

AMENDED IN ASSEMBLY JUNE 2, 2010  
AMENDED IN ASSEMBLY FEBRUARY 4, 2010  
AMENDED IN SENATE JANUARY 14, 2010  
AMENDED IN SENATE DECEMBER 15, 2009

**SENATE BILL**

**No. 189**

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**Introduced by Senator Lowenthal**

February 18, 2009

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An act to amend Sections 7034, 7071.5, 7071.10, 7159, 7159.1, 7159.5, 7159.14, 7164, 8513, and 17577.5 of the Business and Professions Code, to amend Sections 1917.166, 1917.615, 3059, 3060, 3319, 3320, and 3321 of, to add 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, *except as specified*, 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~~ 8122  
11 of the 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.

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

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

6 (e) A person or entity, including a laborer described in  
7 subdivision (b) of Section ~~8020~~ or subdivision (b) of Section ~~9012~~  
8 ~~8024~~ of the Civil Code, to which a portion of the compensation of  
9 an employee of a licensee is paid by agreement with that employee  
10 or the collective bargaining agent of that employee, damaged as  
11 the result of the licensee's failure to pay fringe benefits for its  
12 employees, including, but not limited to, employer payments  
13 described in Section 1773.1 of the Labor Code and regulations  
14 thereunder (without regard to whether the work was performed on  
15 a private or public work). Damage to a person or entity under this  
16 subdivision is limited to actual employer payments required to be  
17 made on behalf of employees of the licensee, as part of the overall  
18 compensation of those employees, which the licensee fails to pay.

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

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

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

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

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

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

6 (e) A person or entity, including a laborer described in  
7 subdivision (b) of Section ~~8020~~ or subdivision (b) of Section ~~9012~~  
8 ~~8024~~ of the Civil Code, to which a portion of the compensation of  
9 an employee of a licensee is paid by agreement with that employee  
10 or the collective bargaining agent of that employee, that is damaged  
11 as the result of the licensee's failure to pay fringe benefits for its  
12 employees including, but not limited to, employer payments  
13 described in Section 1773.1 of the Labor Code and regulations  
14 adopted thereunder (without regard to whether the work was  
15 performed on a public or private work). Damage to a person or  
16 entity under this subdivision is limited to employer payments  
17 required to be made on behalf of employees of the licensee, as part  
18 of the overall compensation of those employees, which the licensee  
19 fails to pay.

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

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

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

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

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

38 (5) Failure by the licensee, his or her agent or salesperson, or  
39 by a person subject to be licensed under this chapter, to provide  
40 the specified information, notices, and disclosures in the contract,

1 or to otherwise fail to comply with any provision of this section,  
2 is cause for discipline.

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

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

26 (1) The writing shall be legible.

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

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

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

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

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

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

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

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

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

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

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

33 (1) The name, business address, and license number of the  
34 contractor.

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

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

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

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

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

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

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

22 (A) The heading: “Downpayment.”

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

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

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

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

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

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



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

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

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

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

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

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

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

18 (B) The approximate date of completion.

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

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

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

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

35 (1) A notice concerning commercial general liability insurance.  
36 This notice may be provided as an attachment to the contract if  
37 the contract includes the following statement: “A notice concerning  
38 commercial general liability insurance is attached to this contract.”  
39 The notice shall include the heading “Commercial General Liability

1 Insurance (CGL),” followed by whichever of the following  
2 statements is both relevant and correct:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 “MECHANICS LIEN WARNING:

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

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

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

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

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

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

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

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

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

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

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

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

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

21 For more information:

22 Visit CSLB’s Internet Web site at [www.cslb.ca.gov](http://www.cslb.ca.gov)

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

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

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

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

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

31 (iii) Subject to licensure under the Alarm Company Act (Chapter  
32 11.6 (commencing with Section 7590)), provided the alarm  
33 company licensee complies with Sections 1689.5, 1689.6, and  
34 1689.7 of the Civil Code, as applicable.

35 (B) “Three-Day Right to Cancel

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

1 notice. Include your name, your address, and the date you received  
2 the signed copy of the contract and this notice.

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

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

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

37  
38 “Notice of Cancellation”

39 /enter date of transaction/  
40 \_\_\_\_\_

1 (Date)

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

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

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

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

22  
23 To cancel this transaction, mail or deliver a signed and dated copy of this  
24 cancellation notice, or any other written notice, or send a telegram  
25 to \_\_\_\_\_,  
26 /name of seller/  
27 at \_\_\_\_\_  
28 /address of seller’s place of business/  
29 not later than midnight of \_\_\_\_\_.  
30 (Date)

31 I hereby cancel this transaction. \_\_\_\_\_  
32 (Date)  
33 \_\_\_\_\_  
34 (Buyer’s signature)

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

1 Governor, or for which a local emergency has been declared by  
2 the executive officer or governing body of any city, county, or city  
3 and county:

4 “Seven-Day Right to Cancel

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

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

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

- 28 (i) The text of the notice is at least 12-point boldface type.
- 29 (ii) The notice is in immediate proximity to a space reserved  
30 for the owner’s signature.
- 31 (iii) The owner acknowledges receipt of the notice by signing  
32 and dating the notice form in the signature space.
- 33 (iv) The notice is written in the same language, e.g., Spanish,  
34 as that principally used in any oral sales presentation.
- 35 (v) The notice may be attached to the contract if the contract  
36 includes, in at least 12-point boldface type, a checkbox with the  
37 following statement: “The law requires that the contractor give  
38 you a notice explaining your right to cancel. Initial the checkbox  
39 if the contractor has given you a ‘Notice of the Seven-Day Right  
40 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 Title 2 of Part 6 of Division  
31 4 of the 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](http://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~~ *boldface* type or in all

1 capital letters, stating that the owner has the right to require the  
2 contractor to have a performance and payment bond and that the  
3 expense of 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 Title 2 of Part 6 of Division 4 of the Civil Code, to the owner, his  
30 or her 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 *Title 2*  
6 of Part 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 *Title 2* 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 *Title*  
35 2 of Part 6 of Division 4, mechanics liens provided by Chapter 4  
36 (commencing with Section 8400) of *Title 2* of Part 6 of Division  
37 4, and stop payment notices provided by Chapter 5 (commencing  
38 with Section 8500) of *Title 2* 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) professionals liens provided by Chapter 3 (commencing~~  
38 ~~with Section 8300) of Title 2 of Part 6 of Division 4, mechanics~~  
39 ~~liens provided by Chapter 4 (commencing with Section 8400) of~~  
40 ~~Title 2 of Part 6 of Division 4, and stop payment notices on public~~

1 *works provided by Chapter 4 (commencing with Section 9350) of*  
2 *Title 3 of Part 6 of Division 4.*

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

5 (e) None of the rights or obligations created by this section  
6 between prime design professionals and public agencies apply to  
7 construction loan funds held by a lender pursuant to a construction  
8 loan agreement.

9 (f) For purposes of this section:

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

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

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

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

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

34 (b) If any amount is wrongfully withheld or is not timely paid  
35 in violation of this section, the subconsultant design professional  
36 shall be entitled to a penalty of 1½ percent of the improperly  
37 withheld amount, in lieu of any interest otherwise due, per month,  
38 for each month that payment is not made. In any action for the  
39 collection of amounts withheld in violation of this section, the

1 prevailing party shall be entitled to his or her reasonable attorney’s  
2 fees and costs.

3 (c) The penalty described in subdivision (b) shall be separate  
4 from, and in addition to, the design professionals’ remedies for a  
5 ~~public works contract provided in Title 2 (commencing with~~  
6 ~~Section 9000)~~ *professionals liens provided by Chapter 3*  
7 *(commencing with Section 8300) of Title 2 of Part 6 of Division*  
8 *4, mechanics liens provided by Chapter 4 (commencing with*  
9 *Section 8400) of Title 2 of Part 6 of Division 4, and stop payment*  
10 *notices on public works provided by Chapter 4 (commencing with*  
11 *Section 9350) of Title 3 of Part 6 of Division 4.*

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

16 (e) For purposes of this section:

17 (1) “Public agency” means the state, any county, any city, any  
18 city and county, any district, any public authority, any public  
19 agency, any municipal corporation, or other political subdivision  
20 or political corporation of the state.

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

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

31 (4) “Subconsultant design professional” means a design  
32 professional having a written contract with a prime design  
33 professional.

34 *SEC. 19.5. The heading of Part 8 (commencing with Section*  
35 *7100) of Division 4 of the Civil Code is amended to read:*  
36

37 **PART 8-5.5. AUTOMATIC CHECKOUT SYSTEM**

38  
39 **SEC. 20.** Part 6 (commencing with Section 8000) is added to  
40 Division 4 of the Civil Code, to read:

PART 6. WORKS OF IMPROVEMENT

~~TITLE 1. PRIVATE WORK OF IMPROVEMENT~~

~~CHAPTER 1. DEFINITIONS AND GENERAL PROVISIONS~~

~~Article 1. Definitions~~

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

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

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

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

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

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

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

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

8012. ~~“Design professional” means a person licensed as an architect pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, licensed as a landscape architect pursuant to Chapter 3.5 (commencing with Section 5615) of Division 3 of the Business and Professions Code, registered as a professional engineer pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, or licensed as a land surveyor pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the~~

1 Business and Professions Code who provides services pursuant to  
2 a written contract with a landowner for the design, engineering,  
3 or planning of a work of improvement.

4 8013. ~~“Direct contract” means a contract between an owner  
5 and a direct contractor that provides for all or part of a work of  
6 improvement. The term includes a contract change.~~

7 8014. ~~“Direct contractor” means a contractor that has a direct  
8 contractual relationship with an owner. A reference in another  
9 statute to a “prime contractor” in connection with the provisions  
10 in this title means a “direct contractor.”~~

11 8016. A person “knows” or “has knowledge” of information  
12 if the person knows or should have known that information.

13 8018. ~~“Labor, service, equipment, or material” includes, but  
14 is not limited to, labor, skills, services, material, supplies,  
15 equipment, appliances, power, and surveying provided for a work  
16 of improvement.~~

17 8020. ~~(a) “Laborer” means a person who, acting as an  
18 employee, performs labor, or bestows skill or other necessary  
19 services, on a work of improvement.~~

20 ~~(b) “Laborer” includes a person or entity to which a portion of  
21 a laborer’s compensation for a work of improvement, including,  
22 but not limited to, employer payments described in Section 1773.1  
23 of the Labor Code and implementing regulations, is paid by  
24 agreement with that laborer or the collective bargaining agent of  
25 that laborer.~~

26 ~~(c) A person or entity described in subdivision (b) that has  
27 standing under applicable law to maintain a direct legal action, in  
28 its own name or as an assignee, to collect any portion of  
29 compensation owed for a laborer for a work of improvement, shall  
30 have standing to enforce any rights or claims of the laborer under  
31 this title, to the extent of the compensation agreed to be paid to  
32 the person or entity for labor on that improvement. This subdivision  
33 is intended to give effect to the longstanding public policy of this  
34 state to protect the entire compensation of a laborer on a work of  
35 improvement, regardless of the form in which that compensation  
36 is to be paid.~~

37 8022. ~~“Lending institution” includes a commercial bank,  
38 savings and loan institution, credit union, or other organization or  
39 person engaged in the business of financing loans.~~



1     ~~8024. “Lien” means a lien under this title and includes a lien~~  
2 ~~of a design professional under Section 8302, a lien for a work of~~  
3 ~~improvement under Section 8400, and a lien for a site improvement~~  
4 ~~under Section 8402.~~

5     ~~8026. “Material supplier” means a person that provides material~~  
6 ~~or supplies to be used or consumed in a work of improvement.~~

7     ~~8028. “Owner” means:~~

8     ~~(a) With respect to a work of improvement, a person that~~  
9 ~~contracts for the work of improvement.~~

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

14    ~~(c) A successor in interest of a person described in subdivision~~  
15 ~~(a) or (b).~~

16    ~~8030. “Payment bond” means a bond given under Chapter 6~~  
17 ~~(commencing with 8600).~~

18    ~~8032. “Person” means an individual, corporation, public entity,~~  
19 ~~business trust, estate, trust, partnership, limited liability company,~~  
20 ~~association, or other entity.~~

21    ~~8034. “Preliminary notice” means the notice provided for in~~  
22 ~~Chapter 2 (commencing with Section 8200).~~

23    ~~8036. “Public entity” means the state, Regents of the University~~  
24 ~~of California, a county, city, district, public authority, public~~  
25 ~~agency, and any other political subdivision or public corporation~~  
26 ~~in the state.~~

27    ~~8038. (a) “Reputed construction lender” means a person that~~  
28 ~~a claimant reasonably and in good faith believes is a construction~~  
29 ~~lender.~~

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

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

34    ~~8040. “Site” means the property on which a work of~~  
35 ~~improvement is situated or planned.~~

36    ~~8042. “Site improvement” means any of the following work~~  
37 ~~on property:~~

38    ~~(a) Demolition or removal of improvements, trees, or other~~  
39 ~~vegetation.~~

40    ~~(b) Drilling test holes.~~

1 (e) ~~Grading, filling, or otherwise improving the property or a~~  
2 ~~street, highway, or sidewalk in front of or adjoining the property.~~

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

4 (e) ~~Construction of areas, vaults, cellars, or rooms under~~  
5 ~~sidewalks.~~

6 (f) ~~Any other work or improvements in preparation of the site~~  
7 ~~for a work of improvement.~~

8 8044. (a) ~~“Stop payment notice” means the notice given under~~  
9 ~~Chapter 5 (commencing with Section 8500). A reference in another~~  
10 ~~statute to a “stop notice” in connection with the remedies provided~~  
11 ~~in this title means a stop payment notice.~~

12 (b) ~~A stop payment notice may be bonded or unbonded. A~~  
13 ~~“bonded stop payment notice” is a notice given with a bond under~~  
14 ~~Section 8532. An “unbonded stop payment notice” is a notice not~~  
15 ~~given with a bond under Section 8532.~~

16 (e) ~~Except to the extent this title distinguishes between a bonded~~  
17 ~~and an unbonded stop payment notice, a reference in this title to~~  
18 ~~a stop payment notice includes both a bonded and an unbonded~~  
19 ~~notice.~~

20 8046. ~~“Subcontractor” means a contractor that does not have~~  
21 ~~a direct contractual relationship with an owner. The term includes~~  
22 ~~a contractor that has a contractual relationship with a direct~~  
23 ~~contractor or with another subcontractor.~~

24 8048. ~~“Work” means labor, service, equipment, or material~~  
25 ~~provided to a work of improvement.~~

26 8050. (a) ~~“Work of improvement” includes, but is not limited~~  
27 ~~to:~~

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

31 (2) ~~Seeding, sodding, or planting of property for landscaping~~  
32 ~~purposes.~~

33 (3) ~~Filling, leveling, or grading of property.~~

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

37

38 Article 2. ~~Miscellaneous Provisions~~

39

40 8051. (a) ~~This title is operative on January 1, 2012.~~

1 ~~(b) Except as otherwise provided in this section, this title applies~~  
2 ~~to a contract for a work of improvement executed before, on, or~~  
3 ~~after the operative date.~~

4 ~~(c) The effectiveness of a notice given or other action taken on~~  
5 ~~a work of improvement before the operative date is governed by~~  
6 ~~the applicable law in effect before the operative date and not by~~  
7 ~~this title.~~

8 ~~(d) A provision of this title, insofar as it is substantially the same~~  
9 ~~as a previously existing provision relating to the same subject~~  
10 ~~matter, shall be construed as a restatement and continuation thereof~~  
11 ~~and not as a new enactment.~~

12 ~~8052. This title applies only to a work of improvement that is~~  
13 ~~not governed by Title 2 (commencing with Section 9000) of this~~  
14 ~~part.~~

15 ~~8054. Except as otherwise provided in this title, Part 2~~  
16 ~~(commencing with Section 307) of the Code of Civil Procedure~~  
17 ~~provides the rules of practice in proceedings under this title.~~

18 ~~8056. For purposes of this title, “day” means a calendar day.~~

19 ~~8058. (a) If this title provides for filing a contract, plan, or~~  
20 ~~other paper with the county recorder, the provision is satisfied by~~  
21 ~~filing the paper in the office of the county recorder of the county~~  
22 ~~in which the work of improvement or part of it is situated.~~

23 ~~(b) If this title provides for recording a notice, claim of lien,~~  
24 ~~release of lien, payment bond, or other paper, the provision is~~  
25 ~~satisfied by filing the paper for record in the office of the county~~  
26 ~~recorder of the county in which the work of improvement or part~~  
27 ~~of it is situated.~~

28 ~~(c) The county recorder shall number, index, and preserve a~~  
29 ~~contract, plan, or other paper presented for filing under this title,~~  
30 ~~and shall number, index, and transcribe into the official records,~~  
31 ~~in the same manner as a conveyance of real property, a notice,~~  
32 ~~claim of lien, payment bond, or other paper recorded under this~~  
33 ~~title.~~

34 ~~(d) The county recorder shall charge and collect the fees~~  
35 ~~provided in Article 5 (commencing with Section 27360) of Chapter~~  
36 ~~6 of Part 3 of Division 2 of Title 3 of the Government Code for~~  
37 ~~performing duties under this section.~~

38 ~~8060. No act of an owner in good faith and in compliance with~~  
39 ~~a provision of this title shall be construed to prevent a direct~~

1 contractor’s performance of the contract, or exonerate a surety on  
2 a performance or payment bond.

3 ~~8062. An owner may give a notice or execute or file a document~~  
4 ~~under this title on behalf of a co-owner if the owner acts on the~~  
5 ~~co-owner’s behalf and includes in the notice or document the name~~  
6 ~~and address of the co-owner on whose behalf the owner acts.~~

7 ~~8064. An act that may be done by or to a person under this title~~  
8 ~~may be done by or to the person’s agent to the extent the act is~~  
9 ~~within the scope of the agent’s authority.~~

10 ~~8066. (a) This title does not apply to a transaction governed~~  
11 ~~by the Oil and Gas Lien Act, Chapter 2.5 (commencing with~~  
12 ~~Section 1203.50) of Title 4 of Part 3 of the Code of Civil~~  
13 ~~Procedure.~~

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

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

19  
20 Article 3. Notice

21  
22 8100. (a) Notice under this title shall be in writing.

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

25 8102. (a) ~~Notice under this title shall, in addition to any other~~  
26 ~~information required by statute for that type of notice, include all~~  
27 ~~of the following information to the extent known to the person~~  
28 ~~giving the notice:~~

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

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

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

32 (4) ~~A description of the site sufficient for identification;~~  
33 ~~including the street address of the site, if any. If a sufficient legal~~  
34 ~~description of the site is given, the effectiveness of the notice is~~  
35 ~~not affected by the fact that the street address is erroneous or is~~  
36 ~~omitted.~~

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

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

40 (A) ~~A general statement of the work provided.~~

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

2 ~~(C) A statement or estimate of the claimant's demand, if any,~~  
3 ~~after deducting all just credits and offsets.~~

4 ~~(b) Notice is not invalid by reason of any variance from the~~  
5 ~~requirements of this section if the notice is sufficient to~~  
6 ~~substantially inform the person given notice of the information~~  
7 ~~required by this section and other information required in the~~  
8 ~~notice.~~

9 ~~8104. (a) A direct contractor or subcontractor that employs a~~  
10 ~~laborer and fails to pay the full compensation due the laborer,~~  
11 ~~including any employer payments described in Section 1773.1 of~~  
12 ~~the Labor Code and implementing regulations, shall not later than~~  
13 ~~the date the compensation became delinquent, give the laborer,~~  
14 ~~the laborer's bargaining representative, if any, the construction~~  
15 ~~lender or reputed construction lender, if any, and the owner or~~  
16 ~~reputed owner, notice that includes all of the following information,~~  
17 ~~in addition to the information required by Section 8102:~~

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

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

23 ~~(3) The amount then past due and owing.~~

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

28 ~~8106. Except as otherwise provided by statute, notice under~~  
29 ~~this title shall be given by any of the following means:~~

30 ~~(a) Personal delivery.~~

31 ~~(b) Mail in the manner provided in Section 8110.~~

32 ~~(c) Leaving the notice and mailing a copy in the manner~~  
33 ~~provided in Section 415.20 of the Code of Civil Procedure for~~  
34 ~~service of summons and complaint in a civil action.~~

35 ~~8108. Except as otherwise provided by this part, notice under~~  
36 ~~this title shall be given to the person to be notified at the person's~~  
37 ~~residence, the person's place of business, or at any of the following~~  
38 ~~addresses:~~

1 (a) If the person to be notified is an owner, the owner’s address  
2 shown on the direct contract, the building permit, or a construction  
3 trust deed.

4 (b) If the person to be notified is a construction lender, the  
5 construction lender’s address shown on the construction loan  
6 agreement or construction trust deed.

7 (c) If the person to be notified is a direct contractor or a  
8 subcontractor, the contractor’s address shown on the building  
9 permit, on the contractor’s contract, or on the records of the  
10 Contractors’ State License Board.

11 (d) If the person to be notified is a claimant, the claimant’s  
12 address shown on the claimant’s contract, preliminary notice, claim  
13 of lien, stop payment notice, or claim against a payment bond, or  
14 on the records of the Contractors’ State License Board.

15 (e) If the person to be notified is a surety on a bond, the surety’s  
16 address shown on the bond for service of notices, papers, and other  
17 documents, or on the records of the Department of Insurance.

18 8110. Except as otherwise provided by this title, notice by mail  
19 under this title shall be given by registered or certified mail, express  
20 mail, or overnight delivery by an express service carrier.

21 8112. (a) As used in this section, “electronic record” has the  
22 meaning provided in Section 1633.2.

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

26 (c) If a person that has agreed to receive a notice in the form of  
27 an electronic record is a consumer within the meaning of Section  
28 7006 of Title 15 of the United States Code, the person’s agreement  
29 shall satisfy the requirements of Section 7001 of Title 15 of the  
30 United States Code relating to consumer consent to an electronic  
31 record.

32 8114. A notice required by this title to be posted shall be  
33 displayed in a conspicuous location at the site and at the main  
34 office of the site, if one exists.

35 8116. Notice under this title is complete and deemed to have  
36 been given at the following times:

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

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

1 ~~(e) If given by leaving the notice and mailing a copy in the~~  
2 ~~manner provided in Section 415.20 of the Code of Civil Procedure~~  
3 ~~for service of summons in a civil action, five days after mailing.~~

4 ~~(d) If given by posting, when displayed.~~

5 ~~(e) If given by recording, when recorded in the office of the~~  
6 ~~county recorder.~~

7 ~~(f) If given in the form of an electronic record, when the~~  
8 ~~electronic record is transmitted.~~

9 8118. ~~(a) Proof that notice was given to a person in the manner~~  
10 ~~required by this title shall be made by a proof of notice declaration~~  
11 ~~that states all of the following:~~

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

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

15 ~~(3) The name and address of the person to which notice was~~  
16 ~~given, and, if appropriate, the title or capacity in which the person~~  
17 ~~was given notice.~~

18 ~~(b) If the notice is given by mail, the declaration shall be~~  
19 ~~accompanied by one of the following:~~

20 ~~(1) Documentation provided by the United States Postal Service~~  
21 ~~showing that payment was made to mail the notice using registered~~  
22 ~~or certified mail, or express mail.~~

23 ~~(2) Documentation provided by an express service carrier~~  
24 ~~showing that payment was made to send the notice using an~~  
25 ~~overnight delivery service.~~

26 ~~(3) A return receipt, delivery confirmation, signature~~  
27 ~~confirmation, tracking record, or other proof of delivery or~~  
28 ~~attempted delivery provided by the United States Postal Service,~~  
29 ~~or a photocopy of the record of delivery and receipt maintained~~  
30 ~~by the United States Postal Service, showing the date of delivery~~  
31 ~~and to whom delivered, or in the event of nondelivery, by the~~  
32 ~~returned envelope itself.~~

33 ~~(4) A tracking record or other documentation provided by an~~  
34 ~~express service carrier showing delivery or attempted delivery of~~  
35 ~~the notice.~~

36 ~~(e) If notice is given in the form of an electronic record, the~~  
37 ~~declaration shall also state that the document was served~~  
38 ~~electronically and that no notice of nontransmission was received,~~  
39 ~~and shall be accompanied by the recipient's written agreement to~~  
40 ~~receive the notice in the form of an electronic record.~~

1 TITLE 1. WORKS OF IMPROVEMENT GENERALLY

2  
3 CHAPTER 1. GENERAL PROVISIONS

4  
5 Article 1. Definitions

6  
7 8000. Unless the provision or context otherwise requires, the  
8 definitions in this article govern the construction of this title.

9 8002. "Admitted surety insurer" has the meaning provided in  
10 Section 995.120 of the Code of Civil Procedure.

11 8004. "Claimant" means a person that has a right under this  
12 part to record a claim of lien, give a stop payment notice, or assert  
13 a claim against a payment bond, or do any combination of the  
14 foregoing.

15 8006. "Construction lender" means either of the following:

16 (a) A mortgagee or beneficiary under a deed of trust lending  
17 funds with which the cost of all or part of a work of improvement  
18 is to be paid, or the assignee or successor in interest of the  
19 mortgagee or beneficiary.

20 (b) An escrow holder or other person holding funds provided  
21 by an owner, lender, or another person as a fund for with which  
22 the cost of all or part of a work of improvement is to be paid.

23 8008. "Contract" means an agreement that provides for all  
24 or part of a work of improvement.

25 8010. "Contract price" means the price agreed to in a direct  
26 contract for a work of improvement.

27 8012. "Contractor" includes a direct contractor,  
28 subcontractor, or both. This section does not apply to Sections  
29 8018 and 8046.

30 8014. "Design professional" means a person licensed as an  
31 architect pursuant to Chapter 3 (commencing with Section 5500)  
32 of Division 3 of the Business and Professions Code, licensed as a  
33 landscape architect pursuant to Chapter 3.5 (commencing with  
34 Section 5615) of Division 3 of the Business and Professions Code,  
35 registered as a professional engineer pursuant to Chapter 7  
36 (commencing with Section 6700) of Division 3 of the Business and  
37 Professions Code, or licensed as a land surveyor pursuant to  
38 Chapter 15 (commencing with Section 8700) of Division 3 of the  
39 Business and Professions Code.



1 8016. “Direct contract” means a contract between an owner  
2 and a direct contractor that provides for all or part of a work of  
3 improvement.

4 8018. “Direct contractor” means a contractor that has a direct  
5 contractual relationship with an owner. A reference in another  
6 statute to a “prime contractor” in connection with the provisions  
7 in this part means a “direct contractor.”

8 8020. For the purposes of Title 3 (commencing with Section  
9 9000), “funds” means warrant, check, money, or bonds (if bonds  
10 are to be issued in payment of the public works contract).

11 8022. “Labor, service, equipment, or material” includes, but  
12 is not limited to, labor, skills, services, material, supplies,  
13 equipment, appliances, power, and surveying, provided for a work  
14 of improvement.

15 8024. (a) “Laborer” means a person who, acting as an  
16 employee, performs labor upon, or bestows skill or other necessary  
17 services on, a work of improvement.

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

24 (c) A person or entity described in subdivision (b) that has  
25 standing under applicable law to maintain a direct legal action,  
26 in its own name or as an assignee, to collect any portion of  
27 compensation owed for a laborer for a work of improvement, shall  
28 have standing to enforce any rights or claims of the laborer under  
29 this part, to the extent of the compensation agreed to be paid to  
30 the person or entity for labor on that improvement. This subdivision  
31 is intended to give effect to the longstanding public policy of this  
32 state to protect the entire compensation of a laborer on a work of  
33 improvement, regardless of the form in which that compensation  
34 is to be paid.

35 8026. “Lien” means a lien under Title 2 (commencing with  
36 Section 8160) and includes a lien of a design professional under  
37 Section 8302, a lien for a work of improvement under Section  
38 8400, and a lien for a site improvement under Section 8402.

1 8028. *“Material supplier” means a person that provides*  
2 *material or supplies to be used or consumed in a work of*  
3 *improvement.*

4 8030. (a) *For the purposes of Title 2 (commencing with Section*  
5 *8160), “payment bond” means a bond given under Section 8600.*

6 (b) *For the purposes of Title 3 (commencing with Section 9000),*  
7 *“payment bond” means a bond required by Section 9550.*

8 8032. *“Person” means an individual, corporation, public*  
9 *entity, business trust, estate, trust, partnership, limited liability*  
10 *company, association, or other entity.*

11 8034. (a) *For the purposes of Title 2 (commencing with Section*  
12 *8160), “preliminary notice” means the notice provided for in*  
13 *Chapter 2 (commencing with Section 8200) of Title 2.*

14 (b) *For the purposes of Title 3 (commencing with Section 9000),*  
15 *“preliminary notice” means the notice provided for in Chapter 3*  
16 *(commencing with Section 9300) of Title 3.*

17 8036. *“Public entity” means the state, Regents of the University*  
18 *of California, a county, city, district, public authority, public*  
19 *agency, and any other political subdivision or public corporation*  
20 *in the state.*

21 8038. *“Public works contract” has the meaning provided in*  
22 *Section 1101 of the Public Contract Code.*

23 8040. *“Site” means the real property on which a work of*  
24 *improvement is situated or planned.*

25 8042. *“Site improvement” means any of the following work*  
26 *on real property:*

27 (a) *Demolition or removal of improvements, trees, or other*  
28 *vegetation.*

29 (b) *Drilling test holes.*

30 (c) *Grading, filling, or otherwise improving the real property*  
31 *or a street, highway, or sidewalk in front of or adjoining the real*  
32 *property.*

33 (d) *Construction or installation of sewers or other public*  
34 *utilities.*

35 (e) *Construction of areas, vaults, cellars, or rooms under*  
36 *sidewalks.*

37 (f) *Any other work or improvements in preparation of the site*  
38 *for a work of improvement.*

39 8044. (a) (1) *For the purposes of Title 2 (commencing with*  
40 *Section 8160), “stop payment notice” means the notice given by*

1 a claimant under Chapter 5 (commencing with Section 8500) of  
2 Title 2.

3 (2) A stop payment notice given under Title 2 (commencing with  
4 Section 8160) may be bonded or unbonded. A “bonded stop  
5 payment notice” is a notice given with a bond under Section 8532.  
6 An “unbonded stop payment notice” is a notice not given with a  
7 bond under Section 8532.

8 (3) Except to the extent Title 2 (commencing with Section 8160)  
9 distinguishes between a bonded and an unbonded stop payment  
10 notice, a reference in that title to a stop payment notice includes  
11 both a bonded and an unbonded notice.

12 (b) For the purposes of Title 3 (commencing with Section 9000),  
13 “stop payment notice” means the notice given by a claimant under  
14 Chapter 4 (commencing with Section 9350) of Title 3.

15 (c) A reference in another statute to a “stop notice” in  
16 connection with the remedies provided in this part means a stop  
17 payment notice.

18 8046. “Subcontractor” means a contractor that does not have  
19 a direct contractual relationship with an owner. The term includes  
20 a contractor that has a contractual relationship with a direct  
21 contractor or with another subcontractor.

22 8048. “Work” means labor, service, equipment, or material  
23 provided to a work of improvement.

24 8050. (a) “Work of improvement” includes, but is not limited  
25 to:

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

29 (2) Seeding, sodding, or planting of real property for  
30 landscaping purposes.

31 (3) Filling, leveling, or grading of real property.

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

35

## 36 Article 2. Miscellaneous Provisions

37

38 8052. (a) This part is operative on January 1, 2012.

39 (b) Notwithstanding subdivision (a), the effectiveness of a notice  
40 given or other action taken on a work of improvement before

1 *January 1, 2012, is governed by the applicable law in effect before*  
2 *January 1, 2012, and not by this part.*

3 *(c) A provision of this part, insofar as it is substantially the*  
4 *same as a previously existing provision relating to the same subject*  
5 *matter, shall be construed as a restatement and continuation*  
6 *thereof and not as a new enactment.*

7 *8054. (a) This part does not apply to a transaction governed*  
8 *by the Oil and Gas Lien Act (Chapter 2.5 (commencing with*  
9 *Section 1203.50) of Title 4 of Part 3 of the Code of Civil*  
10 *Procedure).*

11 *(b) This part does not apply to or change improvement security*  
12 *under the Subdivision Map Act (Division 2 (commencing with*  
13 *Section 66410) of Title 7 of the Government Code).*

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

16 *8056. Except as otherwise provided in this part, Part 2*  
17 *(commencing with Section 307) of the Code of Civil Procedure*  
18 *provides the rules of practice in proceedings under this part.*

19 *8058. For purposes of this part, “day” means a calendar day.*

20 *8060. (a) If this part provides for filing a contract, plan, or*  
21 *other paper with the county recorder, the provision is satisfied by*  
22 *filing the paper in the office of the county recorder of the county*  
23 *in which the work of improvement or part of it is situated.*

24 *(b) If this part provides for recording a notice, claim of lien,*  
25 *release of lien, payment bond, or other paper, the provision is*  
26 *satisfied by filing the paper for record in the office of the county*  
27 *recorder of the county in which the work of improvement or part*  
28 *of it is situated.*

29 *(c) The county recorder shall number, index, and preserve a*  
30 *contract, plan, or other paper presented for filing under this part,*  
31 *and shall number, index, and transcribe into the official records,*  
32 *in the same manner as a conveyance of real property, a notice,*  
33 *claim of lien, payment bond, or other paper recorded under this*  
34 *part.*

35 *(d) The county recorder shall charge and collect the fees*  
36 *provided in Article 5 (commencing with Section 27360) of Chapter*  
37 *6 of Part 3 of Division 2 of Title 3 of the Government Code for*  
38 *performing duties under this section.*

39 *8062. No act of an owner in good faith and in compliance with*  
40 *a provision of this part shall be construed to prevent a direct*

1 contractor's performance of the contract, or exonerate a surety  
2 on a performance or payment bond.

3 8064. An owner may give a notice or execute or file a document  
4 under this part on behalf of a co-owner if the owner acts on the  
5 co-owner's behalf and includes in the notice or document the name  
6 and address of the co-owner on whose behalf the owner acts.

7 8066. An act that may be done by or to a person under this  
8 part may be done by or to the person's agent to the extent the act  
9 is within the scope of the agent's authority.

10

11

CHAPTER 2. NOTICE

12

13 8100. Notice under this part shall be in writing. Writing  
14 includes printing and typewriting.

15 8102. (a) Notice under this part 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:

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

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

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

22 (4) A description of the site sufficient for identification, including  
23 the street address of the site, if any. If a sufficient legal description  
24 of the site is given, the effectiveness of the notice is not affected  
25 by the fact that the street address is erroneous or is 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 substantially  
35 inform the person given notice of the information required by this  
36 section and other information required in the notice.

37 8104. (a) A direct contractor or subcontractor on a work of  
38 improvement governed by this part that employs a laborer and  
39 fails to pay the full compensation due the laborer, including any  
40 employer payments described in Section 1773.1 of the Labor Code

1 and implementing regulations, shall not later than the date the  
2 compensation became delinquent, give the laborer, the laborer's  
3 bargaining representative, if any, the construction lender or  
4 reputed construction lender, if any, and the owner or reputed  
5 owner, notice that includes all of the following information, in  
6 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 8024 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) of  
16 Division 3 of the Business and Professions Code.

17 8106. Except as otherwise provided by statute, notice under  
18 this part 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 part 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 other than a public  
29 entity, the owner's address shown on the direct contract, the  
30 building permit, or a construction trust deed.

31 (b) If the person to be notified is a public entity, the office of  
32 the public entity or another address specified by the public entity  
33 in the contract or elsewhere for service of notices, papers, and  
34 other documents.

35 (c) If the person to be notified is a construction lender, the  
36 construction lender's address shown on the construction loan  
37 agreement or construction trust deed.

38 (d) If the person to be notified is a direct contractor or a  
39 subcontractor, the contractor's address shown on the building

1 permit, on the contractor's contract, or on the records of the  
2 Contractors' State License Board.

3 (e) If the person to be notified is a claimant, the claimant's  
4 address shown on the claimant's contract, preliminary notice,  
5 claim of lien, stop payment notice, or claim against a payment  
6 bond, or on the records of the Contractors' State License Board.

7 (f) If the person to be notified is a surety on a bond, the surety's  
8 address shown on the bond for service of notices, papers, and  
9 other documents, or on the records of the Department of Insurance.

10 8110. Except as otherwise provided by this part, notice by mail  
11 under this part shall be given by registered or certified mail,  
12 express mail, or overnight delivery by an express service carrier.

13 8114. A notice required by this part to be posted shall be  
14 displayed in a conspicuous location at the site.

15 8116. Notice under this part is complete and deemed to have  
16 been given at the following times:

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

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

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

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

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

27 8118. (a) Proof that notice was given to a person in the manner  
28 required by this part shall be made by a proof of notice declaration  
29 that states all of the following:

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

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

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

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

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

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

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

11 (4) A tracking record or other documentation provided by an  
12 express service carrier showing delivery or attempted delivery of  
13 the notice.

14  
15 *CHAPTER 3. WAIVER AND RELEASE*

16  
17 8120. The provisions of this chapter apply to a work of  
18 improvement governed by this part.

19 8122. An owner, direct contractor, or subcontractor may not,  
20 by contract or otherwise, waive, affect, or impair any other  
21 claimant's rights under this part, whether with or without notice,  
22 and any term of a contract that purports to do so is void and  
23 unenforceable unless and until the claimant executes and delivers  
24 a waiver and release under this article.

25 8124. A claimant's waiver and release does not release the  
26 owner, construction lender, or surety on a payment bond from a  
27 lien or claim unless both of the following conditions are satisfied:

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

30 (b) If the release is a conditional release, there is evidence of  
31 payment to the claimant. Evidence of payment may be either of  
32 the following:

33 (1) The claimant's endorsement on a single or joint payee check  
34 that has been paid by the financial institution on which it was  
35 drawn.

36 (2) Written acknowledgment of payment by the claimant.

37 8126. An oral or written statement purporting to waive, release,  
38 impair or otherwise adversely affect a lien or claim is void and  
39 unenforceable and does not create an estoppel or impairment of



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

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

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

7 8128. *(a) A claimant may reduce the amount of, or release in*  
8 *its entirety, a stop payment notice. The reduction or release shall*  
9 *be in writing and may be given in a form other than a waiver and*  
10 *release form provided in this article.*

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

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

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

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

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

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

30 8130. *This article does not affect the enforceability of either*  
31 *an accord and satisfaction concerning a good faith dispute or an*  
32 *agreement made in settlement of an action pending in court if the*  
33 *accord and satisfaction or agreement and settlement make specific*  
34 *reference to the lien or claim.*

35 8132. *If a claimant is required to execute a waiver and release*  
36 *in exchange for, or in order to induce payment of, a progress*  
37 *payment and the claimant is not, in fact, paid in exchange for the*  
38 *waiver and release or a single payee check or joint payee check*  
39 *is given in exchange for the waiver and release, the waiver and*

1 release shall be null, void, and unenforceable unless it is in  
2 substantially the following form:

3

4 *CONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT*

5

6 *NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP*  
7 *PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON*  
8 *RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS*  
9 *DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED*  
10 *PAYMENT.*

11

12 *Identifying Information*

13 *Name of Claimant:* \_\_\_\_\_

14 *Name of Customer:* \_\_\_\_\_

15 *Job Location:* \_\_\_\_\_

16 *Owner:* \_\_\_\_\_

17 *Through Date:* \_\_\_\_\_

18

19 *Conditional Waiver and Release*

20

21 *This document waives and releases lien, stop payment notice, and payment*  
22 *bond rights the claimant has for labor and service provided, and equipment*  
23 *and material delivered, to the customer on this job through the Through Date*  
24 *of this document. Rights based upon labor or service provided, or equipment*  
25 *or material delivered, pursuant to a written change order that has been fully*  
26 *executed by the parties prior to the date that this document is signed by the*  
27 *claimant, are waived and released by this document, unless listed as an*  
28 *Exception below. This document is effective only on the claimant's receipt of*  
29 *payment from the financial institution on which the following check is drawn:*

30

31 *Maker of Check:* \_\_\_\_\_

32 *Amount of Check:* \_\_\_\_\_

33 *Check Payable to:* \_\_\_\_\_

34

35 *Exceptions*

36

37 *This document does not affect any of the following:*

38 *(1) Retentions.*

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

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

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

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

5 (4) Contract rights, including (A) a right based on rescission, abandonment,  
6 or breach of contract, and (B) the right to recover compensation for work not  
7 compensated by the payment.

8

9 Signature

10

11 Claimant's Signature: \_\_\_\_\_

12 Claimant's Title: \_\_\_\_\_

13 Date of Signature: \_\_\_\_\_

14

15 8134. If the claimant is required to execute a waiver and  
16 release in exchange for, or in order to induce payment of, a  
17 progress payment and the claimant asserts in the waiver that the  
18 claimant has, in fact, been paid the progress payment, the waiver  
19 and release shall be null, void, and unenforceable unless it is 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  
27 LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS  
28 UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR  
29 GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE  
30 AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID.  
31 IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND  
32 RELEASE FORM.

33

34 Identifying Information

35 Name of Claimant: \_\_\_\_\_

36 Name of Customer: \_\_\_\_\_

37 Job Location: \_\_\_\_\_

38 Owner: \_\_\_\_\_

39 Through Date: \_\_\_\_\_

40

1 *Unconditional Waiver and Release*

2

3 *This document waives and releases lien, stop payment notice, and payment*  
4 *bond rights the claimant has for labor and service provided, and equipment*  
5 *and material delivered, to the customer on this job through the Through Date*  
6 *of this document. Rights based upon labor or service provided, or equipment*  
7 *or material delivered, pursuant to a written change order that has been fully*  
8 *executed by the parties prior to the date that this document is signed by the*  
9 *claimant, are waived and released by this document, unless listed as an*  
10 *Exception below. The claimant has received the following progress payment:*  
11 *\$ \_\_\_\_\_*

12

13 *Exceptions*

14

15 *This document does not affect any of the following:*

16 *(1) Retentions.*

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

18 *(3) Contract rights, including (A) a right based on rescission, abandonment,*  
19 *or breach of contract, and (B) the right to recover compensation for work not*  
20 *compensated by the payment.*

21

22 *Signature*

23

24 *Claimant's Signature: \_\_\_\_\_*

25 *Claimant's Title: \_\_\_\_\_*

26 *Date of Signature: \_\_\_\_\_*

27

28 *8136. If the claimant is required to execute a waiver and*  
29 *release in exchange for, or in order to induce payment of, a final*  
30 *payment and the claimant is not, in fact, paid in exchange for the*  
31 *waiver and release or a single payee check or joint payee check*  
32 *is given in exchange for the waiver and release, the waiver and*  
33 *release shall be null, void, and unenforceable unless it is in*  
34 *substantially the following form:*

35

36 *CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT*

37

38 *NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP*  
39 *PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON*  
40 *RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS*

1 DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED  
2 PAYMENT.

3  
4 *Identifying Information*

5 *Name of Claimant:* \_\_\_\_\_

6 *Name of Customer:* \_\_\_\_\_

7 *Job Location:* \_\_\_\_\_

8 *Owner:* \_\_\_\_\_

9  
10 *Conditional Waiver and Release*

11  
12 *This document waives and releases lien, stop payment notice, and payment*  
13 *bond rights the claimant has for labor and service provided, and equipment*  
14 *and material delivered, to the customer on this job. Rights based upon labor*  
15 *or service provided, or equipment or material delivered, pursuant to a written*  
16 *change order that has been fully executed by the parties prior to the date that*  
17 *this document is signed by the claimant, are waived and released by this*  
18 *document, unless listed as an Exception below. This document is effective only*  
19 *on the claimant's receipt of payment from the financial institution on which*  
20 *the following check is drawn:*

21  
22 *Maker of Check:* \_\_\_\_\_

23 *Amount of Check:* \_\_\_\_\_

24 *Check Payable to:* \_\_\_\_\_

25  
26 *Exceptions*

27  
28 *This document does not affect any of the following:*  
29 *Disputed claims for extras in the amount of: \$* \_\_\_\_\_

30  
31 *Signature*

32  
33 *Claimant's Signature:* \_\_\_\_\_

34 *Claimant's Title:* \_\_\_\_\_

35 *Date of Signature:* \_\_\_\_\_

36  
37 *8138. If the claimant is required to execute a waiver and*  
38 *release in exchange for, or in order to induce payment of, a final*  
39 *payment and the claimant asserts in the waiver that the claimant*  
40 *has, in fact, been paid the final payment, the waiver and release*

1 shall be null, void, and unenforceable unless it is in substantially  
2 the following form, with the text of the "Notice to Claimant" in at  
3 least as large a type as the largest type otherwise in the form:

4

5 UNCONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

6

7 NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES  
8 LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS  
9 UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR  
10 GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE  
11 AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID.  
12 IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND  
13 RELEASE FORM.

14

15 Identifying Information

16 Name of Claimant: \_\_\_\_\_

17 Name of Customer: \_\_\_\_\_

18 Job Location: \_\_\_\_\_

19 Owner: \_\_\_\_\_

20

21 Unconditional Waiver and Release

22

23 This document waives and releases lien, stop payment notice, and payment  
24 bond rights the claimant has for all labor and service provided, and equipment  
25 and material delivered, to the customer on this job. Rights based upon labor  
26 or service provided, or equipment or material delivered, pursuant to a written  
27 change order that has been fully executed by the parties prior to the date that  
28 this document is signed by the claimant, are waived and released by this  
29 document, unless listed as an Exception below. The claimant has been paid  
30 in full.

31

32 Exceptions

33

34 This document does not affect the following:

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

36

37 Signature

38

39 Claimant's Signature: \_\_\_\_\_

40 Claimant's Title: \_\_\_\_\_

1 Date of Signature: \_\_\_\_\_

2

3

CHAPTER 4. BONDS

4

5 8150. The Bond and Undertaking Law (Chapter 2 (commencing  
6 with Section 995.010) of Title 14 of Part 2 of the Code of Civil  
7 Procedure) applies to a bond given under this part, except to the  
8 extent this part prescribes a different rule or is inconsistent.

