893.

7 (B) Disclosing information in response to a court order pursuant
8 to paragraph (3).

9 (C) Complying with a court order under this subdivision not to
10 disclose to the customer, the order, or the dissemination of
11 information pursuant to the court order.

12 (o) Disclosure by a financial institution to a peace officer, as
13 defined in Section 830.1 of the Penal Code, pursuant to the
14 following:

15 (1) Paragraph (1) of subdivision (a) of Section 1748.95 of the
16 Civil Code, provided that the financial institution has first complied
17 with the requirements of paragraph (2) of subdivision (a) and
18 subdivision (b) of Section 1748.95 of the Civil Code.

19 (2) Paragraph (1) of subdivision (a) of Section 4002 of the
20 Financial Code, provided that the financial institution has first
21 complied with the requirements of paragraph (2) of subdivision
22 (a) and subdivision (b) of Section 4002 of the Financial Code.

23 (3) Paragraph (1) of subdivision (a) of Section 22470 of the
24 Financial Code, provided that any financial institution that is a
25 finance lender has first complied with the requirements of
26 paragraph (2) of subdivision (a) and subdivision (b) of Section
27 22470 of the Financial Code.

28 (p) When the governing board of the Public Employees'
29 Retirement System or the State Teachers' Retirement System
30 certifies in writing to a financial institution that a benefit recipient
31 has died and that transfers to the benefit recipient's account at the
32 financial institution from the retirement system occurred after the
33 benefit recipient's date of death, the financial institution shall
34 furnish the retirement system with the name and address of any
35 coowner, cosigner, or any other person who had access to the funds
36 in the account following the date of the benefit recipient's death,
37 or if the account has been closed, the name and address of the
38 person who closed the account.

39 (q) When the retirement board of a retirement system established
40 under the County Employees Retirement Law of 1937 certifies in

1 writing to a financial institution that a retired member or the
2 beneficiary of a retired member has died and that transfers to the
3 account of the retired member or beneficiary of a retired member
4 at the financial institution from the retirement system occurred
5 after the date of death of the retired member or beneficiary of a
6 retired member, the financial institution shall furnish the retirement
7 system with the name and address of any coowner, cosigner, or
8 any other person who had access to the funds in the account
9 following the date of death of the retired member or beneficiary
10 of a retired member, or if the account has been closed, the name
11 and address of the person who closed the account.

12 (r) When the Franchise Tax Board certifies in writing to a
13 financial institution that (1) a taxpayer filed a tax return that
14 authorized a direct deposit refund with an incorrect financial
15 institution account or routing number that resulted in all or a
16 portion of the refund not being received, directly or indirectly, by
17 the taxpayer; (2) the direct deposit refund was not returned to the
18 Franchise Tax Board; and (3) the refund was deposited directly
19 on a specified date into the account of an accountholder of the
20 financial institution who was not entitled to receive the refund,
21 then the financial institution shall furnish to the Franchise Tax
22 Board the name and address of any coowner, cosigner, or any other
23 person who had access to the funds in the account following the
24 date of direct deposit refund, or if the account has been closed, the
25 name and address of the person who closed the account.

26 SEC. 30. Section 7480 of the Government Code, as amended
27 by Section 2 of Chapter 234 of the Statutes of 2008, is amended
28 to read:

29 7480. Nothing in this chapter shall prohibit any of the
30 following:

31 (a) The dissemination of any financial information that is not
32 identified with, or identifiable as being derived from, the financial
33 records of a particular customer.

34 (b) When any police or sheriff's department or district attorney
35 in this state certifies to a bank, credit union, or savings association
36 in writing that a crime report has been filed that involves the
37 alleged fraudulent use of drafts, checks, access cards, or other
38 orders drawn upon any bank, credit union, or savings association
39 in this state, the police or sheriff's department or district attorney,
40 a county adult protective services office when investigating the

1 financial abuse of an elder or dependent adult, or a long-term care
2 ombudsman when investigating the financial abuse of an elder or
3 dependent adult, may request a bank, credit union, or savings
4 association to furnish, and a bank, credit union, or savings
5 association shall furnish, a statement setting forth the following
6 information with respect to a customer account specified by the
7 requesting party for a period 30 days prior to, and up to 30 days
8 following, the date of occurrence of the alleged illegal act involving
9 the account:

- 10 (1) The number of items dishonored.
- 11 (2) The number of items paid that created overdrafts.
- 12 (3) The dollar volume of the dishonored items and items paid
13 which created overdrafts and a statement explaining any credit
14 arrangement between the bank, credit union, or savings association
15 and customer to pay overdrafts.
- 16 (4) The dates and amounts of deposits and debits and the account
17 balance on these dates.
- 18 (5) A copy of the signature card, including the signature and
19 any addresses appearing on a customer's signature card.
- 20 (6) The date the account opened and, if applicable, the date the
21 account closed.
- 22 (7) Surveillance photographs and video recordings of persons
23 accessing the crime victim's financial account via an automated
24 teller machine (ATM) or from within the financial institution for
25 dates on which illegal acts involving the account were alleged to
26 have occurred. Nothing in this paragraph does any of the following:
 - 27 (A) Requires a financial institution to produce a photograph or
28 video recording if it does not possess the photograph or video
29 recording.
 - 30 (B) Affects any existing civil immunities as provided in Section
31 47 of the Civil Code or any other provision of law.
- 32 (8) A bank, credit union, or savings association that provides
33 the requesting party with copies of one or more complete account
34 statements prepared in the regular course of business shall be
35 deemed to be in compliance with paragraphs (1), (2), (3), and (4).
- 36 (c) 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 doing business in this state, the police or sheriff's department or
2 district attorney, a county adult protective services office when
3 investigating the financial abuse of an elder or dependent adult,
4 or a long-term care ombudsman when investigating the financial
5 abuse of an elder or dependent adult, may request, with the consent
6 of the accountholder, the bank, credit union, or savings association
7 to furnish, and the bank, credit union, or savings association shall
8 furnish, a statement setting forth the following information with
9 respect to a customer account specified by the requesting party for
10 a period 30 days prior to, and up to 30 days following, the date of
11 occurrence of the alleged illegal act involving 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 this 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 doing business
35 in this state that provides the requesting party with copies of one
36 or more complete account statements prepared in the regular course
37 of business shall be deemed to be in compliance with paragraphs
38 (1), (2), (3), and (4).
- 39 (d) For purposes of subdivision (c), consent of the accountholder
40 shall be satisfied if an accountholder provides to the financial

1 institution and the person or entity seeking disclosure, a signed
2 and dated statement containing all of the following:

3 (1) Authorization of the disclosure for the period specified in
4 subdivision (c).

5 (2) The name of the agency or department to which disclosure
6 is authorized and, if applicable, the statutory purpose for which
7 the information is to be obtained.

8 (3) A description of the financial records that are authorized to
9 be disclosed.

10 (e) (1) The Attorney General, a supervisory agency, the
11 Franchise Tax Board, the State Board of Equalization, the
12 Employment Development Department, the Controller or an
13 inheritance tax referee when administering the Prohibition of Gift
14 and Death Taxes (Part 8 (commencing with Section 13301) of
15 Division 2 of the Revenue and Taxation Code), a police or sheriff's
16 department or district attorney, a county adult protective services
17 office when investigating the financial abuse of an elder or
18 dependent adult, a long-term care ombudsman when investigating
19 the financial abuse of an elder or dependent adult, a county welfare
20 department when investigating welfare fraud, a county
21 auditor-controller or director of finance when investigating fraud
22 against the county, or the Department of Corporations when
23 conducting investigations in connection with the enforcement of
24 laws administered by the Commissioner of Corporations, from
25 requesting of an office or branch of a financial institution, and the
26 office or branch from responding to a request, as to whether a
27 person has an account or accounts at that office or branch and, if
28 so, any identifying numbers of the account or accounts.

29 (2) No additional information beyond that specified in this
30 section shall be released to a county welfare department without
31 either the accountholder's written consent or a judicial writ, search
32 warrant, subpoena, or other judicial order.

33 (3) A county auditor-controller or director of finance who
34 unlawfully discloses information he or she is authorized to request
35 under this subdivision is guilty of the unlawful disclosure of
36 confidential data, a misdemeanor, which shall be punishable as
37 set forth in Section 7485.

38 (f) The examination by, or disclosure to, any supervisory agency
39 of financial records that relate solely to the exercise of its
40 supervisory function. The scope of an agency's supervisory

1 function shall be determined by reference to statutes that grant
2 authority to examine, audit, or require reports of financial records
3 or financial institutions as follows:

4 (1) With respect to the Commissioner of Financial Institutions
5 by reference to Division 1 (commencing with Section 99), Division
6 1.5 (commencing with Section 4800), Division 2 (commencing
7 with Section 5000), Division 5 (commencing with Section 14000),
8 Division 7 (commencing with Section 18000), Division 15
9 (commencing with Section 31000), and Division 16 (commencing
10 with Section 33000), of the Financial Code.

11 (2) With respect to the Controller by reference to Title 10
12 (commencing with Section 1300) of Part 3 of the Code of Civil
13 Procedure.

14 (3) With respect to the Administrator of Local Agency Security
15 by reference to Article 2 (commencing with Section 53630) of
16 Chapter 4 of Part 1 of Division 2 of Title 5 of the Government
17 Code.

18 (g) The disclosure to the Franchise Tax Board of (1) the amount
19 of any security interest that a financial institution has in a specified
20 asset of a customer or (2) financial records in connection with the
21 filing or audit of a tax return or tax information return that are
22 required to be filed by the financial institution pursuant to Part 10
23 (commencing with Section 17001), Part 11 (commencing with
24 Section 23001), or Part 18 (commencing with Section 38001), of
25 the Revenue and Taxation Code.

26 (h) The disclosure to the State Board of Equalization of any of
27 the following:

28 (1) The information required by Sections 6702, 6703, 8954,
29 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155,
30 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404,
31 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the
32 Revenue and Taxation Code.

33 (2) The financial records in connection with the filing or audit
34 of a tax return required to be filed by the financial institution
35 pursuant to Part 1 (commencing with Section 6001), Part 2
36 (commencing with Section 7301), Part 3 (commencing with Section
37 8601), Part 13 (commencing with Section 30001), Part 14
38 (commencing with Section 32001), and Part 17 (commencing with
39 Section 37001), of Division 2 of the Revenue and Taxation Code.

1 (3) The amount of any security interest a financial institution
2 has in a specified asset of a customer, if the inquiry is directed to
3 the branch or office where the interest is held.

4 (i) The disclosure to the Controller of the information required
5 by Section 7853 of the Revenue and Taxation Code.

6 (j) The disclosure to the Employment Development Department
7 of the amount of any security interest a financial institution has in
8 a specified asset of a customer, if the inquiry is directed to the
9 branch or office where the interest is held.

10 (k) The disclosure by a construction lender, as defined in Section
11 8006 of the Civil Code, to the Registrar of Contractors, of
12 information concerning the making of progress payments to a
13 prime contractor requested by the registrar in connection with an
14 investigation under Section 7108.5 of the Business and Professions
15 Code.

16 (l) Upon receipt of a written request from a local child support
17 agency referring to a support order pursuant to Section 17400 of
18 the Family Code, a financial institution shall disclose the following
19 information concerning the account or the person named in the
20 request, whom the local child support agency shall identify,
21 whenever possible, by social security number:

22 (1) If the request states the identifying number of an account at
23 a financial institution, the name of each owner of the account.

24 (2) Each account maintained by the person at the branch to
25 which the request is delivered, and, if the branch is able to make
26 a computerized search, each account maintained by the person at
27 any other branch of the financial institution located in this state.

28 (3) For each account disclosed pursuant to paragraphs (1) and
29 (2), the account number, current balance, street address of the
30 branch where the account is maintained, and, to the extent available
31 through the branch's computerized search, the name and address
32 of any other person listed as an owner.

33 (4) Whenever the request prohibits the disclosure, a financial
34 institution shall not disclose either the request or its response, to
35 an owner of the account or to any other person, except the officers
36 and employees of the financial institution who are involved in
37 responding to the request and to attorneys, employees of the local
38 child support agencies, auditors, and regulatory authorities who
39 have a need to know in order to perform their duties, and except
40 as disclosure may be required by legal process.

1 (5) No financial institution, or any officer, employee, or agent
2 thereof, shall be liable to any person for (A) disclosing information
3 in response to a request pursuant to this subdivision, (B) failing to
4 notify the owner of an account, or complying with a request under
5 this paragraph not to disclose to the owner, the request or disclosure
6 under this subdivision, or (C) failing to discover any account owned
7 by the person named in the request pursuant to a computerized
8 search of the records of the financial institution.

9 (6) The local child support agency may request information
10 pursuant to this subdivision only when the local child support
11 agency has received at least one of the following types of physical
12 evidence:

13 (A) Any of the following, dated within the last three years:

14 (i) Form 599.

15 (ii) Form 1099.

16 (iii) A bank statement.

17 (iv) A check.

18 (v) A bank passbook.

19 (vi) A deposit slip.

20 (vii) A copy of a federal or state income tax return.

21 (viii) A debit or credit advice.

22 (ix) Correspondence that identifies the child support obligor by
23 name, the bank, and the account number.

24 (x) Correspondence that identifies the child support obligor by
25 name, the bank, and the banking services related to the account of
26 the obligor.

27 (xi) An asset identification report from a federal agency.

28 (B) A sworn declaration of the custodial parent during the 12
29 months immediately preceding the request that the person named
30 in the request has had or may have had an account at an office or
31 branch of the financial institution to which the request is made.

32 (7) Information obtained by a local child support agency
33 pursuant to this subdivision shall be used only for purposes that
34 are directly connected with the administration of the duties of the
35 local child support agency pursuant to Section 17400 of the Family
36 Code.

37 (m) (1) As provided in paragraph (1) of subdivision (c) of
38 Section 666 of Title 42 of the United States Code, upon receipt of
39 an administrative subpoena on the current federally approved
40 interstate child support enforcement form, as approved by the

1 federal Office of Management and Budget, a financial institution
2 shall provide the information or documents requested by the
3 administrative subpoena.

4 (2) The administrative subpoena shall refer to the current federal
5 Office of Management and Budget control number and be signed
6 by a person who states that he or she is an authorized agent of a
7 state or county agency responsible for implementing the child
8 support enforcement program set forth in Part D (commencing
9 with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the
10 United States Code. A financial institution may rely on the
11 statements made in the subpoena and has no duty to inquire into
12 the truth of any statement in the subpoena.

13 (3) If the person who signs the administrative subpoena directs
14 a financial institution in writing not to disclose either the subpoena
15 or its response to any owner of an account covered by the subpoena,
16 the financial institution shall not disclose the subpoena or its
17 response to the owner.

18 (4) No financial institution, or any officer, employee, or agent
19 thereof, shall be liable to any person for (A) disclosing information
20 or providing documents in response to a subpoena pursuant to this
21 subdivision, (B) failing to notify any owner of an account covered
22 by the subpoena or complying with a request not to disclose to the
23 owner, the subpoena or disclosure under this subdivision, or (C)
24 failing to discover any account owned by the person named in the
25 subpoena pursuant to a computerized search of the records of the
26 financial institution.

27 (n) The dissemination of financial information and records
28 pursuant to any of the following:

29 (1) Compliance by a financial institution with the requirements
30 of Section 2892 of the Probate Code.

31 (2) Compliance by a financial institution with the requirements
32 of Section 2893 of the Probate Code.

33 (3) An order by a judge upon a written ex parte application by
34 a peace officer showing specific and articulable facts that there
35 are reasonable grounds to believe that the records or information
36 sought are relevant and material to an ongoing investigation of a
37 felony violation of Section 186.10 or of any felony subject to the
38 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. 31. Section 14975 of the Government Code is amended
11 to read:

12 14975. Notwithstanding the provisions of Section 9550 of the
13 Civil Code, the contractor under any contract made under this
14 chapter need not provide a payment bond before the
15 commencement of the work but must provide a payment bond as
16 otherwise required by law prior to payment under the contract.

17 SEC. 32. Section 15820.105 of the Government Code is
18 amended to read:

19 15820.105. (a) Plans and specifications for the project shall
20 comply with applicable building codes.

21 (b) The project is hereby deemed to be governed by Title 2
22 (commencing with Section 9000) of Part 6 of Division 4 of the
23 Civil Code.

24 (c) The provisions of Chapter 1 (commencing with Section
25 1720) of Part 7 of Division 2 of the Labor Code shall apply to all
26 public works contracts entered into for the project.

27 (d) Other than as provided in this section and Sections
28 15820.101 to 15820.104, inclusive, private sector methods may
29 be used to deliver the project. Specifically, the procurement and
30 contracting for the delivery of the project is not subject to the State
31 Contract Act (Part 2 (commencing with Section 10100) of Division
32 2 of the Public Contract Code) or any other provision of California
33 law governing public procurement or public works projects.

34 SEC. 33. Section 27287 of the Government Code is amended
35 to read:

36 27287. Unless it belongs to the class provided for in either
37 Sections 27282 to 27286, inclusive, or Section 1202 or 1203, of
38 the Civil Code, or is a fictitious mortgage or deed of trust as
39 provided in Section 2952 or 2963 of the Civil Code, or is a
40 fictitious oil and gas lease as provided in Section 1219 of the Civil

1 Code, or is a claim of lien under Section 8416 of the Civil Code
2 or a notice of completion under Section 8152 or 9204 of the Civil
3 Code, before an instrument can be recorded its execution shall be
4 acknowledged by the person executing it, or if executed by a
5 corporation, by its president or secretary or other person executing
6 it on behalf of the corporation, or, except for any quitclaim deed
7 or grant deed other than a trustee’s deed or a deed of reconveyance,
8 mortgage, deed of trust, or security agreement, proved by
9 subscribing witness or as provided in Sections 1198 and 1199 of
10 the Civil Code, and the acknowledgment or proof certified as
11 prescribed by law.

12 SEC. 34. Section 27361.9 of the Government Code is repealed.

13 SEC. 35. Section 66499.2 of the Government Code is amended
14 to read:

15 66499.2. A bond or bonds by one or more duly authorized
16 corporate sureties for the security of laborers and material suppliers
17 shall be in substantially the following form:

18 Whereas, The Board of Supervisors of the County of ____ (or
19 City Council of the City of ____), State of California, and ____
20 (hereinafter designated as “the principal”) have entered into an
21 agreement whereby the principal agrees to install and complete
22 certain designated public improvements, which agreement, dated
23 ____, 20__, and identified as project ____, is hereby referred to and
24 made a part hereof; and

25 Whereas, Under the terms of the agreement, the principal is
26 required before entering upon the performance of the work, to file
27 a good and sufficient payment bond with the County of ____ (or
28 the City of ____) to secure the claims to which reference is made
29 in Title 2 (commencing with Section 9000) of Part 6 of Division
30 4 of the Civil Code.

31 Now, therefore, the principal and the undersigned as corporate
32 surety, are held firmly bound unto the County of ____ (or the City
33 of ____) and all contractors, subcontractors, laborers, material
34 suppliers, and other persons employed in the performance of the
35 agreement and referred to in Title 2 (commencing with Section
36 9000) of Part 6 of Division 4 of the Civil Code in the sum of ____
37 dollars (\$____), for materials furnished or labor thereon of any
38 kind, or for amounts due under the Unemployment Insurance Act
39 with respect to this work or labor, that the surety will pay the same
40 in an amount not exceeding the amount hereinabove set forth, and

1 also in case suit is brought upon this bond, will pay, in addition to
 2 the face amount thereof, costs and reasonable expenses and fees,
 3 including reasonable attorney’s fees, incurred by county (or city)
 4 in successfully enforcing this obligation, to be awarded and fixed
 5 by the court, and to be taxed as costs and to be included in the
 6 judgment therein rendered.

