

AMENDED IN ASSEMBLY AUGUST 16, 2010
AMENDED IN ASSEMBLY AUGUST 2, 2010
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

Introduced by Senator Lowenthal

February 18, 2009

An act to amend Sections 7034, 7071.5, 7071.10, 7159, 7159.1, 7159.5, 7159.14, 7164, 8513, and 17577.5 of the Business and Professions Code, to amend Sections 1917.166, 1917.615, 3059, 3060, 3319, 3320, and 3321 of, to amend the heading of Part 8 (commencing with Section 7100) of Division 4 of, to amend and repeal Sections 3084 and 3252 of, to add Section 9560 to, 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, 27361.9, 66499.2, and 66499.7 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 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. 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 incorporate additional changes made by AB 2216 and AB 2419, contingent upon the enactment of those bills.

The provisions of the bill would become operative on July 1, 2012, except as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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 8122 of the Civil
11 Code.

12 SEC. 1.5. Section 7034 of the Business and Professions Code
13 is amended to read:

14 7034. (a) No contractor that is required to be licensed under
15 this chapter shall insert in any contract, or be a party; with a
16 subcontractor that is licensed under this chapter to any contract
17 that contains, a provision, clause, covenant, or agreement that is
18 void or unenforceable under Section 2782 of the Civil Code.

19 (b) No contractor that is required to be licensed under this
20 chapter shall require a waiver of lien rights from any subcontractor,
21 employee, or supplier in violation of Section 8122 of the Civil
22 Code.

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

25 7071.5. The contractor's bond required by this article shall be
26 executed by an admitted surety in favor of the State of California,
27 in a form acceptable to the registrar and filed with the registrar by
28 the licensee or applicant. The contractor's bond shall be for the
29 benefit of the following:

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

33 (b) A property owner contracting for the construction of a
34 single-family dwelling who is damaged as a result of a violation
35 of this chapter by the licensee. That property owner shall only

1 recover under this subdivision if the single-family dwelling is not
2 intended for sale or offered for sale at the time the damages were
3 incurred.

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

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

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

22 SEC. 2.5. Section 7071.5 of the Business and Professions Code
23 is amended to read:

24 7071.5. ~~The contractors~~ *contractor* bond required by this article
25 shall be executed by an admitted surety in favor of the State of
26 California, in a form acceptable to the registrar and filed with the
27 registrar by the licensee or applicant. ~~The contractors~~ *contractor*
28 bond shall be for the benefit of the following:

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

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

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

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

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

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

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

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

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

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

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

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

16 SEC. 3.5. Section 7071.10 of the Business and Professions
17 Code is amended to read:

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

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

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

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

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

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

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

18 7159. (a) (1) This section identifies the projects for which a
19 home improvement contract is required, outlines the contract
20 requirements, and lists the items that shall be included in the
21 contract, or may be provided as an attachment.

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

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

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

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

39 (b) For purposes of this section, “home improvement contract”
40 means an agreement, whether oral or written, or contained in one

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

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

22 (1) The writing shall be legible.

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

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

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

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

36 (ii) The name and address of the contractor to which the
37 applicable “Notice of Cancellation” is to be mailed, immediately
38 preceded by a statement advising the buyer that the “Notice of
39 Cancellation” may be sent to the contractor at the address noted
40 on the contract.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (A) The heading: “Downpayment.”

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

20 (C) The following statement in at least 12-point boldface type:

21
22 “THE DOWNPAYMENT MAY NOT EXCEED \$1,000 OR 10
23 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS
24 LESS.”

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

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

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

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

39

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

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

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

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

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

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

19 (B) The approximate date of completion.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5
6 “MECHANICS’ LIEN WARNING:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 35 (i) Negotiated at the contractor’s place of business.
- 36 (ii) Subject to the “Seven-Day Right to Cancel,” as set forth in
37 paragraph (7).
- 38 (iii) Subject to licensure under the Alarm Company Act (Chapter
39 11.6 (commencing with Section 7590)), provided the alarm

1 company licensee complies with Sections 1689.5, 1689.6, and
2 1689.7 of the Civil Code, as applicable.

3 (B) “Three-Day Right to Cancel

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

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

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

27 (i) The text of the notice is at least 12-point boldface type.

28 (ii) The notice is in immediate proximity to a space reserved
29 for the owner’s signature.