9 8152. None of the following releases a surety from liability on  
10 a bond given under this part:

11 (a) A change, alteration, or modification to a contract, plan,  
12 specification, or agreement for a work of improvement or for work  
13 provided for a work of improvement.

14 (b) A change or modification to the terms of payment or an  
15 extension of the time for payment for a work of improvement.

16 (c) A rescission or attempted rescission of a contract, agreement,  
17 or bond.

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

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

24 8154. (a) A bond given under this part shall be construed most  
25 strongly against the surety and in favor of all persons for whose  
26 benefit the bond is given.

27 (b) A surety is not released from liability to those for whose  
28 benefit the bond has been given by reason of a breach of the direct  
29 contract or on the part of any obligee named in the bond.

30 (c) Except as otherwise provided by statute, the sole conditions  
31 of recovery on the bond are that the claimant is a person described  
32 in Article 1 (commencing with Section 8400) of Chapter 4 of Title  
33 2, or in Section 9100, and has not been paid the full amount of the  
34 claim.

1 TITLE 2. PRIVATE WORKS OF IMPROVEMENT

2  
3 CHAPTER 1. GENERAL PROVISIONS

4  
5 Article 1. Application of Title

6  
7 8160. This title applies to a work of improvement that is not  
8 governed by Title 3 (commencing with Section 9000) of this part.

9  
10 Article 42. Construction Documents

11  
12 ~~8130.~~

13 8170. (a) A written direct contract shall provide a space for  
14 the owner to enter the following information:

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

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

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

21 (b) A written contract entered into between a direct contractor  
22 and subcontractor, or between subcontractors, shall provide a space  
23 for the name and address of the owner, direct contractor, and  
24 construction lender, if any.

25 ~~8132.~~

26 8172. (a) A public entity that issues building permits shall, in  
27 its application form for a building permit, provide space and a  
28 designation for the applicant to enter the name, branch designation,  
29 if any, and address of the construction lender and shall keep the  
30 information on file open for public inspection during the regular  
31 business hours of the public entity.

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

34 (c) Failure of the applicant to indicate the name and address of  
35 the construction lender on the application does not relieve a person  
36 required to give the construction lender preliminary notice from  
37 that duty.

38 ~~8134.~~

39 8174. (a) A mortgage, deed of trust, or other instrument  
40 securing a loan, any of the proceeds of which may be used for a



1 work of improvement, shall bear the designation “Construction  
2 Trust Deed” prominently on its face and shall state all of the  
3 following:

- 4 (1) The name and address of the construction lender.
- 5 (2) The name and address of the owner of the *real* property  
6 described in the instrument.
- 7 (3) A legal description of the *real* property that secures the loan  
8 and, if known, the street address of the property.
- 9 (b) Failure to comply with subdivision (a) does not affect the  
10 validity of the mortgage, deed of trust, or other instrument.
- 11 (c) Failure to comply with subdivision (a) does not relieve a  
12 person required to give preliminary notice from that duty.
- 13 (d) The county recorder of the county in which the instrument  
14 is recorded shall indicate in the general index of the official records  
15 of the county that the instrument secures a construction loan.

16  
17 **Article 5. Bonds**  
18

19 ~~8140. The Bond and Undertaking Law, Chapter 2 (commencing~~  
20 ~~with Section 995.010) of Title 14 of Part 2 of the Code of Civil~~  
21 ~~Procedure, applies to a bond given under this title, except to the~~  
22 ~~extent this title prescribes a different rule or is inconsistent.~~

23 ~~8142. None of the following releases a surety from liability on~~  
24 ~~a bond given under this title:~~

- 25 ~~(a) A change to a contract, plan, specification, or agreement for~~  
26 ~~a work of improvement or for work provided for a work of~~  
27 ~~improvement.~~
- 28 ~~(b) A change to the terms of payment or an extension of the~~  
29 ~~time for payment for a work of improvement.~~
- 30 ~~(c) A rescission or attempted rescission of a contract, agreement,~~  
31 ~~or bond.~~
- 32 ~~(d) A condition precedent or subsequent in the bond purporting~~  
33 ~~to limit the right of recovery of a claimant otherwise entitled to~~  
34 ~~recover pursuant to a contract, agreement, or bond.~~
- 35 ~~(e) In the case of a bond given for the benefit of claimants, the~~  
36 ~~fraud of a person other than the claimant seeking to recover on the~~  
37 ~~bond.~~

38 ~~8144. (a) A bond given under this title shall be construed most~~  
39 ~~strongly against the surety and in favor of the beneficiary.~~

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

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

8

9

Article 6.3. Completion

10

11 ~~8150.~~

12

13 ~~8180.~~ (a) For the purpose of this title, completion of a work  
14 ~~of improvement occurs at the earliest of the following times upon~~  
15 ~~the occurrence of any of the following events:~~

15

(1) Actual completion of the work of improvement.

16

16 (2) Occupation or use by the owner accompanied by cessation  
17 of labor.

17

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

18

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

19

20 (b) Notwithstanding subdivision (a), if a work of improvement  
21 is subject to acceptance by a public entity, completion occurs on  
22 acceptance.

23

24 ~~8152.~~

25

25 ~~8182.~~ (a) An owner may record a notice of completion on or  
26 within 15 days after the date of completion of a work of  
27 improvement.

28

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

29

30 (c) The notice shall comply with ~~Section 8102~~ *the requirements*  
31 *of Chapter 2 (commencing with Section 8100) of Title 1*, and shall  
32 also include all of the following information:

33

33 (1) If the notice is given only of completion of a contract for a  
34 particular portion of the work of improvement as provided in  
35 ~~Section 8154~~ *8186*, the name of the direct contractor under that  
36 contract and a general statement of the work provided pursuant to  
37 the contract.

38

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

39

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

1 (4) The date of completion. An erroneous statement of the date  
2 of completion does not affect the effectiveness of the notice if the  
3 true date of completion is 15 days or less before the date of  
4 recordation of the notice.

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

7 (e) *For the purpose of this section, “owner” means the owner*  
8 *who causes a building, improvement, or structure to be constructed,*  
9 *altered, or repaired, or that person’s successor in interest at the*  
10 *date a notice of completion is recorded, whether the interest or*  
11 *estate of the owner be in fee, as vendee under a contract of*  
12 *purchase, as lessee, or other interest or estate less than the fee.*  
13 *Where the interest or estate is held by two or more persons as joint*  
14 *tenants or tenants in common, any one or more of the cotenants*  
15 *may be deemed to be the “owner” within the meaning of this*  
16 *section.*

17 ~~8153.~~

18 8184. A notice of completion in otherwise proper form, verified  
19 and containing the information required by this title, shall be  
20 accepted by the recorder for recording and is deemed duly recorded  
21 without acknowledgment.

22 ~~8154.~~

23 8186. If a work of improvement is made pursuant to two or  
24 more direct contracts, each covering a portion of the work of  
25 improvement:

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

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

35 ~~8155.~~

36 8188. (a) An owner may record a notice of cessation if there  
37 has been a continuous cessation of labor on a work of improvement  
38 for at least 30 days prior to the recordation that continues through  
39 the date of the recordation.

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

1 (c) The notice shall comply with the requirements of ~~Article 4~~  
2 ~~(commencing with Section 8100)~~ Chapter 2 (commencing with  
3 Section 8100) of Title 1, and shall also include all of the following  
4 information:

- 5 (1) The date on or about which labor ceased.
- 6 (2) A statement that the cessation has continued until the  
7 recordation of the notice.

8 (d) *For the purpose of this section, “owner” means the owner*  
9 *who causes a building, improvement, or structure to be constructed,*  
10 *altered, or repaired, or that person’s successor in interest at the*  
11 *date a notice of cessation is recorded, whether the interest or estate*  
12 *of the owner be in fee, as vendee under a contract of purchase, as*  
13 *lessee, or other interest or estate less than the fee. Where the*  
14 *interest or estate is held by two or more persons as joint tenants*  
15 *or tenants in common, any one or more of the cotenants may be*  
16 *deemed to be the “owner” within the meaning of this section.*

17 ~~8156.~~

18 8190. (a) An owner that records a notice of completion or  
19 cessation shall, within 10 days of the date the notice of completion  
20 or cessation is filed for record, give a copy of the notice to all of  
21 the following persons:

- 22 (1) A direct contractor.
- 23 (2) A claimant that has given the owner preliminary notice.

24 (b) The copy of the notice shall be given in compliance with  
25 the requirements of ~~Article 3 (commencing with Section 8100)~~  
26 Chapter 2 (commencing with Section 8100) of Title 1.

27 (c) If the owner fails to give notice to a person as required by  
28 subdivision (a), the notice is ineffective to shorten the time within  
29 which that person may record a claim of lien under Sections 8412  
30 and 8414. The ineffectiveness of the notice is the sole liability of  
31 the owner for failure to give notice to a person under subdivision

32 (a).

33 (d) ~~This~~ *For the purpose of this section, “owner” means a*  
34 *person who has an interest in real property, or the person’s*  
35 *successor in interest on the date a notice of completion or notice*  
36 *of cessation is recorded, who causes a building, improvement, or*  
37 *structure, to be constructed, altered, or repaired on the property.*  
38 *If the property is owned by two or more persons as joint tenants*  
39 *or tenants in common, any one or more of the cotenants may be*  
40 *deemed to be the “owner” within the meaning of this section.*

1 *However, this* section does not apply to any of the following  
2 owners:

3 (1) A person that occupies the *real* property as a personal  
4 residence, if the dwelling contains four or fewer residential units.

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

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

8

9

Article 7. Waiver and Release

10

11 ~~8160. An owner, direct contractor, or subcontractor may not,~~  
12 ~~by contract or otherwise, waive, affect, or impair any other~~  
13 ~~claimant's rights under this title, whether with or without notice,~~  
14 ~~and any term of a contract that purports to do so is void and~~  
15 ~~unenforceable unless and until the claimant executes and delivers~~  
16 ~~a waiver and release under this article.~~

17 ~~8162. A claimant's waiver and release does not release the~~  
18 ~~owner, construction lender, or surety on a payment bond from a~~  
19 ~~lien or claim unless both of the following conditions are satisfied:~~

20 ~~(a) The waiver and release is in substantially the form provided~~  
21 ~~in this article and is signed by the claimant.~~

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

27 ~~8164. An oral or written statement purporting to waive, release,~~  
28 ~~impair or otherwise adversely affect a lien or claim is void and~~  
29 ~~unenforceable and does not create an estoppel or impairment of~~  
30 ~~the lien or claim unless either of the following conditions is~~  
31 ~~satisfied:~~

32 ~~(a) The statement is pursuant to a waiver and release under this~~  
33 ~~article.~~

34 ~~(b) The claimant has actually received payment in full for the~~  
35 ~~claim.~~

36 ~~8166. (a) A claimant may reduce the amount of, or release in~~  
37 ~~its entirety, a stop payment notice. The reduction or release shall~~  
38 ~~be in writing and may be given in a form other than a waiver and~~  
39 ~~release form provided in this article.~~

1 (b) ~~The writing shall identify whether it is a reduction of the~~  
2 ~~amount of the stop payment notice, or a release of the notice in its~~  
3 ~~entirety. If the writing is a reduction, it shall state the amount of~~  
4 ~~the reduction, and the amount to remain withheld after the~~  
5 ~~reduction.~~

6 (e) ~~A claimant’s reduction or release of a stop payment notice~~  
7 ~~has the following effect:~~

8 (1) ~~The reduction or release releases the claimant’s right to~~  
9 ~~enforce payment of the claim stated in the notice to the extent of~~  
10 ~~the reduction or release.~~

11 (2) ~~The reduction or release releases the person given the notice~~  
12 ~~from the obligation to withhold funds pursuant to the notice to the~~  
13 ~~extent of the reduction or release.~~

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

16 (4) ~~The reduction or release does not release any right of the~~  
17 ~~claimant other than the right to enforce payment of the claim stated~~  
18 ~~in the stop payment notice to the extent of the reduction or release.~~

19 8168. ~~This article does not affect the enforceability of either~~  
20 ~~an accord and satisfaction concerning a good faith dispute or an~~  
21 ~~agreement made in settlement of an action pending in court if the~~  
22 ~~accord and satisfaction or agreement and settlement make specific~~  
23 ~~reference to the lien or claim.~~

24 8170. ~~If a claimant is required to execute a waiver and release~~  
25 ~~in exchange for, or in order to induce payment of, a progress~~  
26 ~~payment and the claimant is not, in fact, paid in exchange for the~~  
27 ~~waiver and release or a single payee check or joint payee check is~~  
28 ~~given in exchange for the waiver and release, the waiver and release~~  
29 ~~shall be in substantially the following form:~~

30

31 ~~Conditional Waiver and Release on Progress Payment~~

32

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

36

37 ~~Identifying Information~~

38 ~~Name of Claimant: \_\_\_\_\_~~

39 ~~Name of Customer: \_\_\_\_\_~~

40 ~~Job Location: \_\_\_\_\_~~

1 Owner: \_\_\_\_\_  
2 Through Date: \_\_\_\_\_

3  
4 Conditional Waiver and Release

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

10 Maker of Check: \_\_\_\_\_  
11 Amount of Check: \$ \_\_\_\_\_  
12 Check Payable to: \_\_\_\_\_

13  
14 Exceptions

15 This document does not affect any of the following:

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

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

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

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

25  
26 Signature

27 Claimant's Signature: \_\_\_\_\_

28 Claimant's Title: \_\_\_\_\_

29 Date of Signature: \_\_\_\_\_

30  
31 8172. If the claimant is required to execute a waiver and release  
32 in exchange for, or in order to induce payment of, a progress  
33 payment and the claimant asserts in the waiver it has, in fact, been  
34 paid the progress payment, the waiver and release shall be in  
35 substantially the following form, with the text of the "Notice to  
36 Claimant" in at least as large a type as the largest type otherwise  
37 in the form:

38  
39 Unconditional Waiver and Release on Progress Payment  
40

1 NOTICE TO CLAIMANT: This document waives and releases rights  
 2 unconditionally and states that you have been paid for giving up those rights.  
 3 This document is enforceable against you if you sign it, even if you have not  
 4 been paid. If you have not been paid, use a conditional waiver and release  
 5 form.

6  
7 Identifying Information

8 Name of Claimant: \_\_\_\_\_  
 9 Name of Customer: \_\_\_\_\_  
 10 Job Location: \_\_\_\_\_  
 11 Owner: \_\_\_\_\_  
 12 Through Date: \_\_\_\_\_

13  
14 Unconditional Waiver and Release

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

19  
20 The claimant has received the following progress payment:  
 21 \$ \_\_\_\_\_

22  
23 Exceptions

24 This document does not affect any of the following:  
 25 (1) Retentions.  
 26 (2) Extras for which the claimant has not received payment. This document  
 27 does not affect contract rights, including (A) a right based on rescission,  
 28 abandonment, or breach of contract, and (B) the right to recover compensation  
 29 for work not compensated by the payment.

30  
31 Signature

32 Claimant's Signature: \_\_\_\_\_  
 33 Claimant's Title: \_\_\_\_\_  
 34 Date of Signature: \_\_\_\_\_

35  
36 8174. If the claimant is required to execute a waiver and release  
 37 in exchange for, or in order to induce payment of, a final payment  
 38 and the claimant is not, in fact, paid in exchange for the waiver  
 39 and release or a single payee check or joint payee check is given



1 in exchange for the waiver and release, the waiver and release shall  
2 be in substantially the following form:

3

4 Conditional Waiver and Release on Final Payment

5

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

9

10 Identifying Information

11 Name of Claimant: \_\_\_\_\_

12 Name of Customer: \_\_\_\_\_

13 Job Location: \_\_\_\_\_

14 Owner: \_\_\_\_\_

15

16 Conditional Waiver and Release

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

22 Maker of Check: \_\_\_\_\_

23 Amount of Check: \$ \_\_\_\_\_

24 Check Payable to: \_\_\_\_\_

25

26 Exceptions

27 This document does not affect any of the following:

28 (1) Disputed claims for extras in the amount of: \$ \_\_\_\_\_

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

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

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

33

34 Signature

35 Claimant's Signature: \_\_\_\_\_

36 Claimant's Title: \_\_\_\_\_

37 Date of Signature: \_\_\_\_\_

38

39 8176. If the claimant is required to execute a waiver and release  
40 in exchange for, or in order to induce payment of, a final payment

1 and the claimant asserts in the waiver it has, in fact, been paid the  
2 final payment, the waiver and release shall be in substantially the  
3 following form, with the text of the "Notice to Claimant" in at  
4 least as large a type as the largest type otherwise in the form:

5  
6           Unconditional Waiver and Release on Final Payment

7  
8 NOTICE TO CLAIMANT: This document waives and releases rights  
9 unconditionally and states that you have been paid for giving up those rights.  
10 This document is enforceable against you if you sign it, even if you have not  
11 been paid. If you have not been paid, use a conditional waiver and release  
12 form.

13  
14 Identifying Information

15 Name of Claimant: \_\_\_\_\_  
16 Name of Customer: \_\_\_\_\_  
17 Job Location: \_\_\_\_\_  
18 Owner: \_\_\_\_\_

19  
20 Unconditional Waiver and Release

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

25  
26 Exception

27 This document does not affect the following:  
28 Disputed claims for extras in the amount of: \$ \_\_\_\_\_

29  
30 Signature

31 Claimant's Signature: \_\_\_\_\_  
32 Claimant's Title: \_\_\_\_\_  
33 Date of Signature: \_\_\_\_\_

34  
35           CHAPTER 2. PRELIMINARY NOTICE

36  
37 8200. (a) Except as otherwise provided by statute, before  
38 recording a lien claim, giving a stop payment notice, or asserting  
39 a claim against a payment bond, a claimant shall give preliminary  
40 notice to the following persons:

1 (1) The owner or reputed owner.

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

5 (3) The construction lender or reputed construction lender, if  
6 any.

7 (b) The notice shall comply with the requirements of ~~Article 3~~  
8 ~~(commencing with Section 8100) of Chapter 1 Chapter 2~~  
9 ~~(commencing with Section 8100) of Title 1.~~

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

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

15 (e) Notwithstanding the foregoing subdivisions:

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

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

20 8202. (a) The preliminary notice shall comply with the  
21 requirements of Section 8102, and shall also include:

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

23 (2) An estimate of the total price of the work provided and to  
24 be provided.

25 (3) The following statement in boldface type:

26  
27 NOTICE TO PROPERTY OWNER

28  
29 EVEN THOUGH YOU HAVE PAID YOUR CONTRACTOR IN FULL,  
30 if the person or firm that has given you this notice is not paid in full for labor,  
31 service, equipment, or material provided or to be provided to your construction  
32 project, a lien may be placed on your property. Foreclosure of the lien may  
33 lead to loss of all or part of your property. You may wish to protect yourself  
34 against this by (1) requiring your contractor to provide a signed release by the  
35 person or firm that has given you this notice before making payment to your  
36 contractor, or (2) any other method that is appropriate under the circumstances.

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

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

8  
 9 (b) If preliminary notice is given by a subcontractor that has  
 10 not paid all compensation due to a laborer, the notice shall include  
 11 the name and address of the laborer and any person or entity  
 12 described in subdivision (b) of Section ~~8020~~ 8024 to which  
 13 payments are due.

14 (c) If an invoice for material or certified payroll contains the  
 15 information required by this section and Section 8102, a copy of  
 16 the invoice or payroll, given in compliance with the requirements  
 17 of ~~Article 3 (commencing with Section 8100) of Chapter 1~~ *Chapter*  
 18 *2 (commencing with Section 8100) of Title 1*, is sufficient.

19 8204. (a) A preliminary notice shall be given not later than 20  
 20 days after the claimant has first furnished work on the work of  
 21 improvement. If work has been provided by a claimant who did  
 22 not give a preliminary notice, that claimant shall not be precluded  
 23 from giving a preliminary notice at any time thereafter. The  
 24 claimant shall, however, be entitled to record a lien, give a stop  
 25 payment notice, and assert a claim against a payment bond only  
 26 for work performed within 20 days prior to the service of the  
 27 preliminary notice, and at any time thereafter.

28 (b) A licensed architect, licensed landscape architect, registered  
 29 engineer, or licensed land surveyor who has furnished services for  
 30 the design of the work of improvement and who gives a preliminary  
 31 notice not later than 20 days after the work of improvement has  
 32 commenced shall be deemed to have complied with Section 8200  
 33 with respect to the design services furnished, or to be furnished.

34 8206. (a) Except as provided in subdivision (b), a claimant  
 35 need give only one preliminary notice to each person to which  
 36 notice must be given under this chapter with respect to all work  
 37 provided by the claimant for a work of improvement.

38 (b) If a claimant provides work pursuant to contracts with more  
 39 than one subcontractor, the claimant shall give a separate

1 preliminary notice with respect to work provided pursuant to each  
2 contract.

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

8 8208. A direct contractor shall make available to any person  
9 seeking to give preliminary notice the following information:

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

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

12 ~~8210. If a construction loan is one or more construction loans~~  
13 *are* obtained after commencement of a work of improvement, the  
14 owner shall give notice of the name and address of the construction  
15 lender *or lenders* to each person that has given the owner  
16 preliminary notice.

17 8212. An agreement made or entered into by an owner whereby  
18 the owner agrees to waive the rights conferred on the owner by  
19 this chapter is void and unenforceable.

20 ~~8214. The county recorder may cause to be destroyed all~~  
21 ~~documents filed under subdivision (o) of former Section 3097 as~~  
22 ~~that section read on January 1, 2008.~~

23 8214. (a) *Each person who has served a preliminary notice*  
24 *may file the preliminary notice with the county recorder. A*  
25 *preliminary notice filed pursuant to this section shall comply with*  
26 *the requirements of Section 8102.*

27 (b) *Upon the acceptance for recording of a notice of completion*  
28 *or notice of cessation the county recorder shall mail to those*  
29 *persons who have filed a preliminary notice, notification that a*  
30 *notice of completion or notice of cessation has been recorded on*  
31 *the property, and shall affix the date that the notice of completion*  
32 *or notice of cessation was recorded with the county recorder. The*  
33 *notification given by the county recorder under this section is not*  
34 *governed by the requirements of Chapter 2 (commencing with*  
35 *Section 8100) of Title 1.*

36 (c) *The failure of the county recorder to mail the notification*  
37 *to the person who filed a preliminary notice, or the failure of those*  
38 *persons to receive the notification or to receive complete*  
39 *notification, shall not affect the period within which a claim of*  
40 *lien is required to be recorded. However, the county recorder shall*

1 *make a good faith effort to mail notification to those persons who*  
2 *have filed the preliminary notice under this section and to do so*  
3 *within five days after the recording of a notice of completion or*  
4 *notice of cessation.*

5 *(d) The county recorder may cause to be destroyed all*  
6 *documents filed pursuant to this section, two years after the date*  
7 *of filing.*

8 *(e) The preliminary notice that a person may file pursuant to*  
9 *this section is for the limited purpose of facilitating the mailing of*  
10 *notice by the county recorder of recorded notices of completion*  
11 *and notices of cessation. The notice that is filed is not a recordable*  
12 *document and shall not be entered into those official records of*  
13 *the county which by law impart constructive notice.*  
14 *Notwithstanding any other provision of law, the index maintained*  
15 *by the recorder of filed preliminary notices shall be separate and*  
16 *distinct from those indexes maintained by the county recorder of*  
17 *those official records of the county which by law impart*  
18 *constructive notice. The filing of a preliminary notice with the*  
19 *county recorder does not give rise to any actual or constructive*  
20 *notice with respect to any party of the existence or contents of a*  
21 *filed preliminary notice nor to any duty of inquiry on the part of*  
22 *any party as to the existence or contents of that notice.*

23 8216. If the contract of any subcontractor on a particular work  
24 of improvement provides for payment to the subcontractor of more  
25 than four hundred dollars (\$400), the failure of that subcontractor,  
26 licensed under the Contractors’ State License Law (Chapter 9  
27 (commencing with Section 7000) of Division 3 of the Business  
28 and Professions Code), to give the notice provided for in this  
29 chapter, constitutes grounds for disciplinary action under the  
30 Contractors’ State License Law.

31  
32 CHAPTER 3. DESIGN PROFESSIONALS LIEN  
33

34 ~~8300. Notwithstanding Section 8028, for purposes of this~~  
35 ~~chapter “owner” means a fee owner of a site.~~

36 8300. *For purposes of this chapter, a “design professional”*  
37 *is a person described in Section 8014 who provides services*  
38 *pursuant to a written contract with a landowner for the design,*  
39 *engineering, or planning of a work of improvement.*

1 8302. (a) A design professional has, from the date of  
2 recordation of a claim of lien under this chapter, a lien on the site  
3 notwithstanding the absence of commencement of the planned  
4 work of improvement, if the ~~owner~~ *landowner* who contracted for  
5 the design professional's services is also the owner of the site at  
6 the time of recordation of the claim of lien.

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

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

17 8304. A design professional is not entitled to a lien under this  
18 chapter unless all of the following conditions are satisfied:

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

21 (b) The ~~owner~~ *landowner* defaults in a payment required under  
22 the contract or refuses to pay the demand of the design professional  
23 made under the contract.

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

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

30 (1) The name of the design professional.

31 (2) The amount of the claim.

32 (3) The current owner of record of the site.

33 (4) A legal description of the site.

34 (5) Identification of the building permit or other governmental  
35 approval for the work of improvement.

36 8306. (a) On recordation of the claim of lien, a lien is created  
37 in favor of the named design professional.

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

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

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

6 (c) If the ~~owner~~ *landowner* partially or fully satisfies the lien,  
7 the design professional shall execute and record a document that  
8 evidences a partial or full satisfaction and release of the lien, as  
9 applicable.

10 8308. (a) Except as provided in subdivision (b), no provision  
11 of this ~~title~~ *part* applies to a lien created under this chapter.

12 (b) The following provisions of this ~~title~~ *part* apply to a lien  
13 created under this chapter:

14 (1) This chapter.

15 (2) Article 1 (commencing with Section 8000) of Chapter 1 *of*  
16 *Title 1*.

17 (3) Section 8424.

18 (4) Article 6 (commencing with Section 8460) of Chapter 4.

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

20 (6) Article 8 (commencing with Section 8490) of Chapter 4.

21 8310. This chapter does not affect the ability of a design  
22 professional to obtain a lien for a work of improvement under  
23 Section 8400.

24 8312. A design professional shall record a claim of lien under  
25 this chapter no later than 90 days after the design professional  
26 knows or has reason to know that the work of improvement will  
27 not be commenced.

28 8314. The creation of a lien under this chapter does not affect  
29 the ability of the design professional to pursue other remedies.

30 8316. (a) No lien created under this chapter affects or takes  
31 priority over the interest of record of a purchaser, lessee, or  
32 encumbrancer, if the interest of the purchaser, lessee, or  
33 encumbrancer in the *real* property was duly recorded before  
34 recordation of the claim of lien.

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

39 8318. A design professional may not obtain a lien under this  
40 chapter for services provided for a work of improvement relating



1 to a single-family, owner-occupied residence for which the  
2 expected construction cost is less than one hundred thousand  
3 dollars (\$100,000).

4  
5 CHAPTER 4. MECHANICS LIEN  
6

7 Article 1. Who is Entitled to Lien  
8

9 8400. A person that provides work authorized for a work of  
10 improvement, including, but not limited to, the following persons,  
11 has a lien right under this chapter:

- 12 (a) Direct contractor.
- 13 (b) Subcontractor.
- 14 (c) Material supplier.
- 15 (d) Equipment lessor.
- 16 (e) Laborer.
- 17 (f) Design professional.

18 8402. A person that provides work authorized for a site  
19 improvement has a lien right under this chapter.

20 8404. Work is authorized for a work of improvement or for a  
21 site improvement in any of the following circumstances:

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

27  
28 Article 2. Conditions to Enforcing a Lien  
29

30 8410. A claimant may enforce a lien only if the claimant has  
31 given preliminary notice to the extent required by Chapter 2  
32 (commencing with Section 8200) and made proof of notice.

33 8412. A direct contractor may not enforce a lien unless the  
34 contractor records a claim of lien after the contractor completes  
35 the direct contract, and before the earlier of the following times:

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

1 8414. A claimant other than a direct contractor may not enforce  
2 a lien unless the claimant records a claim of lien within the  
3 following times:

- 4 (a) After the claimant ceases to provide work.
- 5 (b) Before the earlier of the following times:
  - 6 (1) Ninety days after completion of the work of improvement.
  - 7 (2) Thirty days after the owner records a notice of completion  
8 or cessation.

9 8416. (a) A claim of mechanics lien shall be a written  
10 statement, signed and verified by the claimant, containing all of  
11 the following:

- 12 (1) A statement of the claimant’s demand after deducting all  
13 just credits and offsets.
- 14 (2) The name of the owner or reputed owner, if known.
- 15 (3) A general statement of the kind of work furnished by the  
16 claimant.
- 17 (4) The name of the person by whom the claimant was employed  
18 or to whom the claimant furnished work.
- 19 (5) A description of the site sufficient for identification.
- 20 (6) The claimant’s address.
- 21 (7) A proof of service affidavit completed and signed by the  
22 person serving a copy of the claim of mechanics lien pursuant to  
23 subdivision (c). The affidavit shall show the date, place, and  
24 manner of service, and facts showing that the service was made  
25 in accordance with this section. The affidavit shall show the name  
26 and address of the person or persons upon whom the copy of the  
27 claim of mechanics lien was served, and, if appropriate, the title  
28 or capacity in which he or she was served.
- 29 (8) The following statement, printed in at least 10-point boldface  
30 type. The letters of the last sentence shall be printed in uppercase  
31 type, excepting the Internet Web site address of the Contractors’  
32 State License Board, which shall be printed in lowercase type:

33  
34 “NOTICE OF MECHANICS LIEN  
35 ATTENTION!  
36

37 Upon the recording of the enclosed MECHANICS LIEN with the county  
38 recorder’s office of the county where the property is located, your property is  
39 subject to the filing of a legal action seeking a court-ordered foreclosure sale  
40 of the real property on which the lien has been recorded. That legal action

1 must be filed with the court no later than 90 days after the date the mechanics  
2 lien is recorded.

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

11 BECAUSE THE LIEN AFFECTS YOUR PROPERTY, YOU MAY WISH  
12 TO SPEAK WITH YOUR CONTRACTOR IMMEDIATELY, OR CONTACT  
13 AN ATTORNEY, OR FOR MORE INFORMATION ON MECHANICS  
14 LIENS GO TO THE CONTRACTORS' STATE LICENSE BOARD WEB  
15 SITE AT [www.cslb.ca.gov](http://www.cslb.ca.gov).”

16  
17 (b) A claim of mechanics lien in otherwise proper form, verified  
18 and containing the information required in subdivision (a), shall  
19 be accepted by the recorder for recording and shall be deemed  
20 duly recorded without acknowledgment.

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

25 (1) For an owner or reputed owner to be notified who resides  
26 in or outside this state, by registered mail, certified mail, or  
27 first-class mail, evidenced by a certificate of mailing, postage  
28 prepaid, addressed to the owner or reputed owner at the owner's  
29 or reputed owner's residence or place of business address or at the  
30 address shown by the building permit on file with the authority  
31 issuing a building permit for the work, or as otherwise provided  
32 in Section ~~8134~~ 8174.

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

38 (d) Service of the copy of the claim of mechanics lien by  
39 registered mail, certified mail, or first-class mail, evidenced by a

1 certificate of mailing, postage prepaid, is complete at the time of  
2 the deposit of that first-class, certified, or registered mail.

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

7 8422. (a) Except as provided in subdivision (b), erroneous  
8 information contained in a claim of lien relating to the claimant's  
9 demand, credits and offsets deducted, the work provided, or the  
10 description of the site, does not invalidate the claim of lien.

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

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

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

22 8424. (a) An owner of *real property* or an owner of any interest  
23 in *real property* subject to a recorded claim of lien, or a direct  
24 contractor or subcontractor affected by the claim of lien, that  
25 disputes the correctness or validity of the claim may obtain release  
26 of the *real property* from the claim of lien by recording a lien  
27 release bond. The principal on the bond may be the owner of the  
28 property, the direct contractor, or the subcontractor.

29 (b) The bond shall be conditioned on payment of any judgment  
30 and costs the claimant recovers on the lien. The bond shall be in  
31 an amount equal to ~~150~~ 125 percent of the amount of the claim of  
32 lien or ~~150~~ 125 percent of the amount allocated in the claim of lien  
33 to the *real property* to be released. The bond shall be executed by  
34 an admitted surety insurer.

35 (c) The bond may be recorded either before or after  
36 commencement of an action to enforce the lien. On recordation of  
37 the bond, the *real property* is released from the claim of lien and  
38 from any action to enforce the lien.

39 (d) A person that obtains and records a lien release bond shall  
40 give notice to the claimant. The notice shall comply with the

1 requirements of ~~Article 3 (commencing with Section 8100) of~~  
2 ~~Chapter 1 Chapter 2 (commencing with Section 8100) of Title 1~~  
3 and shall include a copy of the bond. Failure to give the notice  
4 required by this section does not affect the validity of the bond,  
5 but the statute of limitations for an action on the bond is tolled  
6 until notice is given. The claimant shall commence an action on  
7 the bond within six months after notice is given.

8  
9 Article 3. Amount of Lien

10  
11 8430. (a) The lien is a direct lien for the lesser of the following  
12 amounts:

13 (1) The reasonable value of the work provided by the claimant.  
14 (2) The price agreed to by the claimant and the person that  
15 contracted for the work.

16 (b) The lien is not limited in amount by the contract price for  
17 the work of improvement except as provided in Section ~~8602~~ 8600.

18 (c) This section does not preclude the claimant from including  
19 in a claim of lien work performed *based on a written modification*  
20 *of the contract, or* as a result of rescission, abandonment, or breach  
21 of the contract. If there is a rescission, abandonment, or breach of  
22 the contract, the amount of the lien may not exceed the reasonable  
23 value of the work provided by the claimant.

24 8432. (a) A lien does not extend to work, whether or not the  
25 work is authorized by a direct contractor or subcontractor, if the  
26 work is not included in a direct contract, and the claimant had  
27 actual knowledge or constructive notice of the provisions of that  
28 contract before providing the work.

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

33 8434. A direct contractor or a subcontractor may enforce a lien  
34 only for the amount due pursuant to that contractor's contract after  
35 deducting all lien claims of other claimants for work provided and  
36 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 *real* 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 *real* 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~~ *that person, unless that person gives notice of nonresponsibility under Section 8444.*

8444. (a) An owner of *real* property *or a person claiming an interest in real 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~~ *Chapter 2 (commencing with Section 8100) of Title 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.

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

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

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

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

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

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

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

Article 5. Priorities

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

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

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

- (a) The bond refers to the mortgage or deed of trust.
- (b) The bond is in an amount not less than 75 percent of the principal amount of the mortgage or deed of trust.

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

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

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

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

- (1) A mortgage, deed of trust, or other encumbrance that attaches after commencement of the site improvement.
- (2) A mortgage, deed of trust, or other encumbrance that was unrecorded at the commencement of the site improvement and of which the claimant had no notice.
- (3) A mortgage, deed of trust, or other encumbrance that was recorded before commencement of the site improvement, if given



1 for the sole or primary purpose of financing the site improvement.  
2 This subdivision does not apply if the loan proceeds are, in good  
3 faith, placed in the control of the lender pursuant to a binding  
4 agreement with the borrower to the effect that (A) the proceeds  
5 are to be applied to the payment of claimants and (B) no portion  
6 of the proceeds will be paid to the borrower in the absence of  
7 satisfactory evidence that all claims have been paid or that the time  
8 for recording a claim of lien has expired and no claim of lien has  
9 been recorded.

10 (b) A mortgage or deed of trust, otherwise subordinate under  
11 subdivision (a), has priority over a lien provided for in Section  
12 8402 if a payment bond in an amount not less than 50 percent of  
13 the principal amount of the mortgage or deed of trust is recorded  
14 before completion of the work of improvement.

15  
16 Article 6. Enforcement of Lien

17  
18 8460. (a) The claimant shall commence an action to enforce  
19 a lien within 90 days after recordation of the claim of lien. If the  
20 claimant does not commence an action to enforce the lien within  
21 that time, the claim of lien expires and is unenforceable.

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

33 8461. After commencement of an action to enforce a lien, the  
34 plaintiff shall record in the office of the county recorder of the  
35 county, or of the several counties in which the property is situated,  
36 a notice of the pendency of the action, as provided in Title 4.5  
37 (commencing with Section 405) of Part 2 of the Code of Civil  
38 Procedure, on or before 20 days after the commencement of the  
39 action. Only from the time of recording that notice shall a purchaser  
40 or encumbrancer of the property affected thereby be deemed to

1 have constructive notice of the pendency of the action, and in that  
2 event only of its pendency against parties designated by their real  
3 names.

4 8462. Notwithstanding Section 583.420 of the Code of Civil  
5 Procedure, ~~the court may dismiss if~~ an action to enforce a lien ~~that~~  
6 is not brought to trial within two years after commencement of the  
7 action, *the court may, in its discretion, dismiss the action for want*  
8 *of prosecution.*

9 8464. In addition to any other costs allowed by law, the court  
10 in an action to enforce a lien shall allow as costs to each claimant  
11 whose lien is established the amount paid to verify and record the  
12 claim of lien, whether the claimant is a plaintiff or defendant.

13 8466. If there is a deficiency of proceeds from the sale of  
14 property on a judgment for enforcement of a lien, a deficiency  
15 judgment may be entered against a party personally liable for the  
16 deficiency in the same manner and with the same effect as in an  
17 action to foreclose a mortgage.

18 8468. (a) This chapter does not affect any of the following  
19 rights of a claimant:

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

23 (2) The right to a writ of attachment. In an application for a writ  
24 of attachment, the claimant shall refer to this section. The  
25 claimant's recording of a claim of lien does not affect the right to  
26 a writ of attachment.

27 (3) The right to enforce a judgment.

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

32 8470. In an action to enforce a lien for work provided to a  
33 contractor:

34 (a) The contractor shall defend the action at the contractor's  
35 own expense. During the pendency of the action the owner may  
36 withhold from the direct contractor the amount of the lien claim.

37 (b) If the judgment in the action is against the owner or the  
38 owner's property, the owner may deduct the amount of the  
39 judgment and costs from any amount owed to the direct contractor.  
40 If the amount of the judgment and costs exceeds the amount owed

1 to the direct contractor, or if the owner has settled with the direct  
 2 contractor in full, the owner may recover from the direct contractor,  
 3 or the sureties on a bond given by the direct contractor for faithful  
 4 performance of the direct contract, the amount of the judgment  
 5 and costs that exceed the contract price and for which the direct  
 6 contractor was originally liable.

7  
 8 Article 7. Release Order  
 9

10 8480. (a) The owner of property *or the owner of any interest*  
 11 *in property* subject to a claim of lien may petition the court for an  
 12 order to release the property from the claim of lien if the claimant  
 13 has not commenced an action to enforce the lien within the time  
 14 provided in Section 8460.

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

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

25 (d) Notwithstanding ~~Section—8054~~ 8056, Chapter 2.5  
 26 (commencing with Section 1141.10) of Title 3 of Part 3 of the  
 27 Code of Civil Procedure does not apply to a proceeding under this  
 28 article.

29 8482. An owner of property may not petition the court for a  
 30 release order under this article unless at least 10 days before filing  
 31 the petition the owner gives the claimant notice demanding that  
 32 the claimant execute and record a release of the claim of lien. The  
 33 notice shall comply with the requirements of ~~Article 3~~  
 34 ~~(commencing with Section 8100) of Chapter 1~~ Chapter 2  
 35 ~~(commencing with Section 8100) of Title 1,~~ and shall state the  
 36 grounds for the demand.

37 8484. A petition for a release order shall be verified and shall  
 38 allege all of the following:

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

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

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

4 (d) The legal description of the property subject to the claim of  
5 lien.

6 ~~(e) The facts on which the petition is based. If the petition is  
7 based on expiration of the time to enforce the lien, the petition  
8 shall state whether~~

9 (e) Whether an extension of credit has been granted under  
10 Section 8460, if so to what date, and shall allege that the time for  
11 commencement of an action to enforce the lien has expired.

12 (f) That the owner has given the claimant notice under Section  
13 8482 demanding that the claimant execute and record a release of  
14 the lien and that the claimant is unable or unwilling to do so or  
15 cannot with reasonable diligence be found.

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

17 (h) Whether the owner *of the property or interest in the property*  
18 has filed for relief in bankruptcy or there is another restraint that  
19 prevents the claimant from commencing an action to enforce the  
20 lien.

21 8486. (a) On the filing of a petition for a release order, the  
22 clerk shall set a hearing date. The date shall be not more than 30  
23 days after the filing of the petition. The court may continue the  
24 hearing only on a showing of good cause, but in any event the  
25 court shall rule and make any necessary orders on the petition not  
26 later than 60 days after the filing of the petition.

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

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

35 8488. (a) At the hearing both (1) the petition and (2) the issue  
36 of compliance with the service and date for hearing requirements  
37 of this article are deemed controverted by the claimant. The  
38 petitioner has the initial burden of producing evidence on those  
39 matters. The petitioner has the burden of proof as to the issue of  
40 compliance with the service and date for hearing requirements of

1 this article. The claimant has the burden of proof as to the validity  
2 of the lien.

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

5 (c) The prevailing party is entitled to reasonable attorney's fees.  
6

7 Article 8. Removal of Claim of Lien from Record  
8

9 8490. (a) A court order dismissing a cause of action to enforce  
10 a lien or releasing property from a claim of lien, or a judgment  
11 that no lien exists, shall include all of the following information:

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

13 (2) The county in which the claim of lien is recorded.

14 (3) The book and page or series number of the place in the  
15 official records where the claim of lien is recorded.

16 (4) The legal description of the property.

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

19 (c) A court order or judgment under this section is a recordable  
20 instrument. On recordation of a certified copy of the court order  
21 or judgment, the property described in the order or judgment is  
22 released from the claim of lien.

23 (d) This section does not apply to a court order dismissing an  
24 action to enforce a lien that is expressly stated to be without  
25 prejudice.

26 8494. If a claim of lien expires and is unenforceable under  
27 Section 8460, or if a court order or judgment is recorded under  
28 Section 8490, the claim of lien does not constitute actual or  
29 constructive notice of any of the matters contained, claimed,  
30 alleged, or contended in the claim of lien, or create a duty of  
31 inquiry in any person thereafter dealing with the affected property.  
32

33 CHAPTER 5. STOP PAYMENT NOTICE  
34

35 Article 1. General Provisions  
36

37 8500. The rights of all persons furnishing work for any work  
38 of improvement, with respect to any fund for payment of  
39 construction costs, are governed exclusively by this chapter, and  
40 no person may assert any legal or equitable right with respect to

1 the fund, other than a right created by a written contract between  
2 that person and the person holding the fund, except pursuant to  
3 the provisions of this chapter.

4 8502. (a) A stop payment notice shall comply with the  
5 requirements of ~~Section 8102~~ *Chapter 2 (commencing with Section*  
6 *8100) of Title 1*, and shall be signed and verified by the claimant.

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

10 (c) The amount claimed in the notice may include only the  
11 amount due the claimant for work provided through the date of  
12 the notice.

13 8504. A claimant that willfully gives a false stop payment  
14 notice or that willfully includes in the notice a demand to withhold  
15 for work that has not been provided forfeits all right to participate  
16 in the distribution of the funds withheld and all right to a lien under  
17 Chapter 4 (commencing with Section 8400).

18 8506. (a) A stop payment notice to an owner shall be given  
19 to the owner or to the owner's architect, if any.

20 (b) A stop payment notice to a construction lender holding  
21 construction funds shall not be effective unless given to the  
22 manager or other responsible officer or person at the office or  
23 branch of the lender administering or holding the construction  
24 funds.

25 (c) A stop payment notice shall comply with the requirements  
26 of ~~Article 3 (commencing with Section 8100) of Chapter 1~~ *Chapter*  
27 *2 (commencing with Section 8100) of Title 1*.

28 8508. A stop payment notice is not valid unless both of the  
29 following conditions are satisfied:

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

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

35 8510. (a) A person may obtain release of funds withheld  
36 pursuant to a stop payment notice by giving the person withholding  
37 the funds a release bond.

38 (b) A release bond shall be given by an admitted surety insurer  
39 and shall be conditioned for payment of any amount not exceeding  
40 the penal obligation of the bond that the claimant recovers on the

1 claim, together with costs of suit awarded in the action. The bond  
2 shall be in an amount equal to 125 percent of the amount claimed  
3 in the stop payment notice.

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

6  
7  
8

Article 2. Stop Payment Notice to Owner

9 8520. (a) A person that has a lien right under Chapter 4  
10 (commencing with Section 8400), other than a direct contractor,  
11 may give the owner a stop payment notice.

12 (b) The owner may give notice, in compliance with the  
13 requirements of ~~Article 3 (commencing with Section 8100)~~ of  
14 ~~Chapter 1 Chapter 2 (commencing with Section 8100)~~ of Title 1,  
15 demanding that a person that has a lien right under Chapter 4  
16 (commencing with Section 8400) give the owner a stop payment  
17 notice. If the person fails to give the owner a bonded or unbonded  
18 stop payment notice, the person forfeits the right to a lien under  
19 Chapter 4 (commencing with Section 8400).

20 8522. (a) Except as provided in subdivision (b), on receipt of  
21 a stop payment notice an owner shall withhold from the direct  
22 contractor or from any person acting under authority of a direct  
23 contractor a sufficient amount due or to become due to the direct  
24 contractor to pay the claim stated in the notice.