7 It is hereby expressly stipulated and agreed that this bond shall
 8 inure to the benefit of any and all persons, companies, and
 9 corporations entitled to file claims under Title 2 (commencing
 10 with Section 9000) of Part 6 of Division 4 of the Civil Code, so
 11 as to give a right of action to them or their assigns in any suit
 12 brought upon this bond.

13 Should the condition of this bond be fully performed, then this
 14 obligation shall become null and void, otherwise it shall be and
 15 remain in full force and effect.

16 The surety hereby stipulates and agrees that no change, extension
 17 of time, alteration, or addition to the terms of the agreement or the
 18 specifications accompanying the same shall in any manner affect
 19 its obligations on this bond, and it does hereby waive notice of
 20 any such change, extension, alteration, or addition.

21 In witness whereof, this instrument has been duly executed by
 22 the principal and surety above named, on _____, 20__.

23 SEC. 36. Section 66499.7 of the Government Code is amended
 24 to read:

25 66499.7. The security furnished by the subdivider shall be
 26 released in whole or in part in the following manner:

27 (a) Security given for faithful performance of any act or
 28 agreement shall be released upon the performance of the act or
 29 final completion and acceptance of the required work. The
 30 legislative body may provide for the partial release of the security
 31 upon the partial performance of the act or the acceptance of the
 32 work as it progresses, consistent with the provisions of this section.
 33 The security may be a surety bond, a cash deposit, a letter of credit,
 34 escrow account, or other form of performance guarantee required
 35 as security by the legislative body that meets the requirements as
 36 acceptable security pursuant to law. If the security furnished by
 37 the subdivider is a documentary evidence of security such as a
 38 surety bond or a letter of credit, the legislative body shall release
 39 the documentary evidence and return the original to the issuer upon
 40 performance of the act or final completion and acceptance of the

1 required work. In the event that the legislative body is unable to
2 return the original documentary evidence to the issuer, the security
3 shall be released by written notice sent by certified mail to the
4 subdivider and issuer of the documentary evidence within 30 days
5 of the acceptance of the work. The written notice shall contain a
6 statement that the work for which the security was furnished has
7 been performed or completed and accepted by the legislative body,
8 a description of the project subject to the documentary evidence
9 and the notarized signature of the authorized representative of the
10 legislative body.

11 (b) At the time that the subdivider believes that the obligation
12 to perform the work for which security was required is complete,
13 the subdivider may notify the local agency in writing of the
14 completed work, including a list of work completed. Upon receipt
15 of the written notice, the local agency shall have 45 days to review
16 and comment or approve the completion of the required work. If
17 the local agency does not agree that all work has been completed
18 in accordance with the plans and specifications for the
19 improvements, it shall supply a list of all remaining work to be
20 completed.

21 (c) Within 45 days of receipt of the list of remaining work from
22 the local agency, the subdivider may then provide cost estimates
23 for all remaining work for review and approval by the local agency.
24 Upon receipt of the cost estimates, the local agency shall then have
25 45 days to review, comment, and approve, modify, or disapprove
26 those cost estimates. No local agency shall be required to engage
27 in this process of partial release more than once between the start
28 of work and completion and acceptance of all work; however,
29 nothing in this section prohibits a local agency from allowing for
30 a partial release as it otherwise deems appropriate.

31 (d) If the local agency approves the cost estimate, the local
32 agency shall release all performance security except for security
33 in an amount up to 200 percent of the cost estimate of the
34 remaining work. The process allowing for a partial release of
35 performance security shall occur when the cost estimate of the
36 remaining work does not exceed 20 percent of the total original
37 performance security unless the local agency allows for a release
38 at an earlier time. Substitute bonds or other security may be used
39 as a replacement for the performance security, subject to the
40 approval of the local agency. If substitute bonds or other security

1 is used as a replacement for the performance security released, the
2 release shall not be effective unless and until the local agency
3 receives and approves that form of replacement security. A
4 reduction in the performance security, authorized under this section,
5 is not, and shall not be deemed to be, an acceptance by the local
6 agency of the completed improvements, and the risk of loss or
7 damage to the improvements and the obligation to maintain the
8 improvements shall remain the sole responsibility of the subdivider
9 until all required public improvements have been accepted by the
10 local agency and all other required improvements have been fully
11 completed in accordance with the plans and specifications for the
12 improvements.

13 (e) The subdivider shall complete the works of improvement
14 until all remaining items are accepted by the local agency.

15 (f) Upon the completion of the improvements, the subdivider,
16 or his or her assigns, shall be notified in writing by the local agency
17 within 45 days.

18 (g) Within 45 days of the issuance of the notification by the
19 local agency, the release of any remaining performance security
20 shall be placed upon the agenda of the legislative body of the local
21 agency for approval of the release of any remaining performance
22 security. If the local agency delegates authority for the release of
23 performance security to a public official or other employee, any
24 remaining performance security shall be released within 60 days
25 of the issuance of the written statement of completion.

26 (h) Security securing the payment to the contractor, his or her
27 subcontractors and to persons furnishing labor, materials or
28 equipment shall, after passage of the time within which claims of
29 lien are required to be recorded pursuant to Article 2 (commencing
30 with Section 8410) of Chapter 4 of Part 6 of Division 4 of the Civil
31 Code and after acceptance of the work, be reduced to an amount
32 equal to the total claimed by all claimants for whom claims of lien
33 have been recorded and notice thereof given in writing to the
34 legislative body, and if no claims have been recorded, the security
35 shall be released in full.

36 (i) The release shall not apply to any required guarantee and
37 warranty period required by Section 66499.9 for the guarantee or
38 warranty nor to the amount of the security deemed necessary by
39 the local agency for the guarantee and warranty period nor to costs

1 and reasonable expenses and fees, including reasonable attorneys’
2 fees.

3 (j) The legislative body may authorize any of its public officers
4 or employees to authorize release or reduction of the security in
5 accordance with the conditions hereinabove set forth and in
6 accordance with any rules that it may prescribe.

7 (k) This section shall remain in effect only until January 1, 2011,
8 and as of that date is repealed, unless a later enacted statute, that
9 is enacted before January 1, 2011, deletes or extends that date.

10 SEC. 37. Section 5463 of the Health and Safety Code is
11 amended to read:

12 5463. Any health officer or governing board of any city, county,
13 sanitary district, or other district having the power to operate and
14 maintain a sewerage system, having served written notice upon
15 the owner or reputed owner of land upon which there is a dwelling
16 house, and the owner or reputed owner, after 30 days, having
17 refused, neglected, or failed to connect the dwelling house, together
18 with all toilets, sinks, and other plumbing therein, properly vented,
19 and in a sanitary manner, with the adjoining street sewer, may
20 construct the same at a reasonable cost, and the person doing that
21 work at the request of the health officer or governing board has a
22 lien upon that real estate for his or her work done and materials
23 furnished, and the work done and materials furnished shall be held
24 to have been done and furnished at the instance of the owner or
25 reputed owner, or person claiming or having any interest therein.
26 The governing board may pay all or any part of the cost or price
27 of such connection to the person or persons who furnished labor,
28 materials, or equipment for the same, and, to the extent the
29 governing board pays the cost or price of the connection, it shall
30 succeed to and have all the rights, including the lien provided for
31 above, of the person or persons against the real estate and against
32 the owner or reputed owner thereof.

33 As an alternative power to the enforcement of the lien provided
34 for in this section, the governing body of the public agency
35 performing the work of connection to the public sewer may, by
36 order entered upon its minutes, declare that the amount of the costs
37 of the work and the administrative expenses incurred by the
38 governing body incident to the proceedings, together with other
39 charges uniformly applicable within the jurisdiction of the
40 governing body for the connection of the premises to the public

1 sewer, shall be transmitted to the assessor and tax collector of the
2 public agency, whereupon it shall be the duty of those officers to
3 add the amount of the assessment to the next regular bill for taxes
4 levied against the lot or parcel of land.

5 The liens provided for by this section shall be enforced in the
6 same manner as those provided for by Part 6 (commencing with
7 Section 8000) of Division 4, of the Civil Code.

8 The governing board may also use the procedures in Section
9 5474 for levying the costs incurred for the construction of the
10 improvements for the connection of the premises to the public
11 sewer.

12 SEC. 38. Section 16017.5 of the Health and Safety Code is
13 amended to read:

14 16017.5. (a) Notwithstanding any provision of law to the
15 contrary, including, but not limited to, Part 6 (commencing with
16 Section 8000) of Division 4 of the Civil Code, the Department of
17 General Services may issue a stop work order when construction
18 work on an essential services facility is not being performed in
19 accordance with existing law and would compromise the structural
20 integrity of the building, thereby endangering the public safety.
21 The Department of General Services shall allow construction of
22 incidental and minor nonstructural additions or nonstructural
23 alterations without invoking its stop work authority.

24 (b) A public board, body, or officer whose construction work
25 on an essential services facility is subject to a stop work order
26 issued pursuant to subdivision (a) shall not be held liable in any
27 action filed against the public board, body, or officer for stopping
28 work as required by the stop work order, or for any delays caused
29 by compliance with the stop work order, except to the extent that
30 an error or omission by the public board, body, or officer is the
31 basis for the issuance of the stop work order.

32 SEC. 39. Section 19825 of the Health and Safety Code is
33 amended to read:

34 19825. (a) Every city, county, or city and county, whether
35 general law or chartered, that requires the issuance of a permit as
36 a condition precedent to the construction, alteration, improvement,
37 demolition, or repair of any building or structure, shall require the
38 execution of a permit application, in substantially the same form
39 set forth under this subdivision, and require any individual who
40 executes the Owner-Builder Declaration to present documentation

1 sufficient to identify the property owner and, as necessary, verify
2 the signature of the property owner. A city, county, or city and
3 county may require additional information on the permit
4 application.

5
6 PERMIT APPLICATION
7 BUILDING PROJECT IDENTIFICATION

8 Applicant's Mailing Address _____
9 _____
10 _____
11 Property Location or Address _____
12 _____
13 Property Owner's Name _____
14 Property Owner's Telephone No. _____
15 Licensed Design Professional (Architect or
16 Engineer) in charge of the project _____
17 Mailing Address of Licensed Design _____
18 Professional _____
19 _____
20 License No. _____

21
22 LICENSED CONTRACTOR'S DECLARATION

23 I hereby affirm under penalty of perjury that I am licensed under provisions
24 of Chapter 9 (commencing with Section 7000) of Division 3 of the Business
25 and Professions Code, and my license is in full force and effect.
26 License Class _____ License No. _____
27 Date _____ Contractor Signature _____

28
29 OWNER-BUILDER DECLARATION

30 I hereby affirm under penalty of perjury that I am exempt from the
31 Contractors' State License Law for the reason(s) indicated below by the
32 checkmark(s) I have placed next to the applicable item(s) (Section 7031.5,
33 Business and Professions Code: Any city or county that requires a permit to
34 construct, alter, improve, demolish, or repair any structure, prior to its issuance,
35 also requires the applicant for the permit to file a signed statement that he or
36 she is licensed pursuant to the provisions of the Contractors' State License
37 Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business
38 and Professions Code) or that he or she is exempt from licensure and the basis
39 for the alleged exemption. Any violation of Section 7031.5 by any applicant

1 for a permit subjects the applicant to a civil penalty of not more than five
2 hundred dollars (\$500.):

3 () I, as owner of the property, or my employees with wages as their sole
4 compensation, will do () all of or () portions of the work, and the structure
5 is not intended or offered for sale (Section 7044, Business and Professions
6 Code: The Contractors' State License Law does not apply to an owner of
7 property who, through employees' or personal effort, builds or improves the
8 property, provided that the improvements are not intended or offered for sale.
9 If, however, the building or improvement is sold within one year of completion,
10 the Owner-Builder will have the burden of proving that it was not built or
11 improved for the purpose of sale.).

12
13 () I, as owner of the property, am exclusively contracting with licensed
14 Contractors to construct the project (Section 7044, Business and Professions
15 Code: The Contractors' State License Law does not apply to an owner of
16 property who builds or improves thereon, and who contracts for the projects
17 with a licensed Contractor pursuant to the Contractors' State License Law.).

18
19 () I am exempt from licensure under the Contractors' State License Law for
20 the following reason:

21 _____

22
23 By my signature below I acknowledge that, except for my personal residence
24 in which I must have resided for at least one year prior to completion of the
25 improvements covered by this permit, I cannot legally sell a structure that I
26 have built as an owner-builder if it has not been constructed in its entirety by
27 licensed contractors. I understand that a copy of the applicable law, Section
28 7044 of the Business and Professions Code, is available upon request when
29 this application is submitted or at the following Web site:
30 <http://www.leginfo.ca.gov/calaw.html>.

31 Date _____

32
33 Signature of Property Owner or Authorized Agent

34
35 _____

36
37 WORKERS' COMPENSATION DECLARATION
38 WARNING: FAILURE TO SECURE WORKERS' COMPENSATION
39 COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER
40 TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED

1 THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF
2 COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706
3 OF THE LABOR CODE, INTEREST, AND ATTORNEY’S FEES.

4
5 I hereby affirm under penalty of perjury one of the following declarations:
6 ____ I have and will maintain a certificate of consent to self-insure for workers’
7 compensation, issued by the Director of Industrial Relations as provided for
8 by Section 3700 of the Labor Code, for the performance of the work for which
9 this permit is issued.

10 Policy No. _____

11
12 ____ I have and will maintain workers’ compensation insurance, as required
13 by Section 3700 of the Labor Code, for the performance of the work for which
14 this permit is issued. My workers’ compensation insurance carrier and policy
15 number are:

16
17 Carrier _____ Policy Number _____ Expiration Date _____
18 Name of Agent _____ Phone # _____

19
20 ____ I certify that, in the performance of the work for which this permit is
21 issued, I shall not employ any person in any manner so as to become subject
22 to the workers’ compensation laws of California, and agree that, if I should
23 become subject to the workers’ compensation provisions of Section 3700 of
24 the Labor Code, I shall forthwith comply with those provisions.

25 _____
26 Signature of Applicant _____ Date _____

27
28 DECLARATION REGARDING CONSTRUCTION LENDING AGENCY

29
30 I hereby affirm under penalty of perjury that there is a construction lending
31 agency for the performance of the work for which this permit is issued (Section
32 8132, Civil Code).

33 Lender’s Name _____

34
35 Branch Designation _____

36
37 Lender’s Address _____

38
39 By my signature below, I certify to each of the following:

1 I am the property owner or authorized to act on the property owner’s behalf.
 2 I have read this application and the information I have provided is correct.
 3 I agree to comply with all applicable city and county ordinances and state laws
 4 relating to building construction.
 5 I authorize representatives of this city or county to enter the above-identified
 6 property for inspection purposes.
 7 Signature of Property Owner or Authorized Agent _____
 8 Date _____

9
 10 (b) When the Permit Application and the Owner-Builder
 11 Declaration have been executed by a person other than the property
 12 owner, prior to issuing the permit, the following shall be completed
 13 by the property owner and returned to the agency responsible for
 14 issuing the permit:

15
 16 AUTHORIZATION OF AGENT TO ACT ON PROPERTY OWNER’S
 17 BEHALF
 18

19 Excluding the Notice to Property Owner, the execution of which I understand
 20 is my personal responsibility, I hereby authorize the following person(s) to act
 21 as my agent(s) to apply for, sign, and file the documents necessary to obtain
 22 an Owner-Builder Permit for my project.

23
 24 Scope of Construction Project (or Description of Work):
 25 _____

26 Project Location or Address: _____

27 Name of Authorized
 28 Agent: _____

29
 30 Address of Authorized
 31 Agent: _____

32
 33 Phone Number of Authorized
 34 Agent: _____

35
 36 I declare under penalty of perjury that I am the property owner for the address
 37 listed above and I personally filled out the above information and certify its
 38 accuracy.

39 Property Owner’s Signature: _____ Date: _____

40

1 Note: A copy of the owner’s driver’s license, form notarization, or other
2 verification acceptable to the agency is required to be presented when the
3 permit is issued to verify the property owner’s signature.
4

5 (c) When the Owner-Builder Declaration required under
6 subdivision (a) is executed, a Notice to Property Owner also shall
7 be executed by the property owner in substantially the same form
8 set forth under this section. The Notice to Property Owner shall
9 appear on the official letterhead of the issuer and shall be provided
10 to the applicant by one of the following methods chosen by the
11 permitting authority: regular mail, electronic format, or given
12 directly to the applicant at the time the application for the permit
13 is made. Except as otherwise provided, the Notice to Property
14 Owner pursuant to this section shall be completed and signed by
15 the property owner and returned prior to issuance of the permit.
16 An agent of the owner shall not execute this notice unless the
17 property owner obtains the prior approval of the permitting
18 authority. A permit shall not be issued unless the property owner
19 complies with this section.
20

21 NOTICE TO PROPERTY OWNER

22 Dear Property Owner:

23 An application for a building permit has been submitted in your name listing
24 yourself as the builder of the property improvements specified at

25 _____.

26 We are providing you with an Owner-Builder Acknowledgment and
27 Information Verification Form to make you aware of your responsibilities and
28 possible risk you may incur by having this permit issued in your name as the
29 Owner-Builder.

30 We will not issue a building permit until you have read, initialed your
31 understanding of each provision, signed, and returned this form to us at our
32 official address indicated. An agent of the owner cannot execute this notice
33 unless you, the property owner, obtain the prior approval of the permitting
34 authority.
35

36 OWNER’S ACKNOWLEDGMENT AND VERIFICATION OF
37 INFORMATION
38

39 DIRECTIONS: Read and initial each statement below to signify you understand
40 or verify this information.

1
2 ____1. I understand a frequent practice of unlicensed persons is to have the
3 property owner obtain an “Owner-Builder” building permit that erroneously
4 implies that the property owner is providing his or her own labor and material
5 personally. I, as an Owner-Builder, may be held liable and subject to serious
6 financial risk for any injuries sustained by an unlicensed person and his or her
7 employees while working on my property. My homeowner’s insurance may
8 not provide coverage for those injuries. I am willfully acting as an
9 Owner-Builder and am aware of the limits of my insurance coverage for injuries
10 to workers on my property.

11
12 ____2. I understand building permits are not required to be signed by property
13 owners unless they are *responsible* for the construction and are not hiring a
14 licensed Contractor to assume this responsibility.

15
16 ____3. I understand as an “Owner-Builder” I am the responsible party of record
17 on the permit. I understand that I may protect myself from potential financial
18 risk by hiring a licensed Contractor and having the permit filed in his or her
19 name instead of my own.

20
21 ____4. I understand Contractors are required by law to be licensed and bonded
22 in California and to list their license numbers on permits and contracts.

23
24 ____5. I understand if I employ or otherwise engage any persons, other than
25 California licensed Contractors, and the total value of my construction is at
26 least five hundred dollars (\$500), including labor and materials, I may be
27 considered an “employer” under state and federal law.