30 (iii) The owner acknowledges receipt of the notice by signing
31 and dating the notice form in the signature space.

32 (iv) The notice is written in the same language, e.g., Spanish,
33 as that principally used in any oral sales presentation.

34 (v) The notice may be attached to the contract if the contract
35 includes, in at least 12-point boldface type, a checkbox with the
36 following statement: “The law requires that the contractor give
37 you a notice explaining your right to cancel. Initial the checkbox
38 if the contractor has given you a ‘Notice of the Three-Day Right
39 to Cancel.’ ”

1 (vi) The notice shall be accompanied by a completed form in
2 duplicate, captioned "Notice of Cancellation," which also shall 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
13 "You may cancel this transaction, without any penalty or
14 obligation, within three business days from the above date.

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

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

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

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

1 (Date)
 2 I hereby cancel this transaction. _____
 3 (Date)
 4 _____
 5 (Buyer’s signature)
 6

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

15 “Seven-Day Right to Cancel
 16 You, the buyer, have the right to cancel this contract within seven
 17 business days. You may cancel by e-mailing, mailing, faxing, or
 18 delivering a written notice to the contractor at the contractor’s
 19 place of business by midnight of the seventh business day after
 20 you received a signed and dated copy of the contract that includes
 21 this notice. Include your name, your address, and the date you
 22 received the signed copy of the contract and this notice.

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

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

39 (i) The text of the notice is at least 12-point boldface type.

1 (ii) The notice is in immediate proximity to a space reserved
2 for the owner’s signature.

3 (iii) The owner acknowledges receipt of the notice by signing
4 and dating the notice form in the signature space.

5 (iv) The notice is written in the same language, e.g., Spanish,
6 as that principally used in any oral sales presentation.

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

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

18
19 “Notice of Cancellation”
20 /enter date of transaction/
21 _____
22 (Date)

23
24
25 “You may cancel this transaction, without any penalty or
26 obligation, within seven business days from the above date.

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

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

37 If you do make the goods available to the seller and the seller
38 does not pick them up within 20 days of the date of your notice of
39 cancellation, you may retain or dispose of the goods without any
40 further obligation. If you fail to make the goods available to the

1 seller, or if you agree to return the goods to the seller and fail to
2 do so, then you remain liable for performance of all obligations
3 under the contract.”

4
5

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

8 to _____,
9 /name of seller/

10 at _____
11 /address of seller’s place of business/

12 not later than midnight of _____.
13 (Date)

14 I hereby cancel this transaction. _____
15 (Date)

16 _____
17 (Buyer’s signature)

18

19 SEC. 4.5. Section 7159 of the Business and Professions Code
20 is amended to read:

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

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

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

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

37 (5) Failure by the licensee, his or her agent or salesperson, or
38 by a person subject to be licensed under this chapter, to provide
39 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) The contract shall include a statement that, upon satisfactory
7 payment being made for any portion of the work performed, the
8 contractor, prior to any further payment being made, shall furnish
9 to the person contracting for the home improvement or swimming
10 pool work a full and unconditional release from any potential lien
11 claimant claim or mechanic’s lien authorized pursuant to Section
12 8410 of the Civil Code for that portion of the work for which
13 payment has been made.

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

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

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

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

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

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

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

38 (3) The following heading on the contract form that identifies
39 the type of contract in at least 10-point boldface type: “Home
40 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
26 **“THE DOWNPAYMENT MAY NOT EXCEED \$1,000 OR 10**
27 **PERCENT OF THE CONTRACT PRICE, WHICHEVER IS**
28 **LESS.”**
29

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

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

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

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

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

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

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

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

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

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

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

23 (B) The approximate date of completion.

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

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

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

36
37 (e) Except as provided in paragraph (8) of subdivision (a) of
38 Section 7159.5, all of the following notices shall be provided to
39 the owner as part of the contract form as specified or, if otherwise

1 authorized under this subdivision, may be provided as an
2 attachment to the contract:

3 (1) A notice concerning commercial general liability insurance.
4 This notice may be provided as an attachment to the contract if
5 the contract includes the following statement: “A notice concerning
6 commercial general liability insurance is attached to this contract.”
7 The notice shall include the heading “Commercial General Liability
8 Insurance (CGL),” followed by whichever of the following
9 statements is both relevant and correct:

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

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

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

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

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

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

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

31 (A) A statement that the buyer may not require a contractor to
32 perform extra or change-order work without providing written
33 authorization prior to the commencement of work covered by the
34 new change order.