25 (b) The owner may, but is not required to, withhold funds if the  
26 owner has previously recorded a payment bond under ~~Section 8602~~  
27 ~~8600~~. If the owner does not withhold funds, the owner shall, within  
28 30 days after receipt of the stop payment notice, give notice to the  
29 claimant that a payment bond has been recorded and provide the  
30 claimant a copy of the bond. The notice shall comply with the  
31 requirements of ~~Article 3 (commencing with Section 8100)~~ of  
32 ~~Chapter 1 Chapter 2 (commencing with Section 8100)~~ of Title 1.

33  
34  
35

Article 3. Stop Payment Notice to Construction Lender

36 8530. A person that has a lien right under Chapter 4  
37 (commencing with Section 8400) may give a construction lender  
38 a stop payment notice.

39 8532. A claimant may give a construction lender a stop  
40 payment notice accompanied by a bond in an amount equal to 125

1 percent of the amount of the claim. The bond shall be conditioned  
2 that if the defendant recovers judgment in an action to enforce  
3 payment of the claim stated in the stop payment notice or to enforce  
4 a claim of lien recorded by the claimant, the claimant will pay all  
5 costs that are awarded the owner, direct contractor, or construction  
6 lender, and all damages to the owner, direct contractor, or  
7 construction lender that result from the stop payment notice or  
8 recordation of the claim of lien, not exceeding the amount of the  
9 bond.

10 8534. (a) A construction lender that objects to the sufficiency  
11 of sureties on the bond given with a bonded stop payment notice  
12 shall give notice to the claimant of the objection, within 20 days  
13 after the bonded stop payment notice is given. The notice shall  
14 comply with the requirements of ~~Article 3 (commencing with~~  
15 ~~Section 8100) of Chapter 1 Chapter 2 (commencing with Section~~  
16 ~~8100) of Title 1.~~

17 (b) The claimant may within 10 days after notice of the objection  
18 is given substitute for the initial bond a bond executed by an  
19 admitted surety insurer. If the claimant does not substitute a bond  
20 executed by an admitted surety insurer, the construction lender  
21 may disregard the bonded stop payment notice and release all funds  
22 withheld in response to that notice.

23 8536. (a) Except as provided in subdivision (b), on receipt of  
24 a stop payment notice a construction lender shall withhold from  
25 the borrower or other person to whom the lender or the owner is  
26 obligated to make payments or advancement out of the construction  
27 fund sufficient funds to pay the claim stated in the notice.

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

30 (1) The stop payment notice is unbonded.

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

34 8538. (a) The claimant may make a written request for notice  
35 of an election by the construction lender under Section 8536 not  
36 to withhold funds. The request shall be made at the time the  
37 claimant gives the construction lender the stop payment notice and  
38 shall be accompanied by a preaddressed, stamped envelope.

39 (b) If the construction lender elects not to withhold funds under  
40 Section 8536, the lender shall, within 30 days after making the



1 election, give notice of that fact to a claimant who has requested  
2 notice of the election under subdivision (a). The notice shall  
3 comply with the requirements of ~~Article 3 (commencing with~~  
4 ~~Section 8100) of Chapter 1 Chapter 2 (commencing with Section~~  
5 ~~8100) of Title 1~~. If the basis of the election is the recordation of a  
6 payment bond under Section 8600, the construction lender shall  
7 include a copy of the bond with the notice.

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

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

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

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

17  
18 Article 4. Priorities  
19

20 8540. (a) Funds withheld pursuant to a stop payment notice  
21 shall be distributed in the following order of priority:

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

27 (2) Second, to pay claims of persons that have given an  
28 unbonded stop payment notice. If funds are insufficient to pay the  
29 claims of those persons in full, the funds shall be distributed among  
30 the claimants in the ratio that the claim of each bears to the  
31 aggregate of all claims for which an unbonded stop payment notice  
32 is given.

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

37 8542. Notwithstanding Section 8540:

38 (a) If funds are withheld pursuant to a stop payment notice given  
39 to a construction lender by a direct contractor or subcontractor,  
40 the direct contractor or subcontractor may recover only the net

1 amount due the direct contractor or subcontractor after deducting  
 2 any funds that are withheld by the construction lender pursuant to  
 3 the claims of subcontractors and material suppliers that have given  
 4 a stop payment notice for work done on behalf of the direct  
 5 contractor or subcontractor.

6 (b) In no event is the construction lender required to withhold,  
 7 pursuant to a stop payment notice, more than the net amount  
 8 provided in subdivision (a). Notwithstanding any other provision  
 9 of this chapter, a construction lender is not liable for failure to  
 10 withhold more than that net amount on receipt of a stop payment  
 11 notice.

12 8544. The rights of a claimant who gives a construction lender  
 13 a stop payment notice are not affected by an assignment of  
 14 construction loan funds made by the owner or direct contractor,  
 15 and the stop payment notice has priority over the assignment,  
 16 whether the assignment is made before or after the stop payment  
 17 notice is given.

18

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

20

21 ~~8550. (a) A claimant shall commence an action to enforce~~  
 22 ~~payment of the claim stated in a stop payment notice not earlier~~  
 23 ~~than 10 days after the date the claimant gives the notice and not~~  
 24 ~~later than 90 days after expiration of the time within which a stop~~  
 25 ~~payment notice must be given. The action may not be brought to~~  
 26 ~~trial or judgment entered before expiration of the time prescribed~~  
 27 ~~in this subdivision.~~

28 8550. (a) *A claimant shall commence an action to enforce*  
 29 *payment of the claim stated in a stop payment notice at any time*  
 30 *after 10 days from the date the claimant gives the stop payment*  
 31 *notice.*

32 (b) *A claimant shall commence an action to enforce payment*  
 33 *of the claim stated in a stop payment notice not later than 90 days*  
 34 *after expiration of the time within which a stop payment notice*  
 35 *must be given.*

36 (c) *An action under this section may not be brought to trial or*  
 37 *judgment entered before expiration of the time provided in*  
 38 *subdivision (b).*

39 (b)

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

6 ~~(e)~~

7 (e) Within five days after commencement of an action to enforce  
8 payment of the claim stated in a stop payment notice, the claimant  
9 shall give notice of commencement of the action to the persons to  
10 whom the stop payment notice was given. The notice shall comply  
11 with the requirements of ~~Article 3 (commencing with Section~~  
12 ~~8100) of Chapter 1 Chapter 2 (commencing with Section 8100) of~~  
13 *Title 1.*

14 8552. If more than one claimant has given a stop payment  
15 notice:

16 (a) Any number of claimants may join in the same enforcement  
17 action.

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

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

23 8554. Notwithstanding Section 583.420 of the Code of Civil  
24 Procedure, ~~the court may dismiss if~~ an action to enforce payment  
25 of the claim stated in a stop payment notice ~~that~~ is not brought to  
26 trial within two years after commencement of the action, *the court*  
27 *may in its discretion dismiss the action for want of prosecution.*

28 8556. A stop payment notice ceases to be effective, and a  
29 person withholding funds pursuant to the notice shall release them,  
30 in either of the following circumstances:

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

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

36 8558. (a) In an action to enforce payment of the claim stated  
37 in a bonded stop payment notice, the prevailing party is entitled  
38 to a reasonable attorney's fee in addition to costs and damages.

39 (b) The court, on notice and motion by a party, shall determine  
40 who is the prevailing party or that there is no prevailing party for

1 the purpose of this section, regardless of whether the action  
2 proceeds to final judgment. The prevailing party is the party that  
3 recovers greater relief in the action, subject to the following  
4 limitations:

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

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

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

17  
18 CHAPTER 6. PAYMENT BOND  
19

20 8600. (a) This section applies if, before the commencement  
21 of work, the owner in good faith files a direct contract with the  
22 county recorder, and records a payment bond of the direct  
23 contractor in an amount not less than 50 percent of the price stated  
24 in the direct contract.

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

32 8602. Section 8600 does not preclude an owner from requiring  
33 a performance bond, payment bond, or other security as protection  
34 against a direct contractor's failure to perform the direct contract  
35 or to make full payment for all work provided pursuant to the  
36 contract.

37 8604. (a) If a lending institution requires that a payment bond  
38 be given as a condition of lending money to finance a work of  
39 improvement, and accepts in writing as sufficient a bond given in  
40 fulfillment of the requirement, the lending institution may not

1 thereafter object to the borrower as to the validity of the bond or  
2 refuse to make the loan based on an objection to the bond if the  
3 bond is given by an admitted surety insurer.

4 (b) *For purposes of this section, a “lending institution” includes*  
5 *a commercial bank, savings and loan institution, credit union, or*  
6 *other organization or person engaged in the business of financing*  
7 *loans.*

8 8606. (a) A payment bond under this title shall be conditioned  
9 for the payment in full of the claims of all claimants and shall by  
10 its terms inure to the benefit of all claimants so as to give a claimant  
11 a right of action to enforce the liability on the bond. The bond shall  
12 be given by an admitted surety insurer.

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

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

17 8608. (a) This title does not give a claimant a right to recover  
18 on a direct contractor’s payment bond given under this chapter  
19 unless the claimant provided work to the direct contractor either  
20 directly or through one or more subcontractors, pursuant to a direct  
21 contract.

22 (b) Nothing in this section affects the stop payment notice right  
23 of, and relative priorities among, design professionals and holders  
24 of secured interests in the *real* property.

25 8609. Any provision in a payment bond attempting by contract  
26 to shorten the period prescribed in Section 337 of the Code of Civil  
27 Procedure for the commencement of an action on the bond shall  
28 not be valid under either of the following circumstances:

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

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

34 8610. Notwithstanding Section 8609, if a payment bond under  
35 this title is recorded before completion of a work of improvement,  
36 an action to enforce the liability on the bond may not be  
37 commenced later than six months after completion of the work of  
38 improvement.

1 8612. (a) In order to enforce a claim against a payment bond  
2 under this title, a claimant shall give the preliminary notice  
3 provided in Chapter 2 (commencing with Section 8200).

4 (b) If preliminary notice was not given as provided in Chapter  
5 2 (commencing with Section 8200), a claimant may enforce a  
6 claim by giving written notice to the surety and the bond principal  
7 within 15 days after recordation of a notice of completion. If no  
8 notice of completion has been recorded, the time for giving written  
9 notice to the surety and the bond principal is extended to 75 days  
10 after completion of the work of improvement.

11 8614. *Notice to the principal and surety under Section 8612*  
12 *shall comply with the requirements of Chapter 2 (commencing*  
13 *with Section 8100) of Title 1.*

14

15 CHAPTER 7. SECURITY FOR LARGE PROJECT

16

17 Article 1. Application of Chapter

18

19 8700. (a) This chapter applies if any of the following  
20 conditions is satisfied:

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

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

28 (b) For the purpose of this section:

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

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

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

37 (B) The lease covers one or more lawful parcels under the  
38 Subdivision Map Act, Division 2 (commencing with Section  
39 66410) of Title 7 of the Government Code, and any applicable  
40 local ordinance adopted under that act, in their entirety, including,

1 but not limited to, a parcel approved pursuant to a certificate of  
2 compliance proceeding.

3 8702. This chapter does not apply to any of the following works  
4 of improvement:

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

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

14 8704. This chapter does not apply to any of the following  
15 owners:

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

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

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

5

6

## Article 2. Security Requirement

7

8 8710. An owner *described in subdivision (a) of Section 8700*  
9 shall provide the direct contractor all of the following:

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

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

19 8712. If an owner fails to provide or maintain the security  
20 required by this chapter, the direct contractor may give the owner  
21 notice demanding security. The notice shall comply with the  
22 requirements of ~~Article 3 (commencing with Section 8100) of~~  
23 ~~Chapter 1 Chapter 2 (commencing with Section 8100) of Title 1.~~  
24 If the owner does not provide or maintain the security within 10  
25 days after notice demanding security is given, the direct contractor  
26 may suspend work until the owner provides or maintains the  
27 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 for mechanics liens, stop payment notices, bond~~  
34 ~~remedies, or prompt payment rights of a subcontractor,~~ including  
35 the direct contractor's payment responsibilities under Section  
36 7108.5 of the Business and Professions Code.



Article 3. Form of Security

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

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

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

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

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

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

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

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

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

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

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

1 (a) The account shall be designated as a “construction security  
2 escrow account.”

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

8 (c) The owner shall deposit funds in the account in the amount  
9 provided in Section 8728. This chapter does not require a  
10 construction lender to agree to deposit proceeds of a construction  
11 loan in the account.

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

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

25 8728. The following provisions govern a deposit to or  
26 disbursement from a construction security escrow account under  
27 this chapter:

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

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

39 (c) The amount required to be maintained on deposit shall not  
40 exceed the total amount remaining to be paid to the direct

1 contractor pursuant to the contract or as adjusted by agreement  
2 between the owner and the direct contractor. If the amount on  
3 deposit equals or exceeds the total amount remaining to be paid  
4 to the direct contractor, the owner and the direct contractor shall  
5 authorize disbursement to the direct contractor for progress  
6 payments then due the direct contractor, but a party is not obligated  
7 to authorize disbursement that would cause the amount remaining  
8 on deposit following the disbursement to be less than the total  
9 amount remaining to be paid to the direct contractor.

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

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

26  
27 CHAPTER 8. PROMPT PAYMENT

28  
29 Article 1. Progress Payment

30  
31 8800. (a) Except as otherwise agreed in writing by the owner  
32 and direct contractor, the owner shall pay the direct contractor,  
33 within 30 days after notice demanding payment pursuant to the  
34 contract *is given*, any progress payment due as to which there is  
35 no good faith dispute between them. The notice given shall comply  
36 with the requirements of ~~Article 3 (commencing with Section~~  
37 ~~8100) of Chapter 1 Chapter 2 (commencing with Section 8100) of~~  
38 *Title 1.*

39 (b) If there is a good faith dispute between the owner and direct  
40 contractor as to a progress payment due, the owner may withhold

1 from the progress payment an amount not in excess of 150 percent  
2 of the disputed amount.

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

8 (d) This section does not supersede any requirement of Article  
9 2 (commencing with Section 8810) relating to the withholding of  
10 a retention.

11 8802. (a) This section applies to a contract between a public  
12 utility and a direct contractor for all or part of a work of  
13 improvement.

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

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

29 (d) This section does not limit or impair a contractual,  
30 administrative, or judicial remedy otherwise available to a  
31 contractor or subcontractor in a dispute involving late payment or  
32 nonpayment by the contractor or deficient performance or  
33 nonperformance by the subcontractor.

34

35 Article 2. Retention Payment

36

37 8810. This article governs a retention payment withheld by an  
38 owner from a direct contractor or by a direct contractor from a  
39 subcontractor.

1 8812. (a) If an owner withholds a retention from a direct  
2 contractor, the owner shall, within 45 days after completion of the  
3 work of improvement, pay the retention to the contractor.

4 (b) If part of a work of improvement ultimately will become  
5 the property of a public entity, the owner may condition payment  
6 of a retention allocable to that part on acceptance of the part by  
7 the public entity.

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

12 8814. (a) If a direct contractor has withheld a retention from  
13 ~~a subcontractor~~ *one or more subcontractors*, the direct contractor  
14 shall, within 10 days after receiving all or part of a retention  
15 payment, pay ~~the~~ *to each subcontractor its from whom retention*  
16 *has been withheld that subcontractor's share of the payment.*

17 (b) If a retention received by the direct contractor is specifically  
18 designated for a particular subcontractor, the direct contractor shall  
19 pay the retention payment to the designated subcontractor, if  
20 consistent with the terms of the subcontract.

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

25 8816. (a) If the direct contractor gives the owner, or a  
26 subcontractor gives the direct contractor, notice that work in dispute  
27 has been completed in accordance with the contract, the owner or  
28 direct contractor shall within 10 days give notice advising the  
29 notifying party of the acceptance or rejection of the disputed work.  
30 Both notices shall comply with the requirements of ~~Article 3~~  
31 ~~(commencing with Section 8100) of Chapter 1~~ *Chapter 2*  
32 *(commencing with Section 8100) of Title 1.*

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

36 8818. If an owner or direct contractor does not make a retention  
37 payment within the time required by this article:

38 (a) The owner or direct contractor is liable to the person to which  
39 payment is owed for a penalty of 2 percent per month on the

1 amount wrongfully withheld, in place of any interest otherwise  
2 due.

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

6 8820. It is against public policy to waive the provisions of this  
7 article by contract.

8 8822. This article does not apply to a retention payment  
9 withheld by a lender pursuant to a construction loan agreement.

10

11 Article 3. Stop Work Notice

12

13 8830. “Stop work notice” means notice given under this article  
14 by a direct contractor to an owner that the contractor will stop  
15 work if the amount owed the contractor is not paid within 10 days  
16 after notice is given.

17 8832. If a direct contractor is not paid the amount due pursuant  
18 to a written contract within 35 days after the date payment is due  
19 under the contract, and there is no dispute as to the satisfactory  
20 performance of the contractor, the contractor may give the owner  
21 a stop work notice. The notice shall comply with the requirements  
22 of ~~Article 3 (commencing with Section 8100) of Chapter 1~~ *Chapter*  
23 *2 (commencing with Section 8100) of Title 1.*

24 8834. A direct contractor that gives an owner a stop work notice  
25 shall give the following additional notice:

26 (a) At least five days before giving the stop work notice, the  
27 contractor shall post notice of intent to give a stop work notice.  
28 The notice shall comply with the requirements of ~~Article 3~~  
29 ~~(commencing with Section 8100) of Chapter 1~~ *Chapter 2*  
30 *(commencing with Section 8100) of Title 1. In addition to posting*  
31 *the notice pursuant to Section 8114, the notice shall also be posted*  
32 *at the main office of the site, if one exists.*

33 (b) At the same time the contractor gives the stop work notice,  
34 the contractor shall give a copy of the stop work notice to all  
35 subcontractors with whom the contractor has a direct contractual  
36 relationship on the work of improvement.

37 8836. Within five days after receipt of a stop work notice from  
38 a direct contractor, the owner shall give a copy of the notice to the  
39 construction lender, if any. The copy of the notice shall be given  
40 in compliance with the requirements of ~~Article 3 (commencing~~

1 ~~with Section 8100) of Chapter 1~~ Chapter 2 (commencing with  
2 Section 8100) of Title 1.

3 8838. (a) The direct contractor or the direct contractor's surety,  
4 or a subcontractor or a subcontractor's surety, is not liable for  
5 delay or damage that the owner or a *contractor of a* subcontractor  
6 may suffer as a result of the direct contractor giving a stop work  
7 notice and subsequently stopping work for nonpayment, if the  
8 notice and posting requirements of this article are satisfied.

9 (b) A direct contractor's or *original* subcontractor's liability to  
10 a subcontractor or material supplier after the direct contractor stops  
11 work under this article is limited to the amount the subcontractor  
12 or material supplier could otherwise recover under this title for  
13 work provided up to the date the subcontractor or material supplier  
14 ceases work, subject to the following exceptions:

15 (1) The direct contractor's or *original* subcontractor's liability  
16 continues for work provided up to and including the 10-day notice  
17 period and not beyond.

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

21 8840. On resolution of the claim in the stop work notice or the  
22 direct contractor's cancellation of the stop work notice, the  
23 contractor shall post, and give subcontractors with whom the  
24 contractor has a direct contractual relationship on the work of  
25 improvement, notice of the resolution or cancellation. The notice  
26 shall comply with the requirements of ~~Article 3 (commencing with~~  
27 ~~Section 8100) of Chapter 1~~ Chapter 2 (commencing with Section  
28 8100) of Title 1. *In addition to posting the notice pursuant to*  
29 *Section 8114, the notice shall also be posted at the main office of*  
30 *the site, if one exists.*

31 8842. A direct contractor's right to stop work under this article  
32 is in addition to other rights the direct contractor may have under  
33 the law.

34 8844. (a) If payment of the amount claimed is not made within  
35 10 days after a stop work notice is given, the direct contractor, the  
36 direct contractor's surety, or an owner may in an expedited  
37 proceeding in the superior court in the county in which the private  
38 work of improvement is located, seek a judicial determination of  
39 liability for the amount due.

- 1 (b) The expedited proceeding shall be set for hearing or trial at
- 2 the earliest possible date in order that it shall be quickly heard and
- 3 determined, and shall take precedence over all other cases except
- 4 older matter of the same character and other matters to which
- 5 special precedence has been given.
- 6 8846. It is against public policy to waive the provisions of this
- 7 article by contract.
- 8 8848. (a) This article applies to a contract entered into on or
- 9 after January 1, 1999.
- 10 (b) This article does not apply to a retention withheld by a lender
- 11 pursuant to a construction loan agreement.

12  
13 TITLE 2. 3. PUBLIC WORK OF IMPROVEMENT

14  
15 CHAPTER 1. DEFINITIONS

- 16
- 17 ~~9000.—Unless the provision or context otherwise requires, the~~
- 18 ~~definitions in this chapter govern the construction of this title.~~
- 19 ~~9002.—“Claimant” means a person that has a right under this~~
- 20 ~~title to give a stop payment notice or assert a claim against a~~
- 21 ~~payment bond.~~
- 22 ~~9004.—“Design professional” means a person licensed as an~~
- 23 ~~architect pursuant to Chapter 3 (commencing with Section 5500)~~
- 24 ~~of Division 3 of the Business and Professions Code, licensed as a~~
- 25 ~~landscape architect pursuant to Chapter 3.5 (commencing with~~
- 26 ~~Section 5615) of Division 3 of the Business and Professions Code,~~
- 27 ~~registered as a professional engineer pursuant to Chapter 7~~
- 28 ~~(commencing with Section 6700) of Division 3 of the Business~~
- 29 ~~and Professions Code, or licensed as a land surveyor pursuant to~~
- 30 ~~Chapter 15 (commencing with Section 8700) of Division 3 of the~~
- 31 ~~Business and Professions Code.~~
- 32 ~~9006.—“Direct contractor” means a contractor that has a direct~~
- 33 ~~contractual relationship with a public entity. With respect to the~~
- 34 ~~amount due or to become due to a direct contractor, the term~~
- 35 ~~includes the direct contractor’s assignee.~~
- 36 ~~9008.—“Funds” means warrant, check, money, or bonds (if~~
- 37 ~~bonds are to be issued in payment of the public works contract).~~
- 38 ~~9010.—“Labor, service, equipment, or material” includes, but~~
- 39 ~~is not limited to, labor, skills, services, material, supplies,~~



1 ~~equipment, appliances, power, and surveying, provided pursuant~~  
2 ~~to a public works contract.~~

3 ~~9012. (a) “Laborer” means a person who, acting as an~~  
4 ~~employee, performs labor, or bestows skill or other necessary~~  
5 ~~services, pursuant to a public works contract.~~

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

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

22 ~~9014. “Payment bond” means a payment bond required by~~  
23 ~~Section 9550.~~

24 ~~9016. “Person” means an individual, corporation, public entity,~~  
25 ~~business trust, estate, trust, partnership, limited liability company,~~  
26 ~~association, or other entity.~~

27 ~~9018. “Preliminary notice” means the notice provided for in~~  
28 ~~Chapter 3 (commencing with Section 9300).~~

29 ~~9020. (a) “Public entity” has the meaning provided in Section~~  
30 ~~1100 of the Public Contract Code and includes all of the following:~~

31 ~~(1) The Regents of the University of California.~~

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

33 ~~(b) A reference in this title to a public entity means the public~~  
34 ~~entity that awarded the public works contract.~~

35 ~~9022. “Public works contract” has the meaning provided in~~  
36 ~~Section 1101 of the Public Contract Code.~~

37 ~~9024. “Site” means the property on which a public works~~  
38 ~~contract is performed or is to be performed.~~

39 ~~9026. “Stop payment notice” means a notice given under~~  
40 ~~Chapter 4 (commencing with Section 9350). A reference in another~~

1 statute to a “stop notice” in connection with the remedies provided  
2 in this title means a stop payment notice.

3 9028. ~~“Subcontractor” means a contractor that does not have  
4 a direct contractual relationship with a public entity. The term  
5 includes a contractor who has a contractual relationship with a  
6 direct contractor or with another subcontractor.~~

7 9030. ~~“Work” means labor, service, equipment, or material  
8 provided pursuant to a public works contract.~~

9 9032. (a) ~~“Work of improvement” includes, but is not limited  
10 to:~~

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

14 ~~(2) Seeding, sodding, or planting of property for landscaping  
15 purposes.~~

16 ~~(3) Filling, leveling, or grading of property.~~

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

20  
21 CHAPTER 2. GENERAL PROVISIONS

22  
23 Article 1. Miscellaneous Provisions

24  
25 9050. (a) ~~This title is operative on January 1, 2012.~~

26 (b) ~~Except as otherwise provided in this section, this title applies  
27 to a public works contract executed before, on, or after the  
28 operative date.~~

29 (c) ~~The effectiveness of a notice given or other action taken on  
30 a public works contract before the operative date is governed by  
31 the applicable law in effect before the operative date and not by  
32 this title.~~

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

37 9052. (a) ~~This title applies to a public works contract awarded  
38 by a public entity.~~

39 (b) ~~This title does not apply to a transaction governed by  
40 Sections 20457 to 20464, inclusive, of the Public Contract Code.~~

1 9054. ~~(a) This title does not apply to or change improvement~~  
2 ~~security under the Subdivision Map Act, Division 2 (commencing~~  
3 ~~with Section 66410) of Title 7 of the Government Code.~~

4 ~~(b) The Bond and Undertaking Law, Chapter 2 (commencing~~  
5 ~~with Section 995.010) of Title 14 of Part 2 of the Code of Civil~~  
6 ~~Procedure, applies to a bond given under this title, except to the~~  
7 ~~extent this title prescribes a different rule or is inconsistent.~~

8 9056. ~~(a) Except as provided in subdivision (b), any of the~~  
9 ~~following persons that have not been paid in full may give a stop~~  
10 ~~payment notice to the public entity or assert a claim against a~~  
11 ~~payment bond:~~

12 ~~(1) A person that provides work for a public works contract, if~~  
13 ~~the work is authorized by a direct contractor, subcontractor,~~  
14 ~~architect, project manager, or other person having charge of all or~~  
15 ~~part of the public works contract.~~

16 ~~(2) A laborer.~~

17 ~~(3) A person described in Section 4107.7 of the Public Contract~~  
18 ~~Code.~~

19 ~~(b) A direct contractor may not give a stop payment notice or~~  
20 ~~assert a claim against a payment bond under this title.~~

21 9058. ~~Except as otherwise provided in this title, Part 2~~  
22 ~~(commencing with Section 307) of the Code of Civil Procedure~~  
23 ~~provides the rules of practice in proceedings under this title.~~

24 9060. ~~For purposes of this title, the term “day” means a~~  
25 ~~calendar day.~~

26 9062. ~~An act that may be done by or to a person under this title~~  
27 ~~may be done by or to the person’s agent to the extent the act is~~  
28 ~~within the scope of the agent’s authority.~~

29 9064. ~~None of the following releases a surety from liability on~~  
30 ~~a bond given under this title:~~

31 ~~(a) A change to a contract, plan, specification, or agreement for~~  
32 ~~a public works contract or for work provided for a public works~~  
33 ~~contract.~~

34 ~~(b) A change to the terms of payment or an extension of the~~  
35 ~~time for payment for a public works contract.~~

36 ~~(c) A rescission or attempted rescission of a contract, agreement,~~  
37 ~~or bond.~~

38 ~~(d) A condition precedent or subsequent in the bond purporting~~  
39 ~~to limit the right of recovery of a claimant otherwise entitled to~~  
40 ~~recover pursuant to a contract, agreement, or bond.~~

1 (e) ~~In the case of a bond given for the benefit of claimants, the~~  
2 ~~fraud of a person other than the claimant seeking to recover on the~~  
3 ~~bond.~~

4  
5 Article 2. Notice  
6

7 9100. ~~(a) Notice under this title shall be in writing. Writing~~  
8 ~~includes printing and typewriting.~~

9 ~~(b) Written notice under this title may be given by electronic~~  
10 ~~communication to the extent authorized under Section 9112.~~

11 9102. ~~(a) Notice under this title shall, in addition to any other~~  
12 ~~information required by statute for that type of notice, include all~~  
13 ~~of the following information to the extent known to the person~~  
14 ~~giving the notice:~~

15 ~~(1) The name and address of the public entity.~~

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

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

22 ~~(4) The name, address, and relationship to the parties of the~~  
23 ~~person giving the notice.~~

24 ~~(5) If the person giving the notice is a claimant:~~

25 ~~(A) A general statement of the labor, service, equipment, or~~  
26 ~~material provided or to be provided by the claimant.~~

27 ~~(B) The name of the person that contracted for the labor, service,~~  
28 ~~equipment, or material provided or to be provided.~~

29 ~~(C) A statement or estimate of the claimant's demand, if any,~~  
30 ~~after deducting all just credits and offsets.~~

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

36 9104. ~~(a) A direct contractor or subcontractor that employs a~~  
37 ~~laborer and fails to pay the full compensation due the laborer,~~  
38 ~~including any employer payments described in Section 1773.1 of~~  
39 ~~the Labor Code and implementing regulations, shall not later than~~  
40 ~~the date the compensation became delinquent, give the laborer,~~

1 the laborer's bargaining representative, if any, and the public entity,  
2 notice that includes all of the following information, in addition  
3 to the information specified in Section 9102:

4 (1) ~~The name and address of the laborer, and of any person or~~  
5 ~~entity described in subdivision (b) of Section 9012 to which~~  
6 ~~employer payments are due.~~

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

9 (3) ~~The amount then past due and owing.~~

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

14 9106. ~~Except as otherwise provided by statute, notice under~~  
15 ~~this title shall be given by any of the following means:~~

16 (a) ~~Personal delivery.~~

17 (b) ~~Mail in the manner provided in Section 9112.~~

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

21 9108. ~~Except as otherwise provided under this title, notice~~  
22 ~~under this title shall be given to the person to be notified at the~~  
23 ~~following addresses:~~

24 (a) ~~If the person to be notified is the public entity, at the office~~  
25 ~~of the public entity or at another address specified by the public~~  
26 ~~entity in the contract or elsewhere for service of notices, papers,~~  
27 ~~and other documents.~~

28 (b) ~~If the person to be notified is a direct contractor or a~~  
29 ~~subcontractor, at the contractor's residence or place of business,~~  
30 ~~or at the contractor's address shown on the building permit, on the~~  
31 ~~contractor's contract, or on the records of the Contractors' State~~  
32 ~~License Board.~~

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

38 (d) ~~If the person to be notified is the surety on a bond, at the~~  
39 ~~surety's residence or place of business, or at the surety's address~~

1 ~~shown on the bond for service of notices, papers, and other~~  
2 ~~documents, or on the records of the Department of Insurance.~~  
3 ~~9110. Notice given by mail under this title shall be given by~~  
4 ~~registered or certified mail, express mail, or overnight delivery by~~  
5 ~~an express service carrier.~~  
6 ~~9112. (a) As used in this section, “electronic record” has the~~  
7 ~~meaning provided in Section 1633.2 of the Civil Code.~~  
8 ~~(b) A notice under this title may be given to a person in the form~~  
9 ~~of an electronic record if the person has agreed in writing to receive~~  
10 ~~the notice in the form of an electronic record.~~  
11 ~~(c) If a person that has agreed to receive a notice in the form of~~  
12 ~~an electronic record is a consumer within the meaning of Section~~  
13 ~~7006 of Title 15 of the United States Code, the person’s agreement~~  
14 ~~shall satisfy the requirements of Section 7001 of Title 15 of the~~  
15 ~~United States Code relating to consumer consent to an electronic~~  
16 ~~record.~~  
17 ~~9114. Notice under this title is complete and deemed to have~~  
18 ~~been given at the following times:~~  
19 ~~(a) If given by personal delivery, when delivered.~~  
20 ~~(b) If given by mail, when deposited in the mail or with an~~  
21 ~~express service carrier in the manner provided in Section 1013 of~~  
22 ~~the Code of Civil Procedure.~~  
23 ~~(c) If given by leaving the notice and mailing a copy in the~~  
24 ~~manner provided in Section 415.20 of the Code of Civil Procedure~~  
25 ~~for service of summons in a civil action, five days after mailing.~~  
26 ~~(d) If given in the form of an electronic record, when the~~  
27 ~~electronic record is transmitted.~~  
28 ~~9116. (a) Proof that notice was given to a person in the manner~~  
29 ~~required by this title shall be made by a proof of notice declaration~~  
30 ~~that states all of the following:~~  
31 ~~(1) The type or description of the notice given.~~  
32 ~~(2) The date, place, and manner of notice and facts showing~~  
33 ~~that notice was given in the manner required by statute.~~  
34 ~~(3) The name and address of the person to which notice was~~  
35 ~~given, and, if appropriate, the title or capacity in which the person~~  
36 ~~was given notice.~~  
37 ~~(b) If the notice is given by mail, the declaration shall be~~  
38 ~~accompanied by one of the following:~~

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

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

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

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

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

22  
23 *Article 3. Completion*

24  
25 *CHAPTER 1. GENERAL PROVISIONS*

26  
27 *Article 1. Application of Title*

28  
29 *9000. This title applies to a work of improvement contracted*  
30 *for by a public entity.*

31  
32 *Article 2. Claimants*

33  
34 *9100. (a) Except as provided in subdivision (b), any of the*  
35 *following persons that have not been paid in full may give a stop*  
36 *payment notice to the public entity or assert a claim against a*  
37 *payment bond:*

38 *(1) A person that provides work for a public works contract, if*  
39 *the work is authorized by a direct contractor, subcontractor,*

1 architect, project manager, or other person having charge of all  
2 or 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

9

CHAPTER 2. COMPLETION

10

11 9200. For the purpose of this title, completion of a work of  
12 improvement occurs at the earliest of the following times:

13 (a) Acceptance of the work of improvement by the public entity.

14 (b) Cessation of labor on the work of improvement for a  
15 continuous period of 60 days. This subdivision does not apply to  
16 a contract awarded under the State Contract Act, Part 2  
17 (commencing with Section 10100) of Division 2 of the Public  
18 Contract Code.

19 9202. (a) A public entity may record a notice of cessation if  
20 there has been a continuous cessation of labor for at least 30 days  
21 prior to the recordation that continues through the date of the  
22 recordation.

23 (b) The notice shall be signed and verified by the public entity  
24 or its agent.

25 (c) The notice shall comply with the requirements of ~~Article 2~~  
26 ~~(commencing with Section 9100) Chapter 2 (commencing with~~  
27 ~~Section 8100) of Title 1~~, and shall also include all of the following  
28 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) Chapter 2 (commencing with~~  
39 ~~Section 8100) of Title 1~~, and shall also include the date of  
40 completion. An erroneous statement of the date of completion does



1 not affect the effectiveness of the notice if the true date of  
2 completion is 15 days or less before the date of recordation of the  
3 notice.

4 ~~9208. (a) A notice of cessation or completion is recorded when~~  
5 ~~filed for record in the office of the county recorder of the county~~  
6 ~~in which the public works contract or part of it is performed. A~~

7 ~~9208. A notice of completion in otherwise proper form, verified~~  
8 ~~and containing the information required by Section 9204 this title~~  
9 ~~shall be accepted by the recorder for recording and is deemed duly~~  
10 ~~recorded without acknowledgment.~~

11 ~~(b) The county recorder shall number, index, and preserve a~~  
12 ~~notice of cessation or completion presented for filing under this~~  
13 ~~title, and shall number, index, and transcribe into the official~~  
14 ~~records, in the same manner as a conveyance of real property, a~~  
15 ~~notice of completion or cessation recorded under this title.~~

16 ~~(c) The county recorder shall charge and collect the fees~~  
17 ~~provided in Article 5 (commencing with Section 27360) of Chapter~~  
18 ~~6 of Part 3 of Division 2 of Title 3 of the Government Code for~~  
19 ~~performing duties under this section.~~

20

21

#### Article 4. Waiver and Release

22

23 ~~9250. (a) A public entity or direct contractor may not, by~~  
24 ~~contract or otherwise, waive, affect, or impair a claimant's rights~~  
25 ~~under this title, whether with or without notice, except with the~~  
26 ~~claimant's written consent, and any term of a contract that purports~~  
27 ~~to do so is void and unenforceable.~~

28 ~~(b) A claimant's written consent is void and unenforceable~~  
29 ~~unless and until the claimant executes and delivers a waiver and~~  
30 ~~release under this article.~~

31 ~~9252. A claimant's waiver and release does not release the~~  
32 ~~public entity or surety on a payment bond from a claim unless both~~  
33 ~~of the following conditions are satisfied:~~

34 ~~(a) The waiver and release is in substantially the form provided~~  
35 ~~in this article and is signed by the claimant.~~

36 ~~(b) If the release is a conditional release, there is evidence of~~  
37 ~~payment to the claimant. Evidence of payment may be either of~~  
38 ~~the following:~~

1     ~~(1) The claimant’s endorsement on a single or joint payee check~~  
2     ~~that has been paid by the financial institution on which it was~~  
3     ~~drawn.~~  
4     ~~(2) Written acknowledgment of payment by the claimant.~~  
5     ~~9254. An oral or written statement purporting to waive, release,~~  
6     ~~impair, or otherwise adversely affect a claim is void and~~  
7     ~~unenforceable and does not create an estoppel or impairment of~~  
8     ~~the claim unless either of the following conditions is satisfied:~~  
9     ~~(a) The statement is pursuant to a waiver and release under this~~  
10    ~~article.~~  
11    ~~(b) The claimant has actually received payment in full for the~~  
12    ~~claim.~~  
13    ~~9256. (a) A claimant may reduce the amount of, or release in~~  
14    ~~its entirety, a stop payment notice. The reduction or release shall~~  
15    ~~be in writing and may be given in a form other than a waiver and~~  
16    ~~release form provided in this article.~~  
17    ~~(b) The writing shall identify whether it is a reduction of the~~  
18    ~~amount of the stop payment notice, or a release of the notice in its~~  
19    ~~entirety. If the writing is a reduction, it shall state the amount of~~  
20    ~~the reduction, and the amount to remain withheld after the~~  
21    ~~reduction.~~  
22    ~~(c) A claimant’s reduction or release of a stop payment notice~~  
23    ~~has the following effect:~~  
24    ~~(1) The reduction or release releases the claimant’s right to~~  
25    ~~enforce payment of the claim stated in the notice to the extent of~~  
26    ~~the reduction or release.~~  
27    ~~(2) The reduction or release releases the public entity from the~~  
28    ~~obligation to withhold funds pursuant to the notice to the extent~~  
29    ~~of the reduction or release.~~  
30    ~~(3) The reduction or release does not preclude the claimant from~~  
31    ~~giving a subsequent stop payment notice that is timely and proper.~~  
32    ~~(4) The reduction or release does not release any right of the~~  
33    ~~claimant other than the right to enforce payment of the claim stated~~  
34    ~~in the stop payment notice to the extent of the reduction or release.~~  
35    ~~9258. This article does not affect the enforceability of either~~  
36    ~~an accord and satisfaction concerning a good faith dispute or an~~  
37    ~~agreement made in settlement of an action pending in court if the~~  
38    ~~accord and satisfaction or agreement and settlement make specific~~  
39    ~~reference to the claim.~~

1 9260. ~~If a claimant is required to execute a waiver and release~~  
 2 ~~in exchange for, or in order to induce payment of, a progress~~  
 3 ~~payment and the claimant is not, in fact, paid in exchange for the~~  
 4 ~~waiver and release or a single payee check or joint payee check is~~  
 5 ~~given in exchange for the waiver and release, the waiver and release~~  
 6 ~~shall be in substantially the following form:~~

7  
 8 ~~—Conditional Waiver and Release on Progress Payment~~

9  
 10 ~~—NOTICE: This document waives certain rights of the claimant effective on~~  
 11 ~~receipt of payment. A person should not rely on this document unless satisfied~~  
 12 ~~that the claimant has received payment.~~

13  
 14 ~~—Identifying Information~~

15  
 16 ~~—Name of Claimant: \_\_\_\_\_~~  
 17 ~~—Name of Customer: \_\_\_\_\_~~  
 18 ~~—Job Location: \_\_\_\_\_~~  
 19 ~~—Public Entity: \_\_\_\_\_~~  
 20 ~~—Through Date: \_\_\_\_\_~~

21  
 22 ~~—Conditional Waiver and Release~~

23  
 24 ~~—This document waives and releases stop payment notice and payment bond~~  
 25 ~~rights the claimant has for labor and service provided, and equipment and~~  
 26 ~~material delivered, to the customer on this job through the Through Date of~~  
 27 ~~this document. This document is effective only on the claimant's receipt of~~  
 28 ~~payment from the financial institution on which the following check is drawn:~~

29 ~~— Maker of Check: \_\_\_\_\_~~  
 30 ~~— Amount of Check: \$ \_\_\_\_\_~~  
 31 ~~— Check Payable to: \_\_\_\_\_~~

32  
 33 ~~—Exceptions~~

34  
 35 ~~—This document does not affect any of the following:~~  
 36 ~~—(1) Retentions:~~  
 37 ~~—(2) Extras for which the claimant has not received payment.~~  
 38 ~~—(3) The following progress payments for which the claimant has previously~~  
 39 ~~given a conditional waiver and release but has not received payment:~~  
 40 ~~—Date(s) of waiver and release: \_\_\_\_\_~~

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

2 - (4) Contract rights, including (A) a right based on rescission, abandonment,  
3 or breach of contract, and (B) the right to recover compensation for work not  
4 compensated by the payment.

5  
6 —Signature

7  
8 — Claimant’s Signature: \_\_\_\_\_

9 — Claimant’s Title: \_\_\_\_\_

10 — Date of Signature: \_\_\_\_\_

11  
12 ~~9262. If the claimant is required to execute a waiver and release~~  
13 ~~in exchange for, or in order to induce payment of, a progress~~  
14 ~~payment and the claimant asserts in the waiver it has, in fact, been~~  
15 ~~paid the progress payment, the waiver and release shall be in~~  
16 ~~substantially the following form, with the text of the “Notice to~~  
17 ~~Claimant” in at least as large a type as the largest type otherwise~~  
18 ~~in the form:~~

19  
20 —Unconditional Waiver and Release on Progress Payment

21  
22 ~~- NOTICE TO CLAIMANT: This document waives and releases rights~~  
23 ~~unconditionally and states that you have been paid for giving up those rights.~~  
24 ~~This document is enforceable against you if you sign it, even if you have not~~  
25 ~~been paid. If you have not been paid, use a conditional waiver and release~~  
26 ~~form.~~

27  
28 —Identifying Information

29  
30 — Name of Claimant: \_\_\_\_\_

31 — Name of Customer: \_\_\_\_\_

32 — Job Location: \_\_\_\_\_

33 — Public Entity: \_\_\_\_\_

34 — Through Date: \_\_\_\_\_

35  
36 —Unconditional Waiver and Release

37  
38 ~~- This document waives and releases stop payment notice and payment bond~~  
39 ~~rights the claimant has for labor and service provided, and equipment and~~

1 material delivered, to the customer on this job through the Through Date of  
2 this document. The claimant has received the following progress  
3 payment: \$ \_\_\_\_\_  
4

5 —Exceptions

6  
7 —This document does not affect any of the following:

8 —(1) Retentions:

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

10 —(3) Contract rights, including (A) a right based on rescission, abandonment,  
11 or breach of contract, and (B) the right to recover compensation for work not  
12 compensated by the payment.

13

14 —Signature

15

16 —Claimant's Signature: \_\_\_\_\_

17 —Claimant's Title: \_\_\_\_\_

18 —Date of Signature: \_\_\_\_\_

19

20 9264. If the claimant is required to execute a waiver and release  
21 in exchange for, or in order to induce payment of, a final payment  
22 and the claimant is not, in fact, paid in exchange for the waiver  
23 and release or a single payee check or joint payee check is given  
24 in exchange for the waiver and release, the waiver and release shall  
25 be in substantially the following form:

26

27 —Conditional Waiver and Release on Final Payment

28

29 —NOTICE: This document waives certain rights of the claimant effective on  
30 receipt of payment. A person should not rely on this document unless satisfied  
31 that the claimant has received payment.

32

33 —Identifying Information

34

35 —Name of Claimant: \_\_\_\_\_

36 —Name of Customer: \_\_\_\_\_

37 —Job Location: \_\_\_\_\_

38 —Public Entity: \_\_\_\_\_

39

40 —Conditional Waiver and Release

1  
 2 ~~– This document waives and releases stop payment notice and payment bond~~  
 3 ~~rights the claimant has for all labor and service provided, and equipment and~~  
 4 ~~material delivered, to the customer on this job. This document is effective only~~  
 5 ~~on the claimant’s receipt of payment from the financial institution on which~~  
 6 ~~the following check is drawn:~~

7 ~~– Maker of Check: \_\_\_\_\_~~  
 8 ~~– Amount of Check: \$ \_\_\_\_\_~~  
 9 ~~– Check Payable to: \_\_\_\_\_~~

10  
 11 ~~– Exceptions~~

12  
 13 ~~– This document does not affect any of the following:~~  
 14 ~~– (1) Disputed claims for extras in the amount of: \$ \_\_\_\_\_~~  
 15 ~~– (2) The following progress payments for which the claimant has previously~~  
 16 ~~given a conditional waiver and release but has not received payment:~~

17 ~~– Date(s) of waiver and release: \_\_\_\_\_~~  
 18 ~~– Amount(s) of unpaid progress payment(s): \_\_\_\_\_~~

19  
 20 ~~– Signature~~

21  
 22 ~~– Claimant’s Signature: \_\_\_\_\_~~  
 23 ~~– Claimant’s Title: \_\_\_\_\_~~  
 24 ~~– Date of Signature: \_\_\_\_\_~~

25  
 26 ~~9266. If the claimant is required to execute a waiver and release~~  
 27 ~~in exchange for, or in order to induce payment of, a final payment~~  
 28 ~~and the claimant asserts in the waiver that he or she has, in fact,~~  
 29 ~~been paid the final payment, the waiver and release shall be in~~  
 30 ~~substantially the following form, with the text of the “Notice to~~  
 31 ~~Claimant” in at least as large a type as the largest type otherwise~~  
 32 ~~in the form:~~

33  
 34 ~~– Unconditional Waiver and Release on Final Payment~~

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

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~~Identifying Information~~

~~Name of Claimant: \_\_\_\_\_~~

~~Name of Customer: \_\_\_\_\_~~

~~Job Location: \_\_\_\_\_~~

~~Public Entity: \_\_\_\_\_~~

~~Unconditional 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. The claimant has been paid in full.~~

~~Exception~~

~~This document does not affect the following:~~

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

~~Signature~~

~~Claimant's Signature: \_\_\_\_\_~~

~~Claimant's Title: \_\_\_\_\_~~

~~Date of Signature: \_\_\_\_\_~~

CHAPTER 3. PRELIMINARY NOTICE

9300. (a) Except as otherwise provided by statute, before giving a stop payment notice or asserting a claim against a payment bond, a claimant shall give preliminary notice to the following persons:

- (1) The public entity.
  - (2) The direct contractor to which the claimant provides work.
- (b) Notwithstanding subdivision (a):
- (1) A laborer is not required to give preliminary notice.
  - (2) A claimant that has a direct contractual relationship with a direct contractor is not required to give preliminary notice.
- (c) Compliance with this section is a necessary prerequisite to the validity of a stop payment notice under this title.