28
29 ____6. I understand if I am considered an “employer” under state and federal
30 law, I must register with the state and federal government, withhold payroll
31 taxes, provide workers’ compensation disability insurance, and contribute to
32 unemployment compensation for each “employee.” I also understand my failure
33 to abide by these laws may subject me to serious financial risk.

34
35 ____7. I understand under California Contractors’ State License Law, an
36 Owner-Builder who builds single-family residential structures cannot legally
37 build them with the intent to offer them for sale, unless *all* work is performed
38 by licensed subcontractors and the number of structures does not exceed four
39 within any calendar year, or all of the work is performed under contract with
40 a licensed general building Contractor.

1
2 ____ 8. I understand as an Owner-Builder if I sell the property for which this
3 permit is issued, I may be held liable for any financial or personal injuries
4 sustained by any subsequent owner(s) that result from any latent construction
5 defects in the workmanship or materials.

6
7 ____ 9. I understand I may obtain more information regarding my obligations
8 as an “employer” from the Internal Revenue Service, the United States Small
9 Business Administration, the California Department of Benefit Payments, and
10 the California Division of Industrial Accidents. I also understand I may contact
11 the California Contractors’ State License Board (CSLB) at 1-800-321-CSLB
12 (2752) or www.cslb.ca.gov for more information about licensed contractors.

13
14 ____ 10. I am aware of and consent to an Owner-Builder building permit applied
15 for in my name, and understand that I am the party legally and financially
16 responsible for proposed construction activity at the following address:

17 _____

18
19 ____ 11. I agree that, as the party legally and financially responsible for this
20 proposed construction activity, I will abide by all applicable laws and
21 requirements that govern Owner-Builders as well as employers.

22
23 ____ 12. I agree to notify the issuer of this form immediately of any additions,
24 deletions, or changes to any of the information I have provided on this form.

25
26 Licensed contractors are regulated by laws designed to protect the public. If
27 you contract with someone who does not have a license, the Contractors’ State
28 License Board may be unable to assist you with any financial loss you may
29 sustain as a result of a complaint. Your only remedy against unlicensed
30 Contractors may be in civil court. It is also important for you to understand
31 that if an unlicensed Contractor or employee of that individual or firm is injured
32 while working on your property, you may be held liable for damages. If you
33 obtain a permit as Owner-Builder and wish to hire Contractors, you will be
34 responsible for verifying whether or not those Contractors are properly licensed
35 and the status of their workers’ compensation insurance coverage.

36
37 Before a building permit can be issued, this form must be completed and signed
38 by the property owner and returned to the agency responsible for issuing the
39 permit.

1 Note: A copy of the property owner’s driver’s license, form notarization, or
2 other verification acceptable to the agency is required to be presented when
3 the permit is issued to verify the property owner’s signature.

4
5 Signature of Property Owner _____ Date: _____
6

7 SEC. 40. Section 34218 of the Health and Safety Code is
8 amended to read:

9 34218. Chapter 5 (commencing with Section 9550) of Title 2
10 of Part 6 of Division 4 of the Civil Code applies to any housing
11 project constructed under this chapter. Notwithstanding the
12 provisions of this section, a housing authority may require a 20
13 percent cash escrow or a 25 percent irrevocable letter of credit or
14 the payment bond required by this section if the contract is for
15 work undertaken pursuant to the Comprehensive Improvement
16 Assistance Program established by Section 14 of the United States
17 Housing Act of 1937, as amended (42 U.S.C.A. Secs. 1437d and
18 1437l), or the Public Housing Modernization Act established by
19 Section 5(c)(3)(C) of the United States Housing Act of 1937, as
20 amended (42 U.S.C.A. Secs. 1437d and 1437l).

21 SEC. 41. Section 11751.82 of the Insurance Code is amended
22 to read:

23 11751.82. (a) An insurer under a wrap-up insurance policy
24 shall report workers’ compensation losses and payroll information
25 for each contractor and subcontractor to its rating organization on
26 a timely basis and in accordance with the uniform statistical plan.
27 Within 10 days, upon request, the insurer shall provide to each
28 contractor and subcontractor copies of the report covering workers’
29 compensation losses and payroll information for that contractor
30 or subcontractor.

31 (b) For the purposes of this section, a “wrap-up insurance
32 policy” is an insurance policy, or series of policies, written to cover
33 risks associated with a work of improvement, as defined in Section
34 8050 of the Civil Code, and covering two or more of the contractors
35 or subcontractors that work on that work of improvement.

36 SEC. 42. Section 218.5 of the Labor Code is amended to read:

37 218.5. In any action brought for the nonpayment of wages,
38 fringe benefits, or health and welfare or pension fund contributions,
39 the court shall award reasonable attorney’s fees and costs to the
40 prevailing party if any party to the action requests attorney’s fees

1 and costs upon the initiation of the action. This section shall not
2 apply to an action brought by the Labor Commissioner. This
3 section shall not apply to a surety issuing a bond pursuant to
4 Chapter 9 (commencing with Section 7000) of Division 3 of the
5 Business and Professions Code or to an action to enforce a
6 mechanics lien brought under Chapter 4 (commencing with Section
7 8400) of Part 6 of Division 2 of the Civil Code.

8 This section does not apply to any action for which attorney's
9 fees are recoverable under Section 1194.

10 SEC. 43. Section 4107.7 of the Public Contract Code is
11 amended to read:

12 4107.7. If a contractor who enters into a contract with a public
13 entity for investigation, removal or remedial action, or disposal
14 relative to the release or presence of a hazardous material or
15 hazardous waste fails to pay a subcontractor registered as a
16 hazardous waste hauler pursuant to Section 25163 of the Health
17 and Safety Code within 10 days after the investigation, removal
18 or remedial action, or disposal is completed, the subcontractor may
19 serve a stop notice upon the public entity in accordance with
20 Chapter 4 (commencing with Section 9350) of Title 2 of Part 6 of
21 Division 4 of the Civil Code.

22 SEC. 44. Section 7103 of the Public Contract Code is amended
23 to read:

24 7103. (a) (1) Every original contractor that is awarded a
25 contract by a state entity, as defined in subdivision (d), involving
26 an expenditure in excess of twenty-five thousand dollars (\$25,000)
27 for any public work shall, before entering upon the performance
28 of the work, file a payment bond with and approved by the officer
29 or state entity that awarded the contract. The bond shall be in a
30 sum not less than 100 percent of the total amount payable by the
31 terms of the contract.

32 (2) The state entity shall state in its call for bids for any contract
33 that a payment bond is required in the case of such an expenditure.

34 (b) A payment bond filed and approved in accordance with this
35 section shall be sufficient to enter upon the performance of work
36 under a duly authorized contract that supplements the contract for
37 which the payment bond was filed if the requirement of a new
38 bond is waived by the state entity.

39 (c) For purposes of this section, providers of architectural,
40 engineering, and land surveying services pursuant to a contract

1 with a state entity for a public work shall not be deemed an original
2 contractor and shall not be required to post or file the payment
3 bond required in subdivisions (a) and (b).

4 (d) For purposes of this section, “state entity” means every state
5 office department, division, bureau, board, or commission, but
6 does not include the Legislature, the courts, any agency in the
7 judicial branch of government, or the University of California. All
8 other public entities shall be governed by Section 9550 of the Civil
9 Code.

10 (e) For purposes of this section, “public work” includes the
11 erection, construction, alteration, repair, or improvement of any
12 state structure, building, road, or other state improvement of any
13 kind.

14 SEC. 45. Section 10222 of the Public Contract Code is amended
15 to read:

16 10222. (a) Each bond shall equal at least one-half of the
17 contract price, except as otherwise provided in Section 9554 of
18 the Civil Code, in the California Toll Bridge Authority Act
19 (Chapter 1 (commencing with Section 30000) of Division 7 of the
20 Streets and Highways Code), or in subdivision (b).

21 (b) Notwithstanding subdivision (a), for projects with a contract
22 price greater than two hundred fifty million dollars (\$250,000,000),
23 the Department of Transportation shall have the discretion to
24 specify that the payment bond shall equal not less than one-half
25 of the contract price or five hundred million dollars (\$500,000,000),
26 whichever is less.

27 SEC. 46. Section 10822 of the Public Contract Code is amended
28 to read:

29 10822. Each bond shall be in a sum equal to at least one-half
30 of the contract price, except as otherwise provided in Section 9554
31 of the Civil Code.

32 SEC. 47. Section 20104 of the Public Contract Code is amended
33 to read:

34 20104. (a) (1) This article applies to all public works claims
35 of three hundred seventy-five thousand dollars (\$375,000) or less
36 which arise between a contractor and a local agency.

37 (2) This article shall not apply to any claims resulting from a
38 contract between a contractor and a public agency when the public
39 agency has elected to resolve any disputes pursuant to Article 7.1
40 (commencing with Section 10240) of Chapter 1 of Part 2.

1 (b) (1) “Public work” means “public works contract” as defined
2 in Section 1101 but does not include any work or improvement
3 contracted for by the state or the Regents of the University of
4 California.

5 (2) “Claim” means a separate demand by the contractor for (A)
6 a time extension, (B) payment of money or damages arising from
7 work done by, or on behalf of, the contractor pursuant to the
8 contract for a public work and payment of which is not otherwise
9 expressly provided for or the claimant is not otherwise entitled to,
10 or (C) an amount the payment of which is disputed by the local
11 agency.

12 (c) The provisions of this article or a summary thereof shall be
13 set forth in the plans or specifications for any work which may
14 give rise to a claim under this article.

15 (d) This article applies only to contracts entered into on or after
16 January 1, 1991.

17 SEC. 48. Section 20134 of the Public Contract Code is amended
18 to read:

19 20134. (a) In cases of emergency, when repair or replacements
20 are necessary to permit the continued conduct of county operations
21 or services, the board of supervisors, by majority consent, may
22 proceed at once to replace or repair any and all structures without
23 adopting the plans, specifications, strain sheets, or working details
24 or, subject to Chapter 2.5 (commencing with Section 22050), giving
25 notice for bids to let contracts. If notice for bids to let contracts
26 will not be given, the board shall comply with Chapter 2.5
27 (commencing with Section 22050). The work may be done by day
28 labor under the direction of the board, by contract, or by a
29 combination of the two. If the work is done wholly or in part by
30 contract, the contractor shall be paid the actual cost of the use of
31 machinery and tools and of material, and labor and of workers’
32 compensation insurance expended by him or her in doing the work,
33 plus not more than 15 percent to cover all profits and
34 administration. No more than the lowest current market prices
35 shall be paid for materials whenever possible.

36 (b) In a county of the first, second, third, or fourth class, which
37 is under court order to relieve jail overcrowding or in which the
38 sheriff certifies that the inmate capacity of the county jail system
39 is exceeded by more than 20 percent and that the overpopulation
40 is likely to continue and poses a threat to public safety, health, and

1 welfare, the board of supervisors may contract for the construction
2 or expansion of jail facilities without the formality of obtaining
3 bids, adopting plans and specifications, or complying with other
4 requirements of this article, except as required by this subdivision.
5 The person to whom the contract is awarded shall execute a bond
6 for faithful performance in accordance with Section 20129. Any
7 plans and specifications adopted by the board may only be altered
8 or changed in accordance with Section 20135 and all contracts
9 awarded pursuant to this subdivision may only be altered or
10 changed in accordance with Sections 20136, 20137, and 20138.
11 The award of the contract shall be made after a public hearing on
12 the basis of a request for proposals advertised in accordance with
13 Section 6062 or 6062a of the Government Code. The contract may
14 be awarded only to a contractor who has responded to the request
15 for proposals and who is licensed to do the work in accordance
16 with Chapter 9 (commencing with Section 7000) of Division 3 of
17 the Business and Professions Code. The contract shall be upon
18 terms which the board determines are necessary for the expeditious
19 completion of the work. A contract shall not be entered into unless
20 at least three proposals to do the work have been evaluated by a
21 competitive process established by the board. If the board does
22 not select the lowest bid, it shall make a finding stating the reasons
23 that the lowest bid was not selected.

24 (c) In any county that has agreed to permit the transfer of
25 prisoners or parole violators under Section 2910 or 2910.5 of the
26 Penal Code or of wards under Section 1753.3 of the Welfare and
27 Institutions Code, the board of supervisors may contract for the
28 construction or expansion of the facilities to be used for that
29 purpose without the formality of obtaining bids, adopting plans
30 and specifications, or complying with other requirements of this
31 article, except as required by this subdivision. The person to whom
32 the contract is awarded shall execute a bond for faithful
33 performance in accordance with Section 20129. Any plans and
34 specifications adopted by the board may only be altered or changed
35 in accordance with Section 20135 and all contracts awarded
36 pursuant to this subdivision may only be altered or changed in
37 accordance with Sections 20136, 20137, and 20138. The award
38 of the contract shall be made after a public hearing on the basis of
39 a request for proposals advertised in accordance with Section 6062
40 or 6062a of the Government Code. The contract may be awarded

1 only to a contractor who has responded to the request for proposals
2 and who is licensed to do the work in accordance with Chapter 9
3 (commencing with Section 7000) of Division 3 of the Business
4 and Professions Code. The contract shall be upon terms which the
5 board determines are necessary for the expeditious completion of
6 the work. A contract shall not be entered into unless at least three
7 proposals to do the work have been evaluated by a competitive
8 process established by the board and the lowest bid is selected.

9 (d) Proposed construction or expansion of jail or
10 return-to-custody facilities as authorized under subdivision (b) or
11 (c) shall not commence in a county of the third class without the
12 affirmative vote of a majority of the city council of the incorporated
13 city within which the construction or expansion is proposed.

14 (e) The board of supervisors may waive the requirements of
15 Title 2 (commencing with Section 9000) of Part 6 of Division 4
16 of the Civil Code for work performed pursuant to subdivision (b)
17 or (c).

18 (f) If any county that is under court order to relieve
19 overcrowding in a county juvenile facility, as defined by
20 subdivision (c) of Section 4481 of the Penal Code or in which the
21 chief probation officer certifies that the juvenile detention capacity
22 of the county juvenile facilities is exceeded by more than 20
23 percent and that the overpopulation is likely to continue and poses
24 a threat to public safety, health, and welfare, the board of
25 supervisors may contract for the construction or expansion of
26 county juvenile facilities without the formality of obtaining bids,
27 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 bidder, it shall make a finding stating the
7 reasons that the lowest bidder was not selected.

8 (g) In a county of the third class in which there are no available
9 courtrooms to accommodate all authorized judicial positions or in
10 which the board of supervisors certifies that there is a significant
11 need to expeditiously construct new court and court support
12 facilities, the board of supervisors may contract for the construction
13 or expansion of court and court support facilities without the
14 formality of obtaining bids, adopting plans and specifications, or
15 complying with other requirements of this article, except as
16 required by this subdivision. The person to whom the contract is
17 awarded shall execute a bond for faithful performance in
18 accordance with Section 20129. Any plans and specifications
19 adopted by the board may only be altered or changed in accordance
20 with Section 20135 and all contracts awarded pursuant to this
21 subdivision may only be altered or changed in accordance with
22 Sections 20136, 20137, and 20138. The award of the contract shall
23 be made after a public hearing on the basis of a request for
24 proposals advertised in accordance with Section 6062 or 6062a of
25 the Government Code. The contract may be awarded only to a
26 contractor who has responded to the request for proposals and who
27 is licensed to do the work in accordance with Chapter 9
28 (commencing with Section 7000) of Division 3 of the Business
29 and Professions Code. The contract shall be upon terms which the
30 board determines are necessary for the expeditious completion of
31 the work. A contract shall not be entered into unless at least three
32 proposals to do the work have been evaluated by a competitive
33 process established by the board and the lowest bid is selected.
34 This subdivision shall remain in effect until December 31, 1994.

35 SEC. 49. Section 20461 of the Public Contract Code is amended
36 to read:

37 20461. No assignment by the contractor of the whole or any
38 part of the money, assessment, partial assessment, any reassessment
39 and any bonds which may be issued to represent any assessment
40 or reassessment, due or to be due under the contract, or for “extras”

1 in connection therewith, whether made before or after a verified
2 claim is filed pursuant to this chapter, shall take priority over the
3 claims, and the assignment shall have no binding force insofar as
4 the rights of the claimants, or their assigns, are concerned. None
5 of the provisions of Title 2 (commencing with Section 9000) of
6 Part 6 of Division 4 of the Civil Code shall be applicable to any
7 assessment, partial assessment, reassessment, bonds, moneys or
8 funds payable to the contractor or assignee under this division or
9 to any matter contained in this chapter.

10 SEC. 50. Section 20496 of the Public Contract Code is amended
11 to read:

12 20496. The provisions of Part 6 (commencing with Section
13 41010) of Division 2 are hereby expressly made applicable to the
14 construction of works and improvements under this article.

15 SEC. 51. Section 20682.5 of the Public Contract Code is
16 amended to read:

17 20682.5. (a) A district may construct or complete any building,
18 structure, or improvement with its own forces or by contract
19 without bidding when the cost does not exceed twenty-five
20 thousand dollars (\$25,000).

21 (b) All contracts for the construction or completion of any
22 building, structure, or improvement, when the cost exceeds
23 twenty-five thousand dollars (\$25,000), shall be contracted for and
24 let to the lowest responsible bidder after notice. If two or more
25 bids are the same and the lowest, the district board may accept the
26 one it chooses.

27 (c) The district shall publish a notice inviting bids for any
28 contract for which competitive bidding is required at least one time
29 in a newspaper of general circulation in the district at least 10 days
30 before the time specified for receiving bids. The notice inviting
31 bids shall set a date for opening the bids and distinctly state the
32 work to be done.

33 (d) If the general manager recommends and the board of
34 directors determines that the publication of advertisements of the
35 notice in trade journals and papers in lieu of publication pursuant
36 to subdivision (c) will increase the number of business enterprises
37 receiving that notice, the board of directors may by resolution
38 declare that those notices shall be published in trade journals and
39 papers at least 10 days prior to the time specified for receiving
40 bids.

1 (e) If plans and specifications are prepared describing the work,
2 all bidders shall be afforded an opportunity to examine the plans
3 and specifications, and the plans and specifications shall be
4 attached to and become part of the contract, if one is awarded.

5 (f) At its discretion, the board of directors may reject any bids
6 presented and readvertise.

7 (g) In the case of an emergency, the board of directors may act
8 pursuant to Chapter 2.5 (commencing with Section 22050).

9 (h) The board of directors may, subject to Chapter 5
10 (commencing with Section 9550) of Title 2 of Part 6 of Division
11 4 of the Civil Code, require the posting of those bonds it deems
12 desirable as a condition to the filing of a bid or the letting of a
13 contract.

14 (i) The district shall keep cost records of the work in the manner
15 provided in Chapter 1 (commencing with Section 4000) of Division
16 5 of Title 1 of the Government Code.

17 (j) As an alternate to the procedures required by this section, a
18 district may rely on the Uniform Public Construction Cost
19 Accounting Act, Chapter 2 (commencing with Section 22000) of
20 Part 3 of Division 2.

21 SEC. 52. Section 20688.4 of the Public Contract Code is
22 amended to read:

23 20688.4. An agency shall require each successful bidder to file
24 with it good and sufficient bonds, to be approved by it. The bonds
25 shall be conditioned upon the faithful performance of the contract
26 and upon the payment of all claims for labor and material in
27 connection with the contract. The bonds shall contain the terms
28 and conditions set forth in Chapter 5 (commencing with Section
29 9550) of Title 2 of Part 6 of Division 4 of the Civil Code and are
30 subject to the provisions of that chapter.