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

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

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

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

3 (C) A statement informing the buyer that the contractor’s failure
4 to comply with the requirements of this paragraph does not
5 preclude the recovery of compensation for work performed based
6 upon legal or equitable remedies designed to prevent unjust
7 enrichment.

8 (4) A notice with the heading “Mechanics’ Lien Warning”
9 written as follows:

10

11 “MECHANICS’ LIEN WARNING:

12

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

17 Even if you pay your contractor in full, unpaid subcontractors,
18 suppliers, and laborers who helped to improve your property may
19 record mechanics’ liens and sue you in court to foreclose the lien.
20 If a court finds the lien is valid, you could be forced to pay twice
21 or have a court officer sell your home to pay the lien. Liens can
22 also affect your credit.

23 To preserve their right to record a lien, each subcontractor and
24 material supplier must provide you with a document called a
25 ~~20-day Preliminary~~ ‘Preliminary Notice.’ This notice is not a lien.
26 The purpose of the notice is to let you know that the person who
27 sends you the notice has the right to record a lien on your property
28 if he or she is not paid.

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

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

36 PROTECT YOURSELF FROM LIENS. You can protect
37 yourself from liens by getting a list from your contractor of all the
38 subcontractors and material suppliers that work on your project.
39 Find out from your contractor when these subcontractors started
40 work and when these suppliers delivered goods or materials. Then

1 wait 20 days, paying attention to the Preliminary Notices you
2 receive.

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

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

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

14
15 (5) The following notice shall be provided in at least 12-point
16 typeface:

17
18 “Information about the Contractors State License Board (CSLB):
19 CSLB is the state consumer protection agency that licenses and
20 regulates construction contractors.

21 Contact CSLB for information about the licensed contractor you
22 are considering, including information about disclosable
23 complaints, disciplinary actions, and civil judgments that are
24 reported to CSLB.

25 Use only licensed contractors. If you file a complaint against a
26 licensed contractor within the legal deadline (usually four years),
27 CSLB has authority to investigate the complaint. If you use an
28 unlicensed contractor, CSLB may not be able to help you resolve
29 your complaint. Your only remedy may be in civil court, and you
30 may be liable for damages arising out of any injuries to the
31 unlicensed contractor or the unlicensed contractor’s employees.

32 For more information:
33 Visit CSLB’s Internet Web site at www.cslb.ca.gov
34 Call CSLB at 800-321-CSLB (2752)
35 Write CSLB at P.O. Box 26000, Sacramento, CA 95826.”

36
37 (6) (A) The notice set forth in subparagraph (B) and entitled
38 “Three-Day Right to Cancel,” shall be provided to the buyer unless
39 the contract is:

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

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

3 (iii) Subject to licensure under the Alarm Company Act (Chapter
4 11.6 (commencing with Section 7590)), provided the alarm
5 company licensee complies with Sections 1689.5, 1689.6, and
6 1689.7 of the Civil Code, as applicable.

7 (B) “Three-Day Right to Cancel

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

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

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

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

1 you a notice explaining your right to cancel. Initial the checkbox
2 if the contractor has given you a 'Notice of the Three-Day Right
3 to Cancel.' ”

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

10 “Notice of Cancellation”

11 /enter date of transaction/
12 _____

13 (Date)
14
15

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

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

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

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

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

39 to _____,

40 /name of seller/

1 at _____
 2 /address of seller’s place of business/
 3 not later than midnight of _____.
 4 (Date)

5 I hereby cancel this transaction. _____
 6 (Date)
 7 _____
 8 (Buyer’s signature)
 9

10 (7) (A) The following notice entitled “Seven-Day Right to
 11 Cancel” shall be provided to the buyer for any contract that is
 12 written for the repair or restoration of residential premises damaged
 13 by any sudden or catastrophic event for which a state of emergency
 14 has been declared by the President of the United States or the
 15 Governor, or for which a local emergency has been declared by
 16 the executive officer or governing body of any city, county, or city
 17 and county:

18 “Seven-Day Right to Cancel

19 You, the buyer, have the right to cancel this contract within seven
 20 business days. You may cancel by e-mailing, mailing, faxing, or
 21 delivering a written notice to the contractor at the contractor’s
 22 place of business by midnight of the seventh business day after
 23 you received a signed and dated copy of the contract that includes
 24 this notice. Include your name, your address, and the date you
 25 received the signed copy of the contract and this notice.