1 (d) Compliance with this section or with Section 9562 is a  
2 necessary prerequisite to the validity of a claim against a payment  
3 bond under this title.

4 9302. (a) Except as provided in subdivision (b), preliminary  
5 notice shall be given in compliance with the requirements of ~~Article~~  
6 ~~2 (commencing with Section 9100) of Chapter 2 Chapter 2~~  
7 *(commencing with Section 8100) of Title 1.*

8 (b) If the public works contract is for work constructed by the  
9 Department of Public Works or the Department of General Services  
10 of the state, preliminary notice to the public entity shall be given  
11 to the disbursing officer of the department constructing the work.

12 9303. *The preliminary notice shall comply with the*  
13 *requirements of Section 8102, and shall also include:*

14 (a) *A general description of the work to be provided.*

15 (b) *An estimate of the total price of the work provided and to*  
16 *be provided.*

17 9304. A claimant may give a stop payment notice or assert a  
18 claim against a payment bond only for work provided within 20  
19 days before giving preliminary notice and at any time thereafter.

20 9306. If the contract of any subcontractor on a particular work  
21 of improvement provides for payment to the subcontractor of more  
22 than four hundred dollars (\$400), the failure of that subcontractor,  
23 licensed under the Contractors' State License Law (Chapter 9  
24 (commencing with Section 7000) of Division 3 of the Business  
25 and Professions Code), to give the notice provided for in this  
26 chapter, constitutes grounds for disciplinary action under the  
27 Contractors' State License Law.

28  
29 CHAPTER 4. STOP PAYMENT NOTICE

30  
31 Article 1. General Provisions

32  
33 9350. The rights of all persons furnishing work pursuant to a  
34 public works contract, with respect to any fund for payment of  
35 construction costs, are governed exclusively by this chapter, and  
36 no person may assert any legal or equitable right with respect to  
37 that fund, other than a right created by direct written contract  
38 between the person and the person holding the fund, except  
39 pursuant to the provisions of this chapter.



1 9352. (a) A stop payment notice shall comply with the  
2 requirements of ~~Section 9102~~ *Chapter 2 (commencing with Section*  
3 *8100) of Title 1*, and shall be signed and verified by the claimant.

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

7 (c) The amount claimed in the notice may include only the  
8 amount due the claimant for work provided through the date of  
9 the notice.

10 9354. (a) Except as provided in subdivision (b), a stop payment  
11 notice shall be given in compliance with the requirements of ~~Article~~  
12 ~~2 (commencing with Section 9100) of Chapter 2~~ *Chapter 2*  
13 *(commencing with Section 8100) of Title 1*.

14 (b) A stop payment notice shall be given to the public entity by  
15 giving the notice to the following person:

16 (1) In the case of a public works contract of the state, the director  
17 of the department that awarded the contract.

18 (2) In the case of a public works contract of a public entity other  
19 than the state, the office of the controller, auditor, or other public  
20 disbursing officer whose duty it is to make payment pursuant to  
21 the contract, or the commissioners, managers, trustees, officers,  
22 board of supervisors, board of trustees, common council, or other  
23 body by which the contract was awarded.

24 9356. A stop payment notice is not effective unless given before  
25 the earlier of the following times:

26 ~~(a) Ninety days after cessation or completion.~~

27 ~~(b) Thirty days after recordation of a notice of cessation or~~  
28 ~~completion.~~ *the expiration of whichever of the following time*  
29 *periods is applicable:*

30 *(a) If a notice of completion, acceptance, or cessation is*  
31 *recorded, 30 days after that recordation.*

32 *(b) If a notice of completion, acceptance, or cessation is not*  
33 *recorded, 90 days after cessation or completion.*

34 9358. (a) The public entity shall, on receipt of a stop payment  
35 notice, withhold from the direct contractor sufficient funds due or  
36 to become due to the direct contractor to pay the claim stated in  
37 the stop payment notice and to provide for the public entity's  
38 reasonable cost of any litigation pursuant to the stop payment  
39 notice.

1 (b) The public entity may satisfy its duty under this section by  
2 refusing to release funds held in escrow under Section 10263 or  
3 22300 of the Public Contract Code.

4 9360. (a) This chapter does not prohibit payment of funds to  
5 a direct contractor *or a direct contractor's assignee* if a stop  
6 payment notice is not received before the disbursing officer actually  
7 surrenders possession of the funds.

8 (b) This chapter does not prohibit payment of any amount due  
9 to a direct contractor *or a direct contractor's assignee* in excess  
10 of the amount necessary to pay the total amount of all claims stated  
11 in stop payment notices received by the public entity at the time  
12 of payment plus any interest and court costs that might reasonably  
13 be anticipated in connection with the claims.

14 9362. (a) Not later than 10 days after each of the following  
15 events, the public entity shall give notice to a claimant that has  
16 given a stop payment notice of the time within which an action to  
17 enforce payment of the claim stated in the stop payment notice  
18 must be commenced:

19 (1) Completion of a public works contract, whether by  
20 acceptance or cessation.

21 (2) Recordation of a notice of cessation or completion.

22 (b) The notice shall comply with the requirements of ~~Article 2~~  
23 ~~(commencing with Section 9100) of Chapter 2~~ *Chapter 2*  
24 ~~(commencing with Section 8100) of Title 1.~~

25 (c) A public entity need not give notice under this section unless  
26 the claimant has paid the public entity ten dollars (\$10) at the time  
27 of giving the stop payment notice.

28 9364. (a) A public entity may, in its discretion, permit the  
29 direct contractor to give the public entity a release bond. The bond  
30 shall be executed by an admitted surety insurer, in an amount equal  
31 to 125 percent of the claim stated in the stop payment notice,  
32 conditioned for the payment of any amount the claimant recovers  
33 in an action on the claim, together with court costs if the claimant  
34 prevails.

35 (b) On receipt of a release bond, the public entity shall not  
36 withhold funds from the direct contractor pursuant to the stop  
37 payment notice.

38 (c) The surety on a release bond is jointly and severally liable  
39 to the claimant with the sureties on any payment bond given under  
40 Chapter 5 (commencing with Section 9550).

1 Article 2. Summary Proceeding for Release of Funds

2  
3 9400. A direct contractor may obtain release of funds withheld  
4 pursuant to a stop payment notice under the summary proceeding  
5 provided in this article on any of the following grounds:

6 (a) The claim on which the notice is based is not a type for  
7 which a stop payment notice is authorized under this chapter.

8 (b) The claimant is not a person authorized under Section ~~9056~~  
9 *9100* to give a stop payment notice.

10 (c) The amount of the claim stated in the stop payment notice  
11 is excessive.

12 (d) There is no basis for the claim stated in the stop payment  
13 notice.

14 9402. The direct contractor shall serve on the public entity an  
15 affidavit, together with a copy of the affidavit, in compliance with  
16 the requirements of ~~Article 2 (commencing with Section 9100) of~~  
17 ~~Chapter 2 Chapter 2 (commencing with Section 8100) of Title 1,~~  
18 that includes all of the following information:

19 (a) An allegation of the grounds for release of the funds and a  
20 statement of the facts supporting the allegation.

21 (b) A demand for the release of all or the portion of the funds  
22 that are alleged to be withheld improperly or in an excessive  
23 amount.

24 (c) A statement of the address of the contractor within the state  
25 for the purpose of permitting service by mail on the contractor of  
26 any notice or document.

27 9404. The public entity shall serve on the claimant a copy of  
28 the direct contractor's affidavit, together with a notice stating that  
29 the public entity will release the funds withheld, or the portion of  
30 the funds demanded, unless the claimant serves on the public entity  
31 a counteraffidavit on or before the time stated in the notice. The  
32 time stated in the notice shall be not less than 10 days nor more  
33 than 20 days after service on the claimant of the copy of the  
34 affidavit. The notice shall comply with the requirements of ~~Article~~  
35 ~~2 (commencing with Section 9100) of Chapter 2 Chapter 2~~  
36 *(commencing with Section 8100) of Title 1.*

37 9406. (a) A claimant that contests the direct contractor's  
38 affidavit shall serve on the public entity a counteraffidavit alleging  
39 the details of the claim and describing the specific basis on which  
40 the claimant contests or rebuts the allegations of the contractor's

1 affidavit. The counteraffidavit shall be served within the time stated  
2 in the public entity's notice, together with proof of service of a  
3 copy of the counteraffidavit on the direct contractor. The service  
4 of the counteraffidavit on the public entity and the copy of the  
5 affidavit on the direct contractor shall comply with the  
6 requirements of ~~Article 2 (commencing with Section 9100) Chapter~~  
7 ~~2 (commencing with Section 8100) of Title 1.~~

8 (b) If no counteraffidavit with proof of service is served on the  
9 public entity within the time stated in the public entity's notice,  
10 the public entity shall immediately release the funds, or the portion  
11 of the funds demanded by the affidavit, without further notice to  
12 the claimant, and the public entity is not liable in any manner for  
13 their release.

14 (c) The public entity is not responsible for the validity of an  
15 affidavit or counteraffidavit under this article.

16 9408. (a) If a counteraffidavit, together with proof of service,  
17 is served under Section 9406, either the direct contractor or the  
18 claimant may commence an action for a declaration of the rights  
19 of the parties.

20 (b) After commencement of the action, either the direct  
21 contractor or the claimant may move the court for a determination  
22 of rights under the affidavit and counteraffidavit. The party making  
23 the motion shall give not less than five days' notice of the hearing  
24 to the public entity and to the other party.

25 (c) The notice of hearing shall comply with the requirements  
26 of ~~Article 2 (commencing with Section 9100) Chapter 2~~  
27 ~~(commencing with Section 8100) of Title 1.~~ Notwithstanding  
28 ~~Section 9114 8116~~, when notice of the hearing is made by mail,  
29 the notice is complete on the fifth day following deposit of the  
30 notice in the mail.

31 (d) The court shall hear the motion within 15 days after the date  
32 of the motion, unless the court continues the hearing for good  
33 cause.

34 9410. (a) The affidavit and counteraffidavit shall be filed with  
35 the court by the public entity and shall constitute the pleadings,  
36 subject to the power of the court to permit an amendment in the  
37 interest of justice. The affidavit of the direct contractor shall be  
38 deemed controverted by the counteraffidavit of the claimant, and  
39 both shall be received in evidence.

40 (b) At the hearing, the direct contractor has the burden of proof.

1 9412. (a) No findings are required in a summary proceeding  
2 under this article.

3 (b) If at the hearing no evidence other than the affidavit and  
4 counteraffidavit is offered, the court may, if satisfied that sufficient  
5 facts are shown, make a determination on the basis of the affidavit  
6 and counteraffidavit. If the court is not satisfied that sufficient  
7 facts are shown, the court shall order the hearing continued for  
8 production of other evidence, oral or documentary, or the filing  
9 of other affidavits and counteraffidavits.

10 (c) At the conclusion of the hearing, the court shall make an  
11 order determining whether the demand for release is allowed. The  
12 court's order is determinative of the right of the claimant to have  
13 funds further withheld by the public entity.

14 (d) The direct contractor shall serve a copy of the court's order  
15 on the public entity in compliance with the requirements of ~~Article~~  
16 ~~2 (commencing with Section 9100) Chapter 2 (commencing with~~  
17 ~~Section 8100) of Title 1.~~

18 9414. A determination in a summary proceeding under this  
19 article is not res judicata with respect to a right of action by the  
20 claimant against either the principal or surety on a payment bond  
21 or with respect to a right of action against a party personally liable  
22 to the claimant.

23

### 24 Article 3. Distribution of Funds Withheld

25

26 9450. If funds withheld pursuant to a stop payment notice are  
27 insufficient to pay in full the claims of all persons who have given  
28 a stop payment notice, the funds shall be distributed among the  
29 claimants in the ratio that the claim of each bears to the aggregate  
30 of all claims for which a stop payment notice is given, without  
31 regard to the order in which the notices were given or enforcement  
32 actions were commenced.

33 9452. Nothing in this chapter impairs the right of a claimant  
34 to recover from the direct contractor or the contractor's sureties  
35 in an action on a payment bond under Chapter 5 (commencing  
36 with Section 9550) any deficit that remains unpaid after the  
37 distribution under Section 9450.

38 9454. A person that willfully gives a false stop payment notice  
39 to the public entity or that willfully includes in the notice work  
40 not provided for the public works contract for which the stop

1 payment notice is given forfeits all right to participate in the  
2 distribution under Section 9450.

3 9456. (a) A stop payment notice takes priority over an  
4 assignment by a direct contractor of any amount due or to become  
5 due pursuant to a public works contract, including contract changes,  
6 whether made before or after the giving of a stop payment notice,  
7 and the assignment has no effect on the rights of the claimant.

8 (b) Any garnishment of an amount due or to become due  
9 pursuant to a public works contract by a creditor of a direct  
10 contractor under Article 8 (commencing with Section 708.710) of  
11 Chapter 6 of Division 2 of Title 9 of Part 2 of the Code of Civil  
12 Procedure and any statutory lien on that amount is subordinate to  
13 the rights of a claimant.

14  
15 Article 4. Enforcement of Payment of Claim Stated in Stop  
16 Payment Notice  
17

18 9500. (a) A claimant may not enforce payment of the claim  
19 stated in a stop payment notice unless the claimant has complied  
20 with all of the following conditions:

21 (1) The claimant has given preliminary notice to the extent  
22 required by Chapter 3 (commencing with Section 9300).

23 (2) The claimant has given the stop payment notice within the  
24 time provided in Section 9356.

25 (b) The claim filing procedures of Part 3 (commencing with  
26 Section 900) of Division 3.6 of Title 1 of the Government Code  
27 do not apply to an action under this article.

28 9502. (a) The claimant shall commence an action against the  
29 public entity and the direct contractor to enforce payment of the  
30 claim stated in a stop payment notice ~~not earlier than 10 days after~~  
31 *at any time after 10 days from* the date the claimant gives the stop  
32 payment notice.

33 (b) The claimant shall commence an action against the public  
34 entity and the direct contractor to enforce payment of the claim  
35 stated in a stop payment notice not later than 90 days after  
36 expiration of the time within which a stop payment notice must  
37 be given.

38 (c) An action under this section may not be brought to trial or  
39 judgment entered before expiration of the time provided in  
40 subdivision (b).

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

6 9504. Within five days after commencement of an action to  
7 enforce payment of the claim stated in a stop payment notice, the  
8 claimant shall give notice of commencement of the action to the  
9 public entity in the same manner that a stop payment notice is  
10 given.

11 9506. If more than one claimant has given a stop payment  
12 notice:

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

15 (b) If claimants commence separate actions, the court that first  
16 acquires jurisdiction may order the actions consolidated.

17 (c) On request of the public entity, the court shall require that  
18 all claimants be impleaded in one action and shall adjudicate the  
19 rights of all parties in the action.

20 9508. Notwithstanding Section 583.420 of the Code of Civil  
21 Procedure, ~~the court may dismiss if~~ an action to enforce payment  
22 of the claim stated in a stop payment notice ~~that~~ is not brought to  
23 trial within two years after commencement of the action, *the court*  
24 *may in its discretion dismiss the action for want of prosecution.*

25 9510. A stop payment notice ceases to be effective, and the  
26 public entity shall release funds withheld, in either of the following  
27 circumstances:

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

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

33  
34 CHAPTER 5. PAYMENT BOND  
35

36 9550. (a) A direct contractor that is awarded a public works  
37 contract involving an expenditure in excess of twenty-five thousand  
38 dollars (\$25,000) shall, before commencement of work, give a  
39 payment bond to and approved by the ~~public entity~~ *officer or public*  
40 *entity by whom the contract was awarded.*

1 (b) A public entity shall state in its call for bids that a payment  
2 bond is required for a public works contract involving an  
3 expenditure in excess of twenty-five thousand dollars (\$25,000).

4 (c) A payment bond given and approved under this section will  
5 permit performance of and provide coverage for work pursuant to  
6 a public works contract that supplements the contract for which  
7 the bond is given, if the requirement of a new bond is waived by  
8 the public entity.

9 (d) For the purpose of this section, a design professional is not  
10 deemed a direct contractor and is not required to give a payment  
11 bond.

12 (e) This section does not apply to a public works contract with  
13 a “state entity” as defined in subdivision (d) of Section 7103 of  
14 the Public Contract Code.

15 9552. If a payment bond is not given and approved as required  
16 by Section 9550:

17 (a) ~~The~~ *Neither the public entity awarding the public works*  
18 *contract shall not nor any officer of the public entity shall* audit,  
19 allow, or pay a claim of the direct contractor pursuant to the  
20 contract.

21 (b) A claimant shall receive payment of a claim pursuant to a  
22 stop payment notice in the manner provided by Chapter 4  
23 (commencing with Section 9350).

24 9554. (a) A payment bond shall be in an amount not less than  
25 100 percent of the total amount payable pursuant to the public  
26 works contract. The bond shall be in the form of a bond and not a  
27 deposit in lieu of a bond. The bond shall be executed by an  
28 admitted surety insurer.

29 (b) The payment bond shall provide that if the direct contractor  
30 or a subcontractor fails to pay any of the following, the surety will  
31 pay the obligation and, if an action is brought to enforce the  
32 liability on the bond, a reasonable attorney’s fee, to be fixed by  
33 the court:

34 (1) A person authorized under Section ~~9056~~ *9100* to assert a  
35 claim against a payment bond.

36 (2) Amounts due under the Unemployment Insurance Code with  
37 respect to work or labor performed pursuant to the public works  
38 contract.

39 (3) Amounts required to be deducted, withheld, and paid over  
40 to the Employment Development Department from the wages of



1 employees of the contractor and subcontractors under Section  
2 13020 of the Unemployment Insurance Code with respect to the  
3 work and labor.

4 (c) The payment bond shall by its terms inure to the benefit of  
5 any person authorized under Section ~~9056~~ 9100 to assert a claim  
6 against a payment bond so as to give a right of action to that person  
7 or that person's assigns in an action to enforce the liability on the  
8 bond.

9 (d) The direct contractor may require that a subcontractor give  
10 a bond to indemnify the direct contractor for any loss sustained  
11 by the direct contractor because of any default of the subcontractor  
12 under this section.

13 ~~9556. (a) A payment bond shall be construed most strongly~~  
14 ~~against the surety and in favor of the beneficiary.~~

15 ~~(b) A surety is not released from liability to the beneficiary by~~  
16 ~~reason of a breach of the public works contract between the public~~  
17 ~~entity and the direct contractor or on the part of any obligee named~~  
18 ~~in the bond.~~

19 ~~(c) Except as otherwise provided by statute, the sole conditions~~  
20 ~~of recovery on the bond are that the claimant is a person authorized~~  
21 ~~under Section 9056 to assert a claim against a payment bond, and~~  
22 ~~has not been paid the full amount of the claim.~~

23 9558. A claimant may commence an action to enforce the  
24 liability on the bond at any time after the claimant ceases to provide  
25 work, but not later than six months after the period in which a stop  
26 payment notice may be given under Section 9356.

27 9560. (a) In order to enforce a claim against a payment bond,  
28 a claimant shall give the preliminary notice provided in Chapter  
29 3 (commencing with Section 9300).

30 (b) If preliminary notice was not given as provided in Chapter  
31 3 (commencing with Section 9300), a claimant may enforce a  
32 claim by giving written notice to the surety and the bond principal  
33 within 15 days after recordation of a notice of completion. If no  
34 notice of completion has been recorded, the time for giving written  
35 notice to the surety and the bond principal is extended to 75 days  
36 after completion of the work of improvement.

37 9562. Notice to the principal and surety under Section 9560  
38 shall comply with the requirements of ~~Article 2 (commencing with~~  
39 ~~Section 9100) of Chapter 2 Chapter 2 (commencing with Section~~  
40 ~~8100) of Title 1.~~

1 9564. (a) A claimant may maintain an action to enforce the  
2 liability of a surety on a payment bond whether or not the claimant  
3 has given the public entity a stop payment notice.

4 (b) A claimant may maintain an action to enforce the liability  
5 on the bond separately from and without commencement of an  
6 action against the public entity *by whom the contract was awarded*  
7 *or against any officer of the public entity*.

8 (c) In an action to enforce the liability on the bond, the court  
9 shall award the prevailing party a reasonable attorney's fee.

10 9566. (a) A claimant does not have a right to recover on a  
11 payment bond unless the claimant provided work to the direct  
12 contractor either directly or through one or more subcontractors  
13 pursuant to a public works contract.

14 (b) Nothing in this section affects the stop payment notice rights  
15 of, and relative priorities among, design professionals.

16 SEC. 21. Section 86 of the Code of Civil Procedure is amended  
17 to read:

18 86. (a) The following civil cases and proceedings are limited  
19 civil cases:

20 (1) A case at law in which the demand, exclusive of interest, or  
21 the value of the property in controversy amounts to twenty-five  
22 thousand dollars (\$25,000) or less. This paragraph does not apply  
23 to a case that involves the legality of any tax, impost, assessment,  
24 toll, or municipal fine, except an action to enforce payment of  
25 delinquent unsecured personal property taxes if the legality of the  
26 tax is not contested by the defendant.

27 (2) An action for dissolution of partnership where the total assets  
28 of the partnership do not exceed twenty-five thousand dollars  
29 (\$25,000); an action of interpleader where the amount of money  
30 or the value of the property involved does not exceed twenty-five  
31 thousand dollars (\$25,000).

32 (3) An action to cancel or rescind a contract when the relief is  
33 sought in connection with an action to recover money not  
34 exceeding twenty-five thousand dollars (\$25,000) or property of  
35 a value not exceeding twenty-five thousand dollars (\$25,000), paid  
36 or delivered under, or in consideration of, the contract; an action  
37 to revise a contract where the relief is sought in an action upon the  
38 contract if the action otherwise is a limited civil case.

1 (4) A proceeding in forcible entry or forcible or unlawful  
2 detainer where the whole amount of damages claimed is  
3 twenty-five thousand dollars (\$25,000) or less.

4 (5) An action to enforce and foreclose a lien on personal  
5 property where the amount of the lien is twenty-five thousand  
6 dollars (\$25,000) or less.

7 (6) An action to enforce and foreclose, or a petition to release,  
8 a lien arising under the provisions of Chapter 4 (commencing with  
9 Section 8400) of *Title 2* of Part 6 of Division 4 of the Civil Code,  
10 or to enforce and foreclose an assessment lien on a common interest  
11 development as defined in Section 1351 of the Civil Code, where  
12 the amount of the liens is twenty-five thousand dollars (\$25,000)  
13 or less. However, if an action to enforce the lien affects property  
14 that is also affected by a similar pending action that is not a limited  
15 civil case, or if the total amount of liens sought to be foreclosed  
16 against the same property aggregates an amount in excess of  
17 twenty-five thousand dollars (\$25,000), the action is not a limited  
18 civil case.

19 (7) An action for declaratory relief when brought pursuant to  
20 either of the following:

21 (A) By way of cross-complaint as to a right of indemnity with  
22 respect to the relief demanded in the complaint or a cross-complaint  
23 in an action or proceeding that is otherwise a limited civil case.

24 (B) To conduct a trial after a nonbinding fee arbitration between  
25 an attorney and client, pursuant to Article 13 (commencing with  
26 Section 6200) of Chapter 4 of Division 3 of the Business and  
27 Professions Code, where the amount in controversy is twenty-five  
28 thousand dollars (\$25,000) or less.

29 (8) An action to issue a temporary restraining order or  
30 preliminary injunction; to take an account, where necessary to  
31 preserve the property or rights of any party to a limited civil case;  
32 to make any order or perform any act, pursuant to Title 9  
33 (commencing with Section 680.010) of Part 2 (enforcement of  
34 judgments) in a limited civil case; to appoint a receiver pursuant  
35 to Section 564 in a limited civil case; to determine title to personal  
36 property seized in a limited civil case.

37 (9) An action under Article 3 (commencing with Section  
38 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the  
39 recovery of an interest in personal property or to enforce the  
40 liability of the debtor of a judgment debtor where the interest

1 claimed adversely is of a value not exceeding twenty-five thousand  
2 dollars (\$25,000) or the debt denied does not exceed twenty-five  
3 thousand dollars (\$25,000).

4 (10) An arbitration-related petition filed pursuant to either of  
5 the following:

6 (A) Article 2 (commencing with Section 1292) of Chapter 5 of  
7 Title 9 of Part 3, except for uninsured motorist arbitration  
8 proceedings in accordance with Section 11580.2 of the Insurance  
9 Code, if the petition is filed before the arbitration award becomes  
10 final and the matter to be resolved by arbitration is a limited civil  
11 case under paragraphs (1) to (9), inclusive, of subdivision (a) or  
12 if the petition is filed after the arbitration award becomes final and  
13 the amount of the award and all other rulings, pronouncements,  
14 and decisions made in the award are within paragraphs (1) to (9),  
15 inclusive, of subdivision (a).

16 (B) To confirm, correct, or vacate a fee arbitration award  
17 between an attorney and client that is binding or has become  
18 binding, pursuant to Article 13 (commencing with Section 6200)  
19 of Chapter 4 of Division 3 of the Business and Professions Code,  
20 where the arbitration award is twenty-five thousand dollars  
21 (\$25,000) or less.

22 (b) The following cases in equity are limited civil cases:

23 (1) A case to try title to personal property when the amount  
24 involved is not more than twenty-five thousand dollars (\$25,000).

25 (2) A case when equity is pleaded as a defensive matter in any  
26 case that is otherwise a limited civil case.

27 (3) A case to vacate a judgment or order of the court obtained  
28 in a limited civil case through extrinsic fraud, mistake,  
29 inadvertence, or excusable neglect.

30 SEC. 22. Section 410.42 of the Code of Civil Procedure is  
31 amended to read:

32 410.42. (a) The following provisions of a contract between  
33 the contractor and a subcontractor with principal offices in this  
34 state, for the construction of a public or private work of  
35 improvement in this state, shall be void and unenforceable:

36 (1) A provision which purports to require any dispute between  
37 the parties to be litigated, arbitrated, or otherwise determined  
38 outside this state.

1 (2) A provision which purports to preclude a party from  
2 commencing such a proceeding or obtaining a judgment or other  
3 resolution in this state or the courts of this state.

4 (b) For purposes of this section, “construction” means any work  
5 or services performed on, or materials provided for, a work of  
6 improvement, as defined in Section 8050 of the Civil Code, and  
7 for which a lien may be claimed pursuant to Section 8400 of the  
8 Civil Code (whether or not a lien is in fact claimed) or for which  
9 such a lien could be claimed but for Section ~~8052~~ 8160 of the Civil  
10 Code.

11 SEC. 23. Section 708.760 of the Code of Civil Procedure is  
12 amended to read:

13 708.760. (a) If the judgment debtor named in the abstract or  
14 certified copy of the judgment filed pursuant to this article is a  
15 contractor upon a public work, the cost of which is to be paid out  
16 of public moneys voted, appropriated, or otherwise set apart for  
17 such purpose, only so much of the contract price shall be deemed  
18 owing and unpaid within the meaning of Section 708.740 or  
19 708.750 as may remain payable under the terms of the contractor’s  
20 contract, upon the completion thereof, after deducting sums due  
21 and to become due to persons described in Section ~~9056~~ 9100 of  
22 the Civil Code. In ascertaining the sums due or to become due to  
23 such persons, only claims which are filed against the moneys due  
24 or to become due to the judgment debtor in accordance with  
25 Chapter 4 (commencing with Section 9350) of Title ~~2~~ 3 of Part 6  
26 of Division 4 of the Civil Code shall be considered.

27 (b) The Controller, auditor, or other public disbursing officer  
28 whose duty it is to make payments under the provisions of the  
29 contract may not deposit an amount with the court pursuant to this  
30 article until the contract is completed, but may deposit an amount  
31 with the court to satisfy the claim of the judgment debtor before  
32 the payments specified in subdivision (a) are made so long as a  
33 sufficient amount is retained for the satisfaction of the claims of  
34 persons described in Section ~~9056~~ 9100 of the Civil Code.

35 SEC. 24. Section 1203.61 of the Code of Civil Procedure is  
36 amended to read:

37 1203.61. (a) Any lien provided for by this chapter shall be  
38 enforced in the same manner as provided in Chapter 4  
39 (commencing with Section 8400) of *Title 2* of Part 6 of Division  
40 4 of the Civil Code. The action shall be filed within 180 days from

1 the time of the recording of the lien. If a credit is given and notice  
2 of the fact and terms of the credit is filed in the office of the county  
3 recorder subsequent to the filing of the lien and prior to the  
4 expiration of the 180-day period, then the lien continues in force  
5 until 180 days after the expiration of the credit, but no lien  
6 continues in force by reason of any agreement to give credit for a  
7 longer time than one year from the time the work is completed. If  
8 the proceedings to enforce the lien are not prosecuted to trial within  
9 two years after commencement, the court may in its discretion  
10 dismiss the action for want of prosecution, and in all cases the  
11 dismissal of the action (unless it is expressly stated that it is without  
12 prejudice) or a judgment in the action that no lien exists is  
13 equivalent to the cancellation and removal from the record of the  
14 lien.

15 (b) As against any purchaser or encumbrancer for value and in  
16 good faith whose rights are acquired subsequent to the expiration  
17 of the 180-day period following the filing of the lien, no giving of  
18 credit or extension of the lien or time to enforce the lien shall be  
19 effective unless evidenced by a notice or agreement filed for record  
20 in the office of the county recorder prior to the acquisition of the  
21 rights of the purchaser or encumbrancer.

22 SEC. 25. Section 1281.5 of the Code of Civil Procedure is  
23 amended to read:

24 1281.5. (a) Any person who proceeds to record and enforce a  
25 claim of lien by commencement of an action pursuant to Chapter  
26 4 (commencing with Section 8400) of *Title 2* of Part 6 of Division  
27 4 of the Civil Code, does not thereby waive any right of arbitration  
28 the person may have pursuant to a written agreement to arbitrate,  
29 if, in filing an action to enforce the claim of lien, the claimant does  
30 either of the following:

31 (1) Includes an allegation in the complaint that the claimant  
32 does not intend to waive any right of arbitration, and intends to  
33 move the court, within 30 days after service of the summons and  
34 complaint, for an order to stay further proceedings in the action.

35 (2) At the same time that the complaint is filed, the claimant  
36 files an application that the action be stayed pending the arbitration  
37 of any issue, question, or dispute that is claimed to be arbitrable  
38 under the agreement and that is relevant to the action to enforce  
39 the claim of lien.

1 (b) Within 30 days after service of the summons and complaint,  
2 the claimant shall file and serve a motion and notice of motion  
3 pursuant to Section 1281.4 to stay the action pending the arbitration  
4 of any issue, question, or dispute that is claimed to be arbitrable  
5 under the agreement and that is relevant to the action to enforce  
6 the claim of lien. The failure of a claimant to comply with this  
7 subdivision is a waiver of the claimant’s right to compel arbitration.

8 (c) The failure of a defendant to file a petition pursuant to  
9 Section 1281.2 at or before the time the defendant answers the  
10 complaint filed pursuant to subdivision (a) is a waiver of the  
11 defendant’s right to compel arbitration.

12 SEC. 26. Section 1800 of the Code of Civil Procedure is  
13 amended to read:

14 1800. (a) As used in this section, the following terms have the  
15 following meanings:

16 (1) “Insolvent” means:

17 (A) With reference to a person other than a partnership, a  
18 financial condition such that the sum of the person’s debts is greater  
19 than all of the person’s property, at a fair valuation, exclusive of  
20 both of the following:

21 (i) Property transferred, concealed, or removed with intent to  
22 hinder, delay, or defraud the person’s creditors.

23 (ii) Property that is exempt from property of the estate pursuant  
24 to the election of the person made pursuant to Section 1801.

25 (B) With reference to a partnership, financial condition such  
26 that the sum of the partnership’s debts are greater than the  
27 aggregate of, at a fair valuation, both of the following:

28 (i) All of the partnership’s property, exclusive of property of  
29 the kind specified in clause (i) of subparagraph (A).

30 (ii) The sum of the excess of the value of each general partner’s  
31 separate property, exclusive of property of the kind specified in  
32 clause (ii) of subparagraph (A), over the partner’s separate debts.

33 (2) “Inventory” means personal property leased or furnished,  
34 held for sale or lease, or to be furnished under a contract for service,  
35 raw materials, work in process, or materials used or consumed in  
36 a business, including farm products such as crops or livestock,  
37 held for sale or lease.

38 (3) “Insider” means:

39 (A) If the assignor is an individual, any of the following:

- 1 (i) A relative of the assignor or of a general partner of the
- 2 assignor.
- 3 (ii) A partnership in which the assignor is a general partner.
- 4 (iii) A general partner of the assignor.
- 5 (iv) A corporation of which the assignor is a director, officer,
- 6 or person in control.
- 7 (B) If the assignor is a corporation, any of the following:
- 8 (i) A director of the assignor.
- 9 (ii) An officer of the assignor.
- 10 (iii) A person in control of the assignor.
- 11 (iv) A partnership in which the assignor is a general partner.
- 12 (v) A general partner of the assignor.
- 13 (vi) A relative of a general partner, director, officer, or person
- 14 in control of the assignor.
- 15 (C) If the assignor is a partnership, any of the following:
- 16 (i) A general partner in the assignor.
- 17 (ii) A relative of a general partner in, general partner of, or
- 18 person in control of the assignor.
- 19 (iii) A partnership in which the assignor is a general partner.
- 20 (iv) A general partner of the assignor.
- 21 (v) A person in control of the assignor.
- 22 (D) An affiliate of the assignor or an insider of an affiliate as if
- 23 the affiliate were the assignor.
- 24 (E) A managing agent of the assignor.
- 25 As used in this paragraph, the following terms have the following
- 26 meanings:
- 27 “Relative” means an individual related by affinity or
- 28 consanguinity within the third degree as determined by the common
- 29 law, or an individual in a step or adoptive relationship within the
- 30 third degree.
- 31 An “affiliate” means a person that directly or indirectly owns,
- 32 controls, or holds, with power to vote, 20 percent or more of the
- 33 outstanding voting securities of the assignor, or 20 percent or more
- 34 of whose outstanding voting securities are directly or indirectly
- 35 owned, controlled, or held with power to vote by the assignor,
- 36 excluding securities held in a fiduciary or agency capacity without
- 37 sole discretionary power to vote, or held solely to secure a debt if
- 38 the holder has not in fact exercised the power to vote, or a person
- 39 who operates the business of the assignor under a lease or operating



1 agreement or whose business is operated by the assignor under a  
2 lease or operating agreement.

3 (4) “Judicial lien” means a lien obtained by judgment, levy,  
4 sequestration, or other legal or equitable process or proceeding.

5 (5) “New value” means money or money’s worth in goods,  
6 services, or new credit, or release by a transferee of property  
7 previously transferred to the transferee in a transaction that is  
8 neither void nor voidable by the assignor or the assignee under  
9 any applicable law, but does not include an obligation substituted  
10 for an existing obligation.

11 (6) “Receivable” means a right to payment, whether or not the  
12 right has been earned by performance.

13 (7) “Security agreement” means an agreement that creates or  
14 provides for a security interest.

15 (8) “Security interest” means a lien created by an agreement.

16 (9) “Statutory lien” means a lien arising solely by force of a  
17 statute on specified circumstances or conditions, or lien of distress  
18 for rent, whether or not statutory, but does not include a security  
19 interest or judicial lien, whether or not the interest or lien is  
20 provided by or is dependent on a statute and whether or not the  
21 interest or lien is made fully effective by statute.

22 (10) “Transfer” means every mode, direct or indirect, absolute  
23 or conditional, voluntary or involuntary, or disposing of or parting  
24 with property or with an interest in property, including retention  
25 of title as a security interest.

26 (b) Except as provided in subdivision (c), the assignee of any  
27 general assignment for the benefit of creditors, as defined in  
28 Section 493.010, may recover any transfer of property of the  
29 assignor that is all of the following:

30 (1) To or for the benefit of a creditor.

31 (2) For or on account of an antecedent debt owed by the assignor  
32 before the transfer was made.

33 (3) Made while the assignor was insolvent.

34 (4) Made on or within 90 days before the date of the making of  
35 the assignment or made between 90 days and one year before the  
36 date of making the assignment if the creditor, at the time of the  
37 transfer, was an insider and had reasonable cause to believe the  
38 debtor was insolvent at the time of the transfer.

39 (5) Enables the creditor to receive more than another creditor  
40 of the same class.

- 1 (c) The assignee may not recover under this section a transfer  
2 as follows:
- 3 (1) To the extent that the transfer was both of the following:
- 4 (A) Intended by the assignor and the creditor to or for whose  
5 benefit the transfer was made to be a contemporaneous exchange  
6 for new value given to the assignor.
- 7 (B) In fact a substantially contemporaneous exchange.
- 8 (2) To the extent that the transfer was all of the following:
- 9 (A) In payment of a debt incurred in the ordinary course of  
10 business or financial affairs of the assignor and the transferee.
- 11 (B) Made in the ordinary course of business or financial affairs  
12 of the assignor and the transferee.
- 13 (C) Made according to ordinary business terms.
- 14 (3) Of a security interest in property acquired by the assignor  
15 that meets both of the following:
- 16 (A) To the extent the security interest secures new value that  
17 was all of the following:
- 18 (i) Given at or after the signing of a security agreement that  
19 contains a description of the property as collateral.
- 20 (ii) Given by or on behalf of the secured party under the  
21 agreement.
- 22 (iii) Given to enable the assignor to acquire the property.
- 23 (iv) In fact used by the assignor to acquire the property.
- 24 (B) That is perfected within 20 days after the security interest  
25 attaches.
- 26 (4) To or for the benefit of a creditor, to the extent that, after  
27 the transfer, the creditor gave new value to or for the benefit of  
28 the assignor that meets both of the following:
- 29 (A) Not secured by an otherwise unavoidable security interest.
- 30 (B) On account of which new value the assignor did not make  
31 an otherwise unavoidable transfer to or for the benefit of the  
32 creditor.
- 33 (5) Of a perfected security interest in inventory or a receivable  
34 or the proceeds of either, except to the extent that the aggregate  
35 of all the transfers to the transferee caused a reduction, as of the  
36 date of the making of the assignment and to the prejudice of other  
37 creditors holding unsecured claims, of any amount by which the  
38 debt secured by the security interest exceeded the value of all  
39 security interest for the debt on the later of the following:
- 40 (A) Ninety days before the date of the making of the assignment.

1 (B) The date on which new value was first given under the  
2 security agreement creating the security interest.

3 (6) That is the fixing of a statutory lien.

4 (7) That is payment to a claimant, as defined in Section ~~8002~~  
5 ~~or Section 9002~~ 8004 of the Civil Code, in exchange for the  
6 claimant's waiver or release of any potential or asserted claim of  
7 lien, stop payment notice, or right to recover on a payment bond,  
8 or any combination thereof.

9 (8) To the extent that the transfer was a bona fide payment of  
10 a debt to a spouse, former spouse, or child of the debtor, for  
11 alimony to, maintenance for, or support of, the spouse or child, in  
12 connection with a separation agreement, divorce decree, or other  
13 order of a court of record, or a determination made in accordance  
14 with state or territorial law by a governmental unit, or property  
15 settlement agreement; but not to the extent that either of the  
16 following occurs:

17 (A) The debt is assigned to another entity voluntarily, by  
18 operation of law or otherwise, in which case the assignee may not  
19 recover that portion of the transfer that is assigned to the state or  
20 any political subdivision of the state pursuant to Part D of Title  
21 IV of the Social Security Act (42 U.S.C. Sec. 601 et seq.) and  
22 passed on to the spouse, former spouse, or child of the debtor.

23 (B) The debt includes a liability designated as alimony,  
24 maintenance, or support, unless the liability is actually in the nature  
25 of alimony, maintenance, or support.

26 (d) An assignee of any general assignment for the benefit of  
27 creditors, as defined in Section 493.010, may avoid a transfer of  
28 property of the assignor transferred to secure reimbursement of a  
29 surety that furnished a bond or other obligation to dissolve a  
30 judicial lien that would have been avoidable by the assignee under  
31 subdivision (b). The liability of the surety under the bond or  
32 obligation shall be discharged to the extent of the value of the  
33 property recovered by the assignee or the amount paid to the  
34 assignee.

35 (e) (1) For the purposes of this section:

36 (A) A transfer of real property other than fixtures, but including  
37 the interest of a seller or purchaser under a contract for the sale of  
38 real property, is perfected when a bona fide purchaser of the  
39 property from the debtor, against whom applicable law permits

1 the transfer to be perfected, cannot acquire an interest that is  
2 superior to the interest of the transferee.

3 (B) A transfer of a fixture or property other than real property  
4 is perfected when a creditor on a simple contract cannot acquire  
5 a judicial lien that is superior to the interest of the transferee.

6 (2) For the purposes of this section, except as provided in  
7 paragraph (3), a transfer is made at any of the following times:

8 (A) At the time the transfer takes effect between the transferor  
9 and the transferee, if the transfer is perfected at, or within 10 days  
10 after, the time, except as provided in subparagraph (B) of paragraph  
11 (3) of subdivision (c).

12 (B) At the time the transfer is perfected, if the transfer is  
13 perfected after the 10 days.

14 (C) Immediately before the date of making the assignment if  
15 the transfer is not perfected at the later of:

16 (i) The making of the assignment.

17 (ii) Ten days after the transfer takes effect between the transferor  
18 and the transferee.

19 (3) For the purposes of this section, a transfer is not made until  
20 the assignor has acquired rights in the property transferred.

21 (f) For the purposes of this section, the assignor is presumed to  
22 have been insolvent on and during the 90 days immediately  
23 preceding the date of making the assignment.

24 (g) An action by an assignee under this section must be  
25 commenced within one year after making the assignment.

26 SEC. 27. Section 17307.5 of the Education Code is amended  
27 to read:

28 17307.5. (a) Notwithstanding any provision of law to the  
29 contrary, including, but not limited to, Title-2 3 (commencing with  
30 Section 9000) of Part 6 of Division 4 of the Civil Code, the  
31 Department of General Services may issue a stop work order when  
32 construction work on a public school is not being performed in  
33 accordance with existing law and would compromise the structural  
34 integrity of the building, thereby endangering the public safety.  
35 The Department of General Services shall allow construction of  
36 incidental and minor nonstructural additions or nonstructural  
37 alterations without invoking its stop work authority.

38 (b) A school district, county superintendent of schools, county  
39 board of education, or other public board, body, or officer whose  
40 construction work on a public school is subject to a stop work

1 order issued pursuant to subdivision (a) shall not be held liable in  
2 any action filed against the public board, body, or officer for  
3 stopping work as required by the stop work order, or for any delays  
4 caused by compliance with the stop work order, except to the extent  
5 that an error or omission by the public board, body, or officer is  
6 the basis for the issuance of the stop work order.

7 SEC. 28. Section 81133.5 of the Education Code is amended  
8 to read:

9 81133.5. (a) Notwithstanding any provision of law to the  
10 contrary, including, but not limited to, Title 23 (commencing with  
11 Section 9000) of Part 6 of Division 4 of the Civil Code, the  
12 Department of General Services may issue a stop work order when  
13 construction work on a community college is not being performed  
14 in accordance with existing law and would compromise the  
15 structural integrity of the building, thereby endangering the public  
16 safety. The Department of General Services shall allow  
17 construction of incidental and minor nonstructural additions or  
18 nonstructural alterations without invoking its stop work authority.

19 (b) A community college district or other public board, body,  
20 or officer whose construction work on a community college is  
21 subject to a stop work order issued pursuant to subdivision (a)  
22 shall not be held liable in any action filed against the public board,  
23 body, or officer for stopping work as required by the stop work  
24 order, or for any delays caused by compliance with the stop work  
25 order, except to the extent that an error or omission by the public  
26 board, body, or officer is that basis for the issuance of the stop  
27 work order.

28 SEC. 29. Section 7480 of the Government Code, as amended  
29 by Section 1 of Chapter 234 of the Statutes of 2008, is amended  
30 to read:

31 7480. Nothing in this chapter shall prohibit any of the  
32 following:

33 (a) The dissemination of any financial information that is not  
34 identified with, or identifiable as being derived from, the financial  
35 records of a particular customer.