31 SEC. 53. Section 20813 of the Public Contract Code is amended
32 to read:

33 20813. (a) All contracts for the construction or completion of
34 any building, structure, or improvement, when the expenditure
35 required for the work exceeds ten thousand dollars (\$10,000), shall
36 be contracted for and let to the lowest responsible bidder after
37 notice. If two or more bids are the same and the lowest, the district
38 board may accept the one it chooses.

39 (b) The notice inviting bids shall set a date for the opening of
40 bids. The first publication or posting of the notice shall be at least

1 10 days before the date of opening the bids. Notice shall be
2 published at least twice, not less than five days apart, in a
3 newspaper of general circulation in the district, or if there is none,
4 it shall be posted in at least three public places in the district. The
5 notice shall distinctly state the work to be done.

6 (c) In its discretion, the district board may reject any bids
7 presented and readvertise.

8 (d) In the case of an emergency, the district board may act
9 pursuant to Chapter 2.5 (commencing with Section 22050).

10 (e) The district board may, subject to the provisions of Chapter
11 5 (commencing with Section 9550) of Title 2 of Part 6 of Division
12 4 of the Civil Code, require the posting of those bonds it deems
13 desirable as a condition to the filing of a bid or the letting of a
14 contract.

15 (f) Cost records of the work shall be kept in the manner provided
16 in Chapter 1 (commencing with Section 4000) of Division 5 of
17 Title 1 of the Government Code.

18 SEC. 54. Section 20815.3 of the Public Contract Code is
19 amended to read:

20 20815.3. (a) A district shall publish notice inviting bids for
21 any contract for which competitive bidding is required at least one
22 time in a newspaper of general circulation in the district at least
23 one week before the time specified for receiving bids. The notice
24 shall distinctly state the work to be done.

25 (b) In its discretion, the board of directors may do any of the
26 following:

27 (1) Reject all bids and readvertise.

28 (2) By a four-fifths vote, elect to purchase the materials or
29 supplies in the open market.

30 (3) By a four-fifths vote, elect to construct the building,
31 structure, or improvement by force account.

32 (c) In the case of an emergency, the board of directors may act
33 pursuant to Chapter 2.5 (commencing with Section 22050).

34 (d) The board of directors may, subject to the provisions of
35 Chapter 5 (commencing with Section 9550) of Title 2 of Part 6 of
36 Division 4 of the Civil Code, require the posting of those bonds it
37 deems as a condition to the filing of a bid or the letting of a
38 contract.

1 (e) The district shall keep cost records of the work pursuant to
2 Chapter 1 (commencing with Section 4000) of Division 5 of Title
3 1 of the Government Code.

4 SEC. 55. Section 20991 of the Public Contract Code is amended
5 to read:

6 20991. All contracts for any improvement or unit of work,
7 except as provided in this article, estimated to cost in excess of
8 twenty-five thousand dollars (\$25,000), shall be let to the lowest
9 responsible bidder in the manner provided in this article. The board
10 of supervisors of the district shall advertise by five or more
11 insertions in a daily newspaper of general circulation, or by two
12 or more insertions in a weekly newspaper of general circulation,
13 printed and published in the district, inviting sealed proposals for
14 the construction of the improvement or work. The board shall
15 require the successful bidder or bidders to file with the board good
16 and sufficient bonds, to be approved by the board, conditioned
17 upon the faithful performance of the contract and upon the payment
18 of all claims for labor and material. The bonds shall contain the
19 terms and conditions set forth in Chapter 5 (commencing with
20 Section 9550) of Title 2 of Part 6 of Division 4 of the Civil Code
21 and shall be subject to the provisions of that chapter. The board
22 shall have the right to reject any bid not suitable to the best interests
23 of the district. In the event all proposals are rejected or no proposals
24 are received pursuant to advertisement, or the estimated cost of
25 the work does not exceed ten thousand dollars (\$10,000), or the
26 work consists of channel protection, dam protection, temporary
27 work, maintenance work, or emergency work, the board of
28 supervisors may, without advertising for bids, have the work done
29 by force account. Emergency work may also be done by negotiated
30 contract without advertising for bids. In case of an emergency, if
31 notice for bids to let contracts will not be given, the board shall
32 comply with Chapter 2.5 (commencing with Section 22050).

33 SEC. 56. Section 21061 of the Public Contract Code is amended
34 to read:

35 21061. (a) All contracts for any improvement or unit of work,
36 except as provided in this article, estimated to cost in excess of
37 twenty-five thousand dollars (\$25,000), shall be let to the lowest
38 responsible bidder in the manner provided in this article.

39 (b) The board of supervisors of the district shall advertise by
40 five or more insertions in a daily newspaper of general circulation,

1 or by two or more insertions in a weekly newspaper of general
2 circulation, printed and published in the district, inviting sealed
3 proposals for the construction of the improvement or work. The
4 board shall require the successful bidder or bidders to file with the
5 board good and sufficient bonds, to be approved by the board,
6 conditioned upon the faithful performance of the contract and upon
7 the payment of all claims for labor and material, the bonds to
8 contain the terms and conditions set forth in Chapter 5
9 (commencing with Section 9550) of Title 2 of Part 6 of Division
10 4 of the Civil Code and to be subject to that chapter.

11 (c) The board may also reject any bid not suitable to the best
12 interests of the district. If all proposals are rejected or no proposals
13 are received pursuant to advertisement therefor, or the work
14 consists of channel protection, dam protection, temporary work,
15 maintenance work, or of emergency work, the board of supervisors
16 may, without advertising for bids, have the work done by force
17 account. Emergency work may also be done by negotiated contract
18 without advertising for bids or requiring bonds. In case of an
19 emergency, if notice for bids to let contracts will not be given, the
20 board shall comply with Chapter 2.5 (commencing with Section
21 22050).

22 (d) The board of supervisors, acting as the board of the district,
23 may, by ordinance, resolution, or board order, authorize the flood
24 control engineer or other county officer to order changes or
25 additions in work being performed under a construction contract.
26 When so authorized, any change or addition in the work shall be
27 ordered in writing by the flood control engineer, or other designated
28 officer, and the extra cost for any change or addition to the work
29 so ordered shall not exceed five thousand dollars (\$5,000) when
30 the total amount of the original contract does not exceed fifty
31 thousand dollars (\$50,000), nor 10 percent of the amount of any
32 original contract that exceeds fifty thousand dollars (\$50,000), but
33 does not exceed two hundred fifty thousand dollars (\$250,000).
34 For contracts whose original cost exceeds two hundred fifty
35 thousand dollars (\$250,000), the extra cost for any change or
36 addition to the work so ordered shall not exceed twenty-five
37 thousand dollars (\$25,000), plus 5 percent of the amount of the
38 original contract costs in excess of two hundred fifty thousand
39 dollars (\$250,000). In no event shall any such change or alteration
40 exceed one hundred fifty thousand dollars (\$150,000).

1 SEC. 57. Section 21071 of the Public Contract Code is amended
2 to read:

3 21071. (a) All contracts for any improvement or unit of work
4 except as provided in this article estimated to cost in excess of ten
5 thousand dollars (\$10,000) shall be let to the lowest responsible
6 bidder in the manner provided in this article. The board of
7 supervisors of the district shall advertise by three insertions in a
8 daily newspaper of general circulation or two insertions in a weekly
9 newspaper of general circulation printed and published in the
10 district inviting sealed proposals for the construction of, the
11 improvement or work before any contract shall be made for the
12 improvement or work, and may let by contract separately any part
13 of the work or improvement. The board shall require the successful
14 bidder to file with the board good and sufficient bonds to be
15 approved by the board conditioned upon the faithful performance
16 of the contract and upon the payment of their claims for labor and
17 material in connection with the contract. The bonds shall contain
18 the terms and conditions set forth in Chapter 5 (commencing with
19 Section 9550) of Title 2 of Part 6 of Division 4 of the Civil Code
20 and be subject to the provisions of that chapter. The board shall
21 also have the right to reject any and all bids. If all proposals are
22 rejected or no proposals are received pursuant to the advertisement,
23 the estimated cost of the work does not exceed the sum of ten
24 thousand dollars (\$10,000), or the work consists of channel
25 protection, maintenance work, or emergency work when necessary
26 in order to protect life and property from impending flood damage,
27 the board of supervisors may, without advertising for bids, have
28 the work done by force account or negotiated contract.

29 (b) The district shall have the power to purchase in the open
30 market without advertising for bids, materials, supplies, equipment,
31 and other personal property for use in any work either under
32 contract or by force account if the costs do not exceed ten thousand
33 dollars (\$10,000). It shall be the duty of the purchasing agent of
34 Ventura County, as the ex officio purchasing agent of the Ventura
35 County Watershed Protection District, unless otherwise ordered
36 by the board of supervisors, to purchase for the district all
37 materials, supplies, equipment, and other personal property
38 necessary to carry out the purposes of this article, and to engage
39 independent contractors to perform sundry services for the district,
40 if the aggregate cost of such work, exclusive of materials to be

1 furnished by the district, does not exceed ten thousand dollars
2 (\$10,000).

3 (c) The purchasing agent shall make all purchases and contracts
4 upon proper requisition, signed by the engineer-manager of the
5 district, or his or her authorized representative.

6 (d) If the work consists of the maintenance or alteration of
7 existing facilities, including electrical, painting, and roofing if the
8 cost of labor and materials for the work according to the engineer's
9 estimate will exceed five thousand dollars (\$5,000), and if the
10 work is not of the type of work referred to in this section, the
11 maintenance and alteration work shall be performed under a
12 contract or contracts that shall be let to the lowest responsible
13 bidder or bidders in the manner described in this section.

14 SEC. 58. Section 21081 of the Public Contract Code is amended
15 to read:

16 21081. All contracts for any improvement or unit of work,
17 when the cost, according to the estimate of the engineer, will
18 exceed five thousand dollars (\$5,000), shall be let to the lowest
19 responsible bidder or bidders in the manner provided in this article.
20 The board shall first determine whether the contract shall be let as
21 a single unit for the whole of the work, or shall be divided into
22 severable parts, or both, according to the best interests of the
23 district. The board shall call for bids and advertise the call by three
24 insertions in a daily newspaper of general circulation or by two
25 insertions in a weekly newspaper of general circulation printed
26 and published in the district inviting sealed proposals for the
27 construction or performance of the improvement or work before
28 any contract is made. The call for bids shall state whether the work
29 is to be performed as a unit or divided into severable specific parts,
30 or both, as stated in the call. The board may let the work by single
31 contract for the whole or it may divide such work into severable
32 parts by separate contracts, as stated in such call, according to the
33 best interests of the district. The board shall require the successful
34 bidder or bidders to file with the board good and sufficient bonds
35 to be approved by the board conditioned upon the faithful
36 performance of the contract and upon the payment of their claims
37 for labor and material, the bonds to contain the terms and
38 conditions set forth in Title 2 (commencing with Section 9000) of
39 Part 6 of Division 4 of the Civil Code and to be subject to the
40 provisions of that title. The board shall also have the right to reject

1 any bid. In the event all proposals are rejected or no proposals are
2 received pursuant to advertisement, or the estimated cost of such
3 work does not exceed five thousand dollars (\$5,000), or the work
4 consists of channel protection, maintenance work, or emergency
5 work, the board of supervisors may, without advertising for bids,
6 have the work done by force account. The district may purchase
7 in the open market, without advertising for bids, materials and
8 supplies for use in any work either under contract or by force
9 account.

10 SEC. 59. Section 21091 of the Public Contract Code is amended
11 to read:

12 21091. All contracts for any improvement or unit of work,
13 except as otherwise provided in this act, estimated to cost in excess
14 of fifteen thousand dollars (\$15,000) shall be let to the lowest
15 responsible bidder in the manner provided in this article. The board
16 of supervisors of the district shall advertise by three insertions in
17 a daily newspaper of general circulation or two insertions in a
18 weekly newspaper of general circulation printed and published in
19 the district inviting sealed proposals for the construction of the
20 improvement or work before any contract is made, and may let by
21 contract separately any part of the work or improvement. The board
22 shall require the successful bidder to file with the board good and
23 sufficient bonds to be approved by the board conditioned upon the
24 faithful performance of the contract and upon the payment of their
25 claims for labor and material. The bonds shall contain the terms
26 and conditions set forth in Sections 10223 and 10224, and Section
27 9554 of the Civil Code and be subject to those sections. The board
28 shall also have the right to reject any bid. If all proposals are
29 rejected or no proposals are received pursuant to advertisement,
30 or where the estimated cost of the work does not exceed fifteen
31 thousand dollars (\$15,000), or the work consists of channel
32 protection, maintenance work, or emergency work, the board of
33 supervisors may, without advertising for bids, have the work done
34 by force account. In case of an emergency, if notice for bids to let
35 contracts will not be given, the board shall comply with Chapter
36 2.5 (commencing with Section 22050). The district may purchase
37 in the open market, without advertising for bids, materials and
38 supplies for use in any improvement or unit of work either under
39 contract or by force account.

1 SEC. 60. Section 21101 of the Public Contract Code is amended
2 to read:

3 21101. All contracts for any improvement or unit of work,
4 when the cost, according to the estimate of the engineer, will
5 exceed five thousand dollars (\$5,000), shall be let to the lowest
6 responsible bidder or bidders in the manner provided in this article.
7 The board shall first determine whether the contract shall be let as
8 a single unit for the whole of the work, or shall be divided into
9 parts, or both, according to the best interests of the district. The
10 board shall call for bids and advertise the call by three insertions
11 in a daily newspaper of general circulation or two insertions in a
12 weekly newspaper of general circulation printed and published in
13 the district inviting sealed proposals for the construction or
14 performance of the improvement or work before any contract shall
15 be made. The call for bids shall state whether the work is to be
16 performed as a unit or is to be divided into severable specific parts,
17 or both, as stated in the call. The board may let the work by single
18 contract for the whole as a unit or it may divide the work into
19 severable parts by separate contracts, as stated in the call, according
20 to the best interests of the district. The board shall require the
21 successful bidder or bidders to file with the board good and
22 sufficient bonds to be approved by the board conditioned upon the
23 faithful performance of the contract and upon the payment of their
24 claims for labor and material, the bonds to contain the terms and
25 conditions set forth in Title 2 (commencing with Section 9000) of
26 Part 6 of Division 4 of the Civil Code and to be subject to the
27 provisions of that title. The board shall also have the right to reject
28 any bid. In the event all proposals are rejected or no proposals are
29 received pursuant to advertisement, or the estimated cost of the
30 work does not exceed five thousand dollars (\$5,000), or the work
31 consists of channel protection, maintenance work, or emergency
32 work, the board of supervisors may, without advertising for bids,
33 have the work done by force account. In case of an emergency, if
34 notice for bids to let contracts will not be given, the board shall
35 comply with Chapter 2.5 (commencing with Section 22050). The
36 district shall have the power to 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 21111 of the Public Contract Code is amended
40 to read:

1 21111. (a) All contracts for the construction of any unit of
2 work, except as provided in this article, estimated to cost in excess
3 of ten thousand dollars (\$10,000) shall be let to the lowest
4 responsible bidder in the manner provided in this article. The board
5 of directors of the agency shall advertise by three insertions in a
6 daily newspaper of general circulation or two insertions in a weekly
7 newspaper of general circulation published in the agency's
8 jurisdiction inviting sealed proposals for the construction of the
9 work before any contract shall be made, and may let by contract
10 separately any part of the work. The board shall require the
11 successful bidder to file with the board good and sufficient bonds
12 to be approved by the board conditioned upon the faithful
13 performance of the contract and upon the payment of the claims
14 for labor and material. The faithful performance bond shall contain
15 terms and conditions as the board may specify, and the payment
16 bond shall be subject to the provisions of, and shall contain the
17 terms and conditions set forth in Title 2 (commencing with Section
18 9000) of Part 6 of Division 4 of the Civil Code, as applicable. The
19 board shall also have the right to reject any bid, in which case the
20 board may advertise for new bids. In the event no proposals are
21 received pursuant to advertisement, or where the estimated cost
22 of the work does not exceed ten thousand dollars (\$10,000), or the
23 work consists of emergency work, the board of directors by
24 unanimous vote of all members present may, without advertising
25 for bids, have the work done by force account. In case of an
26 emergency, if notice for bids to let contracts will not be given, the
27 board shall comply with Chapter 2.5 (commencing with Section
28 22050). The agency may purchase in the open market, and may
29 authorize the Purchasing Agent of the County of Santa Barbara to
30 purchase, without advertisement for bids, materials and supplies
31 for use in any work either under contract or by force account.

32 (b) If the work to be performed by or on behalf of the agency
33 does not involve an expenditure of ten thousand dollars (\$10,000)
34 or more, or if the work consists of emergency work, the agency
35 may require a faithful performance bond. The agency may require
36 a payment bond on work performed on behalf of the agency which
37 does not involve an expenditure of more than ten thousand dollars
38 (\$10,000).

39 SEC. 62. Section 21121 of the Public Contract Code is amended
40 to read:

1 21121. (a) All contracts for any improvement or unit of work,
2 if the cost according to the estimate of the engineer, exceeds five
3 thousand dollars (\$5,000), shall be let to the lowest responsible
4 bidder or bidders.

5 (b) The board shall first determine whether the contract shall
6 be let as a single unit for the whole of the work, or shall be divided
7 into severable parts, or both, according to the best interests of the
8 agency.

9 (c) The board shall call for bids and advertise the call by three
10 insertions in a daily newspaper of general circulation or by two
11 insertions in a weekly newspaper of general circulation printed
12 and published in the territory of the agency inviting sealed
13 proposals for the construction or performance of the improvement
14 or work before any contract is entered into. The call for bids shall
15 state whether the work is to be performed as a unit or shall be
16 divided into severable specific parts, or both, as stated in the call.
17 The board may let the work by single contract or it may divide the
18 work into severable parts by separate contracts, as stated in the
19 call, according to the best interests of the agency.

20 (d) The board shall require the successful bidder or bidders to
21 file with the board good and sufficient bonds to be approved by
22 the board conditioned upon the faithful performance of the contract
23 and upon the payment of their claims for labor and material in
24 connection with the contract. The bonds shall contain the terms
25 and conditions set forth in Title 2 (commencing with Section 9000)
26 of Part 6 of Division 4 of the Civil Code and are subject to the
27 provisions of that title.

28 (e) The board may reject any bid. The board of supervisors may,
29 without advertising for bids, have the work done by force account
30 if any of the following requirements are met:

31 (1) All the projects are rejected.

32 (2) No proposals are received in response to the advertisement.

33 (3) The estimated cost of the work does not exceed five thousand
34 dollars (\$5,000).

35 (4) The work consists of channel protection, maintenance work,
36 or emergency work. In case of an emergency, if notice for bids to
37 let contracts will not be given, the board shall comply with Chapter
38 2.5 (commencing with Section 22050).

1 (f) The agency 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 (g) The Monterey County Board of Supervisors may grant to
5 the board of directors, appointed pursuant to Section 49 of the
6 Monterey County Water Resources Agency Act (Chapter 1159 of
7 the Statutes of 1990), any of the powers or duties granted to the
8 Monterey County Board of Supervisors by this section.