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

- 1 (B) The “Seven-Day Right to Cancel” notice required by this
- 2 subdivision shall comply with all of the following:
- 3 (i) The text of the notice is at least 12-point boldface type.
- 4 (ii) The notice is in immediate proximity to a space reserved
- 5 for the owner’s signature.
- 6 (iii) The owner acknowledges receipt of the notice by signing
- 7 and dating the notice form in the signature space.
- 8 (iv) The notice is written in the same language, e.g., Spanish,
- 9 as that principally used in any oral sales presentation.
- 10 (v) The notice may be attached to the contract if the contract
- 11 includes, in at least 12-point boldface type, a checkbox with the
- 12 following statement: “The law requires that the contractor give
- 13 you a notice explaining your right to cancel. Initial the checkbox
- 14 if the contractor has given you a ‘Notice of the Seven-Day Right
- 15 to Cancel.’ ”
- 16 (vi) The notice shall be accompanied by a completed form in
- 17 duplicate, captioned “Notice of Cancellation,” which shall also be
- 18 attached to the agreement or offer to purchase and be easily
- 19 detachable, and which shall contain the following statement written
- 20 in the same language, e.g., Spanish, as used in the contract:

21 “Notice of Cancellation”

22 /enter date of transaction/

23 _____
24 (Date)

25

26

27

28 “You may cancel this transaction, without any penalty or

29 obligation, within seven business days from the above date.

30 If you cancel, any property traded in, any payments made by

31 you under the contract or sale, and any negotiable instrument

32 executed by you will be returned within 10 days following receipt

33 by the seller of your cancellation notice, and any security interest

34 arising out of the transaction will be canceled.

35 If you cancel, you must make available to the seller at your

36 residence, in substantially as good condition as when received,

37 any goods delivered to you under this contract or sale, or you may,

38 if you wish, comply with the instructions of the seller regarding

39 the return shipment of the goods at the seller’s expense and risk.

1 If you do make the goods available to the seller and the seller
 2 does not pick them up within 20 days of the date of your notice of
 3 cancellation, you may retain or dispose of the goods without any
 4 further obligation. If you fail to make the goods available to the
 5 seller, or if you agree to return the goods to the seller and fail to
 6 do so, then you remain liable for performance of all obligations
 7 under the contract.”

8
 9

10 To cancel this transaction, mail or deliver a signed and dated copy of this
 11 cancellation notice, or any other written notice, or send a telegram
 12 to _____,
 13 /name of seller/
 14 at _____
 15 /address of seller’s place of business/
 16 not later than midnight of _____.
 17 (Date)

18 I hereby cancel this transaction. _____
 19 (Date)
 20 _____
 21 (Buyer’s signature)

22

23 SEC. 5. Section 7159.1 of the Business and Professions Code
 24 is amended to read:

25 7159.1. (a) In any contract for the sale of home improvement
 26 goods or services offered by door-to-door sale that contains or is
 27 secured by a lien on real property, the contract shall be
 28 accompanied by the following notice in 18-point boldfaced type:

29 “WARNING TO BUYER: IF YOU SIGN THE CONTRACT
 30 WHICH ACCOMPANIES THIS NOTICE, YOU WILL BE
 31 PUTTING UP YOUR HOME AS SECURITY. THIS MEANS
 32 THAT YOUR HOME COULD BE SOLD WITHOUT YOUR
 33 PERMISSION AND WITHOUT ANY COURT ACTION IF YOU
 34 MISS ANY PAYMENT REQUIRED BY THIS CONTRACT.”

35 This notice shall be written in the same language as the rest of
 36 the contract. It shall be on a separate piece of paper from the rest
 37 of the contract and shall be signed and dated by the buyer. The
 38 home improvement contractor or home improvement salesperson
 39 shall deliver to the buyer at the time of the buyer’s signing and
 40 dating of the notice a legible copy of the signed and dated notice.

1 A security interest created in any contract described in this section
2 that does not provide the notice as required by this section shall
3 be void and unenforceable.