36 (b) When any police or sheriff's department or district attorney  
37 in this state certifies to a bank, credit union, or savings association  
38 in writing that a crime report has been filed that involves the  
39 alleged fraudulent use of drafts, checks, access cards, or other  
40 orders drawn upon any bank, credit union, or savings association

1 in this state, the police or sheriff's department or district attorney,  
2 a county adult protective services office when investigating the  
3 financial abuse of an elder or dependent adult, or a long-term care  
4 ombudsman when investigating the financial abuse of an elder or  
5 dependent adult, may request a bank, credit union, or savings  
6 association to furnish, and a bank, credit union, or savings  
7 association shall furnish, a statement setting forth the following  
8 information with respect to a customer account specified by the  
9 requesting party for a period 30 days prior to, and up to 30 days  
10 following, the date of occurrence of the alleged illegal act involving  
11 the account:

- 12 (1) The number of items dishonored.
- 13 (2) The number of items paid that created overdrafts.
- 14 (3) The dollar volume of the dishonored items and items paid  
15 which created overdrafts and a statement explaining any credit  
16 arrangement between the bank, credit union, or savings association  
17 and customer to pay overdrafts.
- 18 (4) The dates and amounts of deposits and debits and the account  
19 balance on these dates.
- 20 (5) A copy of the signature card, including the signature and  
21 any addresses appearing on a customer's signature card.
- 22 (6) The date the account opened and, if applicable, the date the  
23 account closed.
- 24 (7) Surveillance photographs and video recordings of persons  
25 accessing the crime victim's financial account via an automated  
26 teller machine (ATM) or from within the financial institution for  
27 dates on which illegal acts involving the account were alleged to  
28 have occurred. Nothing in this paragraph does any of the following:
  - 29 (A) Requires a financial institution to produce a photograph or  
30 video recording if it does not possess the photograph or video  
31 recording.
  - 32 (B) Affects any existing civil immunities as provided in Section  
33 47 of the Civil Code or any other provision of law.
- 34 (8) A bank, credit union, or savings association that provides  
35 the requesting party with copies of one or more complete account  
36 statements prepared in the regular course of business shall be  
37 deemed to be in compliance with paragraphs (1), (2), (3), and (4).
- 38 (c) When any police or sheriff's department or district attorney  
39 in this state certifies to a bank, credit union, or savings association  
40 in writing that a crime report has been filed that involves the

1 alleged fraudulent use of drafts, checks, access cards, or other  
2 orders drawn upon any bank, credit union, or savings association  
3 doing business in this state, the police or sheriff's department or  
4 district attorney, a county adult protective services office when  
5 investigating the financial abuse of an elder or dependent adult,  
6 or a long-term care ombudsman when investigating the financial  
7 abuse of an elder or dependent adult, may request, with the consent  
8 of the accountholder, the bank, credit union, or savings association  
9 to furnish, and the bank, credit union, or savings association shall  
10 furnish, a statement setting forth the following information with  
11 respect to a customer account specified by the requesting party for  
12 a period 30 days prior to, and up to 30 days following, the date of  
13 occurrence of the alleged illegal act involving the account:

- 14 (1) The number of items dishonored.
- 15 (2) The number of items paid that created overdrafts.
- 16 (3) The dollar volume of the dishonored items and items paid  
17 which created overdrafts and a statement explaining any credit  
18 arrangement between the bank, credit union, or savings association  
19 and customer to pay overdrafts.
- 20 (4) The dates and amounts of deposits and debits and the account  
21 balance on these dates.
- 22 (5) A copy of the signature card, including the signature and  
23 any addresses appearing on a customer's signature card.
- 24 (6) The date the account opened and, if applicable, the date the  
25 account closed.
- 26 (7) Surveillance photographs and video recordings of persons  
27 accessing the crime victim's financial account via an automated  
28 teller machine (ATM) or from within the financial institution for  
29 dates on which illegal acts involving this account were alleged to  
30 have occurred. Nothing in this paragraph does any of the following:
  - 31 (A) Requires a financial institution to produce a photograph or  
32 video recording if it does not possess the photograph or video  
33 recording.
  - 34 (B) Affects any existing civil immunities as provided in Section  
35 47 of the Civil Code or any other provision of law.
- 36 (8) A bank, credit union, or savings association doing business  
37 in this state that provides the requesting party with copies of one  
38 or more complete account statements prepared in the regular course  
39 of business shall be deemed to be in compliance with paragraphs  
40 (1), (2), (3), and (4).

1 (d) For purposes of subdivision (c), consent of the accountholder  
2 shall be satisfied if an accountholder provides to the financial  
3 institution and the person or entity seeking disclosure, a signed  
4 and dated statement containing all of the following:

5 (1) Authorization of the disclosure for the period specified in  
6 subdivision (c).

7 (2) The name of the agency or department to which disclosure  
8 is authorized and, if applicable, the statutory purpose for which  
9 the information is to be obtained.

10 (3) A description of the financial records that are authorized to  
11 be disclosed.

12 (e) (1) The Attorney General, a supervisory agency, the  
13 Franchise Tax Board, the State Board of Equalization, the  
14 Employment Development Department, the Controller or an  
15 inheritance tax referee when administering the Prohibition of Gift  
16 and Death Taxes (Part 8 (commencing with Section 13301) of  
17 Division 2 of the Revenue and Taxation Code), a police or sheriff's  
18 department or district attorney, a county adult protective services  
19 office when investigating the financial abuse of an elder or  
20 dependent adult, a long-term care ombudsman when investigating  
21 the financial abuse of an elder or dependent adult, a county welfare  
22 department when investigating welfare fraud, a county  
23 auditor-controller or director of finance when investigating fraud  
24 against the county, or the Department of Corporations when  
25 conducting investigations in connection with the enforcement of  
26 laws administered by the Commissioner of Corporations, from  
27 requesting of an office or branch of a financial institution, and the  
28 office or branch from responding to a request, as to whether a  
29 person has an account or accounts at that office or branch and, if  
30 so, any identifying numbers of the account or accounts.

31 (2) No additional information beyond that specified in this  
32 section shall be released to a county welfare department without  
33 either the accountholder's written consent or a judicial writ, search  
34 warrant, subpoena, or other judicial order.

35 (3) A county auditor-controller or director of finance who  
36 unlawfully discloses information he or she is authorized to request  
37 under this subdivision is guilty of the unlawful disclosure of  
38 confidential data, a misdemeanor, which shall be punishable as  
39 set forth in Section 7485.



1 (f) The examination by, or disclosure to, any supervisory agency  
2 of financial records that relate solely to the exercise of its  
3 supervisory function. The scope of an agency's supervisory  
4 function shall be determined by reference to statutes that grant  
5 authority to examine, audit, or require reports of financial records  
6 or financial institutions as follows:

7 (1) With respect to the Commissioner of Financial Institutions  
8 by reference to Division 1 (commencing with Section 99), Division  
9 1.5 (commencing with Section 4800), Division 2 (commencing  
10 with Section 5000), Division 5 (commencing with Section 14000),  
11 Division 7 (commencing with Section 18000), Division ~~16 15~~  
12 (commencing with Section ~~33000~~ 31000), and Division 16  
13 (commencing with Section 33000), of the Financial Code.

14 (2) With respect to the Controller by reference to Title 10  
15 (commencing with Section 1300) of Part 3 of the Code of Civil  
16 Procedure.

17 (3) With respect to the Administrator of Local Agency Security  
18 by reference to Article 2 (commencing with Section 53630) of  
19 Chapter 4 of Part 1 of Division 2 of Title 5 of the Government  
20 Code.

21 (g) The disclosure to the Franchise Tax Board of (1) the amount  
22 of any security interest that a financial institution has in a specified  
23 asset of a customer or (2) financial records in connection with the  
24 filing or audit of a tax return or tax information return that are  
25 required to be filed by the financial institution pursuant to Part 10  
26 (commencing with Section 17001), Part 11 (commencing with  
27 Section 23001), or Part 18 (commencing with Section 38001), of  
28 the Revenue and Taxation Code.

29 (h) The disclosure to the State Board of Equalization of any of  
30 the following:

31 (1) The information required by Sections 6702, 6703, 8954,  
32 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155,  
33 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404,  
34 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the  
35 Revenue and Taxation Code.

36 (2) The financial records in connection with the filing or audit  
37 of a tax return required to be filed by the financial institution  
38 pursuant to Part 1 (commencing with Section 6001), Part 2  
39 (commencing with Section 7301), Part 3 (commencing with Section  
40 8601), Part 13 (commencing with Section 30001), Part 14

1 (commencing with Section 32001), and Part 17 (commencing with  
2 Section 37001), of Division 2 of the Revenue and Taxation Code.

3 (3) The amount of any security interest a financial institution  
4 has in a specified asset of a customer, if the inquiry is directed to  
5 the branch or office where the interest is held.

6 (i) The disclosure to the Controller of the information required  
7 by Section 7853 of the Revenue and Taxation Code.

8 (j) The disclosure to the Employment Development Department  
9 of the amount of any security interest a financial institution has in  
10 a specified asset of a customer, if the inquiry is directed to the  
11 branch or office where the interest is held.

12 (k) The disclosure by a construction lender, as defined in Section  
13 8006 of the Civil Code, to the Registrar of Contractors, of  
14 information concerning the making of progress payments to a  
15 prime contractor requested by the registrar in connection with an  
16 investigation under Section 7108.5 of the Business and Professions  
17 Code.

18 (l) Upon receipt of a written request from a local child support  
19 agency referring to a support order pursuant to Section 17400 of  
20 the Family Code, a financial institution shall disclose the following  
21 information concerning the account or the person named in the  
22 request, whom the local child support agency shall identify,  
23 whenever possible, by social security number:

24 (1) If the request states the identifying number of an account at  
25 a financial institution, the name of each owner of the account.

26 (2) Each account maintained by the person at the branch to  
27 which the request is delivered, and, if the branch is able to make  
28 a computerized search, each account maintained by the person at  
29 any other branch of the financial institution located in this state.

30 (3) For each account disclosed pursuant to paragraphs (1) and  
31 (2), the account number, current balance, street address of the  
32 branch where the account is maintained, and, to the extent available  
33 through the branch's computerized search, the name and address  
34 of any other person listed as an owner.

35 (4) Whenever the request prohibits the disclosure, a financial  
36 institution shall not disclose either the request or its response, to  
37 an owner of the account or to any other person, except the officers  
38 and employees of the financial institution who are involved in  
39 responding to the request and to attorneys, employees of the local  
40 child support agencies, auditors, and regulatory authorities who

1 have a need to know in order to perform their duties, and except  
2 as disclosure may be required by legal process.

3 (5) No financial institution, or any officer, employee, or agent  
4 thereof, shall be liable to any person for (A) disclosing information  
5 in response to a request pursuant to this subdivision, (B) failing to  
6 notify the owner of an account, or complying with a request under  
7 this paragraph not to disclose to the owner, the request or disclosure  
8 under this subdivision, or (C) failing to discover any account owned  
9 by the person named in the request pursuant to a computerized  
10 search of the records of the financial institution.

11 (6) The local child support agency may request information  
12 pursuant to this subdivision only when the local child support  
13 agency has received at least one of the following types of physical  
14 evidence:

15 (A) Any of the following, dated within the last three years:

16 (i) Form 599.

17 (ii) Form 1099.

18 (iii) A bank statement.

19 (iv) A check.

20 (v) A bank passbook.

21 (vi) A deposit slip.

22 (vii) A copy of a federal or state income tax return.

23 (viii) A debit or credit advice.

24 (ix) Correspondence that identifies the child support obligor by  
25 name, the bank, and the account number.

26 (x) Correspondence that identifies the child support obligor by  
27 name, the bank, and the banking services related to the account of  
28 the obligor.

29 (xi) An asset identification report from a federal agency.

30 (B) A sworn declaration of the custodial parent during the 12  
31 months immediately preceding the request that the person named  
32 in the request has had or may have had an account at an office or  
33 branch of the financial institution to which the request is made.

34 (7) Information obtained by a local child support agency  
35 pursuant to this subdivision shall be used only for purposes that  
36 are directly connected with the administration of the duties of the  
37 local child support agency pursuant to Section 17400 of the Family  
38 Code.

39 (m) (1) As provided in paragraph (1) of subdivision (c) of  
40 Section 666 of Title 42 of the United States Code, upon receipt of

1 an administrative subpoena on the current federally approved  
2 interstate child support enforcement form, as approved by the  
3 federal Office of Management and Budget, a financial institution  
4 shall provide the information or documents requested by the  
5 administrative subpoena.

6 (2) The administrative subpoena shall refer to the current federal  
7 Office of Management and Budget control number and be signed  
8 by a person who states that he or she is an authorized agent of a  
9 state or county agency responsible for implementing the child  
10 support enforcement program set forth in Part D (commencing  
11 with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the  
12 United States Code. A financial institution may rely on the  
13 statements made in the subpoena and has no duty to inquire into  
14 the truth of any statement in the subpoena.

15 (3) If the person who signs the administrative subpoena directs  
16 a financial institution in writing not to disclose either the subpoena  
17 or its response to any owner of an account covered by the subpoena,  
18 the financial institution shall not disclose the subpoena or its  
19 response to the owner.

20 (4) No financial institution, or any officer, employee, or agent  
21 thereof, shall be liable to any person for (A) disclosing information  
22 or providing documents in response to a subpoena pursuant to this  
23 subdivision, (B) failing to notify any owner of an account covered  
24 by the subpoena or complying with a request not to disclose to the  
25 owner, the subpoena or disclosure under this subdivision, or (C)  
26 failing to discover any account owned by the person named in the  
27 subpoena pursuant to a computerized search of the records of the  
28 financial institution.

29 (n) The dissemination of financial information and records  
30 pursuant to any of the following:

31 (1) Compliance by a financial institution with the requirements  
32 of Section 2892 of the Probate Code.

33 (2) Compliance by a financial institution with the requirements  
34 of Section 2893 of the Probate Code.

35 (3) An order by a judge upon a written ex parte application by  
36 a peace officer showing specific and articulable facts that there  
37 are reasonable grounds to believe that the records or information  
38 sought are relevant and material to an ongoing investigation of a  
39 felony violation of Section 186.10 or of any felony subject to the  
40 enhancement set forth in Section 186.11.

1 (A) The ex parte application shall specify with particularity the  
2 records to be produced, which shall be only those of the individual  
3 or individuals who are the subject of the criminal investigation.

4 (B) The ex parte application and any subsequent judicial order  
5 shall be open to the public as a judicial record unless ordered sealed  
6 by the court, for a period of 60 days. The sealing of these records  
7 may be extended for 60-day periods upon a showing to the court  
8 that it is necessary for the continuance of the investigation.  
9 Sixty-day extensions may continue for up to one year or until  
10 termination of the investigation of the individual or individuals,  
11 whichever is sooner.

12 (C) The records ordered to be produced shall be returned to the  
13 peace officer applicant or his or her designee within a reasonable  
14 time period after service of the order upon the financial institution.

15 (D) Nothing in this subdivision shall preclude the financial  
16 institution from notifying a customer of the receipt of the order  
17 for production of records unless a court orders the financial  
18 institution to withhold notification to the customer upon a finding  
19 that the notice would impede the investigation.

20 (E) Where a court has made an order pursuant to this paragraph  
21 to withhold notification to the customer under this paragraph, the  
22 peace officer or law enforcement agency who obtained the financial  
23 information shall notify the customer by delivering a copy of the  
24 ex parte order to the customer within 10 days of the termination  
25 of the investigation.

26 (4) No financial institution, or any officer, employee, or agent  
27 thereof, shall be liable to any person for any of the following:

28 (A) Disclosing information to a probate court pursuant to  
29 Sections 2892 and 2893.

30 (B) Disclosing information in response to a court order pursuant  
31 to paragraph (3).

32 (C) Complying with a court order under this subdivision not to  
33 disclose to the customer, the order, or the dissemination of  
34 information pursuant to the court order.

35 (o) Disclosure by a financial institution to a peace officer, as  
36 defined in Section 830.1 of the Penal Code, pursuant to the  
37 following:

38 (1) Paragraph (1) of subdivision (a) of Section 1748.95 of the  
39 Civil Code, provided that the financial institution has first complied

1 with the requirements of paragraph (2) of subdivision (a) and  
2 subdivision (b) of Section 1748.95 of the Civil Code.

3 (2) Paragraph (1) of subdivision (a) of Section 4002 of the  
4 Financial Code, provided that the financial institution has first  
5 complied with the requirements of paragraph (2) of subdivision  
6 (a) and subdivision (b) of Section 4002 of the Financial Code.

7 (3) Paragraph (1) of subdivision (a) of Section 22470 of the  
8 Financial Code, provided that any financial institution that is a  
9 finance lender has first complied with the requirements of  
10 paragraph (2) of subdivision (a) and subdivision (b) of Section  
11 22470 of the Financial Code.

12 (p) When the governing board of the Public Employees'  
13 Retirement System or the State Teachers' Retirement System  
14 certifies in writing to a financial institution that a benefit recipient  
15 has died and that transfers to the benefit recipient's account at the  
16 financial institution from the retirement system occurred after the  
17 benefit recipient's date of death, the financial institution shall  
18 furnish the retirement system with the name and address of any  
19 coowner, cosigner, or any other person who had access to the funds  
20 in the account following the date of the benefit recipient's death,  
21 or if the account has been closed, the name and address of the  
22 person who closed the account.

23 (q) When the retirement board of a retirement system established  
24 under the County Employees Retirement Law of 1937 certifies in  
25 writing to a financial institution that a retired member or the  
26 beneficiary of a retired member has died and that transfers to the  
27 account of the retired member or beneficiary of a retired member  
28 at the financial institution from the retirement system occurred  
29 after the date of death of the retired member or beneficiary of a  
30 retired member, the financial institution shall furnish the retirement  
31 system with the name and address of any coowner, cosigner, or  
32 any other person who had access to the funds in the account  
33 following the date of death of the retired member or beneficiary  
34 of a retired member, or if the account has been closed, the name  
35 and address of the person who closed the account.

36 (r) When the Franchise Tax Board certifies in writing to a  
37 financial institution that (1) a taxpayer filed a tax return that  
38 authorized a direct deposit refund with an incorrect financial  
39 institution account or routing number that resulted in all or a  
40 portion of the refund not being received, directly or indirectly, by

1 the taxpayer; (2) the direct deposit refund was not returned to the  
2 Franchise Tax Board; and (3) the refund was deposited directly  
3 on a specified date into the account of an accountholder of the  
4 financial institution who was not entitled to receive the refund,  
5 then the financial institution shall furnish to the Franchise Tax  
6 Board the name and address of any coowner, cosigner, or any other  
7 person who had access to the funds in the account following the  
8 date of direct deposit refund, or if the account has been closed, the  
9 name and address of the person who closed the account.

10 SEC. 30. Section 7480 of the Government Code, as amended  
11 by Section 2 of Chapter 234 of the Statutes of 2008, is amended  
12 to read:

13 7480. Nothing in this chapter shall prohibit any of the  
14 following:

15 (a) The dissemination of any financial information that is not  
16 identified with, or identifiable as being derived from, the financial  
17 records of a particular customer.

18 (b) When any police or sheriff's department or district attorney  
19 in this state certifies to a bank, credit union, or savings association  
20 in writing that a crime report has been filed that involves the  
21 alleged fraudulent use of drafts, checks, access cards, or other  
22 orders drawn upon any bank, credit union, or savings association  
23 in this state, the police or sheriff's department or district attorney,  
24 a county adult protective services office when investigating the  
25 financial abuse of an elder or dependent adult, or a long-term care  
26 ombudsman when investigating the financial abuse of an elder or  
27 dependent adult, may request a bank, credit union, or savings  
28 association to furnish, and a bank, credit union, or savings  
29 association shall furnish, a statement setting forth the following  
30 information with respect to a customer account specified by the  
31 requesting party for a period 30 days prior to, and up to 30 days  
32 following, the date of occurrence of the alleged illegal act involving  
33 the account:

34 (1) The number of items dishonored.

35 (2) The number of items paid that created overdrafts.

36 (3) The dollar volume of the dishonored items and items paid  
37 which created overdrafts and a statement explaining any credit  
38 arrangement between the bank, credit union, or savings association  
39 and customer to pay overdrafts.

1 (4) The dates and amounts of deposits and debits and the account  
2 balance on these dates.

3 (5) A copy of the signature card, including the signature and  
4 any addresses appearing on a customer’s signature card.

5 (6) The date the account opened and, if applicable, the date the  
6 account closed.

7 (7) Surveillance photographs and video recordings of persons  
8 accessing the crime victim’s financial account via an automated  
9 teller machine (ATM) or from within the financial institution for  
10 dates on which illegal acts involving the account were alleged to  
11 have occurred. Nothing in this paragraph does any of the following:

12 (A) Requires a financial institution to produce a photograph or  
13 video recording if it does not possess the photograph or video  
14 recording.

15 (B) Affects any existing civil immunities as provided in Section  
16 47 of the Civil Code or any other provision of law.

17 (8) A bank, credit union, or savings association that provides  
18 the requesting party with copies of one or more complete account  
19 statements prepared in the regular course of business shall be  
20 deemed to be in compliance with paragraphs (1), (2), (3), and (4).

21 (c) When any police or sheriff’s department or district attorney  
22 in this state certifies to a bank, credit union, or savings association  
23 in writing that a crime report has been filed that involves the  
24 alleged fraudulent use of drafts, checks, access cards, or other  
25 orders drawn upon any bank, credit union, or savings association  
26 doing business in this state, the police or sheriff’s department or  
27 district attorney, a county adult protective services office when  
28 investigating the financial abuse of an elder or dependent adult,  
29 or a long-term care ombudsman when investigating the financial  
30 abuse of an elder or dependent adult, may request, with the consent  
31 of the accountholder, the bank, credit union, or savings association  
32 to furnish, and the bank, credit union, or savings association shall  
33 furnish, a statement setting forth the following information with  
34 respect to a customer account specified by the requesting party for  
35 a period 30 days prior to, and up to 30 days following, the date of  
36 occurrence of the alleged illegal act involving the account:

- 37 (1) The number of items dishonored.
- 38 (2) The number of items paid that created overdrafts.
- 39 (3) The dollar volume of the dishonored items and items paid  
40 which created overdrafts and a statement explaining any credit



1 arrangement between the bank, credit union, or savings association  
2 and customer to pay overdrafts.

3 (4) The dates and amounts of deposits and debits and the account  
4 balance on these dates.

5 (5) A copy of the signature card, including the signature and  
6 any addresses appearing on a customer's signature card.

7 (6) The date the account opened and, if applicable, the date the  
8 account closed.

9 (7) Surveillance photographs and video recordings of persons  
10 accessing the crime victim's financial account via an automated  
11 teller machine (ATM) or from within the financial institution for  
12 dates on which illegal acts involving this account were alleged to  
13 have occurred. Nothing in this paragraph does any of the following:

14 (A) Requires a financial institution to produce a photograph or  
15 video recording if it does not possess the photograph or video  
16 recording.

17 (B) Affects any existing civil immunities as provided in Section  
18 47 of the Civil Code or any other provision of law.

19 (8) A bank, credit union, or savings association doing business  
20 in this state that provides the requesting party with copies of one  
21 or more complete account statements prepared in the regular course  
22 of business shall be deemed to be in compliance with paragraphs  
23 (1), (2), (3), and (4).

24 (d) For purposes of subdivision (c), consent of the accountholder  
25 shall be satisfied if an accountholder provides to the financial  
26 institution and the person or entity seeking disclosure, a signed  
27 and dated statement containing all of the following:

28 (1) Authorization of the disclosure for the period specified in  
29 subdivision (c).

30 (2) The name of the agency or department to which disclosure  
31 is authorized and, if applicable, the statutory purpose for which  
32 the information is to be obtained.

33 (3) A description of the financial records that are authorized to  
34 be disclosed.

35 (e) (1) The Attorney General, a supervisory agency, the  
36 Franchise Tax Board, the State Board of Equalization, the  
37 Employment Development Department, the Controller or an  
38 inheritance tax referee when administering the Prohibition of Gift  
39 and Death Taxes (Part 8 (commencing with Section 13301) of  
40 Division 2 of the Revenue and Taxation Code), a police or sheriff's

1 department or district attorney, a county adult protective services  
2 office when investigating the financial abuse of an elder or  
3 dependent adult, a long-term care ombudsman when investigating  
4 the financial abuse of an elder or dependent adult, a county welfare  
5 department when investigating welfare fraud, a county  
6 auditor-controller or director of finance when investigating fraud  
7 against the county, or the Department of Corporations when  
8 conducting investigations in connection with the enforcement of  
9 laws administered by the Commissioner of Corporations, from  
10 requesting of an office or branch of a financial institution, and the  
11 office or branch from responding to a request, as to whether a  
12 person has an account or accounts at that office or branch and, if  
13 so, any identifying numbers of the account or accounts.

14 (2) No additional information beyond that specified in this  
15 section shall be released to a county welfare department without  
16 either the accountholder's written consent or a judicial writ, search  
17 warrant, subpoena, or other judicial order.

18 (3) A county auditor-controller or director of finance who  
19 unlawfully discloses information he or she is authorized to request  
20 under this subdivision is guilty of the unlawful disclosure of  
21 confidential data, a misdemeanor, which shall be punishable as  
22 set forth in Section 7485.

23 (f) The examination by, or disclosure to, any supervisory agency  
24 of financial records that relate solely to the exercise of its  
25 supervisory function. The scope of an agency's supervisory  
26 function shall be determined by reference to statutes that grant  
27 authority to examine, audit, or require reports of financial records  
28 or financial institutions as follows:

29 (1) With respect to the Commissioner of Financial Institutions  
30 by reference to Division 1 (commencing with Section 99), Division  
31 1.5 (commencing with Section 4800), Division 2 (commencing  
32 with Section 5000), Division 5 (commencing with Section 14000),  
33 Division 7 (commencing with Section 18000), Division 15  
34 (commencing with Section 31000), and Division 16 (commencing  
35 with Section 33000), of the Financial Code.

36 (2) With respect to the Controller by reference to Title 10  
37 (commencing with Section 1300) of Part 3 of the Code of Civil  
38 Procedure.

39 (3) With respect to the Administrator of Local Agency Security  
40 by reference to Article 2 (commencing with Section 53630) of

1 Chapter 4 of Part 1 of Division 2 of Title 5 of the Government  
2 Code.

3 (g) The disclosure to the Franchise Tax Board of (1) the amount  
4 of any security interest that a financial institution has in a specified  
5 asset of a customer or (2) financial records in connection with the  
6 filing or audit of a tax return or tax information return that are  
7 required to be filed by the financial institution pursuant to Part 10  
8 (commencing with Section 17001), Part 11 (commencing with  
9 Section 23001), or Part 18 (commencing with Section 38001), of  
10 the Revenue and Taxation Code.

11 (h) The disclosure to the State Board of Equalization of any of  
12 the following:

13 (1) The information required by Sections 6702, 6703, 8954,  
14 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155,  
15 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404,  
16 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the  
17 Revenue and Taxation Code.

18 (2) The financial records in connection with the filing or audit  
19 of a tax return required to be filed by the financial institution  
20 pursuant to Part 1 (commencing with Section 6001), Part 2  
21 (commencing with Section 7301), Part 3 (commencing with Section  
22 8601), Part 13 (commencing with Section 30001), Part 14  
23 (commencing with Section 32001), and Part 17 (commencing with  
24 Section 37001), of Division 2 of the Revenue and Taxation Code.

25 (3) The amount of any security interest a financial institution  
26 has in a specified asset of a customer, if the inquiry is directed to  
27 the branch or office where the interest is held.

28 (i) The disclosure to the Controller of the information required  
29 by Section 7853 of the Revenue and Taxation Code.

30 (j) The disclosure to the Employment Development Department  
31 of the amount of any security interest a financial institution has in  
32 a specified asset of a customer, if the inquiry is directed to the  
33 branch or office where the interest is held.

34 (k) The disclosure by a construction lender, as defined in Section  
35 8006 of the Civil Code, to the Registrar of Contractors, of  
36 information concerning the making of progress payments to a  
37 prime contractor requested by the registrar in connection with an  
38 investigation under Section 7108.5 of the Business and Professions  
39 Code.

1 (l) Upon receipt of a written request from a local child support  
2 agency referring to a support order pursuant to Section 17400 of  
3 the Family Code, a financial institution shall disclose the following  
4 information concerning the account or the person named in the  
5 request, whom the local child support agency shall identify,  
6 whenever possible, by social security number:

7 (1) If the request states the identifying number of an account at  
8 a financial institution, the name of each owner of the account.

9 (2) Each account maintained by the person at the branch to  
10 which the request is delivered, and, if the branch is able to make  
11 a computerized search, each account maintained by the person at  
12 any other branch of the financial institution located in this state.

13 (3) For each account disclosed pursuant to paragraphs (1) and  
14 (2), the account number, current balance, street address of the  
15 branch where the account is maintained, and, to the extent available  
16 through the branch's computerized search, the name and address  
17 of any other person listed as an owner.

18 (4) Whenever the request prohibits the disclosure, a financial  
19 institution shall not disclose either the request or its response, to  
20 an owner of the account or to any other person, except the officers  
21 and employees of the financial institution who are involved in  
22 responding to the request and to attorneys, employees of the local  
23 child support agencies, auditors, and regulatory authorities who  
24 have a need to know in order to perform their duties, and except  
25 as disclosure may be required by legal process.

26 (5) No financial institution, or any officer, employee, or agent  
27 thereof, shall be liable to any person for (A) disclosing information  
28 in response to a request pursuant to this subdivision, (B) failing to  
29 notify the owner of an account, or complying with a request under  
30 this paragraph not to disclose to the owner, the request or disclosure  
31 under this subdivision, or (C) failing to discover any account owned  
32 by the person named in the request pursuant to a computerized  
33 search of the records of the financial institution.

34 (6) The local child support agency may request information  
35 pursuant to this subdivision only when the local child support  
36 agency has received at least one of the following types of physical  
37 evidence:

38 (A) Any of the following, dated within the last three years:

39 (i) Form 599.

40 (ii) Form 1099.

- 1 (iii) A bank statement.
- 2 (iv) A check.
- 3 (v) A bank passbook.
- 4 (vi) A deposit slip.
- 5 (vii) A copy of a federal or state income tax return.
- 6 (viii) A debit or credit advice.
- 7 (ix) Correspondence that identifies the child support obligor by
- 8 name, the bank, and the account number.
- 9 (x) Correspondence that identifies the child support obligor by
- 10 name, the bank, and the banking services related to the account of
- 11 the obligor.
- 12 (xi) An asset identification report from a federal agency.
- 13 (B) A sworn declaration of the custodial parent during the 12
- 14 months immediately preceding the request that the person named
- 15 in the request has had or may have had an account at an office or
- 16 branch of the financial institution to which the request is made.
- 17 (7) Information obtained by a local child support agency
- 18 pursuant to this subdivision shall be used only for purposes that
- 19 are directly connected with the administration of the duties of the
- 20 local child support agency pursuant to Section 17400 of the Family
- 21 Code.
- 22 (m) (1) As provided in paragraph (1) of subdivision (c) of
- 23 Section 666 of Title 42 of the United States Code, upon receipt of
- 24 an administrative subpoena on the current federally approved
- 25 interstate child support enforcement form, as approved by the
- 26 federal Office of Management and Budget, a financial institution
- 27 shall provide the information or documents requested by the
- 28 administrative subpoena.
- 29 (2) The administrative subpoena shall refer to the current federal
- 30 Office of Management and Budget control number and be signed
- 31 by a person who states that he or she is an authorized agent of a
- 32 state or county agency responsible for implementing the child
- 33 support enforcement program set forth in Part D (commencing
- 34 with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the
- 35 United States Code. A financial institution may rely on the
- 36 statements made in the subpoena and has no duty to inquire into
- 37 the truth of any statement in the subpoena.
- 38 (3) If the person who signs the administrative subpoena directs
- 39 a financial institution in writing not to disclose either the subpoena
- 40 or its response to any owner of an account covered by the subpoena,

1 the financial institution shall not disclose the subpoena or its  
2 response to the owner.

3 (4) No financial institution, or any officer, employee, or agent  
4 thereof, shall be liable to any person for (A) disclosing information  
5 or providing documents in response to a subpoena pursuant to this  
6 subdivision, (B) failing to notify any owner of an account covered  
7 by the subpoena or complying with a request not to disclose to the  
8 owner, the subpoena or disclosure under this subdivision, or (C)  
9 failing to discover any account owned by the person named in the  
10 subpoena pursuant to a computerized search of the records of the  
11 financial institution.

12 (n) The dissemination of financial information and records  
13 pursuant to any of the following:

14 (1) Compliance by a financial institution with the requirements  
15 of Section 2892 of the Probate Code.

16 (2) Compliance by a financial institution with the requirements  
17 of Section 2893 of the Probate Code.

18 (3) An order by a judge upon a written ex parte application by  
19 a peace officer showing specific and articulable facts that there  
20 are reasonable grounds to believe that the records or information  
21 sought are relevant and material to an ongoing investigation of a  
22 felony violation of Section 186.10 or of any felony subject to the  
23 enhancement set forth in Section 186.11.

24 (A) The ex parte application shall specify with particularity the  
25 records to be produced, which shall be only those of the individual  
26 or individuals who are the subject of the criminal investigation.

27 (B) The ex parte application and any subsequent judicial order  
28 shall be open to the public as a judicial record unless ordered sealed  
29 by the court, for a period of 60 days. The sealing of these records  
30 may be extended for 60-day periods upon a showing to the court  
31 that it is necessary for the continuance of the investigation.  
32 Sixty-day extensions may continue for up to one year or until  
33 termination of the investigation of the individual or individuals,  
34 whichever is sooner.

35 (C) The records ordered to be produced shall be returned to the  
36 peace officer applicant or his or her designee within a reasonable  
37 time period after service of the order upon the financial institution.

38 (D) Nothing in this subdivision shall preclude the financial  
39 institution from notifying a customer of the receipt of the order  
40 for production of records unless a court orders the financial

1 institution to withhold notification to the customer upon a finding  
2 that the notice would impede the investigation.

3 (E) Where a court has made an order pursuant to this paragraph  
4 to withhold notification to the customer under this paragraph, the  
5 peace officer or law enforcement agency who obtained the financial  
6 information shall notify the customer by delivering a copy of the  
7 ex parte order to the customer within 10 days of the termination  
8 of the investigation.

9 (4) No financial institution, or any officer, employee, or agent  
10 thereof, shall be liable to any person for any of the following:

11 (A) Disclosing information to a probate court pursuant to  
12 Sections 2892 and 2893.

13 (B) Disclosing information in response to a court order pursuant  
14 to paragraph (3).

15 (C) Complying with a court order under this subdivision not to  
16 disclose to the customer, the order, or the dissemination of  
17 information pursuant to the court order.

18 (o) Disclosure by a financial institution to a peace officer, as  
19 defined in Section 830.1 of the Penal Code, pursuant to the  
20 following:

21 (1) Paragraph (1) of subdivision (a) of Section 1748.95 of the  
22 Civil Code, provided that the financial institution has first complied  
23 with the requirements of paragraph (2) of subdivision (a) and  
24 subdivision (b) of Section 1748.95 of the Civil Code.

25 (2) Paragraph (1) of subdivision (a) of Section 4002 of the  
26 Financial Code, provided that the financial institution has first  
27 complied with the requirements of paragraph (2) of subdivision  
28 (a) and subdivision (b) of Section 4002 of the Financial Code.

29 (3) Paragraph (1) of subdivision (a) of Section 22470 of the  
30 Financial Code, provided that any financial institution that is a  
31 finance lender has first complied with the requirements of  
32 paragraph (2) of subdivision (a) and subdivision (b) of Section  
33 22470 of the Financial Code.

34 (p) When the governing board of the Public Employees'  
35 Retirement System or the State Teachers' Retirement System  
36 certifies in writing to a financial institution that a benefit recipient  
37 has died and that transfers to the benefit recipient's account at the  
38 financial institution from the retirement system occurred after the  
39 benefit recipient's date of death, the financial institution shall  
40 furnish the retirement system with the name and address of any

1 coowner, cosigner, or any other person who had access to the funds  
2 in the account following the date of the benefit recipient’s death,  
3 or if the account has been closed, the name and address of the  
4 person who closed the account.

5 (q) When the retirement board of a retirement system established  
6 under the County Employees Retirement Law of 1937 certifies in  
7 writing to a financial institution that a retired member or the  
8 beneficiary of a retired member has died and that transfers to the  
9 account of the retired member or beneficiary of a retired member  
10 at the financial institution from the retirement system occurred  
11 after the date of death of the retired member or beneficiary of a  
12 retired member, the financial institution shall furnish the retirement  
13 system with the name and address of any coowner, cosigner, or  
14 any other person who had access to the funds in the account  
15 following the date of death of the retired member or beneficiary  
16 of a retired member, or if the account has been closed, the name  
17 and address of the person who closed the account.

18 (r) When the Franchise Tax Board certifies in writing to a  
19 financial institution that (1) a taxpayer filed a tax return that  
20 authorized a direct deposit refund with an incorrect financial  
21 institution account or routing number that resulted in all or a  
22 portion of the refund not being received, directly or indirectly, by  
23 the taxpayer; (2) the direct deposit refund was not returned to the  
24 Franchise Tax Board; and (3) the refund was deposited directly  
25 on a specified date into the account of an accountholder of the  
26 financial institution who was not entitled to receive the refund,  
27 then the financial institution shall furnish to the Franchise Tax  
28 Board the name and address of any coowner, cosigner, or any other  
29 person who had access to the funds in the account following the  
30 date of direct deposit refund, or if the account has been closed, the  
31 name and address of the person who closed the account.

32 SEC. 31. Section 14975 of the Government Code is amended  
33 to read:

34 14975. Notwithstanding the provisions of Section 9550 of the  
35 Civil Code, the contractor under any contract made under this  
36 chapter need not provide a payment bond before the  
37 commencement of the work but must provide a payment bond as  
38 otherwise required by law prior to payment under the contract.

39 SEC. 32. Section 15820.105 of the Government Code is  
40 amended to read:



1 15820.105. (a) Plans and specifications for the project shall  
2 comply with applicable building codes.

3 (b) The project is hereby deemed to be governed by Title-2 3  
4 (commencing with Section 9000) of Part 6 of Division 4 of the  
5 Civil Code.

6 (c) The provisions of Chapter 1 (commencing with Section  
7 1720) of Part 7 of Division 2 of the Labor Code shall apply to all  
8 public works contracts entered into for the project.

9 (d) Other than as provided in this section and Sections  
10 15820.101 to 15820.104, inclusive, private sector methods may  
11 be used to deliver the project. Specifically, the procurement and  
12 contracting for the delivery of the project is not subject to the State  
13 Contract Act (Part 2 (commencing with Section 10100) of Division  
14 2 of the Public Contract Code) or any other provision of California  
15 law governing public procurement or public works projects.

16 SEC. 33. Section 27287 of the Government Code is amended  
17 to read:

18 27287. Unless it belongs to the class provided for in either  
19 Sections 27282 to 27286, inclusive, or Section 1202 or 1203, of  
20 the Civil Code, or is a fictitious mortgage or deed of trust as  
21 provided in Section 2952 or 2963 of the Civil Code, or is a  
22 fictitious oil and gas lease as provided in Section 1219 of the Civil  
23 Code, or is a claim of lien under Section 8416 of the Civil Code  
24 or a notice of completion under Section-8152 8182 or 9204 of the  
25 Civil Code, before an instrument can be recorded its execution  
26 shall be acknowledged by the person executing it, or if executed  
27 by a corporation, by its president or secretary or other person  
28 executing it on behalf of the corporation, or, except for any  
29 quitclaim deed or grant deed other than a trustee's deed or a deed  
30 of reconveyance, mortgage, deed of trust, or security agreement,  
31 proved by subscribing witness or as provided in Sections 1198 and  
32 1199 of the Civil Code, and the acknowledgment or proof certified  
33 as prescribed by law.

34 SEC. 34. Section 27361.9 of the Government Code is repealed.

35 SEC. 35. Section 66499.2 of the Government Code is amended  
36 to read:

37 66499.2. A bond or bonds by one or more duly authorized  
38 corporate sureties for the security of laborers and material suppliers  
39 shall be in substantially the following form:

1     Whereas, The Board of Supervisors of the County of \_\_\_\_ (or  
 2     City Council of the City of \_\_\_\_), State of California, and \_\_\_\_  
 3     (hereinafter designated as “the principal”) have entered into an  
 4     agreement whereby the principal agrees to install and complete  
 5     certain designated public improvements, which agreement, dated  
 6     \_\_\_\_, 20\_\_, and identified as project \_\_\_\_, is hereby referred to and  
 7     made a part hereof; and

8     Whereas, Under the terms of the agreement, the principal is  
 9     required before entering upon the performance of the work, to file  
 10    a good and sufficient payment bond with the County of \_\_\_\_ (or  
 11    the City of \_\_\_\_) to secure the claims to which reference is made  
 12    in Title-2 3 (commencing with Section 9000) of Part 6 of Division  
 13    4 of the Civil Code.

14    Now, therefore, the principal and the undersigned as corporate  
 15    surety, are held firmly bound unto the County of \_\_\_\_ (or the City  
 16    of \_\_\_\_) and all contractors, subcontractors, laborers, material  
 17    suppliers, and other persons employed in the performance of the  
 18    agreement and referred to in Title-2 3 (commencing with Section  
 19    9000) of Part 6 of Division 4 of the Civil Code in the sum of \_\_\_\_  
 20    dollars (\$\_\_\_\_), for materials furnished or labor thereon of any  
 21    kind, or for amounts due under the Unemployment Insurance Act  
 22    with respect to this work or labor, that the surety will pay the same  
 23    in an amount not exceeding the amount hereinabove set forth, and  
 24    also in case suit is brought upon this bond, will pay, in addition to  
 25    the face amount thereof, costs and reasonable expenses and fees,  
 26    including reasonable attorney’s fees, incurred by county (or city)  
 27    in successfully enforcing this obligation, to be awarded and fixed  
 28    by the court, and to be taxed as costs and to be included in the  
 29    judgment therein rendered.

30    It is hereby expressly stipulated and agreed that this bond shall  
 31    inure to the benefit of any and all persons, companies, and  
 32    corporations entitled to file claims under Title-2 3 (commencing  
 33    with Section 9000) of Part 6 of Division 4 of the Civil Code, so  
 34    as to give a right of action to them or their assigns in any suit  
 35    brought upon this bond.

36    Should the condition of this bond be fully performed, then this  
 37    obligation shall become null and void, otherwise it shall be and  
 38    remain in full force and effect.

39    The surety hereby stipulates and agrees that no change, extension  
 40    of time, alteration, or addition to the terms of the agreement or the

1 specifications accompanying the same shall in any manner affect  
2 its obligations on this bond, and it does hereby waive notice of  
3 any such change, extension, alteration, or addition.

4 In witness whereof, this instrument has been duly executed by  
5 the principal and surety above named, on \_\_\_\_\_, 20\_\_.

6 SEC. 36. Section 66499.7 of the Government Code is amended  
7 to read:

8 66499.7. The security furnished by the subdivider shall be  
9 released in whole or in part in the following manner:

10 (a) Security given for faithful performance of any act or  
11 agreement shall be released upon the performance of the act or  
12 final completion and acceptance of the required work. The  
13 legislative body may provide for the partial release of the security  
14 upon the partial performance of the act or the acceptance of the  
15 work as it progresses, consistent with the provisions of this section.  
16 The security may be a surety bond, a cash deposit, a letter of credit,  
17 escrow account, or other form of performance guarantee required  
18 as security by the legislative body that meets the requirements as  
19 acceptable security pursuant to law. If the security furnished by  
20 the subdivider is a documentary evidence of security such as a  
21 surety bond or a letter of credit, the legislative body shall release  
22 the documentary evidence and return the original to the issuer upon  
23 performance of the act or final completion and acceptance of the  
24 required work. In the event that the legislative body is unable to  
25 return the original documentary evidence to the issuer, the security  
26 shall be released by written notice sent by certified mail to the  
27 subdivider and issuer of the documentary evidence within 30 days  
28 of the acceptance of the work. The written notice shall contain a  
29 statement that the work for which the security was furnished has  
30 been performed or completed and accepted by the legislative body,  
31 a description of the project subject to the documentary evidence  
32 and the notarized signature of the authorized representative of the  
33 legislative body.

34 (b) At the time that the subdivider believes that the obligation  
35 to perform the work for which security was required is complete,  
36 the subdivider may notify the local agency in writing of the  
37 completed work, including a list of work completed. Upon receipt  
38 of the written notice, the local agency shall have 45 days to review  
39 and comment or approve the completion of the required work. If  
40 the local agency does not agree that all work has been completed

1 in accordance with the plans and specifications for the  
2 improvements, it shall supply a list of all remaining work to be  
3 completed.

4 (c) Within 45 days of receipt of the list of remaining work from  
5 the local agency, the subdivider may then provide cost estimates  
6 for all remaining work for review and approval by the local agency.  
7 Upon receipt of the cost estimates, the local agency shall then have  
8 45 days to review, comment, and approve, modify, or disapprove  
9 those cost estimates. No local agency shall be required to engage  
10 in this process of partial release more than once between the start  
11 of work and completion and acceptance of all work; however,  
12 nothing in this section prohibits a local agency from allowing for  
13 a partial release as it otherwise deems appropriate.

14 (d) If the local agency approves the cost estimate, the local  
15 agency shall release all performance security except for security  
16 in an amount up to 200 percent of the cost estimate of the  
17 remaining work. The process allowing for a partial release of  
18 performance security shall occur when the cost estimate of the  
19 remaining work does not exceed 20 percent of the total original  
20 performance security unless the local agency allows for a release  
21 at an earlier time. Substitute bonds or other security may be used  
22 as a replacement for the performance security, subject to the  
23 approval of the local agency. If substitute bonds or other security  
24 is used as a replacement for the performance security released, the  
25 release shall not be effective unless and until the local agency  
26 receives and approves that form of replacement security. A  
27 reduction in the performance security, authorized under this section,  
28 is not, and shall not be deemed to be, an acceptance by the local  
29 agency of the completed improvements, and the risk of loss or  
30 damage to the improvements and the obligation to maintain the  
31 improvements shall remain the sole responsibility of the subdivider  
32 until all required public improvements have been accepted by the  
33 local agency and all other required improvements have been fully  
34 completed in accordance with the plans and specifications for the  
35 improvements.

36 (e) The subdivider shall complete the works of improvement  
37 until all remaining items are accepted by the local agency.