9 SEC. 63. Section 21131 of the Public Contract Code is amended
10 to read:

11 21131. (a) All contracts for the construction of any unit of
12 work, except as provided in this article, estimated to cost in excess
13 of two thousand five hundred dollars (\$2,500) shall be let to the
14 lowest responsible bidder in the manner provided in this article.
15 The board shall advertise by three placements in a daily newspaper
16 of general circulation or two insertions in a weekly newspaper of
17 general circulation published in the district inviting sealed
18 proposals for the construction of the work before any contract is
19 made, and may let by contract separately any part of the work. The
20 board shall require the successful bidder to file with the board
21 good and sufficient bonds to be approved by the board conditioned
22 upon the faithful performance of the contract and upon the payment
23 of the claims for labor and material in connection therewith, the
24 bonds to contain the terms and conditions set forth in Title 2
25 (commencing with Section 9000) of Part 6 of Division 4 of the
26 Civil Code, and to be subject to the provisions of that title. The
27 board may reject any bid, in which case the board may advertise
28 for new bids.

29 (b) In the event no proposals are received pursuant to
30 advertisement therefor, or where the work consists of emergency
31 work, the board of directors, by unanimous vote of all members
32 present, may, without advertising for bids, have the work done by
33 force account. In case of an emergency, if notice for bids to let
34 contracts will not be given, the board shall comply with Chapter
35 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 authorized and required under

1 circumstances referred to in subdivision (b), may not be purchased
2 if the cost exceeds two thousand five hundred dollars (\$2,500),
3 without advertising for bids and awarding the contract to the lowest
4 responsible bidder.

5 (d) This section does not apply to a contract entered into with
6 the United States or the State of California or other governmental
7 agency under the authority of Section 3 of Chapter 2126 of the
8 Statutes of 1959, or to a contract authorized by a vote of the
9 electorate of the district.

10 (e) The district may rent or otherwise contract for equipment
11 with or without an operator and use it on works of the district, if
12 the contract is approved by the board.

13 SEC. 64. Section 21141 of the Public Contract Code is amended
14 to read:

15 21141. (a) All contracts for the construction of any unit of
16 work, except as provided in this article, estimated to cost in excess
17 of two thousand dollars (\$2,000) shall be let to the lowest
18 responsible bidder in the manner provided in this article. The board
19 shall advertise by three insertions in a daily newspaper of general
20 circulation or two insertions in a weekly newspaper of general
21 circulation published in the district inviting sealed proposals for
22 the construction of the work before any contract shall be made,
23 and may let by contract separately any part of the work. The board
24 shall require the successful bidder 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 the
27 claims for labor and material, the bonds to contain the terms and
28 conditions set forth in Title 2 (commencing with Section 9000) of
29 Part 6 of Division 4 of the Civil Code, and to be subject to the
30 provisions of that title. The board shall also have the right to reject
31 any bid, in which case the board may advertise for new bids.

32 (b) In the event no proposals are received pursuant to
33 advertisement, where the estimated cost of the work does not
34 exceed the sum of two thousand dollars (\$2,000), or where the
35 work consists of emergency work, the board of directors, by
36 unanimous vote of all members present, may, without advertising
37 for bids, have the work done by force account. In case of an
38 emergency, if notice for bids to let contracts will not be given, the
39 board shall comply with Chapter 2.5 (commencing with Section
40 22050).

1 (c) The district 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; provided, however, that
4 materials and supplies for use in any new construction work or
5 improvement, except work referred to in subdivision (b), may not
6 be purchased if the cost exceeds two thousand five hundred dollars
7 (\$2,500), without advertising for bids and awarding the contract
8 therefor to the lowest responsible bidder.

9 (d) The provisions of this section have no application to a
10 contract entered into with the United States under the authority of
11 Section 3, or to a contract authorized by a vote of the electorate
12 of the district.

13 SEC. 65. Section 21151 of the Public Contract Code is amended
14 to read:

15 21151. All contracts for any improvement or unit of work when
16 the cost according to the estimate of the engineer will exceed
17 twenty-five thousand dollars (\$25,000), with or without the
18 furnishing of materials or supplies, shall be let to the lowest
19 responsible bidder or bidders in the manner provided in this article.
20 Construction of improvements or works shall not be staged to
21 avoid the bidding process. The board shall first determine whether
22 the contract shall be let as a single unit for the whole of the work,
23 or shall be divided into severable parts, or both, according to the
24 best interests of the district. The board shall call for bids and
25 advertise the call by inviting sealed proposals for the construction
26 or performance of the improvement or work before any contract
27 is made. The board shall invite the bids by publishing a notice of
28 the call for bids pursuant to Section 6062 or 6066 of the
29 Government Code in a newspaper of general circulation in the
30 county. The call for bids shall state whether the work is to be
31 performed as a unit or shall be divided into severable specific parts,
32 or both, as stated in the call. The board may let the work by single
33 contract or it may divide the work into severable parts by separate
34 contracts, as stated in the call, according to the best interests of
35 the district. The board shall require the successful bidder or bidders
36 to file with the board good and sufficient bonds to be approved by
37 the board conditioned upon the faithful performance of the contract
38 and upon the payment of their claims for labor and material, the
39 bonds to contain the terms and conditions set forth in Title 2
40 (commencing with Section 9000) of Part 6 of Division 4 of the

1 Civil Code and to be subject to the provisions of that title. The
2 board shall also have the right to reject any bid. In the event the
3 engineer's estimate is twenty-five thousand dollars (\$25,000) or
4 less, or in the event no proposals are received pursuant to
5 advertisement therefor, or in the event the work consists of channel
6 protection or maintenance work, or emergency work, the board of
7 supervisors may, without advertising for bids, have the work done
8 by day labor under the direction of the board, by contract, or by a
9 combination of the two. In case of an emergency, if notice for bids
10 to let contracts will not be given, the board shall comply with
11 Chapter 2.5 (commencing with Section 22050). The district may
12 acquire in the open market without advertising for bids, materials,
13 equipment, and supplies for use in any work or for any other
14 purpose.

15 SEC. 66. Section 21161 of the Public Contract Code is amended
16 to read:

17 21161. (a) Any improvement or unit of work not performed
18 by district personnel and estimated by the engineer to cost in excess
19 of twenty-five thousand dollars (\$25,000) shall be done by contract.
20 All contracts shall be let to the lowest responsible bidder or bidders
21 in the manner provided in this article. The board shall first
22 determine whether the contract shall be let as a single unit for the
23 whole of the work, or shall be divided into severable parts, or both,
24 according to the best interests of the district. The board shall call
25 for bids and advertise the call by three insertions in a daily
26 newspaper of general circulation or by two insertions in a weekly
27 newspaper of general circulation printed and published in the
28 district inviting sealed proposals for the construction or
29 performance of the improvement or work before any contract is
30 made. The call for bids shall state whether the work is to be
31 performed as a unit for the whole thereof or shall be divided into
32 severable specific parts, or both, as stated in the call. The board
33 may let the work by single contract or it may divide the work into
34 severable parts by separate contracts, as stated in the call, according
35 to the best interests of the district. The board shall require the
36 successful bidder or bidders to file with the board good and
37 sufficient bonds to be approved by the board conditioned upon the
38 faithful performance of the contract and upon the payment of their
39 claims for labor and material, the bonds to contain the terms and
40 conditions set forth in Title 2 (commencing with Section 9000) of

1 Part 6 of Division 4 of the Civil Code and to be subject to the
2 provisions of that title. The board shall also have the right to reject
3 any bid. In the event all proposals are rejected or no proposals are
4 received pursuant to advertisement, or the estimated cost of the
5 work does not exceed five thousand dollars (\$5,000), or the work
6 consists of channel protection, maintenance work, or emergency
7 work, the board may, without advertising for bids, have the work
8 done by force account. In case of an emergency, if notice for bids
9 to let contracts will not be given, the board shall comply with
10 Chapter 2.5 (commencing with Section 22050). The district may
11 purchase in the open market, without advertising for bids, materials
12 and supplies for use in any work either under contract or by force
13 account.

14 (b) The provisions of this section requiring competitive bidding
15 and the award of contracts to the lowest responsible bidder are
16 inapplicable to the extent the improvement or unit of work is to
17 be performed on its own facilities by a public utility subject to the
18 jurisdiction of the California Public Utilities Commission.

19 SEC. 67. Section 21171 of the Public Contract Code is amended
20 to read:

21 21171. (a) All contracts for any improvement or unit of work
22 when the cost, according to the estimate of the engineer, will
23 exceed two thousand dollars (\$2,000), shall be let to the lowest
24 responsible bidder or bidders in the manner provided in this article.
25 The board shall first determine whether the contract shall be let as
26 a single unit for the whole of the work, or shall be divided into
27 severable parts, or both, according to the best interests of the
28 district. The board shall call for bids and advertise the call by three
29 insertions in a daily newspaper of general circulation or by two
30 insertions in a weekly newspaper of general circulation printed
31 and published in the district inviting sealed proposals for the
32 construction or performance of the improvement or work before
33 any contract is made. The call for bids shall state whether the work
34 is to be performed as a unit for the whole thereof or shall be divided
35 into severable specific parts, or both, as stated in the call. The
36 board may let the work by single contract as a unit or it may divide
37 the work into severable parts by separate contracts, as stated in the
38 call, according to the best interests of the district. The board shall
39 require the successful bidder or bidders to file with the board good
40 and sufficient bonds to be approved by the board conditioned upon

1 the faithful performance of the contract and upon the payment of
2 their claims for labor and material, the bonds to contain the terms
3 and conditions set forth in Title 2 (commencing with Section 9000)
4 of Part 6 of Division 4 of the Civil Code and to be subject to the
5 provisions of that title. The board shall also have the right to reject
6 any bid.

7 (b) In the event all proposals are rejected or no proposals are
8 received pursuant to advertisement, or the estimated cost of the
9 work does not exceed two thousand dollars (\$2,000), or the work
10 consists of channel protection, maintenance work, or emergency
11 work, the board of supervisors may, without advertising for bids,
12 have the work done by force account. In case of an emergency, if
13 notice for bids to let contracts will not be given, the board shall
14 comply with Chapter 2.5 (commencing with Section 22050).

15 (c) The district may purchase in the open market, without
16 advertising for bids, materials and supplies for use in any work
17 either under contract or by force account; provided, however, that
18 materials and supplies for use in any new construction work or
19 improvements, except work referred to in subdivision (b), may not
20 be purchased if the cost exceeds two thousand five hundred dollars
21 (\$2,500), without advertising for bids and awarding the contract
22 to the lowest responsible bidder.

23 SEC. 68. Section 21181 of the Public Contract Code is amended
24 to read:

25 21181. (a) All contracts for any improvement or unit of work
26 when the cost according to the estimate of the engineer, will exceed
27 four thousand dollars (\$4,000), shall be let to the lowest responsible
28 bidder or bidders in the manner provided in this article. The board
29 shall first determine whether the contract shall be let as a single
30 unit or shall be divided into severable parts, or both, according to
31 the best interests of the district. The board shall call for bids and
32 advertise the call in the district pursuant to Section 6066 of the
33 Government Code inviting sealed proposals for the construction
34 or performance of the improvement or before any contract is made.
35 The call for bids shall state whether the work is to be performed
36 as a unit or shall be divided into severable specific parts, or both,
37 as stated in the call. The board may let the work by single contract
38 or it may divide the work into severable parts by separate contracts,
39 as stated in the call, according to the best interests of the district.
40 The board shall require the successful bidder or bidders to file with

1 the board good and sufficient bonds to be approved by the board
2 conditioned upon the faithful performance of the contract and upon
3 the payment of their claims for labor and material, the bonds to
4 contain the terms and conditions set forth in Title 2 (commencing
5 with Section 9000) of Part 6 of Division 4 of the Civil Code and
6 to be subject to the provisions of that title. The board shall also
7 have the right to reject any bid.

8 (b) In the event no proposals are received pursuant to
9 advertisement or the estimated cost of the work does not exceed
10 four thousand dollars (\$4,000), or the work consists of channel
11 protection, maintenance work, or emergency work, the board of
12 supervisors may, without advertising for bids, have the work done
13 by day labor, under the direction of the board, by contract, or by
14 the combination of the two. In case of an emergency, if notice for
15 bids to let contracts will not be given, the board shall comply with
16 Chapter 2.5 (commencing with Section 22050).

17 (c) The district may acquire in the open market, without
18 advertising for bids, materials, equipment, and supplies for use in
19 any work or for any other purpose; provided, however, that
20 materials and supplies for use in any new construction work or
21 improvement, except work referred to in subdivision (b), may not
22 be purchased if the cost exceeds two thousand five hundred dollars
23 (\$2,500), without advertising for bids and awarding the contract
24 to the lowest responsible bidder.

25 SEC. 69. Section 21196 of the Public Contract Code is amended
26 to read:

27 21196. (a) All contracts for the construction of any unit of
28 work, except as provided in this article, estimated to cost in excess
29 of two thousand five hundred dollars (\$2,500) shall be let to the
30 lowest responsible bidder in the manner provided in this article.
31 The board of directors of the district shall call for bids and advertise
32 the call by three insertions in a daily newspaper of general
33 circulation or two insertions in a weekly newspaper of general
34 circulation published in the district inviting sealed proposals for
35 the construction of the work before any contract is made, and may
36 let by contract separately any part of the work. The board shall
37 require the successful bidder to file with the board good and
38 sufficient bonds to be approved by the board conditioned upon the
39 faithful performance of the contract and upon the payment of the
40 claims for labor and material, the bonds to contain the terms and

1 conditions set forth in Title 2 (commencing with Section 9000) of
2 Part 6 of Division 4 of the Civil Code and to be subject to the
3 provisions of that title. The board shall also have the right to reject
4 any bid, in which case the board may advertise for new bids.

5 (b) In the event no proposals are received pursuant to
6 advertisement, or where the estimated cost of the work does not
7 exceed two thousand five hundred dollars (\$2,500), or the work
8 consists of emergency work, the board of directors by unanimous
9 vote of all members present, may, without advertising for bids,
10 have the work done by force account. In case of an emergency, if
11 notice for bids to let contracts will not be given, the board shall
12 comply with Chapter 2.5 (commencing with Section 22050). The
13 district may purchase in the open market, without advertisement
14 for bids, materials and supplies for use in any work either under
15 contract or by force account.

16 (c) The provisions of this section have no application to a
17 contract entered into with the United States under the authority of
18 the Solano County Flood Control and Water Conservation District
19 Act, or to a contract authorized by a vote of the electorate of the
20 district.

21 SEC. 70. Section 21212 of the Public Contract Code is amended
22 to read:

23 21212. (a) All contracts for the construction of any unit of
24 work, except as provided in this article, estimated to cost in excess
25 of three thousand dollars (\$3,000), shall be let to the lowest
26 responsible bidder in the manner provided in this article. The board
27 of directors of the agency shall advertise pursuant to Section 6066
28 of the Government Code in a newspaper of general circulation
29 published in the agency's jurisdiction inviting sealed proposals
30 for the construction of the work before any contract is made, and
31 may let by contract separately any part of the work. The board
32 shall require the successful bidder 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 any
35 claims for labor and material and containing the terms and
36 conditions set forth in Title 2 (commencing with Section 9000) of
37 Part 6 of Division 4 of the Civil Code and to be subject to the
38 provisions of that title. The board shall also have the right to reject
39 any bid, in which case the board may advertise for new bids.

1 (b) In the event no proposals are received pursuant to
2 advertisement, or where the estimated cost of the work does not
3 exceed three thousand dollars (\$3,000), or the work consists of
4 emergency work, the board of directors, by unanimous vote of all
5 members present, may, without advertising for bids, have the work
6 done by force account. In case of an emergency, if notice for bids
7 to let contracts will not be given, the board shall comply with
8 Chapter 2.5 (commencing with Section 22050).

9 (c) The agency may purchase in the open market without
10 advertisement for bids, materials and supplies for use in any work
11 either under contract or by force account.

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 6 of Chapter 10 of the Statutes of the 1952 First
15 Extraordinary Session, or to a contract authorized by a vote of the
16 electorate of the agency.

17 SEC. 71. Section 21231 of the Public Contract Code is amended
18 to read:

19 21231. Any improvement or unit of work when the cost,
20 according to the estimate of the engineer, will exceed five thousand
21 dollars (\$5,000), shall be done by contract let to the lowest
22 responsible bidder or bidders in the manner provided in this article.
23 The board shall first determine whether the contract will be let as
24 a single unit, or will be divided into severable parts, or both,
25 according to the best interests of the district. The board shall call
26 for bids and advertise the call pursuant to Section 6066 of the
27 Government Code in the district, inviting sealed proposals for the
28 construction or performance of the improvement or before any
29 contract is made. The call for bids shall state whether the work is
30 to be performed as a unit or shall be divided into separate specific
31 parts, or both, as stated in the call. The board may let the work by
32 single contract or it may divide the work into severable parts by
33 separate contracts, as stated in the call, according to the best
34 interests of the district. The board shall require the successful
35 bidder or bidders to file with the board good and sufficient bonds
36 to be approved by the board conditioned upon the faithful
37 performance of the contract and upon the payment of their claims
38 for labor and material, the bonds to contain the terms and
39 conditions set forth in Title 2 (commencing with Section 9000) of
40 Part 6 of Division 4 of the Civil Code and to be subject to the

1 provisions of that title. The board shall also have the right to reject
2 any bid. In the event no proposals are received pursuant to
3 advertisement, or the estimated cost of the work does not exceed
4 five thousand dollars (\$5,000), or the work consists of channel
5 protection, maintenance work, or emergency work, the board of
6 supervisors may, without advertising for bids, have the work done
7 by day labor, under the direction of the board, by contract, or by
8 a combination of the two. In case of an emergency, if notice for
9 bids to let contracts will not be given, the board shall comply with
10 Chapter 2.5 (commencing with Section 22050). The district may
11 acquire in the open market without advertising for bids, materials,
12 equipment and supplies for use in any work or for any other
13 purpose; provided, however, that materials and supplies for use in
14 any new construction work or improvement, except work referred
15 to in the preceding sentence, may not be purchased if the cost
16 exceeds five thousand dollars (\$5,000), without advertising for
17 bids and awarding the contract to the lowest responsible bidder.

18 SEC. 72. Section 21241 of the Public Contract Code is amended
19 to read:

20 21241. All contracts for any improvement or unit of work when
21 the cost, according to the estimate of the engineer, will exceed two
22 thousand dollars (\$2,000), shall be let to the lowest responsible
23 bidder or bidders in the manner provided in this article. The board
24 shall first determine whether the contract shall be let as a single
25 unit or shall be divided into severable parts, or both, according to
26 the best interests of the zone. The board shall call for bids and
27 advertise the call pursuant to Section 6066 of the Government
28 Code in the district inviting sealed proposals for the construction
29 or performance of the improvement or work before any contract
30 is made. The call for bids shall state whether the work is to be
31 performed as a unit or shall be divided into severable specific parts,
32 or both, as stated in the call. The board may let the work by single
33 contract or it may divide the work into severable parts by separate
34 contracts, as stated in the call, according to the best interests of
35 the district. The board shall require the successful bidder or bidders
36 to file with the board good and sufficient bonds to be approved by
37 the board conditioned upon the faithful performance of the contract
38 and upon the payment of their claims for labor and material, the
39 bonds to contain the terms and conditions set forth in Title 2
40 (commencing with Section 9000) of Part 6 of Division 4 of the

1 Civil Code and to be subject to the provisions of that title. The
2 board shall also have the right to reject any bid. In the event no
3 proposals are received pursuant to advertisement, or the estimated
4 cost of the work does not exceed two thousand dollars (\$2,000),
5 or the work consists of emergency work, the board of supervisors
6 may, without advertising for bids, have the work done by day
7 labor, under the direction of the board, by contract, or by a
8 combination of the two. In case of an emergency, if notice for bids
9 to let contracts will not be given, the board shall comply with
10 Chapter 2.5 (commencing with Section 22050). The board may
11 acquire in the open market, without advertising for bids, materials,
12 equipment, and supplies for use in any work or for any other
13 purpose; provided, however, that materials and supplies for use in
14 any new construction work or improvement, except work referred
15 to in the preceding sentence, may not be purchased if the cost
16 exceeds two thousand five hundred dollars (\$2,500), without
17 advertising for bids and awarding the contract to the lowest
18 responsible bidder.