38 (f) Upon the completion of the improvements, the subdivider,  
39 or his or her assigns, shall be notified in writing by the local agency  
40 within 45 days.

1 (g) Within 45 days of the issuance of the notification by the  
2 local agency, the release of any remaining performance security  
3 shall be placed upon the agenda of the legislative body of the local  
4 agency for approval of the release of any remaining performance  
5 security. If the local agency delegates authority for the release of  
6 performance security to a public official or other employee, any  
7 remaining performance security shall be released within 60 days  
8 of the issuance of the written statement of completion.

9 (h) Security securing the payment to the contractor, his or her  
10 subcontractors and to persons furnishing labor, materials or  
11 equipment shall, after passage of the time within which claims of  
12 lien are required to be recorded pursuant to Article 2 (commencing  
13 with Section 8410) of Chapter 4 of *Title 2* of Part 6 of Division 4  
14 of the Civil Code and after acceptance of the work, be reduced to  
15 an amount equal to the total claimed by all claimants for whom  
16 claims of lien have been recorded and notice thereof given in  
17 writing to the legislative body, and if no claims have been recorded,  
18 the security shall be released in full.

19 (i) The release shall not apply to any required guarantee and  
20 warranty period required by Section 66499.9 for the guarantee or  
21 warranty nor to the amount of the security deemed necessary by  
22 the local agency for the guarantee and warranty period nor to costs  
23 and reasonable expenses and fees, including reasonable attorneys'  
24 fees.

25 (j) The legislative body may authorize any of its public officers  
26 or employees to authorize release or reduction of the security in  
27 accordance with the conditions hereinabove set forth and in  
28 accordance with any rules that it may prescribe.

29 (k) This section shall remain in effect only until January 1, 2011,  
30 and as of that date is repealed, unless a later enacted statute, that  
31 is enacted before January 1, 2011, deletes or extends that date.

32 SEC. 37. Section 5463 of the Health and Safety Code is  
33 amended to read:

34 5463. Any health officer or governing board of any city, county,  
35 sanitary district, or other district having the power to operate and  
36 maintain a sewerage system, having served written notice upon  
37 the owner or reputed owner of land upon which there is a dwelling  
38 house, and the owner or reputed owner, after 30 days, having  
39 refused, neglected, or failed to connect the dwelling house, together  
40 with all toilets, sinks, and other plumbing therein, properly vented,

1 and in a sanitary manner, with the adjoining street sewer, may  
2 construct the same at a reasonable cost, and the person doing that  
3 work at the request of the health officer or governing board has a  
4 lien upon that real estate for his or her work done and materials  
5 furnished, and the work done and materials furnished shall be held  
6 to have been done and furnished at the instance of the owner or  
7 reputed owner, or person claiming or having any interest therein.  
8 The governing board may pay all or any part of the cost or price  
9 of such connection to the person or persons who furnished labor,  
10 materials, or equipment for the same, and, to the extent the  
11 governing board pays the cost or price of the connection, it shall  
12 succeed to and have all the rights, including the lien provided for  
13 above, of the person or persons against the real estate and against  
14 the owner or reputed owner thereof.

15 As an alternative power to the enforcement of the lien provided  
16 for in this section, the governing body of the public agency  
17 performing the work of connection to the public sewer may, by  
18 order entered upon its minutes, declare that the amount of the costs  
19 of the work and the administrative expenses incurred by the  
20 governing body incident to the proceedings, together with other  
21 charges uniformly applicable within the jurisdiction of the  
22 governing body for the connection of the premises to the public  
23 sewer, shall be transmitted to the assessor and tax collector of the  
24 public agency, whereupon it shall be the duty of those officers to  
25 add the amount of the assessment to the next regular bill for taxes  
26 levied against the lot or parcel of land.

27 The liens provided for by this section shall be enforced in the  
28 same manner as those provided for by Part 6 (commencing with  
29 Section 8000) of Division 4, of the Civil Code.

30 The governing board may also use the procedures in Section  
31 5474 for levying the costs incurred for the construction of the  
32 improvements for the connection of the premises to the public  
33 sewer.

34 SEC. 38. Section 16017.5 of the Health and Safety Code is  
35 amended to read:

36 16017.5. (a) Notwithstanding any provision of law to the  
37 contrary, including, but not limited to, Part 6 (commencing with  
38 Section 8000) of Division 4 of the Civil Code, the Department of  
39 General Services may issue a stop work order when construction  
40 work on an essential services facility is not being performed in

1 accordance with existing law and would compromise the structural  
 2 integrity of the building, thereby endangering the public safety.  
 3 The Department of General Services shall allow construction of  
 4 incidental and minor nonstructural additions or nonstructural  
 5 alterations without invoking its stop work authority.

6 (b) A public board, body, or officer whose construction work  
 7 on an essential services facility is subject to a stop work order  
 8 issued pursuant to subdivision (a) shall not be held liable in any  
 9 action filed against the public board, body, or officer for stopping  
 10 work as required by the stop work order, or for any delays caused  
 11 by compliance with the stop work order, except to the extent that  
 12 an error or omission by the public board, body, or officer is the  
 13 basis for the issuance of the stop work order.

14 SEC. 39. Section 19825 of the Health and Safety Code is  
 15 amended to read:

16 19825. (a) Every city, county, or city and county, whether  
 17 general law or chartered, that requires the issuance of a permit as  
 18 a condition precedent to the construction, alteration, improvement,  
 19 demolition, or repair of any building or structure, shall require the  
 20 execution of a permit application, in substantially the same form  
 21 set forth under this subdivision, and require any individual who  
 22 executes the Owner-Builder Declaration to present documentation  
 23 sufficient to identify the property owner and, as necessary, verify  
 24 the signature of the property owner. A city, county, or city and  
 25 county may require additional information on the permit  
 26 application.

27  
 28 PERMIT APPLICATION

29 BUILDING PROJECT IDENTIFICATION

30 Applicant’s Mailing Address \_\_\_\_\_  
 31 \_\_\_\_\_  
 32 \_\_\_\_\_  
 33 Property Location or Address \_\_\_\_\_  
 34 \_\_\_\_\_  
 35 Property Owner’s Name \_\_\_\_\_  
 36 Property Owner’s Telephone No. \_\_\_\_\_  
 37 Licensed Design Professional (Architect or  
 38 Engineer) in charge of the project \_\_\_\_\_  
 39 Mailing Address of Licensed Design \_\_\_\_\_  
 40 Professional \_\_\_\_\_

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\_\_\_\_\_  
License No. \_\_\_\_\_

LICENSED CONTRACTOR’S DECLARATION

I hereby affirm under penalty of perjury that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Class \_\_\_\_\_ License No. \_\_\_\_\_  
Date \_\_\_\_\_ Contractor Signature \_\_\_\_\_

OWNER-BUILDER DECLARATION

I hereby affirm under penalty of perjury that I am exempt from the Contractors’ State License Law for the reason(s) indicated below by the checkmark(s) I have placed next to the applicable item(s) (Section 7031.5, Business and Professions Code: Any city or county that requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance, also requires the applicant for the permit to file a signed statement that he or she is licensed pursuant to the provisions of the Contractors’ State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code) or that he or she is exempt from licensure and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars (\$500).):

I, as owner of the property, or my employees with wages as their sole compensation, will do  all of or  portions of the work, and the structure is not intended or offered for sale (Section 7044, Business and Professions Code: The Contractors’ State License Law does not apply to an owner of property who, through employees’ or personal effort, builds or improves the property, provided that the improvements are not intended or offered for sale. If, however, the building or improvement is sold within one year of completion, the Owner-Builder will have the burden of proving that it was not built or improved for the purpose of sale.).

I, as owner of the property, am exclusively contracting with licensed Contractors to construct the project (Section 7044, Business and Professions Code: The Contractors’ State License Law does not apply to an owner of property who builds or improves thereon, and who contracts for the projects with a licensed Contractor pursuant to the Contractors’ State License Law.).



1 ( ) I am exempt from licensure under the Contractors' State License Law for  
2 the following reason:

3 \_\_\_\_\_  
4

5 By my signature below I acknowledge that, except for my personal residence  
6 in which I must have resided for at least one year prior to completion of the  
7 improvements covered by this permit, I cannot legally sell a structure that I  
8 have built as an owner-builder if it has not been constructed in its entirety by  
9 licensed contractors. I understand that a copy of the applicable law, Section  
10 7044 of the Business and Professions Code, is available upon request when  
11 this application is submitted or at the following Web site:

12 <http://www.leginfo.ca.gov/calaw.html>.

13 Date \_\_\_\_\_

14  
15 Signature of Property Owner or Authorized Agent

16  
17 \_\_\_\_\_

18  
19 **WORKERS' COMPENSATION DECLARATION**

20 **WARNING: FAILURE TO SECURE WORKERS' COMPENSATION**  
21 **COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER**  
22 **TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED**  
23 **THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF**  
24 **COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706**  
25 **OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.**

26  
27 I hereby affirm under penalty of perjury one of the following declarations:

28 \_\_\_ I have and will maintain a certificate of consent to self-insure for workers'  
29 compensation, issued by the Director of Industrial Relations as provided for  
30 by Section 3700 of the Labor Code, for the performance of the work for which  
31 this permit is issued.

32 Policy No. \_\_\_\_\_

33  
34 \_\_\_ I have and will maintain workers' compensation insurance, as required  
35 by Section 3700 of the Labor Code, for the performance of the work for which  
36 this permit is issued. My workers' compensation insurance carrier and policy  
37 number are:

38  
39 Carrier \_\_\_\_\_ Policy Number \_\_\_\_\_ Expiration Date \_\_\_\_\_

40 Name of Agent \_\_\_\_\_ Phone # \_\_\_\_\_

1 \_\_\_\_ I certify that, in the performance of the work for which this permit is  
 2 issued, I shall not employ any person in any manner so as to become subject  
 3 to the workers' compensation laws of California, and agree that, if I should  
 4 become subject to the workers' compensation provisions of Section 3700 of  
 5 the Labor Code, I shall forthwith comply with those provisions.

6 \_\_\_\_\_  
 7 Signature of Applicant \_\_\_\_\_ Date

8  
 9 DECLARATION REGARDING CONSTRUCTION LENDING AGENCY  
 10

11 I hereby affirm under penalty of perjury that there is a construction lending  
 12 agency for the performance of the work for which this permit is issued (Section  
 13 ~~8132~~ 8172, Civil Code).

14 Lender's Name \_\_\_\_\_

15  
 16 Branch Designation \_\_\_\_\_

17  
 18 Lender's Address \_\_\_\_\_

19  
 20 By my signature below, I certify to each of the following:  
 21 I am the property owner or authorized to act on the property owner's behalf.  
 22 I have read this application and the information I have provided is correct.  
 23 I agree to comply with all applicable city and county ordinances and state laws  
 24 relating to building construction.  
 25 I authorize representatives of this city or county to enter the above-identified  
 26 property for inspection purposes.  
 27 Signature of Property Owner or Authorized Agent \_\_\_\_\_  
 28 Date \_\_\_\_\_

29  
 30 (b) When the Permit Application and the Owner-Builder  
 31 Declaration have been executed by a person other than the property  
 32 owner, prior to issuing the permit, the following shall be completed  
 33 by the property owner and returned to the agency responsible for  
 34 issuing the permit:

35  
 36 AUTHORIZATION OF AGENT TO ACT ON PROPERTY OWNER'S  
 37 BEHALF  
 38

1 Excluding the Notice to Property Owner, the execution of which I understand  
2 is my personal responsibility, I hereby authorize the following person(s) to act  
3 as my agent(s) to apply for, sign, and file the documents necessary to obtain  
4 an Owner-Builder Permit for my project.

5  
6 Scope of Construction Project (or Description of Work):  
7 \_\_\_\_\_

8 Project Location or Address: \_\_\_\_\_

9 Name of Authorized  
10 Agent: \_\_\_\_\_

11  
12 Address of Authorized  
13 Agent: \_\_\_\_\_

14  
15 Phone Number of Authorized  
16 Agent: \_\_\_\_\_

17  
18 I declare under penalty of perjury that I am the property owner for the address  
19 listed above and I personally filled out the above information and certify its  
20 accuracy.

21 Property Owner's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

22  
23 Note: A copy of the owner's driver's license, form notarization, or other  
24 verification acceptable to the agency is required to be presented when the  
25 permit is issued to verify the property owner's signature.

26  
27 (c) When the Owner-Builder Declaration required under  
28 subdivision (a) is executed, a Notice to Property Owner also shall  
29 be executed by the property owner in substantially the same form  
30 set forth under this section. The Notice to Property Owner shall  
31 appear on the official letterhead of the issuer and shall be provided  
32 to the applicant by one of the following methods chosen by the  
33 permitting authority: regular mail, electronic format, or given  
34 directly to the applicant at the time the application for the permit  
35 is made. Except as otherwise provided, the Notice to Property  
36 Owner pursuant to this section shall be completed and signed by  
37 the property owner and returned prior to issuance of the permit.  
38 An agent of the owner shall not execute this notice unless the  
39 property owner obtains the prior approval of the permitting

1 authority. A permit shall not be issued unless the property owner  
2 complies with this section.

3

4

NOTICE TO PROPERTY OWNER

5 Dear Property Owner:

6 An application for a building permit has been submitted in your name listing  
7 yourself as the builder of the property improvements specified at

8

9 \_\_\_\_\_.  
10 We are providing you with an Owner-Builder Acknowledgment and  
11 Information Verification Form to make you aware of your responsibilities and  
12 possible risk you may incur by having this permit issued in your name as the  
13 Owner-Builder.

14 We will not issue a building permit until you have read, initialed your  
15 understanding of each provision, signed, and returned this form to us at our  
16 official address indicated. An agent of the owner cannot execute this notice  
17 unless you, the property owner, obtain the prior approval of the permitting  
18 authority.

18

19

OWNER’S ACKNOWLEDGMENT AND VERIFICATION OF  
20 INFORMATION

21

22 DIRECTIONS: Read and initial each statement below to signify you understand  
23 or verify this information.

24

25 \_\_\_\_1. I understand a frequent practice of unlicensed persons is to have the  
26 property owner obtain an “Owner-Builder” building permit that erroneously  
27 implies that the property owner is providing his or her own labor and material  
28 personally. I, as an Owner-Builder, may be held liable and subject to serious  
29 financial risk for any injuries sustained by an unlicensed person and his or her  
30 employees while working on my property. My homeowner’s insurance may  
31 not provide coverage for those injuries. I am willfully acting as an  
32 Owner-Builder and am aware of the limits of my insurance coverage for injuries  
33 to workers on my property.

34

35 \_\_\_\_2. I understand building permits are not required to be signed by property  
36 owners unless they are *responsible* for the construction and are not hiring a  
37 licensed Contractor to assume this responsibility.

38

39 \_\_\_\_3. I understand as an “Owner-Builder” I am the responsible party of record  
40 on the permit. I understand that I may protect myself from potential financial

1 risk by hiring a licensed Contractor and having the permit filed in his or her  
2 name instead of my own.

3  
4 \_\_\_\_4. I understand Contractors are required by law to be licensed and bonded  
5 in California and to list their license numbers on permits and contracts.

6  
7 \_\_\_\_5. I understand if I employ or otherwise engage any persons, other than  
8 California licensed Contractors, and the total value of my construction is at  
9 least five hundred dollars (\$500), including labor and materials, I may be  
10 considered an “employer” under state and federal law.

11  
12 \_\_\_\_6. I understand if I am considered an “employer” under state and federal  
13 law, I must register with the state and federal government, withhold payroll  
14 taxes, provide workers’ compensation disability insurance, and contribute to  
15 unemployment compensation for each “employee.” I also understand my failure  
16 to abide by these laws may subject me to serious financial risk.

17  
18 \_\_\_\_7. I understand under California Contractors’ State License Law, an  
19 Owner-Builder who builds single-family residential structures cannot legally  
20 build them with the intent to offer them for sale, unless *all* work is performed  
21 by licensed subcontractors and the number of structures does not exceed four  
22 within any calendar year, or all of the work is performed under contract with  
23 a licensed general building Contractor.

24  
25 \_\_\_\_8. I understand as an Owner-Builder if I sell the property for which this  
26 permit is issued, I may be held liable for any financial or personal injuries  
27 sustained by any subsequent owner(s) that result from any latent construction  
28 defects in the workmanship or materials.

29  
30 \_\_\_\_9. I understand I may obtain more information regarding my obligations  
31 as an “employer” from the Internal Revenue Service, the United States Small  
32 Business Administration, the California Department of Benefit Payments, and  
33 the California Division of Industrial Accidents. I also understand I may contact  
34 the California Contractors’ State License Board (CSLB) at 1-800-321-CSLB  
35 (2752) or [www.cslb.ca.gov](http://www.cslb.ca.gov) for more information about licensed contractors.

36  
37 \_\_\_\_10. I am aware of and consent to an Owner-Builder building permit applied  
38 for in my name, and understand that I am the party legally and financially  
39 responsible for proposed construction activity at the following address:  
40 \_\_\_\_\_

1  
 2 \_\_\_\_ 11. I agree that, as the party legally and financially responsible for this  
 3 proposed construction activity, I will abide by all applicable laws and  
 4 requirements that govern Owner-Builders as well as employers.

5  
 6 \_\_\_\_ 12. I agree to notify the issuer of this form immediately of any additions,  
 7 deletions, or changes to any of the information I have provided on this form.

8  
 9 Licensed contractors are regulated by laws designed to protect the public. If  
 10 you contract with someone who does not have a license, the Contractors’ State  
 11 License Board may be unable to assist you with any financial loss you may  
 12 sustain as a result of a complaint. Your only remedy against unlicensed  
 13 Contractors may be in civil court. It is also important for you to understand  
 14 that if an unlicensed Contractor or employee of that individual or firm is injured  
 15 while working on your property, you may be held liable for damages. If you  
 16 obtain a permit as Owner-Builder and wish to hire Contractors, you will be  
 17 responsible for verifying whether or not those Contractors are properly licensed  
 18 and the status of their workers’ compensation insurance coverage.

19  
 20 Before a building permit can be issued, this form must be completed and signed  
 21 by the property owner and returned to the agency responsible for issuing the  
 22 permit.

23 Note: A copy of the property owner’s driver’s license, form notarization, or  
 24 other verification acceptable to the agency is required to be presented when  
 25 the permit is issued to verify the property owner’s signature.

26  
 27 Signature of Property Owner \_\_\_\_\_ Date: \_\_\_\_\_  
 28

29 SEC. 40. Section 34218 of the Health and Safety Code is  
 30 amended to read:

31 34218. Chapter 5 (commencing with Section 9550) of Title 2  
 32 3 of Part 6 of Division 4 of the Civil Code applies to any housing  
 33 project constructed under this chapter. Notwithstanding the  
 34 provisions of this section, a housing authority may require a 20  
 35 percent cash escrow or a 25 percent irrevocable letter of credit or  
 36 the payment bond required by this section if the contract is for  
 37 work undertaken pursuant to the Comprehensive Improvement  
 38 Assistance Program established by Section 14 of the United States  
 39 Housing Act of 1937, as amended (42 U.S.C.A. Secs. 1437d and  
 40 1437l), or the Public Housing Modernization Act established by

1 Section 5(c)(3)(C) of the United States Housing Act of 1937, as  
2 amended (42 U.S.C.A. Secs. 1437d and 1437l).

3 SEC. 41. Section 11751.82 of the Insurance Code is amended  
4 to read:

5 11751.82. (a) An insurer under a wrap-up insurance policy  
6 shall report workers' compensation losses and payroll information  
7 for each contractor and subcontractor to its rating organization on  
8 a timely basis and in accordance with the uniform statistical plan.  
9 Within 10 days, upon request, the insurer shall provide to each  
10 contractor and subcontractor copies of the report covering workers'  
11 compensation losses and payroll information for that contractor  
12 or subcontractor.

13 (b) For the purposes of this section, a "wrap-up insurance  
14 policy" is an insurance policy, or series of policies, written to cover  
15 risks associated with a work of improvement, as defined in Section  
16 8050 of the Civil Code, and covering two or more of the contractors  
17 or subcontractors that work on that work of improvement.

18 SEC. 42. Section 218.5 of the Labor Code is amended to read:

19 218.5. In any action brought for the nonpayment of wages,  
20 fringe benefits, or health and welfare or pension fund contributions,  
21 the court shall award reasonable attorney's fees and costs to the  
22 prevailing party if any party to the action requests attorney's fees  
23 and costs upon the initiation of the action. This section shall not  
24 apply to an action brought by the Labor Commissioner. This  
25 section shall not apply to a surety issuing a bond pursuant to  
26 Chapter 9 (commencing with Section 7000) of Division 3 of the  
27 Business and Professions Code or to an action to enforce a  
28 mechanics lien brought under Chapter 4 (commencing with Section  
29 8400) of Title 2 of Part 6 of Division 2 of the Civil Code.

30 This section does not apply to any action for which attorney's  
31 fees are recoverable under Section 1194.

32 SEC. 43. Section 4107.7 of the Public Contract Code is  
33 amended to read:

34 4107.7. If a contractor who enters into a contract with a public  
35 entity for investigation, removal or remedial action, or disposal  
36 relative to the release or presence of a hazardous material or  
37 hazardous waste fails to pay a subcontractor registered as a  
38 hazardous waste hauler pursuant to Section 25163 of the Health  
39 and Safety Code within 10 days after the investigation, removal  
40 or remedial action, or disposal is completed, the subcontractor may

1 serve a stop notice upon the public entity in accordance with  
2 Chapter 4 (commencing with Section 9350) of Title-2 3 of Part 6  
3 of Division 4 of the Civil Code.

4 SEC. 44. Section 7103 of the Public Contract Code is amended  
5 to read:

6 7103. (a) (1) Every original contractor that is awarded a  
7 contract by a state entity, as defined in subdivision (d), involving  
8 an expenditure in excess of twenty-five thousand dollars (\$25,000)  
9 for any public work shall, before entering upon the performance  
10 of the work, file a payment bond with and approved by the officer  
11 or state entity that awarded the contract. The bond shall be in a  
12 sum not less than 100 percent of the total amount payable by the  
13 terms of the contract.

14 (2) The state entity shall state in its call for bids for any contract  
15 that a payment bond is required in the case of such an expenditure.

16 (b) A payment bond filed and approved in accordance with this  
17 section shall be sufficient to enter upon the performance of work  
18 under a duly authorized contract that supplements the contract for  
19 which the payment bond was filed if the requirement of a new  
20 bond is waived by the state entity.

21 (c) For purposes of this section, providers of architectural,  
22 engineering, and land surveying services pursuant to a contract  
23 with a state entity for a public work shall not be deemed an original  
24 contractor and shall not be required to post or file the payment  
25 bond required in subdivisions (a) and (b).

26 (d) For purposes of this section, “state entity” means every state  
27 office department, division, bureau, board, or commission, but  
28 does not include the Legislature, the courts, any agency in the  
29 judicial branch of government, or the University of California. All  
30 other public entities shall be governed by Section 9550 of the Civil  
31 Code.

32 (e) For purposes of this section, “public work” includes the  
33 erection, construction, alteration, repair, or improvement of any  
34 state structure, building, road, or other state improvement of any  
35 kind.

36 SEC. 45. Section 10222 of the Public Contract Code is amended  
37 to read:

38 10222. (a) Each bond shall equal at least one-half of the  
39 contract price, except as otherwise provided in Section 9554 of  
40 the Civil Code, in the California Toll Bridge Authority Act



1 (Chapter 1 (commencing with Section 30000) of Division 7 of the  
2 Streets and Highways Code), or in subdivision (b).

3 (b) Notwithstanding subdivision (a), for projects with a contract  
4 price greater than two hundred fifty million dollars (\$250,000,000),  
5 the Department of Transportation shall have the discretion to  
6 specify that the payment bond shall equal not less than one-half  
7 of the contract price or five hundred million dollars (\$500,000,000),  
8 whichever is less.

9 SEC. 46. Section 10822 of the Public Contract Code is amended  
10 to read:

11 10822. Each bond shall be in a sum equal to at least one-half  
12 of the contract price, except as otherwise provided in Section 9554  
13 of the Civil Code.

14 SEC. 47. Section 20104 of the Public Contract Code is amended  
15 to read:

16 20104. (a) (1) This article applies to all public works claims  
17 of three hundred seventy-five thousand dollars (\$375,000) or less  
18 which arise between a contractor and a local agency.

19 (2) This article shall not apply to any claims resulting from a  
20 contract between a contractor and a public agency when the public  
21 agency has elected to resolve any disputes pursuant to Article 7.1  
22 (commencing with Section 10240) of Chapter 1 of Part 2.

23 (b) (1) "Public work" means "public works contract" as defined  
24 in Section 1101 but does not include any work or improvement  
25 contracted for by the state or the Regents of the University of  
26 California.

27 (2) "Claim" means a separate demand by the contractor for (A)  
28 a time extension, (B) payment of money or damages arising from  
29 work done by, or on behalf of, the contractor pursuant to the  
30 contract for a public work and payment of which is not otherwise  
31 expressly provided for or the claimant is not otherwise entitled to,  
32 or (C) an amount the payment of which is disputed by the local  
33 agency.

34 (c) The provisions of this article or a summary thereof shall be  
35 set forth in the plans or specifications for any work which may  
36 give rise to a claim under this article.

37 (d) This article applies only to contracts entered into on or after  
38 January 1, 1991.

39 SEC. 48. Section 20134 of the Public Contract Code is amended  
40 to read:

1     20134. (a) In cases of emergency, when repair or replacements  
2 are necessary to permit the continued conduct of county operations  
3 or services, the board of supervisors, by majority consent, may  
4 proceed at once to replace or repair any and all structures without  
5 adopting the plans, specifications, strain sheets, or working details  
6 or, subject to Chapter 2.5 (commencing with Section 22050), giving  
7 notice for bids to let contracts. If notice for bids to let contracts  
8 will not be given, the board shall comply with Chapter 2.5  
9 (commencing with Section 22050). The work may be done by day  
10 labor under the direction of the board, by contract, or by a  
11 combination of the two. If the work is done wholly or in part by  
12 contract, the contractor shall be paid the actual cost of the use of  
13 machinery and tools and of material, and labor and of workers'  
14 compensation insurance expended by him or her in doing the work,  
15 plus not more than 15 percent to cover all profits and  
16 administration. No more than the lowest current market prices  
17 shall be paid for materials whenever possible.

18     (b) In a county of the first, second, third, or fourth class, which  
19 is under court order to relieve jail overcrowding or in which the  
20 sheriff certifies that the inmate capacity of the county jail system  
21 is exceeded by more than 20 percent and that the overpopulation  
22 is likely to continue and poses a threat to public safety, health, and  
23 welfare, the board of supervisors may contract for the construction  
24 or expansion of jail facilities without the formality of obtaining  
25 bids, adopting plans and specifications, or complying with other  
26 requirements of this article, except as required by this subdivision.  
27 The person to whom the contract is awarded shall execute a bond  
28 for faithful performance in accordance with Section 20129. Any  
29 plans and specifications adopted by the board may only be altered  
30 or changed in accordance with Section 20135 and all contracts  
31 awarded pursuant to this subdivision may only be altered or  
32 changed in accordance with Sections 20136, 20137, and 20138.  
33 The award of the contract shall be made after a public hearing on  
34 the basis of a request for proposals advertised in accordance with  
35 Section 6062 or 6062a of the Government Code. The contract may  
36 be awarded only to a contractor who has responded to the request  
37 for proposals and who is licensed to do the work in accordance  
38 with Chapter 9 (commencing with Section 7000) of Division 3 of  
39 the Business and Professions Code. The contract shall be upon  
40 terms which the board determines are necessary for the expeditious

1 completion of the work. A contract shall not be entered into unless  
2 at least three proposals to do the work have been evaluated by a  
3 competitive process established by the board. If the board does  
4 not select the lowest bid, it shall make a finding stating the reasons  
5 that the lowest bid was not selected.

6 (c) In any county that has agreed to permit the transfer of  
7 prisoners or parole violators under Section 2910 or 2910.5 of the  
8 Penal Code or of wards under Section 1753.3 of the Welfare and  
9 Institutions Code, the board of supervisors may contract for the  
10 construction or expansion of the facilities to be used for that  
11 purpose without the formality of obtaining bids, adopting plans  
12 and specifications, or complying with other requirements of this  
13 article, except as required by this subdivision. The person to whom  
14 the contract is awarded shall execute a bond for faithful  
15 performance in accordance with Section 20129. Any plans and  
16 specifications adopted by the board may only be altered or changed  
17 in accordance with Section 20135 and all contracts awarded  
18 pursuant to this subdivision may only be altered or changed in  
19 accordance with Sections 20136, 20137, and 20138. The award  
20 of the contract shall be made after a public hearing on the basis of  
21 a request for proposals advertised in accordance with Section 6062  
22 or 6062a of the Government Code. The contract may be awarded  
23 only to a contractor who has responded to the request for proposals  
24 and who is licensed to do the work in accordance with Chapter 9  
25 (commencing with Section 7000) of Division 3 of the Business  
26 and Professions Code. The contract shall be upon terms which the  
27 board determines are necessary for the expeditious completion of  
28 the work. A contract shall not be entered into unless at least three  
29 proposals to do the work have been evaluated by a competitive  
30 process established by the board and the lowest bid is selected.

31 (d) Proposed construction or expansion of jail or  
32 return-to-custody facilities as authorized under subdivision (b) or  
33 (c) shall not commence in a county of the third class without the  
34 affirmative vote of a majority of the city council of the incorporated  
35 city within which the construction or expansion is proposed.

36 (e) The board of supervisors may waive the requirements of  
37 Title 2 3 (commencing with Section 9000) of Part 6 of Division 4  
38 of the Civil Code for work performed pursuant to subdivision (b)  
39 or (c).

1 (f) If any county that is under court order to relieve  
2 overcrowding in a county juvenile facility, as defined by  
3 subdivision (c) of Section 4481 of the Penal Code or in which the  
4 chief probation officer certifies that the juvenile detention capacity  
5 of the county juvenile facilities is exceeded by more than 20  
6 percent and that the overpopulation is likely to continue and poses  
7 a threat to public safety, health, and welfare, the board of  
8 supervisors may contract for the construction or expansion of  
9 county juvenile facilities without the formality of obtaining bids,  
10 adopting plans and specifications, or complying with other  
11 requirements of this article, except as required by this subdivision.  
12 The person to whom the contract is awarded shall execute a bond  
13 for faithful performance in accordance with Section 20129. Any  
14 plans and specifications adopted by the board may only be altered  
15 or changed in accordance with Section 20135 and all contracts  
16 awarded pursuant to this subdivision may only be altered or  
17 changed in accordance with Sections 20136, 20137, and 20138.  
18 The award of the contract shall be made after a public hearing on  
19 the basis of a request for proposals advertised in accordance with  
20 Section 6062 or 6062a of the Government Code. The contract may  
21 be awarded only to a contractor who has responded to the request  
22 for proposals and who is licensed to do the work in accordance  
23 with Chapter 9 (commencing with Section 7000) of Division 3 of  
24 the Business and Professions Code. The contract shall be upon  
25 terms which the board determines are necessary for the expeditious  
26 completion of the work. A contract shall not be entered into unless  
27 at least three proposals to do the work have been evaluated by a  
28 competitive process established by the board. If the board does  
29 not select the lowest bidder, it shall make a finding stating the  
30 reasons that the lowest bidder was not selected.

31 (g) In a county of the third class in which there are no available  
32 courtrooms to accommodate all authorized judicial positions or in  
33 which the board of supervisors certifies that there is a significant  
34 need to expeditiously construct new court and court support  
35 facilities, the board of supervisors may contract for the construction  
36 or expansion of court and court support facilities without the  
37 formality of obtaining bids, adopting plans and specifications, or  
38 complying with other requirements of this article, except as  
39 required by this subdivision. The person to whom the contract is  
40 awarded shall execute a bond for faithful performance in

1 accordance with Section 20129. Any plans and specifications  
2 adopted by the board may only be altered or changed in accordance  
3 with Section 20135 and all contracts awarded pursuant to this  
4 subdivision may only be altered or changed in accordance with  
5 Sections 20136, 20137, and 20138. The award of the contract shall  
6 be made after a public hearing on the basis of a request for  
7 proposals advertised in accordance with Section 6062 or 6062a of  
8 the Government Code. The contract may be awarded only to a  
9 contractor who has responded to the request for proposals and who  
10 is licensed to do the work in accordance with Chapter 9  
11 (commencing with Section 7000) of Division 3 of the Business  
12 and Professions Code. The contract shall be upon terms which the  
13 board determines are necessary for the expeditious completion of  
14 the work. A contract shall not be entered into unless at least three  
15 proposals to do the work have been evaluated by a competitive  
16 process established by the board and the lowest bid is selected.  
17 This subdivision shall remain in effect until December 31, 1994.

18 SEC. 49. Section 20461 of the Public Contract Code is amended  
19 to read:

20 20461. No assignment by the contractor of the whole or any  
21 part of the money, assessment, partial assessment, any reassessment  
22 and any bonds which may be issued to represent any assessment  
23 or reassessment, due or to be due under the contract, or for “extras”  
24 in connection therewith, whether made before or after a verified  
25 claim is filed pursuant to this chapter, shall take priority over the  
26 claims, and the assignment shall have no binding force insofar as  
27 the rights of the claimants, or their assigns, are concerned. None  
28 of the provisions of Title 2 3 (commencing with Section 9000) of  
29 Part 6 of Division 4 of the Civil Code shall be applicable to any  
30 assessment, partial assessment, reassessment, bonds, moneys or  
31 funds payable to the contractor or assignee under this division or  
32 to any matter contained in this chapter.

33 SEC. 50. Section 20496 of the Public Contract Code is amended  
34 to read:

35 20496. The provisions of ~~Part 6 Title 3~~ (commencing with  
36 ~~Section 41010) of Division 2 9000) of Part 6 of Division 4 of the~~  
37 *Civil Code* are hereby expressly made applicable to the construction  
38 of works and improvements under this article.

39 SEC. 51. Section 20682.5 of the Public Contract Code is  
40 amended to read:

1 20682.5. (a) A district may construct or complete any building,  
2 structure, or improvement with its own forces or by contract  
3 without bidding when the cost does not exceed twenty-five  
4 thousand dollars (\$25,000).

5 (b) All contracts for the construction or completion of any  
6 building, structure, or improvement, when the cost exceeds  
7 twenty-five thousand dollars (\$25,000), shall be contracted for and  
8 let to the lowest responsible bidder after notice. If two or more  
9 bids are the same and the lowest, the district board may accept the  
10 one it chooses.

11 (c) The district shall publish a notice inviting bids for any  
12 contract for which competitive bidding is required at least one time  
13 in a newspaper of general circulation in the district at least 10 days  
14 before the time specified for receiving bids. The notice inviting  
15 bids shall set a date for opening the bids and distinctly state the  
16 work to be done.

17 (d) If the general manager recommends and the board of  
18 directors determines that the publication of advertisements of the  
19 notice in trade journals and papers in lieu of publication pursuant  
20 to subdivision (c) will increase the number of business enterprises  
21 receiving that notice, the board of directors may by resolution  
22 declare that those notices shall be published in trade journals and  
23 papers at least 10 days prior to the time specified for receiving  
24 bids.

25 (e) If plans and specifications are prepared describing the work,  
26 all bidders shall be afforded an opportunity to examine the plans  
27 and specifications, and the plans and specifications shall be  
28 attached to and become part of the contract, if one is awarded.

29 (f) At its discretion, the board of directors may reject any bids  
30 presented and readvertise.

31 (g) In the case of an emergency, the board of directors may act  
32 pursuant to Chapter 2.5 (commencing with Section 22050).

33 (h) The board of directors may, subject to Chapter 5  
34 (commencing with Section 9550) of Title-2 3 of Part 6 of Division  
35 4 of the Civil Code, require the posting of those bonds it deems  
36 desirable as a condition to the filing of a bid or the letting of a  
37 contract.

38 (i) The district shall keep cost records of the work in the manner  
39 provided in Chapter 1 (commencing with Section 4000) of Division  
40 5 of Title 1 of the Government Code.

1 (j) As an alternate to the procedures required by this section, a  
2 district may rely on the Uniform Public Construction Cost  
3 Accounting Act, Chapter 2 (commencing with Section 22000) of  
4 Part 3 of Division 2.

5 SEC. 52. Section 20688.4 of the Public Contract Code is  
6 amended to read:

7 20688.4. An agency shall require each successful bidder to file  
8 with it good and sufficient bonds, to be approved by it. The bonds  
9 shall be conditioned upon the faithful performance of the contract  
10 and upon the payment of all claims for labor and material in  
11 connection with the contract. The bonds shall contain the terms  
12 and conditions set forth in Chapter 5 (commencing with Section  
13 9550) of Title-2 3 of Part 6 of Division 4 of the Civil Code and are  
14 subject to the provisions of that chapter.

15 SEC. 53. Section 20813 of the Public Contract Code is amended  
16 to read:

17 20813. (a) All contracts for the construction or completion of  
18 any building, structure, or improvement, when the expenditure  
19 required for the work exceeds ten thousand dollars (\$10,000), shall  
20 be contracted for and let to the lowest responsible bidder after  
21 notice. If two or more bids are the same and the lowest, the district  
22 board may accept the one it chooses.

23 (b) The notice inviting bids shall set a date for the opening of  
24 bids. The first publication or posting of the notice shall be at least  
25 10 days before the date of opening the bids. Notice shall be  
26 published at least twice, not less than five days apart, in a  
27 newspaper of general circulation in the district, or if there is none,  
28 it shall be posted in at least three public places in the district. The  
29 notice shall distinctly state the work to be done.

30 (c) In its discretion, the district board may reject any bids  
31 presented and readvertise.

32 (d) In the case of an emergency, the district board may act  
33 pursuant to Chapter 2.5 (commencing with Section 22050).

34 (e) The district board may, subject to the provisions of Chapter  
35 5 (commencing with Section 9550) of Title-2 3 of Part 6 of  
36 Division 4 of the Civil Code, require the posting of those bonds it  
37 deems desirable as a condition to the filing of a bid or the letting  
38 of a contract.

1 (f) Cost records of the work shall be kept in the manner provided  
2 in Chapter 1 (commencing with Section 4000) of Division 5 of  
3 Title 1 of the Government Code.

4 SEC. 54. Section 20815.3 of the Public Contract Code is  
5 amended to read:

6 20815.3. (a) A district shall publish notice inviting bids for  
7 any contract for which competitive bidding is required at least one  
8 time in a newspaper of general circulation in the district at least  
9 one week before the time specified for receiving bids. The notice  
10 shall distinctly state the work to be done.

11 (b) In its discretion, the board of directors may do any of the  
12 following:

13 (1) Reject all bids and readvertise.

14 (2) By a four-fifths vote, elect to purchase the materials or  
15 supplies in the open market.

16 (3) By a four-fifths vote, elect to construct the building,  
17 structure, or improvement by force account.

18 (c) In the case of an emergency, the board of directors may act  
19 pursuant to Chapter 2.5 (commencing with Section 22050).

20 (d) The board of directors may, subject to the provisions of  
21 Chapter 5 (commencing with Section 9550) of Title-2 3 of Part 6  
22 of Division 4 of the Civil Code, require the posting of those bonds  
23 it deems as a condition to the filing of a bid or the letting of a  
24 contract.

25 (e) The district shall keep cost records of the work pursuant to  
26 Chapter 1 (commencing with Section 4000) of Division 5 of Title  
27 1 of the Government Code.

28 SEC. 55. Section 20991 of the Public Contract Code is amended  
29 to read:

30 20991. All contracts for any improvement or unit of work,  
31 except as provided in this article, estimated to cost in excess of  
32 twenty-five thousand dollars (\$25,000), shall be let to the lowest  
33 responsible bidder in the manner provided in this article. The board  
34 of supervisors of the district shall advertise by five or more  
35 insertions in a daily newspaper of general circulation, or by two  
36 or more insertions in a weekly newspaper of general circulation,  
37 printed and published in the district, inviting sealed proposals for  
38 the construction of the improvement or work. 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



1 upon the faithful performance of the contract and upon the payment  
2 of all claims for labor and material. The bonds shall contain the  
3 terms and conditions set forth in Chapter 5 (commencing with  
4 Section 9550) of Title-2 3 of Part 6 of Division 4 of the Civil Code  
5 and shall be subject to the provisions of that chapter. The board  
6 shall have the right to reject any bid not suitable to the best interests  
7 of the district. In the event all proposals are rejected or no proposals  
8 are received pursuant to advertisement, or the estimated cost of  
9 the work does not exceed ten thousand dollars (\$10,000), or the  
10 work consists of channel protection, dam protection, temporary  
11 work, maintenance work, or emergency work, the board of  
12 supervisors may, without advertising for bids, have the work done  
13 by force account. Emergency work may also be done by negotiated  
14 contract without advertising for bids. In case of an emergency, if  
15 notice for bids to let contracts will not be given, the board shall  
16 comply with Chapter 2.5 (commencing with Section 22050).

17 SEC. 56. Section 21061 of the Public Contract Code is amended  
18 to read:

19 21061. (a) All contracts for any improvement or unit of work,  
20 except as provided in this article, estimated to cost in excess of  
21 twenty-five thousand dollars (\$25,000), shall be let to the lowest  
22 responsible bidder in the manner provided in this article.

23 (b) The board of supervisors of the district shall advertise by  
24 five or more insertions in a daily newspaper of general circulation,  
25 or by two or more insertions in a weekly newspaper of general  
26 circulation, printed and published in the district, inviting sealed  
27 proposals for the construction of the improvement or work. The  
28 board shall require the successful bidder or bidders to file with the  
29 board good and sufficient bonds, to be approved by the board,  
30 conditioned upon the faithful performance of the contract and upon  
31 the payment of all claims for labor and material, the bonds to  
32 contain the terms and conditions set forth in Chapter 5  
33 (commencing with Section 9550) of Title-2 3 of Part 6 of Division  
34 4 of the Civil Code and to be subject to that chapter.

35 (c) The board may also reject any bid not suitable to the best  
36 interests of the district. If all proposals are rejected or no proposals  
37 are received pursuant to advertisement therefor, or the work  
38 consists of channel protection, dam protection, temporary work,  
39 maintenance work, or of emergency work, the board of supervisors  
40 may, without advertising for bids, have the work done by force

1 account. Emergency work may also be done by negotiated contract  
2 without advertising for bids or requiring bonds. In case of an  
3 emergency, if notice for bids to let contracts will not be given, the  
4 board shall comply with Chapter 2.5 (commencing with Section  
5 22050).

6 (d) The board of supervisors, acting as the board of the district,  
7 may, by ordinance, resolution, or board order, authorize the flood  
8 control engineer or other county officer to order changes or  
9 additions in work being performed under a construction contract.  
10 When so authorized, any change or addition in the work shall be  
11 ordered in writing by the flood control engineer, or other designated  
12 officer, and the extra cost for any change or addition to the work  
13 so ordered shall not exceed five thousand dollars (\$5,000) when  
14 the total amount of the original contract does not exceed fifty  
15 thousand dollars (\$50,000), nor 10 percent of the amount of any  
16 original contract that exceeds fifty thousand dollars (\$50,000), but  
17 does not exceed two hundred fifty thousand dollars (\$250,000).  
18 For contracts whose original cost exceeds two hundred fifty  
19 thousand dollars (\$250,000), the extra cost for any change or  
20 addition to the work so ordered shall not exceed twenty-five  
21 thousand dollars (\$25,000), plus 5 percent of the amount of the  
22 original contract costs in excess of two hundred fifty thousand  
23 dollars (\$250,000). In no event shall any such change or alteration  
24 exceed one hundred fifty thousand dollars (\$150,000).

25 SEC. 57. Section 21071 of the Public Contract Code is amended  
26 to read:

27 21071. (a) All contracts for any improvement or unit of work  
28 except as provided in this article estimated to cost in excess of ten  
29 thousand dollars (\$10,000) shall be let to the lowest responsible  
30 bidder in the manner provided in this article. The board of  
31 supervisors of the district shall advertise by three insertions in a  
32 daily newspaper of general circulation or two insertions in a weekly  
33 newspaper of general circulation printed and published in the  
34 district inviting sealed proposals for the construction of, the  
35 improvement or work before any contract shall be made for the  
36 improvement or work, and may let by contract separately any part  
37 of the work or improvement. The board shall require the successful  
38 bidder to file with the board good and sufficient bonds to be  
39 approved by the board conditioned upon the faithful performance  
40 of the contract and upon the payment of their claims for labor and

1 material in connection with the contract. The bonds shall contain  
2 the terms and conditions set forth in Chapter 5 (commencing with  
3 Section 9550) of Title 2 3 of Part 6 of Division 4 of the Civil Code  
4 and be subject to the provisions of that chapter. The board shall  
5 also have the right to reject any and all bids. If all proposals are  
6 rejected or no proposals are received pursuant to the advertisement,  
7 the estimated cost of the work does not exceed the sum of ten  
8 thousand dollars (\$10,000), or the work consists of channel  
9 protection, maintenance work, or emergency work when necessary  
10 in order to protect life and property from impending flood damage,  
11 the board of supervisors may, without advertising for bids, have  
12 the work done by force account or negotiated contract.

13 (b) The district shall have the power to purchase in the open  
14 market without advertising for bids, materials, supplies, equipment,  
15 and other personal property for use in any work either under  
16 contract or by force account if the costs do not exceed ten thousand  
17 dollars (\$10,000). It shall be the duty of the purchasing agent of  
18 Ventura County, as the ex officio purchasing agent of the Ventura  
19 County Watershed Protection District, unless otherwise ordered  
20 by the board of supervisors, to purchase for the district all  
21 materials, supplies, equipment, and other personal property  
22 necessary to carry out the purposes of this article, and to engage  
23 independent contractors to perform sundry services for the district,  
24 if the aggregate cost of such work, exclusive of materials to be  
25 furnished by the district, does not exceed ten thousand dollars  
26 (\$10,000).

27 (c) The purchasing agent shall make all purchases and contracts  
28 upon proper requisition, signed by the engineer-manager of the  
29 district, or his or her authorized representative.

30 (d) If the work consists of the maintenance or alteration of  
31 existing facilities, including electrical, painting, and roofing if the  
32 cost of labor and materials for the work according to the engineer's  
33 estimate will exceed five thousand dollars (\$5,000), and if the  
34 work is not of the type of work referred to in this section, the  
35 maintenance and alteration work shall be performed under a  
36 contract or contracts that shall be let to the lowest responsible  
37 bidder or bidders in the manner described in this section.

38 SEC. 58. Section 21081 of the Public Contract Code is amended  
39 to read:

1 21081. All contracts for any improvement or unit of work,  
2 when the cost, according to the estimate of the engineer, will  
3 exceed five thousand dollars (\$5,000), shall be let to the lowest  
4 responsible bidder or bidders in the manner provided in this article.  
5 The board shall first determine whether the contract shall be let as  
6 a single unit for the whole of the work, or shall be divided into  
7 severable parts, or both, according to the best interests of the  
8 district. The board shall call for bids and advertise the call by three  
9 insertions in a daily newspaper of general circulation or by two  
10 insertions in a weekly newspaper of general circulation printed  
11 and published in the district inviting sealed proposals for the  
12 construction or performance of the improvement or work before  
13 any contract is made. The call for bids shall state whether the work  
14 is to be performed as a unit or divided into severable specific parts,  
15 or both, as stated in the call. The board may let the work by single  
16 contract for the whole or it may divide such work into severable  
17 parts by separate contracts, as stated in such call, according to the  
18 best interests of the district. The board shall require the successful  
19 bidder or bidders to file with the board good and sufficient bonds  
20 to be approved by the board conditioned upon the faithful  
21 performance of the contract and upon the payment of their claims  
22 for labor and material, the bonds to contain the terms and  
23 conditions set forth in Title 2 3 (commencing with Section 9000)  
24 of Part 6 of Division 4 of the Civil Code and to be subject to the  
25 provisions of that title. The board shall also have the right to reject  
26 any bid. In the event all proposals are rejected or no proposals are  
27 received pursuant to advertisement, or the estimated cost of such  
28 work does not exceed five thousand dollars (\$5,000), or the work  
29 consists of channel protection, maintenance work, or emergency  
30 work, the board of supervisors may, without advertising for bids,  
31 have the work done by force account. The district may purchase  
32 in the open market, without advertising for bids, materials and  
33 supplies for use in any work either under contract or by force  
34 account.

35 SEC. 59. Section 21091 of the Public Contract Code is amended  
36 to read:

37 21091. All contracts for any improvement or unit of work,  
38 except as otherwise provided in this act, estimated to cost in excess  
39 of fifteen thousand dollars (\$15,000) shall be let to the lowest  
40 responsible bidder in the manner provided in this article. The board

1 of supervisors of the district shall advertise by three insertions in  
2 a daily newspaper of general circulation or two insertions in a  
3 weekly newspaper of general circulation printed and published in  
4 the district inviting sealed proposals for the construction of the  
5 improvement or work before any contract is made, and may let by  
6 contract separately any part of the work or improvement. The board  
7 shall require the successful bidder to file with the board good and  
8 sufficient bonds to be approved by the board conditioned upon the  
9 faithful performance of the contract and upon the payment of their  
10 claims for labor and material. The bonds shall contain the terms  
11 and conditions set forth in Sections 10223 and 10224, and Section  
12 9554 of the Civil Code and be subject to those sections. The board  
13 shall also have the right to reject any bid. If all proposals are  
14 rejected or no proposals are received pursuant to advertisement,  
15 or where the estimated cost of the work does not exceed fifteen  
16 thousand dollars (\$15,000), or the work consists of channel  
17 protection, maintenance work, or emergency work, the board of  
18 supervisors may, without advertising for bids, have the work done  
19 by force account. In case of an emergency, if notice for bids to let  
20 contracts will not be given, the board shall comply with Chapter  
21 2.5 (commencing with Section 22050). The district may purchase  
22 in the open market, without advertising for bids, materials and  
23 supplies for use in any improvement or unit of work either under  
24 contract or by force account.

25 SEC. 60. Section 21101 of the Public Contract Code is amended  
26 to read:

27 21101. All contracts for any improvement or unit of work,  
28 when the cost, according to the estimate of the engineer, will  
29 exceed five thousand dollars (\$5,000), shall be let to the lowest  
30 responsible bidder or bidders in the manner provided in this article.  
31 The board shall first determine whether the contract shall be let as  
32 a single unit for the whole of the work, or shall be divided into  
33 parts, or both, according to the best interests of the district. The  
34 board shall call for bids and advertise the call by three insertions  
35 in a daily newspaper of general circulation or two insertions in a  
36 weekly newspaper of general circulation printed and published in  
37 the district inviting sealed proposals for the construction or  
38 performance of the improvement or work before any contract shall  
39 be made. The call for bids shall state whether the work is to be  
40 performed as a unit or is to be divided into severable specific parts,

1 or both, as stated in the call. The board may let the work by single  
2 contract for the whole as a unit or it may divide the work into  
3 severable parts by separate contracts, as stated in the call, according  
4 to the best interests of the district. The board shall require the  
5 successful bidder or bidders to file with the board good and  
6 sufficient bonds to be approved by the board conditioned upon the  
7 faithful performance of the contract and upon the payment of their  
8 claims for labor and material, the bonds to contain the terms and  
9 conditions set forth in Title ~~2~~ 3 (commencing with Section 9000)  
10 of Part 6 of Division 4 of the Civil Code and to be subject to the  
11 provisions of that title. The board shall also have the right to reject  
12 any bid. In the event all proposals are rejected or no proposals are  
13 received pursuant to advertisement, or the estimated cost of the  
14 work does not exceed five thousand dollars (\$5,000), or the work  
15 consists of channel protection, maintenance work, or emergency  
16 work, the board of supervisors may, without advertising for bids,  
17 have the work done by force account. In case of an emergency, if  
18 notice for bids to let contracts will not be given, the board shall  
19 comply with Chapter 2.5 (commencing with Section 22050). The  
20 district shall have the power to purchase in the open market without  
21 advertising for bids, materials and supplies for use in any work  
22 either under contract or by force account.

23 SEC. 61. Section 21111 of the Public Contract Code is amended  
24 to read:

25 21111. (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 ten thousand dollars (\$10,000) shall be let to the lowest  
28 responsible bidder in the manner provided in this article. The board  
29 of directors of the agency shall advertise by three insertions in a  
30 daily newspaper of general circulation or two insertions in a weekly  
31 newspaper of general circulation published in the agency's  
32 jurisdiction inviting sealed proposals for the construction of the  
33 work before any contract shall be made, and may let by contract  
34 separately any part of the work. The board shall require the  
35 successful bidder 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 the claims  
38 for labor and material. The faithful performance bond shall contain  
39 terms and conditions as the board may specify, and the payment  
40 bond shall be subject to the provisions of, and shall contain the

1 terms and conditions set forth in Title 2 3 (commencing with  
2 Section 9000) of Part 6 of Division 4 of the Civil Code, as  
3 applicable. The board shall also have the right to reject any bid,  
4 in which case the board may advertise for new bids. In the event  
5 no proposals are received pursuant to advertisement, or where the  
6 estimated cost of the work does not exceed ten thousand dollars  
7 (\$10,000), or the work consists of emergency work, the board of  
8 directors by unanimous vote of all members present may, without  
9 advertising for bids, have the work done by force account. 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). The agency may purchase in the open market, and may  
13 authorize the Purchasing Agent of the County of Santa Barbara to  
14 purchase, without advertisement for bids, materials and supplies  
15 for use in any work either under contract or by force account.

16 (b) If the work to be performed by or on behalf of the agency  
17 does not involve an expenditure of ten thousand dollars (\$10,000)  
18 or more, or if the work consists of emergency work, the agency  
19 may require a faithful performance bond. The agency may require  
20 a payment bond on work performed on behalf of the agency which  
21 does not involve an expenditure of more than ten thousand dollars  
22 (\$10,000).

23 SEC. 62. Section 21121 of the Public Contract Code is amended  
24 to read:

25 21121. (a) All contracts for any improvement or unit of work,  
26 if the cost according to the estimate of the engineer, exceeds five  
27 thousand dollars (\$5,000), shall be let to the lowest responsible  
28 bidder or bidders.

29 (b) The board shall first determine whether the contract shall  
30 be let as a single unit for the whole of the work, or shall be divided  
31 into severable parts, or both, according to the best interests of the  
32 agency.

33 (c) The board shall call for bids and advertise the call by three  
34 insertions in a daily newspaper of general circulation or by two  
35 insertions in a weekly newspaper of general circulation printed  
36 and published in the territory of the agency inviting sealed  
37 proposals for the construction or performance of the improvement  
38 or work before any contract is entered into. The call for bids shall  
39 state whether the work is to be performed as a unit or shall be  
40 divided into severable specific parts, or both, as stated in the call.

1 The board may let the work by single contract or it may divide the  
2 work into severable parts by separate contracts, as stated in the  
3 call, according to the best interests of the agency.

4 (d) The board shall require the successful bidder or bidders to  
5 file with the board good and sufficient bonds to be approved by  
6 the board conditioned upon the faithful performance of the contract  
7 and upon the payment of their claims for labor and material in  
8 connection with the contract. The bonds shall contain the terms  
9 and conditions set forth in Title 2 3 (commencing with Section  
10 9000) of Part 6 of Division 4 of the Civil Code and are subject to  
11 the provisions of that title.

12 (e) The board may reject any bid. The board of supervisors may,  
13 without advertising for bids, have the work done by force account  
14 if any of the following requirements are met:

15 (1) All the projects are rejected.

16 (2) No proposals are received in response to the advertisement.

17 (3) The estimated cost of the work does not exceed five thousand  
18 dollars (\$5,000).

19 (4) The work consists of channel protection, maintenance work,  
20 or emergency work. In case of an emergency, if notice for bids to  
21 let contracts will not be given, the board shall comply with Chapter  
22 2.5 (commencing with Section 22050).

23 (f) 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.

26 (g) The Monterey County Board of Supervisors may grant to  
27 the board of directors, appointed pursuant to Section 49 of the  
28 Monterey County Water Resources Agency Act (Chapter 1159 of  
29 the Statutes of 1990), any of the powers or duties granted to the  
30 Monterey County Board of Supervisors by this section.

31 SEC. 63. Section 21131 of the Public Contract Code is amended  
32 to read:

33 21131. (a) All contracts for the construction of any unit of  
34 work, except as provided in this article, estimated to cost in excess  
35 of two thousand five hundred dollars (\$2,500) shall be let to the  
36 lowest responsible bidder in the manner provided in this article.  
37 The board shall advertise by three placements in a daily newspaper  
38 of general circulation or two insertions in a weekly newspaper of  
39 general circulation published in the district inviting sealed  
40 proposals for the construction of the work before any contract is



1 made, and may let by contract separately any part of the work. The  
2 board shall require the successful bidder to file with the board  
3 good and sufficient bonds to be approved by the board conditioned  
4 upon the faithful performance of the contract and upon the payment  
5 of the claims for labor and material in connection therewith, the  
6 bonds to contain the terms and conditions set forth in Title-2 3  
7 (commencing with Section 9000) of Part 6 of Division 4 of the  
8 Civil Code, and to be subject to the provisions of that title. The  
9 board may reject any bid, in which case the board may advertise  
10 for new bids.

11 (b) In the event no proposals are received pursuant to  
12 advertisement therefor, or where the work consists of emergency  
13 work, the board of directors, by unanimous vote of all members  
14 present, may, without advertising for bids, have the work done by  
15 force account. In case of an emergency, if notice for bids to let  
16 contracts will not be given, the board shall comply with Chapter  
17 2.5 (commencing with Section 22050).

18 (c) The district may purchase in the open market without  
19 advertisement for bids, materials and supplies for use in any work  
20 either under contract or by force account; provided, however, that  
21 materials and supplies for use in any new construction work or  
22 improvement, except work authorized and required under  
23 circumstances referred to in subdivision (b), may not be purchased  
24 if the cost exceeds two thousand five hundred dollars (\$2,500),  
25 without advertising for bids and awarding the contract to the lowest  
26 responsible bidder.

27 (d) This section does not apply to a contract entered into with  
28 the United States or the State of California or other governmental  
29 agency under the authority of Section 3 of Chapter 2126 of the  
30 Statutes of 1959, or to a contract authorized by a vote of the  
31 electorate of the district.

32 (e) The district may rent or otherwise contract for equipment  
33 with or without an operator and use it on works of the district, if  
34 the contract is approved by the board.

35 SEC. 64. Section 21141 of the Public Contract Code is amended  
36 to read:

37 21141. (a) All contracts for the construction of any unit of  
38 work, except as provided in this article, estimated to cost in excess  
39 of two thousand dollars (\$2,000) shall be let to the lowest  
40 responsible bidder in the manner provided in this article. The board

1 shall advertise by three insertions in a daily newspaper of general  
 2 circulation or two insertions in a weekly newspaper of general  
 3 circulation published in the district inviting sealed proposals for  
 4 the construction of the work before any contract shall be made,  
 5 and may let by contract separately any part of the work. The board  
 6 shall require the successful bidder to file with the board good and  
 7 sufficient bonds to be approved by the board conditioned upon the  
 8 faithful performance of the contract and upon the payment of the  
 9 claims for labor and material, the bonds to contain the terms and  
 10 conditions set forth in Title-2 3 (commencing with Section 9000)  
 11 of Part 6 of Division 4 of the Civil Code, and to be subject to the  
 12 provisions of that title. The board shall also have the right to reject  
 13 any bid, in which case the board may advertise for new bids.

14 (b) In the event no proposals are received pursuant to  
 15 advertisement, where the estimated cost of the work does not  
 16 exceed the sum of two thousand dollars (\$2,000), or where the  
 17 work consists of emergency work, the board of directors, by  
 18 unanimous vote of all members present, may, without advertising  
 19 for bids, have the work done by force account. 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 district may purchase in the open market, without  
 24 advertisement for bids, materials and supplies for use in any work  
 25 either under contract or by force account; provided, however, that  
 26 materials and supplies for use in any new construction work or  
 27 improvement, except work referred to in subdivision (b), may not  
 28 be purchased if the cost exceeds two thousand five hundred dollars  
 29 (\$2,500), without advertising for bids and awarding the contract  
 30 therefor to the lowest responsible bidder.

31 (d) The provisions of this section have no application to a  
 32 contract entered into with the United States under the authority of  
 33 Section 3, or to a contract authorized by a vote of the electorate  
 34 of the district.

35 SEC. 65. Section 21151 of the Public Contract Code is amended  
 36 to read:

37 21151. All contracts for any improvement or unit of work when  
 38 the cost according to the estimate of the engineer will exceed  
 39 twenty-five thousand dollars (\$25,000), with or without the  
 40 furnishing of materials or supplies, shall be let to the lowest

1 responsible bidder or bidders in the manner provided in this article.  
2 Construction of improvements or works shall not be staged to  
3 avoid the bidding process. The board shall first determine whether  
4 the contract shall be let as a single unit for the whole of the work,  
5 or shall be divided into severable parts, or both, according to the  
6 best interests of the district. The board shall call for bids and  
7 advertise the call by inviting sealed proposals for the construction  
8 or performance of the improvement or work before any contract  
9 is made. The board shall invite the bids by publishing a notice of  
10 the call for bids pursuant to Section 6062 or 6066 of the  
11 Government Code in a newspaper of general circulation in the  
12 county. The call for bids shall state whether the work is to be  
13 performed as a unit or shall be divided into severable specific parts,  
14 or both, as stated in the call. The board may let the work by single  
15 contract or it may divide the work into severable parts by separate  
16 contracts, as stated in the call, according to the best interests of  
17 the district. The board shall require the successful bidder or bidders  
18 to file with the board good and sufficient bonds to be approved by  
19 the board conditioned upon the faithful performance of the contract  
20 and upon the payment of their claims for labor and material, the  
21 bonds to contain the terms and conditions set forth in Title-2 3  
22 (commencing with Section 9000) of Part 6 of Division 4 of the  
23 Civil Code and to be subject to the provisions of that title. The  
24 board shall also have the right to reject any bid. In the event the  
25 engineer's estimate is twenty-five thousand dollars (\$25,000) or  
26 less, or in the event no proposals are received pursuant to  
27 advertisement therefor, or in the event the work consists of channel  
28 protection or maintenance work, or emergency work, the board of  
29 supervisors may, without advertising for bids, have the work done  
30 by day labor under the direction of the board, by contract, or by a  
31 combination of the two. In case of an emergency, if notice for bids  
32 to let contracts will not be given, the board shall comply with  
33 Chapter 2.5 (commencing with Section 22050). The district may  
34 acquire in the open market without advertising for bids, materials,  
35 equipment, and supplies for use in any work or for any other  
36 purpose.

37 SEC. 66. Section 21161 of the Public Contract Code is amended  
38 to read:

39 21161. (a) Any improvement or unit of work not performed  
40 by district personnel and estimated by the engineer to cost in excess

1 of twenty-five thousand dollars (\$25,000) shall be done by contract.  
2 All contracts shall be let to the lowest responsible bidder or bidders  
3 in the manner provided in this article. The board shall first  
4 determine whether the contract shall be let as a single unit for the  
5 whole of the work, or shall be divided into severable parts, or both,  
6 according to the best interests of the district. The board shall call  
7 for bids and advertise the call by three insertions in a daily  
8 newspaper of general circulation or by two insertions in a weekly  
9 newspaper of general circulation printed and published in the  
10 district inviting sealed proposals for the construction or  
11 performance of the improvement or work before any contract is  
12 made. The call for bids shall state whether the work is to be  
13 performed as a unit for the whole thereof or shall be divided into  
14 severable specific parts, or both, as stated in the call. The board  
15 may let the work by single contract or it may divide the work into  
16 severable parts by separate contracts, as stated in the call, according  
17 to the best interests of the district. The board shall require the  
18 successful bidder or bidders to file with the board good and  
19 sufficient bonds to be approved by the board conditioned upon the  
20 faithful performance of the contract and upon the payment of their  
21 claims for labor and material, the bonds to contain the terms and  
22 conditions set forth in Title 2 3 (commencing with Section 9000)  
23 of Part 6 of Division 4 of the Civil Code and to be subject to the  
24 provisions of that title. The board shall also have the right to reject  
25 any bid. In the event all proposals are rejected or no proposals are  
26 received pursuant to advertisement, or the estimated cost of the  
27 work does not exceed five thousand dollars (\$5,000), or the work  
28 consists of channel protection, maintenance work, or emergency  
29 work, the board may, without advertising for bids, have the work  
30 done by force account. In case of an emergency, if notice for bids  
31 to let contracts will not be given, the board shall comply with  
32 Chapter 2.5 (commencing with Section 22050). The district may  
33 purchase in the open market, without advertising for bids, materials  
34 and supplies for use in any work either under contract or by force  
35 account.

36 (b) The provisions of this section requiring competitive bidding  
37 and the award of contracts to the lowest responsible bidder are  
38 inapplicable to the extent the improvement or unit of work is to  
39 be performed on its own facilities by a public utility subject to the  
40 jurisdiction of the California Public Utilities Commission.

1 SEC. 67. Section 21171 of the Public Contract Code is amended  
2 to read:

3 21171. (a) All contracts for any improvement or unit of work  
4 when the cost, according to the estimate of the engineer, will  
5 exceed two thousand dollars (\$2,000), 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 severable parts, or both, according to the best interests of the  
10 district. The board shall call for bids and advertise the call by three  
11 insertions in a daily newspaper of general circulation or by two  
12 insertions in a weekly newspaper of general circulation printed  
13 and published in the district inviting sealed proposals for the  
14 construction or performance of the improvement or work before  
15 any contract is made. The call for bids shall state whether the work  
16 is to be performed as a unit for the whole thereof or shall be divided  
17 into severable specific parts, or both, as stated in the call. The  
18 board may let the work by single contract as a unit or it may divide  
19 the work into severable parts by separate contracts, as stated in the  
20 call, according to the best interests of the district. The board shall  
21 require the successful bidder or bidders to file with the board good  
22 and sufficient bonds to be approved by the board conditioned upon  
23 the faithful performance of the contract and upon the payment of  
24 their claims for labor and material, the bonds to contain the terms  
25 and conditions set forth in Title ~~2~~ 3 (commencing with Section  
26 9000) of Part 6 of Division 4 of the Civil Code and to be subject  
27 to the provisions of that title. The board shall also have the right  
28 to reject any bid.

29 (b) In the event all proposals are rejected or no proposals are  
30 received pursuant to advertisement, or the estimated cost of the  
31 work does not exceed two thousand dollars (\$2,000), or the work  
32 consists of channel protection, maintenance work, or emergency  
33 work, the board of supervisors may, without advertising for bids,  
34 have the work done by force account. In case of an emergency, if  
35 notice for bids to let contracts will not be given, the board shall  
36 comply with Chapter 2.5 (commencing with Section 22050).

37 (c) The district may purchase in the open market, without  
38 advertising for bids, materials and supplies for use in any work  
39 either under contract or by force account; provided, however, that  
40 materials and supplies for use in any new construction work or

1 improvements, except work referred to in subdivision (b), may not  
2 be purchased if the cost exceeds two thousand five hundred dollars  
3 (\$2,500), without advertising for bids and awarding the contract  
4 to the lowest responsible bidder.

5 SEC. 68. Section 21181 of the Public Contract Code is amended  
6 to read:

7 21181. (a) All contracts for any improvement or unit of work  
8 when the cost according to the estimate of the engineer, will exceed  
9 four thousand dollars (\$4,000), shall be let to the lowest responsible  
10 bidder or bidders in the manner provided in this article. The board  
11 shall first determine whether the contract shall be let as a single  
12 unit or shall be divided into severable parts, or both, according to  
13 the best interests of the district. The board shall call for bids and  
14 advertise the call in the district pursuant to Section 6066 of the  
15 Government Code inviting sealed proposals for the construction  
16 or performance of the improvement or before any contract is made.  
17 The call for bids shall state whether the work is to be performed  
18 as a unit or shall be divided into severable specific parts, or both,  
19 as stated in the call. The board may let the work by single contract  
20 or it may divide the work into severable parts by separate contracts,  
21 as stated in the call, according to the best interests of the district.  
22 The board shall require the successful bidder or bidders to file with  
23 the board good and sufficient bonds to be approved by the board  
24 conditioned upon the faithful performance of the contract and upon  
25 the payment of their claims for labor and material, the bonds to  
26 contain the terms and conditions set forth in Title 2 3 (commencing  
27 with Section 9000) of Part 6 of Division 4 of the Civil Code and  
28 to be subject to the provisions of that title. The board shall also  
29 have the right to reject any bid.

30 (b) In the event no proposals are received pursuant to  
31 advertisement or the estimated cost of the work does not exceed  
32 four thousand dollars (\$4,000), or the work consists of channel  
33 protection, maintenance work, or emergency work, the board of  
34 supervisors may, without advertising for bids, have the work done  
35 by day labor, under the direction of the board, by contract, or by  
36 the combination of the two. In case of an emergency, if notice for  
37 bids to let contracts will not be given, the board shall comply with  
38 Chapter 2.5 (commencing with Section 22050).

39 (c) The district may acquire in the open market, without  
40 advertising for bids, materials, equipment, and supplies for use in

1 any work or for any other purpose; provided, however, that  
2 materials and supplies for use in any new construction work or  
3 improvement, except work referred to in subdivision (b), may not  
4 be purchased if the cost exceeds two thousand five hundred dollars  
5 (\$2,500), without advertising for bids and awarding the contract  
6 to the lowest responsible bidder.

7 SEC. 69. Section 21196 of the Public Contract Code is amended  
8 to read:

9 21196. (a) All contracts for the construction of any unit of  
10 work, except as provided in this article, estimated to cost in excess  
11 of two thousand five hundred dollars (\$2,500) shall be let to the  
12 lowest responsible bidder in the manner provided in this article.  
13 The board of directors of the district shall call for bids and advertise  
14 the call by three insertions in a daily newspaper of general  
15 circulation or two insertions in a weekly newspaper of general  
16 circulation published in the district inviting sealed proposals for  
17 the construction of the work before any contract is made, and may  
18 let by contract separately any part of the work. The board shall  
19 require the successful bidder to file with the board good and  
20 sufficient bonds to be approved by the board conditioned upon the  
21 faithful performance of the contract and upon the payment of the  
22 claims for labor and material, the bonds to contain the terms and  
23 conditions set forth in Title 2 3 (commencing with Section 9000)  
24 of Part 6 of Division 4 of the Civil Code and to be subject to the  
25 provisions of that title. The board shall also have the right to reject  
26 any bid, in which case the board may advertise for new bids.

27 (b) In the event no proposals are received pursuant to  
28 advertisement, or where the estimated cost of the work does not  
29 exceed two thousand five hundred dollars (\$2,500), or the work  
30 consists of emergency work, the board of directors by unanimous  
31 vote of all members present, may, without advertising for bids,  
32 have the work done by force account. In case of an emergency, if  
33 notice for bids to let contracts will not be given, the board shall  
34 comply with Chapter 2.5 (commencing with Section 22050). The  
35 district may purchase in the open market, without advertisement  
36 for bids, materials and supplies for use in any work either under  
37 contract or by force account.

38 (c) The provisions of this section have no application to a  
39 contract entered into with the United States under the authority of  
40 the Solano County Flood Control and Water Conservation District

1 Act, or to a contract authorized by a vote of the electorate of the  
2 district.

3 SEC. 70. Section 21212 of the Public Contract Code is amended  
4 to read:

5 21212. (a) All contracts for the construction of any unit of  
6 work, except as provided in this article, estimated to cost in excess  
7 of three thousand dollars (\$3,000), shall be let to the lowest  
8 responsible bidder in the manner provided in this article. The board  
9 of directors of the agency shall advertise pursuant to Section 6066  
10 of the Government Code in a newspaper of general circulation  
11 published in the agency’s jurisdiction inviting sealed proposals  
12 for the construction of the work before any contract is made, and  
13 may let by contract separately any part of the work. The board  
14 shall require the successful bidder 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 any  
17 claims for labor and material and containing the terms and  
18 conditions set forth in Title 2 3 (commencing with Section 9000)  
19 of Part 6 of Division 4 of the Civil Code and to be subject to the  
20 provisions of that title. The board shall also have the right to reject  
21 any bid, in which case the board may advertise for new bids.

22 (b) In the event no proposals are received pursuant to  
23 advertisement, or where the estimated cost of the work does not  
24 exceed three thousand dollars (\$3,000), or the work consists of  
25 emergency work, the board of directors, by unanimous vote of all  
26 members present, may, without advertising for bids, have the work  
27 done by force account. In case of an emergency, if notice for bids  
28 to let contracts will not be given, the board shall comply with  
29 Chapter 2.5 (commencing with Section 22050).

30 (c) The agency may purchase in the open market without  
31 advertisement for bids, materials and supplies for use in any work  
32 either under contract or by force account.

33 (d) The provisions of this section have no application to a  
34 contract entered into with the United States under the authority of  
35 Section 6 of Chapter 10 of the Statutes of the 1952 First  
36 Extraordinary Session, or to a contract authorized by a vote of the  
37 electorate of the agency.

38 SEC. 71. Section 21231 of the Public Contract Code is amended  
39 to read:



1 21231. Any improvement or unit of work when the cost,  
2 according to the estimate of the engineer, will exceed five thousand  
3 dollars (\$5,000), shall be done by contract let to the lowest  
4 responsible bidder or bidders in the manner provided in this article.  
5 The board shall first determine whether the contract will be let as  
6 a single unit, or will be divided into severable parts, or both,  
7 according to the best interests of the district. The board shall call  
8 for bids and advertise the call pursuant to Section 6066 of the  
9 Government Code in the district, inviting sealed proposals for the  
10 construction or performance of the improvement or before any  
11 contract is made. The call for bids shall state whether the work is  
12 to be performed as a unit or shall be divided into separate specific  
13 parts, or both, as stated in the call. The board may let the work by  
14 single contract or it may divide the work into severable parts by  
15 separate contracts, as stated in the call, according to the best  
16 interests of the district. The board shall require the successful  
17 bidder or bidders to file with the board good and sufficient bonds  
18 to be approved by the board conditioned upon the faithful  
19 performance of the contract and upon the payment of their claims  
20 for labor and material, the bonds to contain the terms and  
21 conditions set forth in Title ~~2~~ 3 (commencing with Section 9000)  
22 of Part 6 of Division 4 of the Civil Code and to be subject to the  
23 provisions of that title. The board shall also have the right to reject  
24 any bid. In the event no proposals are received pursuant to  
25 advertisement, or the estimated cost of the work does not exceed  
26 five thousand dollars (\$5,000), 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 day labor, under the direction of the board, by contract, or by  
30 a combination of the two. In case of an emergency, if notice for  
31 bids to let contracts will not be given, the board shall comply with  
32 Chapter 2.5 (commencing with Section 22050). The district may  
33 acquire in the open market without advertising for bids, materials,  
34 equipment, and supplies for use in any work or for any other  
35 purpose; provided, however, that materials and supplies for use in  
36 any new construction work or improvement, except work referred  
37 to in the preceding sentence, may not be purchased if the cost  
38 exceeds five thousand dollars (\$5,000), without advertising for  
39 bids and awarding the contract to the lowest responsible bidder.

1 SEC. 72. Section 21241 of the Public Contract Code is amended  
2 to read:  
3 21241. All contracts for any improvement or unit of work when  
4 the cost, according to the estimate of the engineer, will exceed two  
5 thousand dollars (\$2,000), shall be let to the lowest responsible  
6 bidder or bidders in the manner provided in this article. The board  
7 shall first determine whether the contract shall be let as a single  
8 unit or shall be divided into severable parts, or both, according to  
9 the best interests of the zone. The board shall call for bids and  
10 advertise the call pursuant to Section 6066 of the Government  
11 Code in the district inviting sealed proposals for the construction  
12 or performance of the improvement or work before any contract  
13 is made. The call for bids shall state whether the work is to be  
14 performed as a unit or shall be divided into severable specific parts,  
15 or both, as stated in the call. The board may let the work by single  
16 contract or it may divide the work into severable parts by separate  
17 contracts, as stated in the call, according to the best interests of  
18 the district. The board shall require the successful bidder or bidders  
19 to file with the board good and sufficient bonds to be approved by  
20 the board conditioned upon the faithful performance of the contract  
21 and upon the payment of their claims for labor and material, the  
22 bonds to contain the terms and conditions set forth in Title-2 3  
23 (commencing with Section 9000) of Part 6 of Division 4 of the  
24 Civil Code and to be subject to the provisions of that title. The  
25 board shall also have the right to reject any bid. In the event no  
26 proposals are received pursuant to advertisement, or the estimated  
27 cost of the work does not exceed two thousand dollars (\$2,000),  
28 or the work consists of emergency work, the board of supervisors  
29 may, without advertising for bids, have the work done by day  
30 labor, under the direction of the board, by contract, or by a  
31 combination of the two. In case of an emergency, if notice for bids  
32 to let contracts will not be given, the board shall comply with  
33 Chapter 2.5 (commencing with Section 22050). The board may  
34 acquire in the open market, without advertising for bids, materials,  
35 equipment, and supplies for use in any work or for any other  
36 purpose; provided, however, that materials and supplies for use in  
37 any new construction work or improvement, except work referred  
38 to in the preceding sentence, may not be purchased if the cost  
39 exceeds two thousand five hundred dollars (\$2,500), without

1 advertising for bids and awarding the contract to the lowest  
2 responsible bidder.

3 SEC. 73. Section 21251 of the Public Contract Code is amended  
4 to read:

5 21251. (a) (1) All contracts for any improvement or unit of  
6 work, if the cost according to the estimate of the engineer will  
7 exceed thirty thousand dollars (\$30,000), shall be let to the lowest  
8 responsible bidder or bidders as provided in this article. The board  
9 shall first determine whether the contract shall be let as a single  
10 unit or divided into severable parts, or both.

11 (2) All contracts for any improvement or unit of work, if the  
12 cost according to the estimate of the engineer is thirty thousand  
13 dollars (\$30,000) or less, may be let without advertising for bids  
14 in accordance with procedures adopted by the board.

15 (b) The board shall call for bids and advertise the call pursuant  
16 to Section 6063 of the Government Code in the district, inviting  
17 sealed proposals for the construction or performance of the  
18 improvement or work before any contract is made. The call for  
19 bids shall state whether the work is to be performed as one unit or  
20 divided into severable specific parts.

21 (c) The work may be let under a single contract or several  
22 contracts, or both, as stated in the call. The board shall require the  
23 successful bidder or bidders to file with the board good and  
24 sufficient bonds to be approved by the board conditioned upon the  
25 faithful performance of the contract and upon the payment of their  
26 claims for labor and material. The bonds shall comply with Title  
27 2 3 (commencing with Section 9000) of Part 6 of Division 4 of  
28 the Civil Code. The board may reject any bid.

29 (d) If all proposals are rejected or no proposals are received, or  
30 the estimated cost of the work does not exceed five thousand  
31 dollars (\$5,000), or the work consists of channel protection,  
32 maintenance work, or emergency work, the board may have the  
33 work done by force account without advertising for bids. In case  
34 of an emergency, if notice for bids to let contracts will not be given,  
35 the board shall comply with Chapter 2.5 (commencing with Section  
36 22050).

37 (e) The district may purchase in the open market, without  
38 advertising for bids, materials and supplies for use in any work  
39 either under contract or by force account.

1 SEC. 74. Section 21261 of the Public Contract Code is amended  
2 to read:

3 21261. All contracts for any improvement or unit of work when  
4 the cost, according to the estimate of the engineer, will exceed two  
5 thousand dollars (\$2,000), shall be let to the lowest responsible  
6 bidder or bidders in the manner provided in this article. The board  
7 shall first determine whether the contract shall be let as a single  
8 unit for the work, or shall be divided into severable parts, or both,  
9 according to the best interests of the district. The board shall call  
10 for bids and advertise the call pursuant to Section 6066 of the  
11 Government Code in the district inviting sealed proposals for the  
12 construction or performance of the improvement or work before  
13 any contract is made. The call for bids shall state whether the work  
14 is to be performed as a unit or shall be divided into severable  
15 specific parts, or both, as stated in the call. The board may let the  
16 work by single contract or it may divide the work into severable  
17 parts by separate contracts, as stated in the call, according to the  
18 best interests of the district. The board shall require the successful  
19 bidder or bidders to file with the board good and sufficient bonds  
20 to be approved by the board conditioned upon the faithful  
21 performance of the contract and upon the payment of their claims  
22 for labor and material, the bonds to contain the terms and  
23 conditions set forth in Title 2 3 (commencing with Section 9000)  
24 of Part 6 of Division 4 of the Civil Code and to be subject to the  
25 provisions of that title. The board shall also have the right to reject  
26 any bid. In the event all proposals are rejected or no proposals are  
27 received pursuant to advertisement, or the estimated cost of the  
28 work does not exceed two thousand dollars (\$2,000), or the work  
29 consists of channel protection, maintenance work, or emergency  
30 work, the board of supervisors may, without advertising for bids,  
31 have the work done by force account. 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 district 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. 75. Section 21271 of the Public Contract Code is amended  
38 to read:

1 21271. All improvement and units of work to be performed by  
2 or for the district shall be performed in accordance with the  
3 following procedures and requirements:

4 (a) If the work consists of the protection or maintenance of  
5 channels, storm drains, dams or other flood control works, or  
6 emergency work, the board of directors may, without advertising  
7 for bids therefor, have the work done by day labor under the  
8 direction of the board, by contract, or by a combination of the two.  
9 In case of an emergency, if notice for bids to let contracts will not  
10 be given, the board shall comply with Chapter 2.5 (commencing  
11 with Section 22050).

12 (b) If the work consists of the construction of new flood control  
13 channels, storm drains, dams, or other unit or units of work, and  
14 if the cost of the work, according to the estimate of the engineer,  
15 will exceed ten thousand dollars (\$10,000), and if the work is not  
16 the type of work referred to in subdivision (a) or (c) of this section,  
17 the new construction shall be performed under a contract or  
18 contracts which shall be let to the lowest responsible bidder or  
19 bidders in the manner provided in subdivision (d) of this section.

20 (c) If the work consists of the maintenance or alteration of  
21 existing facilities, including electrical, painting, and roofing work,  
22 and if the cost of labor and materials for the work according to the  
23 engineer's estimate, will exceed three thousand five hundred dollars  
24 (\$3,500), and if the work is not the type of work referred to in  
25 subdivision (a) or (b) of this section, the maintenance and alteration  
26 work shall be performed under a contract or contracts which shall  
27 be let to the lowest responsible bidder or bidders in the manner  
28 provided in subdivision (d) of this section.

29 (d) The board shall first determine whether the work shall be  
30 let as a single unit or shall be divided into severable parts, or both,  
31 according to the best interests of the district. The board shall call  
32 for bids and advertise the call pursuant to Section 6066 of the  
33 Government Code in the district inviting sealed proposals for the  
34 construction or performance of the work before any contract is  
35 made. The call for bids shall state whether the work is to be  
36 performed as a unit or shall be divided into severable, specific  
37 parts, or both, as stated in the call. The board may let the work by  
38 single contract or it may divide the work into severable parts by  
39 separate contracts, as stated in the call, according to the best  
40 interests of the district. The board shall require the successful

1 bidder or bidders to file with the board good and sufficient bond  
2 to be approved by the board conditioned upon the faithful  
3 performance of the contract and upon the payment of the claims  
4 for labor and material. The faithful performance bond shall contain  
5 the terms and conditions as the board may specify, and the payment  
6 bond shall contain the terms and conditions set forth in, and shall  
7 be subject to, the provisions of Title 23 (commencing with Section  
8 9000) of Part 6 of Division 4 of the Civil Code. If the work to be  
9 performed on behalf of the district does not involve an expenditure  
10 of fifteen thousand dollars (\$15,000) or more, the district may  
11 require a faithful performance bond or a payment bond. The board  
12 shall also have the right to reject any bid.

13 (e) If no proposals are received pursuant to advertisement, or  
14 if the estimated cost of work of the type referred to in subdivision  
15 (b) of this section does not exceed ten thousand dollars (\$10,000),  
16 or if the estimated cost of work of the type referred to in  
17 subdivision (c) of this section does not exceed three thousand five  
18 hundred dollars (\$3,500), the board of directors may, without  
19 advertising for bids, have the work done by day labor, under the  
20 direction of the board, by contract, or by combination of the two.  
21 If any change or alteration in a contract awarded under the  
22 provisions of this section for work of the type referred to in  
23 subdivision (b) or (c) is deemed necessary and the cost does not  
24 exceed 10 percent of the original contract price, the board may  
25 authorize the contractor to proceed with the change or alteration  
26 without the formality of obtaining bids.

27 (f) Notwithstanding the foregoing provisions, the district shall  
28 have the power to acquire in the open market, and may authorize  
29 the Purchasing Agents of the County of Santa Barbara to acquire  
30 in the open market, without advertising for bids, materials,  
31 equipment, and supplies for use in any work or for any other  
32 purpose; provided, however, that materials and supplies for use in  
33 any new construction work or improvement, except work referred  
34 to in subdivision (a) of this section, may not be purchased without  
35 advertising for bids and awarding the contract to the lowest  
36 responsible bidder if the cost exceeds two thousand five hundred  
37 dollars (\$2,500), unless the purchase is made by the county  
38 purchasing agent at the request of the district, in which case the  
39 cost shall not exceed six thousand five hundred dollars (\$6,500).

1 SEC. 76. Section 21311 of the Public Contract Code is amended  
2 to read:

3 21311. (a) All contracts for any improvement or unit of work  
4 when the cost, according to the estimate of the engineer, will  
5 exceed two thousand dollars (\$2,000), 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, or shall be divided into severable parts, or both,  
9 according to the best interests of the district. The board shall call  
10 for bids and advertise the call by three insertions in a daily  
11 newspaper of general circulation or by two insertions in a weekly  
12 newspaper of general circulation printed and published in the  
13 district inviting sealed proposals for the construction or  
14 performance of the improvement or work before any contract is  
15 made. The call for bids shall state whether the work is to be  
16 performed as a unit or shall 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 3 (commencing with Section 9000)  
26 of 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.

29 (b) In the event no proposals are received pursuant to  
30 advertisement, or the estimated cost of the work does not exceed  
31 two thousand dollars (\$2,000), 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 day labor, under the direction of the board, by contract, or by  
35 a combination of the two. In case of an emergency, if notice for  
36 bids to let contracts will not be given, the board shall comply with  
37 Chapter 2.5 (commencing with Section 22050).

38 (c) The district may acquire in the open market, without  
39 advertising for bids, materials, equipment, and supplies for use in  
40 any work or for any other purpose; provided, however, that

1 materials and supplies for use in any new construction work or  
2 improvement, except work referred to in subdivision (b), shall not  
3 be purchased if the cost exceeds two thousand five hundred dollars  
4 (\$2,500), without advertising for bids and awarding the contract  
5 to the lowest responsible bidder.

6 SEC. 77. Section 21321 of the Public Contract Code is amended  
7 to read:

8 21321. (a) All contracts for any improvement or unit of work,  
9 when the cost according to the estimate of the engineer will exceed  
10 thirty thousand dollars (\$30,000), shall be let to the lowest  
11 responsible bidder or bidders as provided in this article. The board  
12 shall first determine whether the contract shall be let as a single  
13 unit, or divided into severable parts. The board shall advertise for  
14 bids by three insertions in a daily newspaper of general circulation  
15 or by two insertions in a weekly newspaper of general circulation  
16 printed and published in the agency's jurisdiction, inviting sealed  
17 proposals for the construction or performance of the improvement  
18 or work. The call for bids shall state whether the work shall be  
19 performed in one unit or divided into parts. The work may be let  
20 under a single contract or several contracts, as stated in the call.

21 The board shall require the successful bidders to file with the  
22 board good and sufficient bonds to be approved by the board  
23 conditioned upon the faithful performance of the contract and upon  
24 the payment of their claims for labor and material. The bonds shall  
25 comply with Title 2 3 (commencing with Section 9000) of Part 6  
26 of Division 4 of the Civil Code.

27 (b) The board may reject any bid. In the event all proposals are  
28 rejected or no proposals are received, or the estimated cost of the  
29 work does not exceed five thousand dollars (\$5,000), or the work  
30 consists of channel protection, maintenance, or emergency work,  
31 the board may have the work done by force account without  
32 advertising for bids. In case of an emergency, if notice for bids to  
33 let contracts will not be given, the board shall comply with Chapter  
34 2.5 (commencing with Section 22050). In the event that no  
35 proposals are received, or if only one responsive proposal is  
36 received, the board may negotiate a contract for construction or  
37 performance of the work or improvement or substantially similar  
38 work or improvement. However, if only one responsive proposal  
39 is received, the contract must be negotiated with the bidder.



1 (c) 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 (d) Sections 4300 to 4305, inclusive, of the Government Code  
5 do not apply to the agency's Middle Fork American River Project.

6 (e) This section applies to all proposals or contracts whether or  
7 not received or entered into prior to the effective date of the  
8 amendment of this provision made at the 1963 Regular Session of  
9 the Legislature.

10 SEC. 78. Section 21331 of the Public Contract Code is amended  
11 to read:

12 21331. (a) All contracts for the construction of any unit of  
13 work, except as provided in this article, estimated to cost in excess  
14 of three thousand five hundred dollars (\$3,500) shall be let to the  
15 lowest responsible bidder in the manner provided in this article.  
16 The board shall advertise by three insertions in a daily newspaper  
17 of general circulation or two insertions in a weekly newspaper of  
18 general circulation published in the district inviting sealed  
19 proposals for the construction of the work before any contract shall  
20 be made, and may let by contract separately any part of the work.  
21 The board shall require the successful bidder to file with the board  
22 good and sufficient bonds to be approved by the board conditioned  
23 upon the faithful performance of the contract and upon the payment  
24 of all claims for labor and material, the bonds to contain the terms  
25 and conditions set forth in Title ~~2~~ 3 (commencing with Section  
26 9000) of Part 6 of Division 4 of the Civil Code, and to be subject  
27 to the provisions of that title. The board shall also have the right  
28 to reject any bid, in which case the board may advertise for new  
29 bids.

30 (b) In the event no proposals are received pursuant to  
31 advertisement, where the estimated cost of the work does not  
32 exceed five thousand dollars (\$5,000), or where the work consists  
33 of emergency work, the board of directors, by unanimous vote of  
34 all members present, may, without advertising for bids, have the  
35 work done by force account. In case of an emergency, if notice  
36 for bids to let contracts will not be given, the board shall comply  
37 with Chapter 2.5 (commencing with Section 22050).

38 (c) The district may purchase in the open market, without  
39 advertisement for bids, materials and supplies for use in any work  
40 either under contract or by force account; provided, however, that

1 materials and supplies for use in any new construction work or  
2 improvement, except work referred to in subdivision (b), may not  
3 be purchased if the cost exceeds five thousand dollars (\$5,000),  
4 without advertising for bids and awarding the contract to the lowest  
5 responsible bidder.

6 (d) The provisions of this section have no application to a  
7 contract entered into with the United States under the authority of  
8 Section 3 of Chapter 1280 of the Statutes of 1957, or to a contract  
9 authorized by a vote of the electorate of the district.