19 SEC. 73. Section 21251 of the Public Contract Code is amended
20 to read:

21 21251. (a) (1) All contracts for any improvement or unit of
22 work, if the cost according to the estimate of the engineer will
23 exceed thirty thousand dollars (\$30,000), shall be let to the lowest
24 responsible bidder or bidders as provided in this article. The board
25 shall first determine whether the contract shall be let as a single
26 unit or divided into severable parts, or both.

27 (2) All contracts for any improvement or unit of work, if the
28 cost according to the estimate of the engineer is thirty thousand
29 dollars (\$30,000) or less, may be let without advertising for bids
30 in accordance with procedures adopted by the board.

31 (b) The board shall call for bids and advertise the call pursuant
32 to Section 6063 of the Government Code in the district, inviting
33 sealed proposals for the construction or performance of the
34 improvement or work before any contract is made. The call for
35 bids shall state whether the work is to be performed as one unit or
36 divided into severable specific parts.

37 (c) The work may be let under a single contract or several
38 contracts, or both, as stated in the call. The board shall require the
39 successful bidder or bidders to file with the board good and
40 sufficient bonds to be approved by the board conditioned upon the

1 faithful performance of the contract and upon the payment of their
2 claims for labor and material. The bonds shall comply with Title
3 2 (commencing with Section 9000) of Part 6 of Division 4 of the
4 Civil Code. The board may reject any bid.

5 (d) If all proposals are rejected or no proposals are received, or
6 the estimated cost of the work does not exceed five thousand
7 dollars (\$5,000), or the work consists of channel protection,
8 maintenance work, or emergency work, the board may have the
9 work done by force account without advertising for bids. In case
10 of an emergency, if notice for bids to let contracts will not be given,
11 the board shall comply with Chapter 2.5 (commencing with Section
12 22050).

13 (e) The district may purchase in the open market, without
14 advertising for bids, materials and supplies for use in any work
15 either under contract or by force account.

16 SEC. 74. Section 21261 of the Public Contract Code is amended
17 to read:

18 21261. All contracts for any improvement or unit of work when
19 the cost, according to the estimate of the engineer, will exceed two
20 thousand dollars (\$2,000), shall be let to the lowest responsible
21 bidder or bidders in the manner provided in this article. The board
22 shall first determine whether the contract shall be let as a single
23 unit for the work, or shall be divided into severable parts, or both,
24 according to the best interests of the district. The board shall call
25 for bids and advertise the call pursuant to Section 6066 of the
26 Government Code in the district inviting sealed proposals for the
27 construction or performance of the improvement or work before
28 any contract is made. The call for bids shall state whether the work
29 is to be performed as a unit or shall be divided into severable
30 specific parts, or both, as stated in the call. The board may let the
31 work by single contract or it may divide the work into severable
32 parts by separate contracts, as stated in the call, according to the
33 best interests of the district. The board shall require the successful
34 bidder or bidders to file with the board good and sufficient bonds
35 to be approved by the board conditioned upon the faithful
36 performance of the contract and upon the payment of their claims
37 for labor and material, the bonds to contain the terms and
38 conditions set forth in Title 2 (commencing with Section 9000) of
39 Part 6 of Division 4 of the Civil Code and to be subject to the
40 provisions of that title. The board shall also have the right to reject

1 any bid. In the event all proposals are rejected or no proposals are
2 received pursuant to advertisement, or the estimated cost of the
3 work does not exceed two thousand dollars (\$2,000), or the work
4 consists of channel protection, maintenance work, or emergency
5 work, the board of supervisors may, without advertising for bids,
6 have the work done by force account. In case of an emergency, if
7 notice for bids to let contracts will not be given, the board shall
8 comply with Chapter 2.5 (commencing with Section 22050). The
9 district may purchase in the open market, without advertising for
10 bids, materials and supplies for use in any work either under
11 contract or by force account.

12 SEC. 75. Section 21271 of the Public Contract Code is amended
13 to read:

14 21271. All improvement and units of work to be performed by
15 or for the district shall be performed in accordance with the
16 following procedures and requirements:

17 (a) If the work consists of the protection or maintenance of
18 channels, storm drains, dams or other flood control works, or
19 emergency work, the board of directors may, without advertising
20 for bids therefor, have the work done by day labor under the
21 direction of the board, by contract, or by a combination of the two.
22 In case of an emergency, if notice for bids to let contracts will not
23 be given, the board shall comply with Chapter 2.5 (commencing
24 with Section 22050).

25 (b) If the work consists of the construction of new flood control
26 channels, storm drains, dams, or other unit or units of work, and
27 if the cost of the work, according to the estimate of the engineer,
28 will exceed ten thousand dollars (\$10,000), and if the work is not
29 the type of work referred to in subdivision (a) or (c) of this section,
30 the new construction shall be performed under a contract or
31 contracts which shall be let to the lowest responsible bidder or
32 bidders in the manner provided in subdivision (d) of this section.

33 (c) If the work consists of the maintenance or alteration of
34 existing facilities, including electrical, painting, and roofing work,
35 and if the cost of labor and materials for the work according to the
36 engineer's estimate, will exceed three thousand five hundred dollars
37 (\$3,500), and if the work is not the type of work referred to in
38 subdivision (a) or (b) of this section, the maintenance and alteration
39 work shall be performed under a contract or contracts which shall

1 be let to the lowest responsible bidder or bidders in the manner
2 provided in subdivision (d) of this section.

3 (d) The board shall first determine whether the work shall be
4 let as a single unit or shall be divided into severable parts, or both,
5 according to the best interests of the district. The board shall call
6 for bids and advertise the call pursuant to Section 6066 of the
7 Government Code in the district inviting sealed proposals for the
8 construction or performance of the work before any contract is
9 made. The call for bids shall state whether the work is to be
10 performed as a unit or shall be divided into severable, specific
11 parts, or both, as stated in the call. The board may let the work by
12 single contract or it may divide the work into severable parts by
13 separate contracts, as stated in the call, according to the best
14 interests of the district. The board shall require the successful
15 bidder or bidders to file with the board good and sufficient bond
16 to be approved by the board conditioned upon the faithful
17 performance of the contract and upon the payment of the claims
18 for labor and material. The faithful performance bond shall contain
19 the terms and conditions as the board may specify, and the payment
20 bond shall contain the terms and conditions set forth in, and shall
21 be subject to, the provisions of Title 2 (commencing with Section
22 9000) of Part 6 of Division 4 of the Civil Code. If the work to be
23 performed on behalf of the district does not involve an expenditure
24 of fifteen thousand dollars (\$15,000) or more, the district may
25 require a faithful performance bond or a payment bond. The board
26 shall also have the right to reject any bid.

27 (e) If no proposals are received pursuant to advertisement, or
28 if the estimated cost of work of the type referred to in subdivision
29 (b) of this section does not exceed ten thousand dollars (\$10,000),
30 or if the estimated cost of work of the type referred to in
31 subdivision (c) of this section does not exceed three thousand five
32 hundred dollars (\$3,500), the board of directors may, without
33 advertising for bids, have the work done by day labor, under the
34 direction of the board, by contract, or by combination of the two.
35 If any change or alteration in a contract awarded under the
36 provisions of this section for work of the type referred to in
37 subdivision (b) or (c) is deemed necessary and the cost does not
38 exceed 10 percent of the original contract price, the board may
39 authorize the contractor to proceed with the change or alteration
40 without the formality of obtaining bids.

1 (f) Notwithstanding the foregoing provisions, the district shall
2 have the power to acquire in the open market, and may authorize
3 the Purchasing Agents of the County of Santa Barbara to acquire
4 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 subdivision (a) of this section, may not be purchased without
9 advertising for bids and awarding the contract to the lowest
10 responsible bidder if the cost exceeds two thousand five hundred
11 dollars (\$2,500), unless the purchase is made by the county
12 purchasing agent at the request of the district, in which case the
13 cost shall not exceed six thousand five hundred dollars (\$6,500).

14 SEC. 76. Section 21311 of the Public Contract Code is amended
15 to read:

16 21311. (a) All contracts for any improvement or unit of work
17 when the cost, according to the estimate of the engineer, will
18 exceed two thousand dollars (\$2,000), shall be let to the lowest
19 responsible bidder or bidders in the manner provided in this article.
20 The board shall first determine whether the contract shall be let as
21 a single unit, or shall be divided into severable parts, or both,
22 according to the best interests of the district. The board shall call
23 for bids and advertise the call by three insertions in a daily
24 newspaper of general circulation or by two insertions in a weekly
25 newspaper of general circulation printed and published in the
26 district inviting sealed proposals for the construction or
27 performance of the improvement or work before any contract is
28 made. The call for bids shall state whether the work is to be
29 performed as a unit or shall be divided into severable specific parts,
30 or both, as stated in the call. The board may let the work by single
31 contract for the whole as a unit or it may divide the work into
32 severable parts by separate contracts, as stated in the call, according
33 to the best interests of the district. The board shall require the
34 successful bidder or bidders to file with the board good and
35 sufficient bonds to be approved by the board conditioned upon the
36 faithful performance of the contract and upon the payment of their
37 claims for labor and material, the bonds to contain the terms and
38 conditions set forth in Title 2 (commencing with Section 9000) of
39 Part 6 of Division 4 of the Civil Code and to be subject to the

1 provisions of that title. The board shall also have the right to reject
2 any bid.

3 (b) In the event no proposals are received pursuant to
4 advertisement, or the estimated cost of the work does not exceed
5 two thousand dollars (\$2,000), or the work consists of channel
6 protection, maintenance work, or emergency work, the board of
7 supervisors may, without advertising for bids, have the work done
8 by day labor, under the direction of the board, by contract, or by
9 a combination of the two. In case of an emergency, if notice for
10 bids to let contracts will not be given, the board shall comply with
11 Chapter 2.5 (commencing with Section 22050).

12 (c) The district may acquire in the open market, without
13 advertising for bids, materials, equipment, and supplies for use in
14 any work or for any other purpose; provided, however, that
15 materials and supplies for use in any new construction work or
16 improvement, except work referred to in subdivision (b), shall not
17 be purchased if the cost exceeds two thousand five hundred dollars
18 (\$2,500), without advertising for bids and awarding the contract
19 to the lowest responsible bidder.

20 SEC. 77. Section 21321 of the Public Contract Code is amended
21 to read:

22 21321. (a) All contracts for any improvement or unit of work,
23 when the cost according to the estimate of the engineer will exceed
24 thirty thousand dollars (\$30,000), shall be let to the lowest
25 responsible bidder or bidders as provided in this article. The board
26 shall first determine whether the contract shall be let as a single
27 unit, or divided into severable parts. The board shall advertise for
28 bids by three insertions in a daily newspaper of general circulation
29 or by two insertions in a weekly newspaper of general circulation
30 printed and published in the agency's jurisdiction, inviting sealed
31 proposals for the construction or performance of the improvement
32 or work. The call for bids shall state whether the work shall be
33 performed in one unit or divided into parts. The work may be let
34 under a single contract or several contracts, as stated in the call.

35 The board shall require the successful bidders to file with the
36 board good and sufficient bonds to be approved by the board
37 conditioned upon the faithful performance of the contract and upon
38 the payment of their claims for labor and material. The bonds shall
39 comply with Title 2 (commencing with Section 9000) of Part 6 of
40 Division 4 of the Civil Code.

1 (b) The board may reject any bid. In the event all proposals are
2 rejected or no proposals are received, or the estimated cost of the
3 work does not exceed five thousand dollars (\$5,000), or the work
4 consists of channel protection, maintenance, or emergency work,
5 the board may have the work done by force account without
6 advertising for bids. In case of an emergency, if notice for bids to
7 let contracts will not be given, the board shall comply with Chapter
8 2.5 (commencing with Section 22050). In the event that no
9 proposals are received, or if only one responsive proposal is
10 received, the board may negotiate a contract for construction or
11 performance of the work or improvement or substantially similar
12 work or improvement. However, if only one responsive proposal
13 is received, the contract must be negotiated with the bidder.

14 (c) The agency may purchase in the open market without
15 advertising for bids, materials and supplies for use in any work,
16 either under contract or by force account.

17 (d) Sections 4300 to 4305, inclusive, of the Government Code
18 do not apply to the agency's Middle Fork American River Project.

19 (e) This section applies to all proposals or contracts whether or
20 not received or entered into prior to the effective date of the
21 amendment of this provision made at the 1963 Regular Session of
22 the Legislature.

23 SEC. 78. Section 21331 of the Public Contract Code is amended
24 to read:

25 21331. (a) All contracts for the construction of any unit of
26 work, except as provided in this article, estimated to cost in excess
27 of three thousand five hundred dollars (\$3,500) shall be let to the
28 lowest responsible bidder in the manner provided in this article.
29 The board shall advertise by three insertions in a daily newspaper
30 of general circulation or two insertions in a weekly newspaper of
31 general circulation published in the district inviting sealed
32 proposals for the construction of the work before any contract shall
33 be made, and may let by contract separately any part of the work.
34 The board shall require the successful bidder to file with the board
35 good and sufficient bonds to be approved by the board conditioned
36 upon the faithful performance of the contract and upon the payment
37 of all claims for labor and material, the bonds to contain the terms
38 and conditions set forth in Title 2 (commencing with Section 9000)
39 of Part 6 of Division 4 of the Civil Code, and to be subject to the

1 provisions of that title. The board shall also have the right to reject
2 any bid, in which case the board may advertise for new bids.

3 (b) In the event no proposals are received pursuant to
4 advertisement, where the estimated cost of the work does not
5 exceed five thousand dollars (\$5,000), or where the work consists
6 of emergency work, the board of directors, by unanimous vote of
7 all members present, may, without advertising for bids, have the
8 work done by force account. In case of an emergency, if notice
9 for bids to let contracts will not be given, the board shall comply
10 with Chapter 2.5 (commencing with Section 22050).

11 (c) The district may purchase in the open market, without
12 advertisement for bids, materials and supplies for use in any work
13 either under contract or by force account; provided, however, that
14 materials and supplies for use in any new construction work or
15 improvement, except work referred to in subdivision (b), may not
16 be purchased if the cost exceeds five thousand dollars (\$5,000),
17 without advertising for bids and awarding the contract to the lowest
18 responsible bidder.

19 (d) The provisions of this section have no application to a
20 contract entered into with the United States under the authority of
21 Section 3 of Chapter 1280 of the Statutes of 1957, or to a contract
22 authorized by a vote of the electorate of the district.

23 SEC. 79. Section 21341 of the Public Contract Code is amended
24 to read:

25 21341. (a) All contracts for the construction of any unit of
26 work, except as provided in this article, estimated to cost in excess
27 of five thousand dollars (\$5,000) shall be let to the lowest
28 responsible bidder. The board shall advertise by three insertions
29 in a daily newspaper of general circulation or two insertions in a
30 weekly newspaper of general circulation published by the agency
31 inviting sealed proposals for the construction of the work before
32 any contract is made, and may let by contract separately any part
33 of the work. The board shall require the successful bidder to file
34 with the board good and sufficient bonds to be approved by the
35 board conditioned upon the faithful performance of the contract
36 and upon the payment of the claims for labor and material, the
37 bonds to contain the terms and conditions set forth in Title 2
38 (commencing with Section 9000) of Part 6 of Division 4 of the
39 Civil Code, and to be subject to the provisions of that title. The
40 board shall also have the right to reject any bid, in which case the

1 board may advertise for new bids. In the event no proposals are
2 received pursuant to advertisement or where the estimated cost of
3 the work does not exceed five thousand dollars (\$5,000), or where
4 the work consists of emergency work, the board, by unanimous
5 vote of all members present, may, without advertising for bids,
6 have the work done by force account. In case of an emergency, if
7 notice for bids to let contracts will not be given, the board shall
8 comply with Chapter 2.5 (commencing with Section 22050). The
9 agency may purchase in the open market, without advertisement
10 for bids, materials and supplies for use in any work either under
11 contract or by force account.

12 (b) The provisions of this section have no application to a
13 contract entered into with the United States under the authority of
14 Section 59 of Chapter 1512 of the Statutes of 1957, or to a contract
15 authorized by a vote of the electorate of the agency.

16 SEC. 80. Section 21351 of the Public Contract Code is amended
17 to read:

18 21351. 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 by the agency, inviting sealed proposals for the
27 construction or performance of the improvement or work. The call
28 for bids shall state whether the work shall be performed in one
29 unit or divided into parts. The work may be let under a single
30 contract or several contracts, as stated in the call. The board shall
31 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 2 (commencing with Section 9000) of Part 6 of Division 4 of the
36 Civil Code. The board may reject any bid. In the event all proposals
37 are rejected or no proposals are received, or the estimated cost of
38 the work does not exceed five thousand dollars (\$5,000), or the
39 work consists of channel protection, maintenance work, or
40 emergency work, the board may have the work done by force

1 account without advertising for bids. 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 board may purchase in the open market without advertising for
5 bids, materials and supplies for use in any work, either under
6 contract or by force account. In awarding any contract or
7 authorizing any work, the board shall comply with the provisions
8 of Article 2 (commencing with Section 1770) of Chapter 1 of Part
9 7 of Division 2 of the Labor Code.

10 SEC. 81. Section 21361 of the Public Contract Code is amended
11 to read:

12 21361. All contracts for any improvement or unit of work,
13 when the cost according to the estimate of the engineer will exceed
14 five thousand dollars (\$5,000), shall be let to the lowest responsible
15 bidder or bidders as provided in this article. The board shall first
16 determine whether the contract shall be let as a single unit, or
17 divided into severable parts. The board shall advertise for bids by
18 three insertions in a daily newspaper of general circulation or by
19 two insertions in a weekly newspaper of general circulation printed
20 and published in the agency's jurisdiction, inviting sealed proposals
21 for the construction or performance of the improvement or work.
22 The call for bids shall state whether the work shall be performed
23 in one unit or divided into parts. The work may be let under a
24 single contract or several contracts, as stated in the call. The board
25 shall require the successful bidders to file with the board good and
26 sufficient bonds to be approved by the board conditioned upon the
27 faithful performance of the contract and upon the payment of their
28 claims for labor and material. The bonds shall comply with Title
29 2 (commencing with Section 9000) of Part 6 of Division 4 of the
30 Civil Code. The board may reject any bid. In the event all proposals
31 are rejected or no proposals are received, or the estimated cost of
32 the work does not exceed five thousand dollars (\$5,000), or the
33 work consists of channel protection, maintenance work, or
34 emergency work, the board of supervisors may have the work done
35 by force account without advertising for bids. In case of an
36 emergency, if notice for bids to let contracts will not be given, the
37 board shall comply with Chapter 2.5 (commencing with Section
38 22050). The district may purchase in the open market without
39 advertising for bids, materials and supplies for use in any work,
40 either under contract or by force account.