10 SEC. 79. Section 21341 of the Public Contract Code is amended  
11 to read:

12 21341. (a) All contracts for the construction of any unit of  
13 work, except as provided in this article, estimated to cost in excess  
14 of five thousand dollars (\$5,000) shall be let to the lowest  
15 responsible bidder. The board shall advertise by three insertions  
16 in a daily newspaper of general circulation or two insertions in a  
17 weekly newspaper of general circulation published by the agency  
18 inviting sealed proposals for the construction of the work before  
19 any contract is made, and may let by contract separately any part  
20 of the work. The board shall require the successful bidder 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 the claims for labor and material, the  
24 bonds to contain the terms and conditions set forth in Title-2 3  
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 shall also have the right to reject any bid, in which case the  
28 board may advertise for new bids. In the event no proposals are  
29 received pursuant to advertisement or where the estimated cost of  
30 the work does not exceed five thousand dollars (\$5,000), or where  
31 the work consists of emergency work, the board, by unanimous  
32 vote of all members present, 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 agency may purchase in the open market, without advertisement  
37 for bids, materials and supplies for use in any work either under  
38 contract or by force account.

39 (b) The provisions of this section have no application to a  
40 contract entered into with the United States under the authority of

1 Section 59 of Chapter 1512 of the Statutes of 1957, or to a contract  
2 authorized by a vote of the electorate of the agency.

3 SEC. 80. Section 21351 of the Public Contract Code is amended  
4 to read:

5 21351. All contracts for any improvement or unit of work,  
6 when the cost according to the estimate of the engineer will exceed  
7 five thousand dollars (\$5,000), shall be let to the lowest responsible  
8 bidder or bidders as provided in this article. The board shall first  
9 determine whether the contract shall be let as a single unit, or  
10 divided into severable parts. The board shall advertise for bids by  
11 three insertions in a daily newspaper of general circulation or by  
12 two insertions in a weekly newspaper of general circulation printed  
13 and published by the agency, inviting sealed proposals for the  
14 construction or performance of the improvement or work. The call  
15 for bids shall state whether the work shall be performed in one  
16 unit or divided into parts. The work may be let under a single  
17 contract or several contracts, as stated in the call. The board shall  
18 require the successful bidders to file with the board good and  
19 sufficient bonds to be approved by the board conditioned upon the  
20 faithful performance of the contract and upon the payment of their  
21 claims for labor and material. The bonds shall comply with Title  
22 2 3 (commencing with Section 9000) of Part 6 of Division 4 of  
23 the Civil Code. The board may reject any bid. In the event all  
24 proposals are rejected or no proposals are received, or the estimated  
25 cost of the work does not exceed five thousand dollars (\$5,000),  
26 or the work consists of channel protection, maintenance work, or  
27 emergency work, the board may have the work done by force  
28 account without advertising for bids. In case of an emergency, if  
29 notice for bids to let contracts will not be given, the board shall  
30 comply with Chapter 2.5 (commencing with Section 22050). The  
31 board may purchase in the open market without advertising for  
32 bids, materials and supplies for use in any work, either under  
33 contract or by force account. In awarding any contract or  
34 authorizing any work, the board shall comply with the provisions  
35 of Article 2 (commencing with Section 1770) of Chapter 1 of Part  
36 7 of Division 2 of the Labor Code.

37 SEC. 81. Section 21361 of the Public Contract Code is amended  
38 to read:

39 21361. 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's jurisdiction, inviting sealed proposals  
8 for the construction or performance of the improvement or work.  
9 The call for bids shall state whether the work shall be performed  
10 in one unit or divided into parts. The work may be let under a  
11 single contract or several contracts, as stated in the call. The board  
12 shall 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 the payment of their  
15 claims for labor and material. The bonds shall comply with Title  
16 2 3 (commencing with Section 9000) of Part 6 of Division 4 of  
17 the Civil Code. The board may reject any bid. 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. 82. Section 21371 of the Public Contract Code is amended  
29 to read:

30 21371. All contracts for any improvement or unit of work,  
31 when the cost according to the estimate of the engineer will exceed  
32 five thousand dollars (\$5,000), 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's jurisdiction, inviting sealed proposals  
39 for the construction or performance of the improvement or work.  
40 The call for bids shall state whether the work shall be performed

1 in one unit or divided into parts. The work may be let under a  
2 single contract or several contracts, as stated in the call. The board  
3 shall 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 3 (commencing with Section 9000) of Part 6 of Division 4 of  
8 the Civil Code. The board may reject any bid. In the event all  
9 proposals are rejected or no proposals are received, or the estimated  
10 cost of the work does not exceed five thousand dollars (\$5,000),  
11 or the work consists of emergency work, the board may have the  
12 work done by force account without advertising for bids. In case  
13 of an emergency, if notice for bids to let contracts will not be given,  
14 the board shall comply with Chapter 2.5 (commencing with Section  
15 22050). 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.

18 SEC. 83. Section 21381 of the Public Contract Code is amended  
19 to read:

20 21381. All contracts for any improvement or unit of work,  
21 except as provided in this article, estimated to cost in excess of  
22 five thousand dollars (\$5,000) shall be let to the lowest responsible  
23 bidder in the manner provided in this article. The board of  
24 supervisors of the district shall advertise by three insertions in a  
25 daily newspaper of general circulation or two insertions in a weekly  
26 newspaper of general circulation printed and published in the  
27 district inviting sealed proposals for the construction of the  
28 improvement or work before any contract shall be made, and may  
29 let by contract separately any part of said work or improvement.  
30 The board shall require the successful bidder to file with the board  
31 good and sufficient bonds to be approved by the board conditioned  
32 upon the faithful performance of the contract and upon the payment  
33 of their claims for labor and material, the bonds to contain the  
34 terms and conditions set forth in Title-2 3 (commencing with  
35 Section 9000) of Part 6 of Division 4 of the Civil Code and to be  
36 subject to the provisions of that part. The board shall also have the  
37 right to reject any bid. In the event all proposals are rejected or no  
38 proposals are received pursuant to advertisement, or where the  
39 estimated cost of the work does not exceed five thousand dollars  
40 (\$5,000), or the work consists of channel protection, maintenance

1 work, or emergency work, the board of supervisors may, without  
2 advertising for bids, have the work done by force account. In case  
3 of an emergency, if notice for bids to let contracts will not be given,  
4 the board shall comply with Chapter 2.5 (commencing with Section  
5 22050). The district may purchase in the open market without  
6 advertising for bids, materials and supplies for use in any work  
7 either under contract or by force account.

8 SEC. 84. Section 21391 of the Public Contract Code is amended  
9 to read:

10 21391. (a) All contracts for the construction of any unit of  
11 work, except as provided in this article, estimated to cost in excess  
12 of two thousand dollars (\$2,000) shall be let to the lowest  
13 responsible bidder in the manner provided in this article. The board  
14 shall advertise by three insertions in a daily newspaper of general  
15 circulation or two insertions in a weekly newspaper of general  
16 circulation published in the district, inviting sealed proposals for  
17 the construction of the work before any contract shall be made,  
18 and may let by contract separately any part of the work. The board  
19 shall require the successful bidder to file with the board good and  
20 sufficient bonds to be approved by the board conditioned upon the  
21 faithful performance of the contract and upon the payment of all  
22 claims for labor and material, the bonds to contain the terms and  
23 conditions set forth in Title 2 3 (commencing with Section 9000)  
24 of Part 6 of Division 4 of the Civil Code, and to be subject to the  
25 provisions of that title. The board shall also have the right to reject  
26 any and all bids, in which case the board may advertise for new  
27 bids.

28 (b) In the event no proposals are received pursuant to  
29 advertisement therefor, where the estimated cost of the work does  
30 not exceed two thousand dollars (\$2,000), or where the work  
31 consists of emergency work necessary in order to protect life and  
32 property, the board of directors, by unanimous vote of all members  
33 present, may, without advertising for bids, have the work done by  
34 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).

37 (c) The district may purchase in the open market without  
38 advertisement for bids, materials and supplies for use in any work  
39 either under contract or by force account; provided, however, that  
40 materials and supplies for use in any new construction work or

1 improvement, except work referred to in subdivision (b), may not  
2 be purchased if the cost exceeds two thousand five hundred dollars  
3 (\$2,500), without advertising for bids and awarding the contract  
4 to the lowest responsible bidder.

5 (d) The provisions of this section have no application to a  
6 contract entered into with the United States under the authority of  
7 Section 3 of Chapter 2114 of the Statutes of 1959, or to a contract  
8 authorized by a vote of the electorate of the district.

9 SEC. 85. Section 21401 of the Public Contract Code is amended  
10 to read:

11 21401. (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 dollars (\$2,000) shall be let to the lowest  
14 responsible bidder in the manner provided in this article. The board  
15 shall advertise by three insertions in a daily newspaper of general  
16 circulation or two insertions in a weekly newspaper of general  
17 circulation published in the district inviting sealed proposals for  
18 the construction of the work before any contract shall be made,  
19 and may let by contract separately any part of the work. The board  
20 shall require the successful bidder to file with the board good and  
21 sufficient bonds to be approved by the board conditioned upon the  
22 faithful performance of the contract and upon the payment of all  
23 claims for labor and material, the bonds to contain the terms and  
24 conditions set forth in Title 2 3 (commencing with Section 9000)  
25 of Part 6 of Division 4 of the Civil Code, and to be subject to the  
26 provisions of that title. The board shall also have the right to reject  
27 any bids, in which case the board may advertise for new bids.

28 (b) In the event no proposals are received pursuant to  
29 advertisement, where the estimated cost of the work does not  
30 exceed two thousand dollars (\$2,000), or where work consists of  
31 emergency work, the board of directors, by unanimous vote of all  
32 members present, may, without advertising for bids, have the work  
33 done by force account. In case of an emergency, if notice for bids  
34 to let contracts will not be given, the board shall comply with  
35 Chapter 2.5 (commencing with Section 22050).

36 (c) The district may purchase in the open market without  
37 advertisement for bids, materials and supplies for use in any work  
38 either under contract or by force account; provided, however, that  
39 materials and supplies for use in any new construction work or  
40 improvement, except work referred to in subdivision (b), may not

1 be purchased if the cost exceeds two thousand five hundred dollars  
2 (\$2,500), without advertising for bids and awarding the contract  
3 to the lowest responsible bidder.

4 (d) The provisions of this section have no application to a  
5 contract entered into with the United States under the authority of  
6 Section 3 of Chapter 2121 of the Statutes of 1959, or to a contract  
7 authorized by a vote of the electorate of the district.

8 SEC. 86. Section 21411 of the Public Contract Code is amended  
9 to read:

10 21411. All contracts for any improvement or unit of work,  
11 when the cost according to the estimate of the engineer will exceed  
12 five thousand dollars (\$5,000) shall be let to the lowest responsible  
13 bidder or bidders as provided in this article. The board shall first  
14 determine whether the contract shall be let as a single unit, or  
15 divided into severable parts. The board shall advertise for bids by  
16 three insertions in a daily newspaper of general circulation or by  
17 two insertions in a weekly newspaper of general circulation printed  
18 and published in the agency's jurisdiction, inviting sealed proposals  
19 for the construction or performance of the improvement or work.  
20 The call for bids shall state whether the work shall be performed  
21 in one unit or divided into parts. The work may be let under a  
22 single contract or several contracts, as stated in the call. The board  
23 shall require the successful bidders to file with the board good and  
24 sufficient bonds to be approved by the board conditioned upon the  
25 faithful performance of the contract and upon the payment of their  
26 claims for labor and material. The bonds shall comply with Title  
27 2 3 (commencing with Section 9000) of Part 6 of Division 4 of  
28 the Civil Code. The board may reject any bid. In the event all  
29 proposals are rejected or no proposals are received, or the estimated  
30 cost of the work does not exceed five thousand dollars (\$5,000),  
31 or the work consists of channel protection, maintenance work, or  
32 emergency work, the board may have the work done by force  
33 account without advertising for bids. 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). In  
36 that event a majority vote of all board members shall be required.  
37 The board may purchase in the open market, without advertising  
38 for bids, materials and supplies for use in any work, either under  
39 contract or by force account.



1 SEC. 87. Section 21421 of the Public Contract Code is amended  
2 to read:

3 21421. (a) All contracts for the construction of any unit of  
4 work, except as provided in this article, estimated to cost in excess  
5 of two thousand dollars (\$2,000), shall be let to the lowest  
6 responsible bidder in the manner provided in this article. The board  
7 shall advertise by three insertions in a daily newspaper of general  
8 circulation or two insertions in a weekly newspaper of general  
9 circulation published in the district inviting sealed proposals for  
10 the construction of the work before any contract shall be made,  
11 and may let by contract separately any part of the work. The board  
12 shall require the successful bidder to file with the board good and  
13 sufficient bonds to be approved by the board conditioned upon the  
14 faithful performance of the contract and upon the payment of all  
15 claims for labor and material, the bonds to contain the terms and  
16 conditions set forth in Title-2 3 (commencing with Section 9000)  
17 of Part 6 of Division 4 of the Civil Code, and to be subject to the  
18 provisions of that title. The board shall also have the right to reject  
19 any bid, in which case the board may advertise for new bids.

20 (b) In the event no proposals are received pursuant to  
21 advertisement, where the estimated cost of the work does not  
22 exceed two thousand dollars (\$2,000), or where the work consists  
23 of emergency work, the board of directors, by unanimous vote of  
24 all members present, may, without advertising for bids, have the  
25 work done by force account. In case of an emergency, if notice  
26 for bids to let contracts will not be given, the board shall comply  
27 with Chapter 2.5 (commencing with Section 22050).

28 (c) The district may purchase in the open market without  
29 advertisement for bids, materials and supplies for use in any work  
30 either under contract or by force account; 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 two thousand five hundred dollars  
34 (\$2,500), without advertising for bids and awarding the contract  
35 to the lowest responsible bidder.

36 (d) The provisions of this section have no application to a  
37 contract entered into with the United States under the authority of  
38 Section 3 of Chapter 2123 of the Statutes of 1959, or to a contract  
39 authorized by a vote of the electorate of the district.

1 SEC. 88. Section 21431 of the Public Contract Code is amended  
2 to read:

3 21431. (a) All contracts for the construction of any unit of  
4 work, except as provided in this article, estimated to cost in excess  
5 of two thousand dollars (\$2,000), shall be let to the lowest  
6 responsible bidder in the manner provided in this article. The board  
7 shall advertise by three insertions in a daily newspaper of general  
8 circulation or two insertions in a weekly newspaper of general  
9 circulation published in the district inviting sealed proposals for  
10 the construction of the work before any contract shall be made,  
11 and may let by contract separately any part of the work. The board  
12 shall require the successful bidder to file with the board good and  
13 sufficient bonds to be approved by the board conditioned upon the  
14 faithful performance of the contract and upon the payment of all  
15 claims for labor and material, the bonds to contain the terms and  
16 conditions set forth in Title-2 3 (commencing with Section 9000)  
17 of Part 6 of Division 4 of the Civil Code, and to be subject to the  
18 provisions of that title. The board shall also have the right to reject  
19 any bid, in which case the board may advertise for new bids.

20 (b) In the event no proposals are received pursuant to  
21 advertisement, where the estimated cost of the work does not  
22 exceed two thousand dollars (\$2,000), the board of directors, by  
23 unanimous vote of all members present, may without advertising  
24 for bids, have the work done by force account. In case of an  
25 emergency, if notice for bids to let contracts will not be given, the  
26 board shall comply with Chapter 2.5 (commencing with Section  
27 22050).

28 (c) The district may purchase in the open market without  
29 advertisement for bids, materials and supplies for use in any work  
30 either under contract or by force account; 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 two thousand five hundred dollars  
34 (\$2,500), without advertising for bids and awarding the contract  
35 to the lowest responsible bidder.

36 (d) The provisions of this section have no application to a  
37 contract entered into with the United States under the authority of  
38 Section 3 of Chapter 2127 of the Statutes of 1959, or to a contract  
39 authorized by a vote of the electorate of the district.

1 SEC. 89. Section 21441 of the Public Contract Code is amended  
2 to read:

3 21441. (a) 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 authority, inviting sealed proposals for the  
12 construction or performance of the improvement 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. The board shall  
16 require the successful bidders to file with the board good and  
17 sufficient bonds to be approved by the board conditioned upon the  
18 faithful performance of the contract and upon the payment of their  
19 claims for labor and material. The bonds shall comply with Title  
20 2 3 (commencing with Section 9000) of Part 6 of Division 4 of  
21 the Civil Code. The board may reject any bid. In the event all  
22 proposals are rejected or no proposals are received, or the estimated  
23 cost of the work does not exceed five thousand dollars (\$5,000),  
24 or the work consists of channel protection, maintenance work, or  
25 emergency work, the board may have the work done by force  
26 account without advertising for bids.

27 (b) In case of an emergency, if notice for bids to let contracts  
28 will not be given, the board shall comply with Chapter 2.5  
29 (commencing with Section 22050). The authority may purchase  
30 in the open market without advertising for bids, materials, and  
31 supplies for use in any work, either under contract or by force  
32 account.

33 SEC. 90. Section 21451 of the Public Contract Code is amended  
34 to read:

35 21451. All contracts for any improvement or unit of work,  
36 when the cost according to the estimate of the engineer will exceed  
37 twelve thousand five hundred dollars (\$12,500), shall be let to the  
38 lowest responsible bidder or bidders as provided in this article.  
39 The board shall first determine whether the contract shall be let as  
40 a single unit or divided into severable parts. The board shall

1 advertise for bids by three insertions in a daily newspaper of  
2 general circulation or by two insertions in a weekly newspaper of  
3 general circulation printed and published in the agency, inviting  
4 sealed proposals for the construction or performance of the  
5 improvement or work. The call for bids shall state whether the  
6 work shall be performed in one unit or divided into parts. The work  
7 may be let under a single contract or several contracts, as stated  
8 in the call. The board shall require the successful bidders to file  
9 with the board good and sufficient bonds to be approved by the  
10 board conditioned upon the faithful performance of the contract  
11 and upon the payment of their claims for labor and material. The  
12 payment bonds shall comply with Chapter 5 (commencing with  
13 Section 9550) of Title 2 3 of Part 6 of Division 4 of the Civil Code.  
14 The board may reject any bid. If all proposals are rejected or no  
15 proposals are received, or the estimated cost of the work does not  
16 exceed twelve thousand five hundred dollars (\$12,500), or the  
17 work consists of channel protection, maintenance work, or  
18 emergency work, the board may have the work done by force  
19 account without advertising for bids. In case of an emergency, if  
20 notice for bids to let contracts will not be given, the board shall  
21 comply with Chapter 2.5 (commencing with Section 22050). The  
22 agency may purchase in the open market without advertising for  
23 bids, materials and supplies for use in any work, either under  
24 contract or by force account.

25 SEC. 91. Section 21461 of the Public Contract Code is amended  
26 to read:

27 21461. All contracts for any improvement or unit of work,  
28 when the cost according to the estimate of the engineer will exceed  
29 five thousand dollars (\$5,000), shall be let to the lowest responsible  
30 bidder or bidders as provided in this article. The board shall first  
31 determine whether the contract shall be let as a single unit, or  
32 divided into severable parts. The board shall advertise for bids by  
33 three insertions in a daily newspaper of general circulation or by  
34 two insertions in a weekly newspaper of general circulation printed  
35 and published in the agency, inviting sealed proposals for the  
36 construction or performance of the improvement or work. The call  
37 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 payment of their  
3 claims for labor and material. The bonds shall comply with Title  
4 2 3 (commencing with Section 9000) of Part 6 of Division 4 of  
5 the Civil Code. The board may reject any and all bids. In the event  
6 all proposals are rejected or no proposals are received, or the  
7 estimated cost of the work does not exceed five thousand dollars  
8 (\$5,000), or the work consists of channel protection, maintenance  
9 work, or emergency work, the board of supervisors may have the  
10 work done by force account without advertising for bids. In case  
11 of an emergency, if notice for bids to let contracts will not be given,  
12 the board shall comply with Chapter 2.5 (commencing with Section  
13 22050). 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. 92. Section 21491 of the Public Contract Code is amended  
17 to read:

18 21491. (a) All contracts for any improvement or unit of work,  
19 when the cost according to the estimate of the engineer will exceed  
20 ten thousand dollars (\$10,000), shall be let to the lowest responsible  
21 bidder or bidders as provided in this article. The board shall first  
22 determine whether the contract shall be let as a single unit, or  
23 divided into severable parts. The board shall advertise for bids by  
24 three insertions in a daily newspaper of general circulation or by  
25 two insertions in a weekly newspaper of general circulation printed  
26 and published in the agency, 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 such 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 3 (commencing with Section 9000) of Part 6 of Division 4 of  
36 the Civil Code. The board may reject any bid.

37 (b) In the event all proposals are rejected or no proposals are  
38 received, or the estimated cost of the work does not exceed ten  
39 thousand dollars (\$10,000), or the work consists of channel  
40 protection, maintenance work, or emergency work, the board may

1 have the work done by force account without advertising for bids.  
2 In case of an emergency, if notice for bids to let contracts will not  
3 be given, the board shall comply with Chapter 2.5 (commencing  
4 with Section 22050).

5 (c) The agency may purchase in the open market without  
6 advertising for bids, materials and supplies for use in any work,  
7 either under contract or by force account; provided, however, that  
8 materials and supplies for use in any new construction work or  
9 improvement, except work referred to in subdivision (b), may not  
10 be purchased if the cost exceeds ten thousand dollars (\$10,000),  
11 without advertising for bids and awarding the contract to the lowest  
12 responsible bidder.

13 SEC. 93. Section 21501 of the Public Contract Code is amended  
14 to read:

15 21501. (a) All contracts for any improvement or unit of work,  
16 when the cost according to the estimate of the engineer will exceed  
17 fifteen thousand dollars (\$15,000), shall be let to the lowest  
18 responsible bidder or bidders as provided in this article. The board  
19 shall first determine whether the contract shall be let as a single  
20 unit, or divided into severable parts. The board shall advertise for  
21 bids by three insertions in a daily newspaper of general circulation  
22 or by two insertions in a weekly newspaper of general circulation  
23 printed and published in the agency, inviting sealed proposals for  
24 the construction or performance of the improvement or work. The  
25 call 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 such 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 Chapter  
32 5 (commencing with Section 9550) of Title ~~2~~ 3 of Part 6 of  
33 Division 4 of the Civil Code. The board may reject any and all  
34 bids.

35 (b) The board may have work done by force account without  
36 advertising for bids or by informal bidding procedures in any of  
37 the following situations:

- 38 (1) All proposals are rejected.  
39 (2) No proposals are received.

1 (3) The estimated cost of the work does not exceed fifteen  
2 thousand dollars (\$15,000) until January 1, 1989. After January  
3 1, 1989, the estimated cost of the work shall not exceed ten  
4 thousand dollars (\$10,000).

5 (4) The work consists of channel protection.

6 (5) The work consists of maintenance work, except that informal  
7 bidding procedures may be used only where the estimated cost  
8 does not exceed twenty-five thousand dollars (\$25,000).

9 (6) The work consists of emergency work. In case of an  
10 emergency, if notice for bids to let contracts will not be given, the  
11 board shall comply with Chapter 2.5 (commencing with Section  
12 22050).

13 (c) The agency 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, except that, materials  
16 and supplies for use in any new construction work or improvement,  
17 except work referred to in subdivision (b), may not be purchased,  
18 if the cost exceeds fifteen thousand dollars (\$15,000), without  
19 advertising for bids and awarding the contract to the lowest  
20 responsible bidder.

21 (d) As used in this section, “informal bidding procedures” means  
22 that the board shall, at a minimum, award a contract to the lowest  
23 responsible bidder after publishing a notice which generally  
24 describes the work to be performed and invites written bids in a  
25 newspaper of general circulation in the agency once a week for  
26 two successive weeks. The board shall obtain a minimum of three  
27 written bids.

28 SEC. 94. Section 21511 of the Public Contract Code is amended  
29 to read:

30 21511. (a) All contracts for any improvement or unit of work,  
31 when the cost according to the estimate of the engineer will exceed  
32 fifty thousand dollars (\$50,000), shall be let to the lowest  
33 responsible bidder or bidders as provided in this article. The board  
34 shall first determine whether the contract shall be let as a single  
35 unit or divided into severable parts. The board shall advertise for  
36 bids by three insertions in a daily newspaper of general circulation  
37 or by two insertions in a weekly newspaper of general circulation  
38 printed and published in the agency, inviting sealed proposals for  
39 the construction or performance of the improvement or work. The  
40 call 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 the 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 3 (commencing with Section 9000) of Part 6 of Division 4 of  
8 the Civil Code. The board may reject any and all bids.

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. However, materials and  
20 supplies for use in any new construction work or improvement,  
21 except work referred to in subdivision (b), may not be purchased,  
22 if the cost exceeds fifty thousand dollars (\$50,000), without  
23 advertising for bids and awarding the contract to the lowest  
24 responsible bidder.

25 SEC. 95. Section 21521 of the Public Contract Code is amended  
26 to read:

27 21521. All contracts for any improvement or unit of work,  
28 when the cost according to the estimate of the engineer will exceed  
29 five thousand dollars (\$5,000) shall be let to the lowest responsible  
30 bidder or bidders as provided in this article. The board shall first  
31 determine whether the contract shall be let as a single unit, or  
32 divided into severable parts. The board shall advertise for bids by  
33 three insertions in a daily newspaper of general circulation or by  
34 two insertions in a weekly newspaper of general circulation printed  
35 and published in the agency, inviting sealed proposals for the  
36 construction or performance of the improvement or work. The call  
37 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 the 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 Title  
4 2 3 (commencing with Section 9000) of Part 6 of Division 4 of  
5 the Civil Code. The board may reject any bid. In the event all  
6 proposals are rejected or no proposals are received, or the estimated  
7 cost of the work does not exceed five thousand dollars (\$5,000),  
8 or the work consists of channel protection, maintenance work, or  
9 emergency work, the board may have the work done by force  
10 account without advertising for bids. 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). In  
13 that event a majority vote of all board members shall be required.  
14 The board may purchase in the open market without advertising  
15 for bids, materials and supplies for use in any work, either under  
16 contract or by force account.

17 SEC. 96. Section 21531 of the Public Contract Code is amended  
18 to read:

19 21531. (a) The Castaic Lake Water Agency shall have power  
20 to prescribe methods for the construction of works and for the  
21 letting of contracts for the construction of works, structures, or  
22 equipment, or the performance or furnishing of labor, materials,  
23 or supplies, necessary or convenient for carrying out any of the  
24 purposes of this act or for the acquisition or disposal of any real  
25 or personal property; provided, that all contracts for any  
26 improvement or unit of work, when the cost according to the  
27 estimate of the engineer will exceed five thousand dollars (\$5,000),  
28 shall be let to the lowest responsible bidder or bidders as provided  
29 in this article. The board shall first determine whether the contract  
30 shall be let as a single unit or divided into severable parts. The  
31 board shall advertise for bids by three insertions in a daily  
32 newspaper of general circulation published in the agency or by  
33 two insertions in a nondaily newspaper of general circulation  
34 published in the agency or, if no newspaper is published in the  
35 agency, in any newspaper of general circulation distributed in the  
36 agency, inviting sealed proposals for the construction or  
37 performance of the improvement or work. The call for bids shall  
38 state whether the work shall be performed in one unit or divided  
39 into parts. The work may be let under a single contract or several  
40 contracts, as stated in the call. The board shall require the

1 successful bidders to file with the board good and sufficient bonds  
2 to be approved by the board conditioned upon the faithful  
3 performance of the contract and upon the payment of their claims  
4 for labor and material. The bonds shall comply with Title—2 3  
5 (commencing with Section 9000) of Part 6 of Division 4 of the  
6 Civil Code. The board may reject any bid.

7 (b) In the event all proposals are rejected or no proposals are  
8 received, or the estimated cost of the work does not exceed five  
9 thousand dollars (\$5,000), or the work consists of channel  
10 protection, maintenance work, or emergency work, the board may  
11 have the work done by force account without advertising for bids.  
12 In case of an emergency, if notice for bids to let contracts will not  
13 be given, the board shall comply with Chapter 2.5 (commencing  
14 with Section 22050).

15 (c) The agency 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 improvement, except work referred to in subdivision (b), may not  
20 be purchased if the cost exceeds five thousand dollars (\$5,000),  
21 without advertising for bids and awarding the contract to the lowest  
22 responsible bidder.

23 SEC. 97. Section 21541 of the Public Contract Code is amended  
24 to read:

25 21541. (a) The Crestline-Lake Arrowhead Water Agency shall  
26 have power to prescribe methods for the construction of works  
27 and for the letting of contracts for the construction of works,  
28 structures, or equipment, or the performance or furnishing of labor,  
29 materials, or supplies, necessary or convenient for carrying out  
30 any of the purposes of this act or for the acquisition or disposal of  
31 any real or personal property. However, all contracts for the  
32 construction of any improvement or unit of work, when the cost,  
33 according to the estimate of the engineer, will exceed twenty-five  
34 thousand dollars (\$25,000), shall be let to the lowest responsible  
35 bidder or bidders as provided in this article. The board shall first  
36 determine whether the contract shall be let as a single unit or  
37 divided into severable parts. The board shall advertise for bids by  
38 three insertions in a daily newspaper of general circulation or by  
39 two insertions in a weekly newspaper of general circulation printed  
40 and published in the agency, inviting sealed proposals for the

1 construction or performance of the improvement or work. The call  
2 for bids shall state whether the work shall be performed in one  
3 unit or divided into parts. The work may be let under a single  
4 contract or several contracts, as stated in the call.

5 The board shall require the successful bidders to file with the  
6 board good and sufficient bonds to be approved by the board  
7 conditioned upon the faithful performance of the contract and upon  
8 the payment of their claims for labor and material. The bonds shall  
9 comply with Title ~~2~~ 3 (commencing with Section 9000) of Part 6  
10 of Division 4 of the Civil Code. The board may reject any bid.

11 (b) In the event all proposals are rejected or no proposals are  
12 received, or the estimated cost of the work does not exceed five  
13 thousand dollars (\$5,000), or the work consists of channel  
14 protection, maintenance work, or emergency work, the board may  
15 have the work done by force account without advertising for bids.  
16 In case of an emergency, if notice for bids to let contracts will not  
17 be given, the board shall comply with Chapter 2.5 (commencing  
18 with Section 22050).

19 (c) The agency may purchase in the open market without  
20 advertising for bids, materials and supplies for use in any work,  
21 either under contract or by force account. However, materials and  
22 supplies for use in any new construction work or improvement,  
23 except work referred to in subdivision (b), may not be purchased  
24 if the cost exceeds twenty-five thousand dollars (\$25,000), without  
25 advertising for bids and awarding the contract to the lowest  
26 responsible bidder.

27 SEC. 98. Section 21572 of the Public Contract Code is amended  
28 to read:

29 21572. Any improvement or unit of work, except as provided  
30 in this article, estimated to cost in excess of five thousand dollars  
31 (\$5,000), shall be done by contract and let to the lowest responsible  
32 bidder in the manner provided in this article. The board of directors  
33 of the agency shall advertise by three insertions in a daily  
34 newspaper of general circulation or two insertions in a weekly  
35 newspaper of general circulation published in the agency, inviting  
36 sealed proposals for the construction of the work before any  
37 contract shall be made, and may let by contract separately any part  
38 of the work. The board shall require the successful bidder to file  
39 with the board good and sufficient bonds to be approved by the  
40 board, conditioned upon the faithful performance of the contract,

1 and upon the payment of the claims for labor and material, the  
2 bonds to contain the terms and conditions set forth in Title-2 3  
3 (commencing with Section 9000) of Part 6 of Division 4 of the  
4 Civil Code, and to be subject to the provisions of that title. The  
5 board shall also have the right to reject any and all bids, and  
6 readvertise for new bids, or by a two-thirds vote may elect to  
7 undertake the work by force account. In the event no proposals  
8 are received pursuant to advertisement, or where the estimated  
9 cost of such work does not exceed five thousand dollars (\$5,000),  
10 the board of directors by unanimous vote of all members present  
11 may without advertising for bids have the work done by force  
12 account. In case of an emergency, if notice for bids to let contracts  
13 will not be given, the board shall comply with Chapter 2.5  
14 (commencing with Section 22050). The agency may purchase in  
15 the open market without advertisement for bids, materials and  
16 supplies for use in any work either under contract or by force  
17 account.

18 SEC. 99. Section 21581 of the Public Contract Code is amended  
19 to read:

20 21581. (a) Any improvement or unit of work when the cost  
21 according to the estimate of the engineer will exceed five thousand  
22 dollars (\$5,000), shall be done by contract and shall be let to the  
23 lowest responsible bidder or bidders in the manner provided in  
24 this article. The board shall first determine whether the contract  
25 shall be let as a single unit or shall be divided into severable parts,  
26 or both, according to the best interests of the district. The board  
27 shall call for bids and advertise the call by three insertions in a  
28 daily newspaper of general circulation or by two insertions in a  
29 weekly newspaper of general circulation printed in the district  
30 inviting sealed proposals for the construction or performance of  
31 the improvement or work before any contract is made. The call  
32 for bids shall state whether the work is to be performed as a unit  
33 or shall be divided into severable specific parts, or both, as stated  
34 in the call. The board may let the work by single contract for the  
35 whole or it may divide the work into severable parts by separate  
36 contracts, as stated in the call, according to the best interests of  
37 the district. The board shall require the successful bidder or bidders  
38 to file with the board a good and sufficient bond to be approved  
39 by the board conditioned upon the payment of their claims for  
40 labor and material, the bond to contain the terms and conditions

1 set forth in Title-2 3 (commencing with Section 9000) of Part 6 of  
2 Division 4 of the Civil Code and to be subject to the provisions of  
3 that title. The board shall also have the right to reject any and all  
4 bids and readvertise for new bids, or by a two-thirds vote may  
5 elect to undertake the work by force account.

6 (b) In the event no proposals are received pursuant to  
7 advertisement, or the estimated cost of the work does not exceed  
8 five thousand dollars (\$5,000), or the work consists of channel  
9 protection, maintenance work, or emergency work, the board of  
10 supervisors may, without advertising for bids, have the work done  
11 by employees of the district, by day labor, under the direction of  
12 the board, by contract, or by any combination of those methods.  
13 In case of an emergency, if notice for bids to let contracts will not  
14 be given, the board shall comply with Chapter 2.5 (commencing  
15 with Section 22050).

16 (c) The district may acquire in the open market without  
17 advertising for bids, materials, equipment, and supplies for use in  
18 any work or for any other purpose; provided, however, that  
19 materials and supplies for use in any new construction work or  
20 improvement, except work referred to in subdivision (b), may not  
21 be purchased if the cost exceeds five thousand dollars (\$5,000),  
22 without advertising for bids and awarding the contract to the lowest  
23 responsible bidder.

24 SEC. 100. Section 21591 of the Public Contract Code is  
25 amended to read:

26 21591. (a) Any improvement or unit of work, when the cost,  
27 according to the estimate of the engineer, will exceed twenty-five  
28 thousand dollars (\$25,000), shall be done by contract and shall be  
29 let to the lowest responsible bidder or bidders as provided in this  
30 article. The board shall first determine whether the contract shall  
31 be let as a single unit or divided into severable parts. The board  
32 shall advertise for bids by three insertions in a daily newspaper of  
33 general circulation or by two insertions in a weekly newspaper of  
34 general circulation printed and published in the agency, if there is  
35 a newspaper printed and published in the agency, inviting sealed  
36 proposals for the construction or performance of the improvement  
37 or work. The call for bids shall state whether the work shall be  
38 performed in one unit or divided into parts. The work may be let  
39 under a single contract or several contracts, as stated in the call.  
40 The board shall require the successful bidders to file with the board

1 good and sufficient bonds to be approved by the board conditioned  
2 upon the faithful performance of the contract and upon the payment  
3 of their claims for labor and material. The bonds shall comply with  
4 Title 23 (commencing with Section 9000) of Part 6 of Division 4  
5 of the Civil Code. The board may reject any and all bids and  
6 readvertise, or by a two-thirds vote may elect to undertake work  
7 by force account.

8 (b) If no proposals are received, or the estimated cost of the  
9 work does not exceed twenty-five thousand dollars (\$25,000), or  
10 the work consists of channel protection, maintenance work, or  
11 emergency work, the board may have the work done by force  
12 account without advertising for bids. 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 agency 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 improvement, except work referred to in subdivision (b), may not  
20 be purchased if the cost exceeds twenty-five thousand dollars  
21 (\$25,000), without advertising for bids and awarding the contract  
22 to the lowest responsible bidder.

23 SEC. 101. Section 21601 of the Public Contract Code is  
24 amended to read:

25 21601. Any improvement or unit of work, when the cost,  
26 according to the estimate of the engineer, will exceed five thousand  
27 dollars (\$5,000), shall be done by contract and let to the lowest  
28 responsible bidder or bidders as provided in this article. The board  
29 shall first determine whether the contract shall be let as a single  
30 unit or divided into severable parts. The board shall advertise for  
31 bids by three insertions in a daily newspaper of general circulation,  
32 or by two insertions in a weekly newspaper of general circulation,  
33 printed and published in the agency, inviting sealed proposals for  
34 the construction or performance of the improvement or work. The  
35 call for bids shall state whether the work shall be performed in one  
36 unit or divided into parts. The work may be let under a single  
37 contract or several contracts, as stated in the call. The board shall  
38 require the successful bidders to file with the board good and  
39 sufficient bonds to be approved by the board conditioned upon the  
40 faithful performance of the contract and upon payment of their

1 claims for labor and material. The bonds shall comply with Title  
2 2 3 (commencing with Section 9000) of Part 6 of Division 4 of  
3 the Civil Code. The board may reject any and all bids and  
4 readvertise, or, by a two-thirds vote, may elect to undertake the  
5 work by force account. If no proposals are received, the estimated  
6 cost of the work does not exceed five thousand dollars (\$5,000),  
7 or the work consists of channel protection, maintenance work, or  
8 emergency work, the board of supervisors may have the work done  
9 by force account without advertising for bids. In case of an  
10 emergency, if notice for bids to let contracts will not be given, the  
11 board shall comply with Chapter 2.5 (commencing with Section  
12 22050). The district may purchase in the open market without  
13 advertising for bids, materials, and supplies for use in any work,  
14 either under contract or by force account.

15 SEC. 102. Section 21622 of the Public Contract Code is  
16 amended to read:

17 21622. The board shall require the successful bidder or bidders  
18 to file with the board, good and sufficient bonds, to be approved  
19 by the board conditioned upon the faithful performance of the  
20 contract and upon the payment of their claims for labor and  
21 material in connection therewith. Such contracts shall be subject  
22 to the provisions of Title-2 3 (commencing with Section 9000) of  
23 Part 6 of Division 4 of the Civil Code.

24 SEC. 103. Section 21631 of the Public Contract Code is  
25 amended to read:

26 21631. (a) Any improvement or unit of work when the cost,  
27 according to the estimate of the engineer, will exceed six thousand  
28 five hundred dollars (\$6,500), shall be done by contract and shall  
29 be let to the lowest responsible bidder or bidders in the manner  
30 provided in this article. The board shall first determine whether  
31 the contract shall be let as a single unit, or shall be divided into  
32 severable parts, or both, according to the best interests of the  
33 district. The board shall call for bids and advertise the call by three  
34 insertions in a daily newspaper of general circulation or by two  
35 insertions in a weekly newspaper of general circulation printed in  
36 the district inviting sealed proposals for the construction or  
37 performance of the improvement or work before any contract is  
38 made. The call for bids shall state whether the work is to be  
39 performed as a unit or shall be divided into severable parts, or  
40 both, as stated in the call. The board may let the work by single

1 contract or it may divide the work into severable parts by separate  
2 contracts, as stated in the call, according to the best interests of  
3 the district. The board shall require the successful bidder or bidders  
4 to file with the board a good and sufficient bond, to be approved  
5 by the board, conditioned upon the payment of their claims for  
6 labor and material. The bond shall contain the terms and conditions  
7 set forth in Title 23 (commencing with Section 9000) of Part 6 of  
8 Division 4 of the Civil Code and be subject to the provisions of  
9 that title. The board may reject any and all bids and readvertise  
10 for new bids, or by a two-thirds vote may elect to undertake the  
11 work by force account.

12 (b) If no proposals are received pursuant to advertisement or  
13 the estimated cost of the work does not exceed six thousand five  
14 hundred dollars (\$6,500), or the work consists of channel  
15 protection, maintenance work, or emergency work, the board of  
16 supervisors may, without advertising for bids, have the work done  
17 by employees of the district, by day labor, under the direction of  
18 the board, by contract, or by a combination of those methods. In  
19 case of an emergency, if notice for bids to let contracts will not be  
20 given, the board shall comply with Chapter 2.5 (commencing with  
21 Section 22050).

22 (c) The district may acquire in the open market, without  
23 advertising for bids, materials, equipment, and supplies for use in  
24 any work or for any other purpose; provided, however, that  
25 materials and supplies for use in any new construction work or  
26 improvement, except that work referred to in subdivision (b), may  
27 not be purchased if the cost exceeds six thousand five hundred  
28 dollars (\$6,500), without advertising for bids and awarding the  
29 contract to the lowest responsible bidder.

30 SEC. 104. Section 136.5 of the Streets and Highways Code is  
31 amended to read:

32 136.5. (a) The contracts referred to in Sections 135, 136, and  
33 136.1 are not subject to the State Contract Act (Part 2 (commencing  
34 with Section 10100) of Division 2 of the Public Contract Code).  
35 Except for emergency work of the type described in subdivision  
36 (b), whenever the estimated amount of a contract exceeds two  
37 thousand five hundred dollars (\$2,500), it shall be awarded to the  
38 lowest responsible bidder, after competitive bidding on any  
39 reasonable notice that the department may prescribe. Posting of  
40 notice for five days in a public place in the district office within



1 which the work is to be done, or the equipment used, is sufficient.  
2 Those contracts shall be subject to the applicable payment bond  
3 provisions of Chapter 5 (commencing with Section 9550) of Title  
4 2 3 of Part 6 of Division 4 of the Civil Code. The department may  
5 require faithful performance bonds when considered necessary.  
6 The advertisement for each contract shall state whether or not a  
7 bond shall be required.

8 (b) In cases of emergency work necessitated by the imminence  
9 or occurrence of a landslide, flood, storm damage, accident, or  
10 other casualty, tools or equipment may be rented for a period of  
11 not to exceed 60 days without competitive bidding, and the  
12 department may waive the requirements of Chapter 5 (commencing  
13 with Section 9550) of Title 2 3 of Part 6 of Division 2 of the Civil  
14 Code to the extent that a contractor may commence performance  
15 of the work under the contract for the rental of tools or equipment  
16 prior to filing a payment bond with the department. In that case,  
17 no payment shall be made to the contractor until a payment bond  
18 covering all work of the contract is filed with the department.

19 SEC. 105. (a) This act is operative on January 1, 2012.

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

23 (c) The effectiveness of a notice given, or other action taken,  
24 before the operative date is governed by the applicable law in effect  
25 before the operative date and not by this act.

26 SEC. 106. Any section of any act, *except SB 1330*, enacted by  
27 the Legislature during the 2010 calendar year that takes effect on  
28 or before January 1, 2011, and that amends, amends and renumbers,  
29 amends and repeals, adds, repeals and adds, or repeals a section  
30 that is amended, amended and renumbered, amended and repealed,  
31 added, repealed and added, or repealed by this act, shall prevail  
32 over this act, whether that act is chaptered before or after this act.

33 SEC. 107. No reimbursement is required by this act pursuant  
34 to Section 6 of Article XIII B of the California Constitution because  
35 the only costs that may be incurred by a local agency or school  
36 district will be incurred because this act creates a new crime or  
37 infraction, eliminates a crime or infraction, or changes the penalty  
38 for a crime or infraction, within the meaning of Section 17556 of  
39 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

3 *SEC. 108. (a) Except as provided in subdivisions (b) and (c):*

4 *(1) This act is intended to be nonsubstantive in effect.*

5 *(2) Nothing in this act is intended to affect a court decision*  
6 *construing or relating to a provision of former Chapter 8*  
7 *(commencing with Section 3081.1) of Title 14 of Part 4 of Division*  
8 *3 of the Civil Code, or former Title 15 (commencing with Section*  
9 *3082) of Part 4 of Division 3 of the Civil Code. A court decision*  
10 *construing or relating to a provision of one of those former laws*  
11 *also applies to a provision of this act that restates and continues*  
12 *the former provision. However, in enacting this act, the Legislature*  
13 *has not evaluated the correctness of those court decisions. This*  
14 *act is not intended to, and does not, reflect any legislative*  
15 *assessment of those court decisions.*

16 *(b) The following provisions of the Civil Code, which are*  
17 *enacted by this act, are either substantively new or are*  
18 *substantively different from former law:*

19 *(1) Section 8014.*

20 *(2) Section 8064.*

21 *(3) Chapter 2 (commencing with Section 8100) of Title 1 of Part*  
22 *6 of Division 4.*

23 *(4) Section 8122.*

24 *(5) Section 8128.*

25 *(6) Section 8132.*

26 *(7) Section 8182.*

27 *(8) Section 8186.*

28 *(9) Section 8190.*

29 *(10) Section 8200.*

30 *(11) Section 8424.*

31 *(12) Section 8460.*

32 *(13) Section 8482.*

33 *(14) Section 8486.*

34 *(15) Section 8488.*

35 *(16) Section 8510.*

36 *(17) Section 8604.*

37 *(18) Section 8606.*

38 *(19) Section 8610.*

39 *(20) Section 8800.*

40 *(21) Section 8834.*

1 (22) *Section 8844.*

2 (23) *Section 9200.*

3 (24) *Section 9204.*

4 (25) *Section 9362.*

5 (26) *Section 9408.*

6 (27) *Section 9550.*

7 (28) *Section 9558.*

8 (c) *The following provisions of former Title 15 (commencing*  
9 *with Section 3082) of Part 4 of Division 3 of the Civil Code are*  
10 *not continued by this act:*

11 (1) *Subdivision (b) of Section 3086.*

12 (2) *Section 3105.*

13 (3) *Subdivision (c) of Section 3123.*

14 (4) *The second paragraph of Section 3131.*

15 (5) *Section 3149.*

16 (6) *Section 3204.*

17 (7) *Paragraph (1) of subdivision (c) of Section 3260.*

18 (8) *Paragraph (2) of subdivision (c) of Section 3260.*

O