1 SEC. 82. Section 21371 of the Public Contract Code is amended
2 to read:

3 21371. All contracts for any improvement or unit of work,
4 when the cost according to the estimate of the engineer will exceed
5 five thousand dollars (\$5,000), shall be let to the lowest responsible
6 bidder or bidders as provided in this article. The board shall first
7 determine whether the contract shall be let as a single unit, or
8 divided into severable parts. The board shall advertise for bids by
9 three insertions in a daily newspaper of general circulation or by
10 two insertions in a weekly newspaper of general circulation printed
11 and published in the agency's jurisdiction, inviting sealed proposals
12 for the construction or performance of the improvement or work.
13 The call for bids shall state whether the work shall be performed
14 in one unit or divided into parts. The work may be let under a
15 single contract or several contracts, as stated in the call. The board
16 shall 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 2 (commencing with Section 9000) of Part 6 of Division 4 of the
21 Civil Code. The board may reject any bid. In the event all proposals
22 are rejected or no proposals are received, or the estimated cost of
23 the work does not exceed five thousand dollars (\$5,000), or the
24 work consists of emergency work, the board may have the work
25 done by force account without advertising for bids. In case of an
26 emergency, if notice for bids to let contracts will not be given, the
27 board shall comply with Chapter 2.5 (commencing with Section
28 22050). The district 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. 83. Section 21381 of the Public Contract Code is amended
32 to read:

33 21381. All contracts for any improvement or unit of work,
34 except as provided in this article, estimated to cost in excess of
35 five thousand dollars (\$5,000) shall be let to the lowest responsible
36 bidder in the manner provided in this article. The board of
37 supervisors of the district shall advertise by three insertions in a
38 daily newspaper of general circulation or two insertions in a weekly
39 newspaper of general circulation printed and published in the
40 district inviting sealed proposals for the construction of the

1 improvement or work before any contract shall be made, and may
2 let by contract separately any part of said work or improvement.
3 The board shall require the successful bidder to file with the board
4 good and sufficient bonds to be approved by the board conditioned
5 upon the faithful performance of the contract and upon the payment
6 of their claims for labor and material, the bonds to contain the
7 terms and conditions set forth in Title 2 (commencing with Section
8 9000) of Part 6 of Division 4 of the Civil Code and to be subject
9 to the provisions of that part. The board shall also have the right
10 to reject any bid. In the event all proposals are rejected or no
11 proposals are received pursuant to advertisement, or where the
12 estimated cost of the work does not exceed five thousand dollars
13 (\$5,000), or the work consists of channel protection, maintenance
14 work, or emergency work, the board of supervisors 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 district 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.

21 SEC. 84. Section 21391 of the Public Contract Code is amended
22 to read:

23 21391. (a) All contracts for the construction of any unit of
24 work, except as provided in this article, estimated to cost in excess
25 of two thousand dollars (\$2,000) shall be let to the lowest
26 responsible bidder in the manner provided in this article. The board
27 shall advertise by three insertions in a daily newspaper of general
28 circulation or two insertions in a weekly newspaper of general
29 circulation published in the district, inviting sealed proposals for
30 the construction of the work before any contract shall be made,
31 and may let by contract separately any part of the work. The board
32 shall require the successful bidder 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 all
35 claims for labor and material, the bonds to contain the terms and
36 conditions set forth in Title 2 (commencing with Section 9000) of
37 Part 6 of Division 4 of the Civil Code, and to be subject to the
38 provisions of that title. The board shall also have the right to reject
39 any and all bids, in which case the board may advertise for new
40 bids.

1 (b) In the event no proposals are received pursuant to
2 advertisement therefor, where the estimated cost of the work does
3 not exceed two thousand dollars (\$2,000), or where the work
4 consists of emergency work necessary in order to protect life and
5 property, the board of directors, by unanimous vote of all members
6 present, may, without advertising for bids, have the work done by
7 force account. In case of an emergency, if notice for bids to let
8 contracts will not be given, the board shall comply with Chapter
9 2.5 (commencing with Section 22050).

10 (c) The district may purchase in the open market without
11 advertisement for bids, materials and supplies for use in any work
12 either under contract or by force account; provided, however, that
13 materials and supplies for use in any new construction work or
14 improvement, except work referred to in subdivision (b), may not
15 be purchased if the cost exceeds two thousand five hundred dollars
16 (\$2,500), without advertising for bids and awarding the contract
17 to the lowest responsible bidder.

18 (d) The provisions of this section have no application to a
19 contract entered into with the United States under the authority of
20 Section 3 of Chapter 2114 of the Statutes of 1959, or to a contract
21 authorized by a vote of the electorate of the district.

22 SEC. 85. Section 21401 of the Public Contract Code is amended
23 to read:

24 21401. (a) All contracts for the construction of any unit of
25 work, except as provided in this article, estimated to cost in excess
26 of two thousand dollars (\$2,000) shall be let to the lowest
27 responsible bidder in the manner provided in this article. The board
28 shall advertise by three insertions in a daily newspaper of general
29 circulation or two insertions in a weekly newspaper of general
30 circulation published in the district inviting sealed proposals for
31 the construction of the work before any contract shall be made,
32 and may let by contract separately any part of the work. The board
33 shall require the successful bidder to file with the board good and
34 sufficient bonds to be approved by the board conditioned upon the
35 faithful performance of the contract and upon the payment of all
36 claims for labor and material, the bonds to contain the terms and
37 conditions set forth in Title 2 (commencing with Section 9000) of
38 Part 6 of Division 4 of the Civil Code, and to be subject to the
39 provisions of that title. The board shall also have the right to reject
40 any bids, in which case the board may advertise for new bids.

1 (b) In the event no proposals are received pursuant to
2 advertisement, where the estimated cost of the work does not
3 exceed two thousand dollars (\$2,000), or where work consists of
4 emergency work, the board of directors, by unanimous vote of all
5 members present, may, without advertising for bids, have the work
6 done by force account. In case of an emergency, if notice for bids
7 to let contracts will not be given, the board shall comply with
8 Chapter 2.5 (commencing with Section 22050).

9 (c) The district may purchase in the open market without
10 advertisement for bids, materials and supplies for use in any work
11 either under contract or by force account; provided, however, that
12 materials and supplies for use in any new construction work or
13 improvement, except work referred to in subdivision (b), may not
14 be purchased if the cost exceeds two thousand five hundred dollars
15 (\$2,500), without advertising for bids and awarding the contract
16 to the lowest responsible bidder.

17 (d) The provisions of this section have no application to a
18 contract entered into with the United States under the authority of
19 Section 3 of Chapter 2121 of the Statutes of 1959, or to a contract
20 authorized by a vote of the electorate of the district.

21 SEC. 86. Section 21411 of the Public Contract Code is amended
22 to read:

23 21411. All contracts for any improvement or unit of work,
24 when the cost according to the estimate of the engineer will exceed
25 five thousand dollars (\$5,000) shall be let to the lowest responsible
26 bidder or bidders as provided in this article. The board shall first
27 determine whether the contract shall be let as a single unit, or
28 divided into severable parts. The board shall advertise for bids by
29 three insertions in a daily newspaper of general circulation or by
30 two insertions in a weekly newspaper of general circulation printed
31 and published in the agency's jurisdiction, inviting sealed proposals
32 for the construction or performance of the improvement or work.
33 The call for bids shall state whether the work shall be performed
34 in one unit or divided into parts. The work may be let under a
35 single contract or several contracts, as stated in the call. The board
36 shall require the successful bidders to file with the board good and
37 sufficient bonds to be approved by the board conditioned upon the
38 faithful performance of the contract and upon the payment of their
39 claims for labor and material. The bonds shall comply with Title
40 2 (commencing with Section 9000) of Part 6 of Division 4 of the

1 Civil Code. The board may reject any bid. In the event all proposals
2 are rejected or no proposals are received, or the estimated cost of
3 the work does not exceed five thousand dollars (\$5,000), or the
4 work consists of channel protection, maintenance work, or
5 emergency work, the board may have the work done by force
6 account without advertising for bids. In case of an emergency, if
7 notice for bids to let contracts will not be given, the board shall
8 comply with Chapter 2.5 (commencing with Section 22050). In
9 that event a majority vote of all board members shall be required.
10 The board may purchase in the open market, without advertising
11 for bids, materials and supplies for use in any work, either under
12 contract or by force account.

13 SEC. 87. Section 21421 of the Public Contract Code is amended
14 to read:

15 21421. (a) All contracts for the construction of any unit of
16 work, except as provided in this article, estimated to cost in excess
17 of two thousand dollars (\$2,000), shall be let to the lowest
18 responsible bidder in the manner provided in this article. The board
19 shall advertise by three insertions in a daily newspaper of general
20 circulation or two insertions in a weekly newspaper of general
21 circulation published in the district inviting sealed proposals for
22 the construction of the work before any contract shall be made,
23 and may let by contract separately any part of the work. The board
24 shall require the successful bidder 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 all
27 claims for labor and material, the bonds to contain the terms and
28 conditions set forth in Title 2 (commencing with Section 9000) of
29 Part 6 of Division 4 of the Civil Code, and to be subject to the
30 provisions of that title. The board shall also have the right to reject
31 any bid, in which case the board may advertise for new bids.

32 (b) In the event no proposals are received pursuant to
33 advertisement, where the estimated cost of the work does not
34 exceed two thousand dollars (\$2,000), or where the work consists
35 of emergency work, the board of directors, by unanimous vote of
36 all members present, may, without advertising for bids, have the
37 work done by force account. In case of an emergency, if notice
38 for bids to let contracts will not be given, the board shall comply
39 with Chapter 2.5 (commencing with Section 22050).

1 (c) The district 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; provided, however, that
4 materials and supplies for use in any new construction work or
5 improvement, except work referred to in subdivision (b), may not
6 be purchased if the cost exceeds two thousand five hundred dollars
7 (\$2,500), without advertising for bids and awarding the contract
8 to the lowest responsible bidder.

9 (d) The provisions of this section have no application to a
10 contract entered into with the United States under the authority of
11 Section 3 of Chapter 2123 of the Statutes of 1959, or to a contract
12 authorized by a vote of the electorate of the district.

13 SEC. 88. Section 21431 of the Public Contract Code is amended
14 to read:

15 21431. (a) All contracts for the construction of any unit of
16 work, except as provided in this article, estimated to cost in excess
17 of two thousand dollars (\$2,000), shall be let to the lowest
18 responsible bidder in the manner provided in this article. The board
19 shall advertise by three insertions in a daily newspaper of general
20 circulation or two insertions in a weekly newspaper of general
21 circulation published in the district inviting sealed proposals for
22 the construction of the work before any contract shall be made,
23 and may let by contract separately any part of the work. The board
24 shall require the successful bidder 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 all
27 claims for labor and material, the bonds to contain the terms and
28 conditions set forth in Title 2 (commencing with Section 9000) of
29 Part 6 of Division 4 of the Civil Code, and to be subject to the
30 provisions of that title. The board shall also have the right to reject
31 any bid, in which case the board may advertise for new bids.

32 (b) In the event no proposals are received pursuant to
33 advertisement, where the estimated cost of the work does not
34 exceed two thousand dollars (\$2,000), the board of directors, by
35 unanimous vote of all members present, may without advertising
36 for bids, have the work done by force account. In case of an
37 emergency, if notice for bids to let contracts will not be given, the
38 board shall comply with Chapter 2.5 (commencing with Section
39 22050).

1 (c) The district 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; provided, however, that
4 materials and supplies for use in any new construction work or
5 improvement, except work referred to in subdivision (b), may not
6 be purchased if the cost exceeds two thousand five hundred dollars
7 (\$2,500), without advertising for bids and awarding the contract
8 to the lowest responsible bidder.

9 (d) The provisions of this section have no application to a
10 contract entered into with the United States under the authority of
11 Section 3 of Chapter 2127 of the Statutes of 1959, or to a contract
12 authorized by a vote of the electorate of the district.

13 SEC. 89. Section 21441 of the Public Contract Code is amended
14 to read:

15 21441. (a) All contracts for any improvement or unit of work,
16 when the cost according to the estimate of the engineer will exceed
17 five thousand dollars (\$5,000) shall be let to the lowest responsible
18 bidder or bidders as provided in this article. The board shall first
19 determine whether the contract shall be let as a single unit, or
20 divided into severable parts. The board shall advertise for bids by
21 three insertions in a daily newspaper of general circulation or by
22 two insertions in a weekly newspaper of general circulation printed
23 and published in the authority, inviting sealed proposals for the
24 construction or performance of the improvement work. The call
25 for bids shall state whether the work shall be performed in one
26 unit or divided into parts. The work may be let under a single
27 contract or several contracts, as stated in the call. The board shall
28 require the successful 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 shall comply with Title
32 2 (commencing with Section 9000) of Part 6 of Division 4 of the
33 Civil Code. The board may reject any bid. In the event all proposals
34 are rejected or no proposals are received, or the estimated cost of
35 the work does not exceed five thousand dollars (\$5,000), or the
36 work consists of channel protection, maintenance work, or
37 emergency work, the board may have the work done by force
38 account without advertising for bids.

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. 90. 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 5 (commencing with
25 Section 9550) of Title 2 of Part 6 of Division 4 of the Civil Code.
26 The board may reject any bid. If all proposals are rejected or no
27 proposals are received, or the estimated cost of the work does not
28 exceed twelve thousand five hundred dollars (\$12,500), or the
29 work consists of channel protection, maintenance work, or
30 emergency work, the board may have the work done by force
31 account without advertising for bids. In case of an emergency, if
32 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. 91. 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 2 (commencing with Section 9000) of Part 6 of Division 4 of the
17 Civil Code. The board may reject any and all bids. In the event all
18 proposals are rejected or no proposals are received, or the estimated
19 cost of the work does not exceed five thousand dollars (\$5,000),
20 or the work consists of channel protection, maintenance work, or
21 emergency work, the board of supervisors may have the work done
22 by force account without advertising for bids. In case of an
23 emergency, if notice for bids to let contracts will not be given, the
24 board shall comply with Chapter 2.5 (commencing with Section
25 22050). The district 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.

28 SEC. 92. Section 21491 of the Public Contract Code is amended
29 to read:

30 21491. (a) All contracts for any improvement or unit of work,
31 when the cost according to the estimate of the engineer will exceed
32 ten thousand dollars (\$10,000), shall be let to the lowest responsible
33 bidder or bidders as provided in this article. The board shall first
34 determine whether the contract shall be let as a single unit, or
35 divided into severable parts. The board shall advertise for bids by
36 three insertions in a daily newspaper of general circulation or by
37 two insertions in a weekly newspaper of general circulation printed
38 and published in the agency, inviting sealed proposals for the
39 construction or performance of the improvement or work. The call
40 for bids shall state whether the work shall be performed in one

1 unit or divided into parts. The work may be let under a single
2 contract or several contracts, as stated in such call. The board shall
3 require the successful bidders to file with the board good and
4 sufficient bonds to be approved by the board conditioned upon the
5 faithful performance of the contract and upon the payment of their
6 claims for labor and material. The bonds shall comply with Title
7 2 (commencing with Section 9000) of Part 6 of Division 4 of the
8 Civil Code. The board may reject any bid.

9 (b) In the event all proposals are rejected or no proposals are
10 received, or the estimated cost of the work does not exceed ten
11 thousand dollars (\$10,000), or the work consists of channel
12 protection, maintenance work, or emergency work, the board may
13 have the work done by force account without advertising for bids.
14 In case of an emergency, if notice for bids to let contracts will not
15 be given, the board shall comply with Chapter 2.5 (commencing
16 with Section 22050).

17 (c) The agency may purchase in the open market without
18 advertising for bids, materials and supplies for use in any work,
19 either under contract or by force account; provided, however, that
20 materials and supplies for use in any new construction work or
21 improvement, except work referred to in subdivision (b), may not
22 be purchased if the cost exceeds ten thousand dollars (\$10,000),
23 without advertising for bids and awarding the contract to the lowest
24 responsible bidder.

25 SEC. 93. Section 21501 of the Public Contract Code is amended
26 to read:

27 21501. (a) All contracts for any improvement or unit of work,
28 when the cost according to the estimate of the engineer will exceed
29 fifteen thousand dollars (\$15,000), shall be let to the lowest
30 responsible bidder or bidders as provided in this article. The board
31 shall first determine whether the contract shall be let as a single
32 unit, or divided into severable parts. The board shall advertise for
33 bids by three insertions in a daily newspaper of general circulation
34 or by two insertions in a weekly newspaper of general circulation
35 printed and published in the agency, inviting sealed proposals for
36 the construction or performance of the improvement or work. The
37 call for bids shall state whether the work shall be performed in one
38 unit or divided into parts. The work may be let under a single
39 contract or several contracts, as stated in such call. The board shall
40 require the successful bidders to file with the board good and

1 sufficient bonds to be approved by the board conditioned upon the
2 faithful performance of the contract and upon the payment of their
3 claims for labor and material. The bonds shall comply with Chapter
4 5 (commencing with Section 9550) of Title 2 of Part 6 of Division
5 4 of the Civil Code. The board may reject any and all bids.

6 (b) The board may have work done by force account without
7 advertising for bids or by informal bidding procedures in any of
8 the following situations:

9 (1) All proposals are rejected.

10 (2) No proposals are received.

11 (3) The estimated cost of the work does not exceed fifteen
12 thousand dollars (\$15,000) until January 1, 1989. After January
13 1, 1989, the estimated cost of the work shall not exceed ten
14 thousand dollars (\$10,000).

15 (4) The work consists of channel protection.

16 (5) The work consists of maintenance work, except that informal
17 bidding procedures may be used only where the estimated cost
18 does not exceed twenty-five thousand dollars (\$25,000).

19 (6) The work consists of emergency work. In case of an
20 emergency, if notice for bids to let contracts will not be given, the
21 board shall comply with Chapter 2.5 (commencing with Section
22 22050).

23 (c) The agency may purchase in the open market without
24 advertising for bids, materials and supplies for use in any work,
25 either under contract or by force account, except that, materials
26 and supplies for use in any new construction work or improvement,
27 except work referred to in subdivision (b), may not be purchased,
28 if the cost exceeds fifteen thousand dollars (\$15,000), without
29 advertising for bids and awarding the contract to the lowest
30 responsible bidder.

31 (d) As used in this section, “informal bidding procedures” means
32 that the board shall, at a minimum, award a contract to the lowest
33 responsible bidder after publishing a notice which generally
34 describes the work to be performed and invites written bids in a
35 newspaper of general circulation in the agency once a week for
36 two successive weeks. The board shall obtain a minimum of three
37 written bids.

38 SEC. 94. Section 21511 of the Public Contract Code is amended
39 to read:

1 21511. (a) All contracts for any improvement or unit of work,
2 when the cost according to the estimate of the engineer will exceed
3 fifty thousand dollars (\$50,000), shall be let to the lowest
4 responsible bidder or bidders as provided in this article. The board
5 shall first determine whether the contract shall be let as a single
6 unit or divided into severable parts. The board shall advertise for
7 bids by three insertions in a daily newspaper of general circulation
8 or by two insertions in a weekly newspaper of general circulation
9 printed and published in the agency, inviting sealed proposals for
10 the construction or performance of the improvement or work. The
11 call 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 2 (commencing with Section 9000) of Part 6 of Division 4 of the
19 Civil Code. The board may reject any and all bids.

20 (b) In the event all proposals are rejected or no proposals are
21 received, or the estimated cost of the work does not exceed ten
22 thousand dollars (\$10,000), or the work consists of channel
23 protection, maintenance work, or emergency work, the board may
24 have the work done by force account without advertising for bids.
25 In case of an emergency, if notice for bids to let contracts will not
26 be given, the board shall comply with Chapter 2.5 (commencing
27 with Section 22050).

28 (c) The agency 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. However, materials and
31 supplies for use in any new construction work or improvement,
32 except work referred to in subdivision (b), may not be purchased,
33 if the cost exceeds fifty thousand dollars (\$50,000), without
34 advertising for bids and awarding the contract to the lowest
35 responsible bidder.

36 SEC. 95. Section 21521 of the Public Contract Code is amended
37 to read:

38 21521. All contracts for any improvement or unit of work,
39 when the cost according to the estimate of the engineer will exceed
40 five thousand dollars (\$5,000) shall be let to the lowest responsible

1 bidder or bidders as provided in this article. The board shall first
2 determine whether the contract shall be let as a single unit, or
3 divided into severable parts. The board shall advertise for bids by
4 three insertions in a daily newspaper of general circulation or by
5 two insertions in a weekly newspaper of general circulation printed
6 and published in the agency, inviting sealed proposals for the
7 construction or performance of the improvement or work. The call
8 for bids shall state whether the work shall be performed in one
9 unit or divided into parts. The work may be let under a single
10 contract or several contracts, as stated in the call. The board shall
11 require the successful bidders 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 comply with Title
15 2 (commencing with Section 9000) of Part 6 of Division 4 of the
16 Civil Code. The board may reject any bid. In the event all proposals
17 are rejected or no proposals are received, or the estimated cost of
18 the work does not exceed five thousand dollars (\$5,000), or the
19 work consists of channel protection, maintenance work, or
20 emergency work, the board may have the work done by force
21 account without advertising for bids. In case of an emergency, if
22 notice for bids to let contracts will not be given, the board shall
23 comply with Chapter 2.5 (commencing with Section 22050). In
24 that event a majority vote of all board members shall be required.
25 The board may purchase in the open market without advertising
26 for bids, materials and supplies for use in any work, either under
27 contract or by force account.

28 SEC. 96. Section 21531 of the Public Contract Code is amended
29 to read:

30 21531. (a) The Castaic Lake Water Agency shall have power
31 to prescribe methods for the construction of works and for the
32 letting of contracts for the construction of works, structures, or
33 equipment, or the performance or furnishing of labor, materials,
34 or supplies, necessary or convenient for carrying out any of the
35 purposes of this act or for the acquisition or disposal of any real
36 or personal property; provided, that all contracts for any
37 improvement or unit of work, when the cost according to the
38 estimate of the engineer will exceed five thousand dollars (\$5,000),
39 shall be let to the lowest responsible bidder or bidders as provided
40 in this article. The board shall first determine whether the contract

1 shall be let as a single unit or divided into severable parts. The
2 board shall advertise for bids by three insertions in a daily
3 newspaper of general circulation published in the agency or by
4 two insertions in a nondaily newspaper of general circulation
5 published in the agency or, if no newspaper is published in the
6 agency, in any newspaper of general circulation distributed in the
7 agency, inviting sealed proposals for the construction or
8 performance of the improvement or work. The call for bids shall
9 state whether the work shall be performed in one unit or divided
10 into parts. The work may be let under a single contract or several
11 contracts, as stated in the call. The board shall require the
12 successful bidders to file with the board good and sufficient bonds
13 to be approved by the board conditioned upon the faithful
14 performance of the contract and upon the payment of their claims
15 for labor and material. The bonds shall comply with Title 2
16 (commencing with Section 9000) of Part 6 of Division 4 of the
17 Civil Code. The board may reject any bid.

18 (b) 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 may
22 have the work done by force account without advertising for bids.
23 In case of an emergency, if notice for bids to let contracts will not
24 be given, the board shall comply with Chapter 2.5 (commencing
25 with Section 22050).

26 (c) The agency may purchase in the open market without
27 advertising for bids, materials and supplies for use in any work,
28 either under contract or by force account; provided, however, that
29 materials and supplies for use in any new construction work or
30 improvement, except work referred to in subdivision (b), may not
31 be purchased if the cost exceeds five thousand dollars (\$5,000),
32 without advertising for bids and awarding the contract to the lowest
33 responsible bidder.

34 SEC. 97. Section 21541 of the Public Contract Code is amended
35 to read:

36 21541. (a) The Crestline-Lake Arrowhead Water Agency shall
37 have power to prescribe methods for the construction of works
38 and for the letting of contracts for the construction of works,
39 structures, or equipment, or the performance or furnishing of labor,
40 materials, or supplies, necessary or convenient for carrying out

1 any of the purposes of this act or for the acquisition or disposal of
2 any real or personal property. However, all contracts for the
3 construction of 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 let to the lowest responsible
6 bidder or bidders as provided in this article. The board shall first
7 determine whether the contract shall be let as a single unit or
8 divided into severable parts. The board shall advertise for bids by
9 three insertions in a daily newspaper of general circulation or by
10 two insertions in a weekly newspaper of general circulation printed
11 and published in the agency, inviting sealed proposals for the
12 construction or performance of the improvement or work. The call
13 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.

16 The board shall require the successful bidders to file with the
17 board good and sufficient bonds to be approved by the board
18 conditioned upon the faithful performance of the contract and upon
19 the payment of their claims for labor and material. The bonds shall
20 comply with Title 2 (commencing with Section 9000) of Part 6 of
21 Division 4 of the Civil Code. The board may reject any bid.

22 (b) In the event all proposals are rejected or no proposals are
23 received, or the estimated cost of the work does not exceed five
24 thousand dollars (\$5,000), or the work consists of channel
25 protection, maintenance work, or emergency work, the board may
26 have the work done by force account without advertising for bids.
27 In case of an emergency, if notice for bids to let contracts will not
28 be given, the board shall comply with Chapter 2.5 (commencing
29 with Section 22050).

30 (c) The agency may purchase in the open market without
31 advertising for bids, materials and supplies for use in any work,
32 either under contract or by force account. However, materials and
33 supplies for use in any new construction work or improvement,
34 except work referred to in subdivision (b), may not be purchased
35 if the cost exceeds twenty-five thousand dollars (\$25,000), without
36 advertising for bids and awarding the contract to the lowest
37 responsible bidder.

38 SEC. 98. Section 21572 of the Public Contract Code is amended
39 to read:

1 21572. Any improvement or unit of work, except as provided
2 in this article, estimated to cost in excess of five thousand dollars
3 (\$5,000), shall be done by contract and let to the lowest responsible
4 bidder in the manner provided in this article. The board of directors
5 of the agency shall advertise by three insertions in a daily
6 newspaper of general circulation or two insertions in a weekly
7 newspaper of general circulation published in the agency, inviting
8 sealed proposals for the construction of the work before any
9 contract shall be made, and may let by contract separately any part
10 of the work. The board shall require the successful bidder to file
11 with the board good and sufficient bonds to be approved by the
12 board, conditioned upon the faithful performance of the contract,
13 and upon the payment of the claims for labor and material, the
14 bonds to contain the terms and conditions set forth in Title 2
15 (commencing with Section 9000) of Part 6 of Division 4 of the
16 Civil Code, and to be subject to the provisions of that title. The
17 board shall also have the right to reject any and all bids, and
18 readvertise for new bids, or by a two-thirds vote may elect to
19 undertake the work by force account. In the event no proposals
20 are received pursuant to advertisement, or where the estimated
21 cost of such work does not exceed five thousand dollars (\$5,000),
22 the board of directors by unanimous vote of all members present
23 may without advertising for bids have the work done by force
24 account. In case of an emergency, if notice for bids to let contracts
25 will not be given, the board shall comply with Chapter 2.5
26 (commencing with Section 22050). The agency may purchase in
27 the open market without advertisement for bids, materials and
28 supplies for use in any work either under contract or by force
29 account.

30 SEC. 99. Section 21581 of the Public Contract Code is amended
31 to read:

32 21581. (a) Any improvement or unit of work when the cost
33 according to the estimate of the engineer will exceed five thousand
34 dollars (\$5,000), shall be done by contract and shall be let to the
35 lowest responsible bidder or bidders in the manner provided in
36 this article. The board shall first determine whether the contract
37 shall be let as a single unit or shall be divided into severable parts,
38 or both, according to the best interests of the district. The board
39 shall call for bids and advertise the call by three insertions in a
40 daily newspaper of general circulation or by two insertions in a

1 weekly newspaper of general circulation printed in the district
2 inviting sealed proposals for the construction or performance of
3 the improvement or work before any contract is made. The call
4 for bids shall state whether the work is to be performed as a unit
5 or shall be divided into severable specific parts, or both, as stated
6 in the call. The board may let the work by single contract for the
7 whole or it may divide the work into severable parts by separate
8 contracts, as stated in the call, according to the best interests of
9 the district. The board shall require the successful bidder or bidders
10 to file with the board a good and sufficient bond to be approved
11 by the board conditioned upon the payment of their claims for
12 labor and material, the bond to contain the terms and conditions
13 set forth in Title 2 (commencing with Section 9000) of Part 6 of
14 Division 4 of the Civil Code and to be subject to the provisions of
15 that title. The board shall also have the right to reject any and all
16 bids and readvertise for new bids, or by a two-thirds vote may
17 elect to undertake the work by force account.

18 (b) In the event no proposals are received pursuant to
19 advertisement, or the estimated cost of the work does not exceed
20 five thousand dollars (\$5,000), or the work consists of channel
21 protection, maintenance work, or emergency work, the board of
22 supervisors may, without advertising for bids, have the work done
23 by employees of the district, by day labor, under the direction of
24 the board, by contract, or by any combination of those methods.
25 In case of an emergency, if notice for bids to let contracts will not
26 be given, the board shall comply with Chapter 2.5 (commencing
27 with Section 22050).

28 (c) The district may acquire in the open market without
29 advertising for bids, materials, equipment, and supplies for use in
30 any work or for any other purpose; provided, however, that
31 materials and supplies for use in any new construction work or
32 improvement, except work referred to in subdivision (b), may not
33 be purchased if the cost exceeds five thousand dollars (\$5,000),
34 without advertising for bids and awarding the contract to the lowest
35 responsible bidder.

36 SEC. 100. Section 21591 of the Public Contract Code is
37 amended to read:

38 21591. (a) Any improvement or unit of work, when the cost,
39 according to the estimate of the engineer, will exceed twenty-five
40 thousand dollars (\$25,000), shall be done by contract and shall be

1 let to the lowest responsible bidder or bidders as provided in this
2 article. The board shall first determine whether the contract shall
3 be let as a single unit or divided into severable parts. The board
4 shall advertise for bids by three insertions in a daily newspaper of
5 general circulation or by two insertions in a weekly newspaper of
6 general circulation printed and published in the agency, if there is
7 a newspaper printed and published in the agency, inviting sealed
8 proposals for the construction or performance of the improvement
9 or work. The call for bids shall state whether the work shall be
10 performed in one unit or divided into parts. The work may be let
11 under a single contract or several contracts, as stated in the call.
12 The board shall require the successful bidders to file with the board
13 good and sufficient bonds to be approved by the board conditioned
14 upon the faithful performance of the contract and upon the payment
15 of their claims for labor and material. The bonds shall comply with
16 Title 2 (commencing with Section 9000) of Part 6 of Division 4
17 of the Civil Code. The board may reject any and all bids and
18 readvertise, or by a two-thirds vote may elect to undertake work
19 by force account.

20 (b) If no proposals are received, or the estimated cost of the
21 work does not exceed twenty-five thousand dollars (\$25,000), or
22 the work consists of channel protection, maintenance work, or
23 emergency work, the board may have the work done by force
24 account without advertising for bids. In case of an emergency, if
25 notice for bids to let contracts will not be given, the board shall
26 comply with Chapter 2.5 (commencing with Section 22050).

27 (c) The agency may purchase in the open market without
28 advertising for bids, materials and supplies for use in any work,
29 either under contract or by force account; provided, however, that
30 materials and supplies for use in any new construction work or
31 improvement, except work referred to in subdivision (b), may not
32 be purchased if the cost exceeds twenty-five thousand dollars
33 (\$25,000), without advertising for bids and awarding the contract
34 to the lowest responsible bidder.

35 SEC. 101. Section 21601 of the Public Contract Code is
36 amended to read:

37 21601. Any improvement or unit of work, when the cost,
38 according to the estimate of the engineer, will exceed five thousand
39 dollars (\$5,000), shall be done by contract and let to the lowest
40 responsible bidder or bidders as provided in this article. The board

1 shall first determine whether the contract shall be let as a single
2 unit or divided into severable parts. The board shall advertise for
3 bids by three insertions in a daily newspaper of general circulation,
4 or by two insertions in a weekly newspaper of general circulation,
5 printed and published in the agency, inviting sealed proposals for
6 the construction or performance of the improvement or work. The
7 call for bids shall state whether the work shall be performed in one
8 unit or divided into parts. The work may be let under a single
9 contract or several contracts, as stated in the call. The board shall
10 require the successful 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 payment of their
13 claims for labor and material. The bonds shall comply with Title
14 2 (commencing with Section 9000) of Part 6 of Division 4 of the
15 Civil Code. The board may reject any and all bids and readvertise,
16 or, by a two-thirds vote, may elect to undertake the work by force
17 account. If no proposals are received, the estimated cost of the
18 work does not exceed five thousand dollars (\$5,000), or the work
19 consists of channel protection, maintenance work, or emergency
20 work, the board of supervisors may have the work done by force
21 account without advertising for bids. In case of an emergency, if
22 notice for bids to let contracts will not be given, the board shall
23 comply with Chapter 2.5 (commencing with Section 22050). The
24 district may purchase in the open market without advertising for
25 bids, materials, and supplies for use in any work, either under
26 contract or by force account.

27 SEC. 102. Section 21622 of the Public Contract Code is
28 amended to read:

29 21622. The board shall require the successful bidder or bidders
30 to file with the board, good and sufficient bonds, to be approved
31 by the board conditioned upon the faithful performance of the
32 contract and upon the payment of their claims for labor and
33 material in connection therewith. Such contracts shall be subject
34 to the provisions of Title 2 (commencing with Section 9000) of
35 Part 6 of Division 4 of the Civil Code.

36 SEC. 103. Section 21631 of the Public Contract Code is
37 amended to read:

38 21631. (a) Any improvement or unit of work when the cost,
39 according to the estimate of the engineer, will exceed six thousand
40 five hundred dollars (\$6,500), shall be done by contract and shall

1 be let to the lowest responsible bidder or bidders in the manner
2 provided in this article. The board shall first determine whether
3 the contract shall be let as a single unit, or shall be divided into
4 severable parts, or both, according to the best interests of the
5 district. The board shall call for bids and advertise the call by three
6 insertions in a daily newspaper of general circulation or by two
7 insertions in a weekly newspaper of general circulation printed in
8 the district inviting sealed proposals for the construction or
9 performance of the improvement or work before any contract is
10 made. The call for bids shall state whether the work is to be
11 performed as a unit or shall be divided into severable parts, or
12 both, as stated in the call. The board may let the work by single
13 contract or it may divide the work into severable parts by separate
14 contracts, as stated in the call, according to the best interests of
15 the district. The board shall require the successful bidder or bidders
16 to file with the board a good and sufficient bond, to be approved
17 by the board, conditioned upon the payment of their claims for
18 labor and material. The bond shall contain the terms and conditions
19 set forth in Title 2 (commencing with Section 9000) of Part 6 of
20 Division 4 of the Civil Code and be subject to the provisions of
21 that title. The board may reject any and all bids and readvertise
22 for new bids, or by a two-thirds vote may elect to undertake the
23 work by force account.

24 (b) If no proposals are received pursuant to advertisement or
25 the estimated cost of the work does not exceed six thousand five
26 hundred dollars (\$6,500), or the work consists of channel
27 protection, maintenance work, or emergency work, the board of
28 supervisors may, without advertising for bids, have the work done
29 by employees of the district, by day labor, under the direction of
30 the board, by contract, or by a combination of those methods. In
31 case of an emergency, if notice for bids to let contracts will not be
32 given, the board shall comply with Chapter 2.5 (commencing with
33 Section 22050).

34 (c) The district may acquire in the open market, without
35 advertising for bids, materials, equipment, and supplies for use in
36 any work or for any other purpose; provided, however, that
37 materials and supplies for use in any new construction work or
38 improvement, except that work referred to in subdivision (b), may
39 not be purchased if the cost exceeds six thousand five hundred

1 dollars (\$6,500), without advertising for bids and awarding the
2 contract to the lowest responsible bidder.

3 SEC. 104. Section 136.5 of the Streets and Highways Code is
4 amended to read:

5 136.5. (a) The contracts referred to in Sections 135, 136, and
6 136.1 are not subject to the State Contract Act (Part 2 (commencing
7 with Section 10100) of Division 2 of the Public Contract Code).
8 Except for emergency work of the type described in subdivision
9 (b), whenever the estimated amount of a contract exceeds two
10 thousand five hundred dollars (\$2,500), it shall be awarded to the
11 lowest responsible bidder, after competitive bidding on any
12 reasonable notice that the department may prescribe. Posting of
13 notice for five days in a public place in the district office within
14 which the work is to be done, or the equipment used, is sufficient.
15 Those contracts shall be subject to the applicable payment bond
16 provisions of Chapter 5 (commencing with Section 9550) of Title
17 2 of Part 6 of Division 4 of the Civil Code. The department may
18 require faithful performance bonds when considered necessary.
19 The advertisement for each contract shall state whether or not a
20 bond shall be required.

21 (b) In cases of emergency work necessitated by the imminence
22 or occurrence of a landslide, flood, storm damage, accident, or
23 other casualty, tools or equipment may be rented for a period of
24 not to exceed 60 days without competitive bidding, and the
25 department may waive the requirements of Chapter 5 (commencing
26 with Section 9550) of Title 2 of Part 6 of Division 2 of the Civil
27 Code to the extent that a contractor may commence performance
28 of the work under the contract for the rental of tools or equipment
29 prior to filing a payment bond with the department. In that case,
30 no payment shall be made to the contractor until a payment bond
31 covering all work of the contract is filed with the department.

32 SEC. 105. (a) This act is operative on January 1, 2012.

33 (b) Except as otherwise provided in this section, this act applies
34 to a contract for a work of improvement executed before, on, or
35 after the operative date.

36 (c) The effectiveness of a notice given, or other action taken,
37 before the operative date is governed by the applicable law in effect
38 before the operative date and not by this act.

39 SEC. 106. Any section of any act enacted by the Legislature
40 during the 2010 calendar year that takes effect on or before January

1 1, 2011, and that amends, amends and renumbers, amends and
2 repeals, adds, repeals and adds, or repeals a section that is amended,
3 amended and renumbered, amended and repealed, added, repealed
4 and added, or repealed by this act, shall prevail over this act,
5 whether that act is chaptered before or after this act.

6 SEC. 107. No reimbursement is required by this act pursuant
7 to Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.

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