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

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

7 (2) A mechanics lien established pursuant to Chapter 4
8 (commencing with Section 8400) of Title 2 of Part 6 of Division
9 4 of the Civil Code.

10 (3) Any contract that is subject to subdivision (a) of Section
11 7159.2.

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

14 7159.5. This section applies to all home improvement contracts,
15 as defined in Section 7151.2, between an owner or tenant and a
16 contractor, whether a general contractor or a specialty contractor,
17 that is licensed or subject to be licensed pursuant to this chapter
18 with regard to the transaction.

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

22 (1) The contract shall be in writing and shall include the agreed
23 contract amount in dollars and cents. The contract amount shall
24 include the entire cost of the contract, including profit, labor, and
25 materials, but excluding finance charges.

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

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

32 (4) If, in addition to a downpayment, the contract provides for
33 payments to be made prior to completion of the work, the contract
34 shall include a schedule of payments in dollars and cents
35 specifically referencing the amount of work or services to be
36 performed and any materials and equipment to be supplied.

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

1 (6) Upon any payment by the person contracting for home
2 improvement, and prior to any further payment being made, the
3 contractor shall, if requested, obtain and furnish to the person a
4 full and unconditional release from any potential lien claimant
5 claim or mechanics lien authorized pursuant to Section 8410 of
6 the Civil Code for any portion of the work for which payment has
7 been made. The person contracting for home improvement may
8 withhold all further payments until these releases are furnished.

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

14 (8) A contractor furnishing a performance and payment bond,
15 lien and completion bond, or a bond equivalent or joint control
16 approved by the registrar covering full performance and payment
17 is exempt from paragraphs (3), (4), and (5), and need not include,
18 as part of the contract, the statement regarding the downpayment
19 specified in subparagraph (C) of paragraph (8) of subdivision (d)
20 of Section 7159, the details and statement regarding progress
21 payments specified in paragraph (9) of subdivision (d) of Section
22 7159, or the Mechanics Lien Warning specified in paragraph (4)
23 of subdivision (e) of Section 7159. A contractor furnishing these
24 bonds, bond equivalents, or a joint control approved by the registrar
25 may accept payment prior to completion. If the contract provides
26 for a contractor to furnish joint control, the contractor shall not
27 have any financial or other interest in the joint control.

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

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

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

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

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

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

28 7159.14. (a) This section applies to a service and repair
29 contract as defined in Section 7159.10. A violation of this section
30 by a licensee or a person subject to be licensed under this chapter,
31 or by his or her agent or salesperson, is cause for discipline.

32 (1) The contract may not exceed seven hundred fifty dollars
33 (\$750).

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

38 (3) The contract amount shall include the entire cost of the
39 contract including profit, labor, and materials, but excluding
40 finance charges.

1 (4) The actual contract amount of a time and materials contract
2 may not exceed the estimated contract amount without written
3 authorization from the buyer.

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

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

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

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

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

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

19 (11) Upon any payment by the buyer, the contractor shall, if
20 requested, obtain and furnish to the buyer a full and unconditional
21 release from any potential lien claimant claim or mechanics lien
22 authorized pursuant to Section 8410 of the Civil Code for any
23 portion of the work for which payment has been made.

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

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

38 (2) An indictment or information against a person who is
39 licensed under this chapter shall be brought, or a criminal complaint
40 filed, for a violation of this section, in accordance with paragraph

1 (2) of subdivision (d) of Section 802 of the Penal Code, within
 2 two years from the date of the contract or, if the contract is not
 3 reduced to writing, from the date the buyer makes the first payment
 4 to the contractor.

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

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

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

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

30 (b) The writing shall contain the following:

- 31 (1) The name, address, and license number of the contractor.
- 32 (2) The approximate dates when the work will begin and be
 33 substantially completed.
- 34 (3) A legal description of the location where the work will be
 35 done.
- 36 (4) A statement with the heading “Mechanics Lien Warning”
 37 as follows:

38 “MECHANICS LIEN WARNING:

39 Anyone who helps improve your property, but who is not paid,
 40 may record what is called a mechanics lien on your property. A

1 mechanics lien is a claim, like a mortgage or home equity loan,
2 made against your property and recorded with the county recorder.

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

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

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

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

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

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

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

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

1 (5) (A) A statement prepared by the board through regulation
2 that emphasizes the value of commercial general liability insurance
3 and encourages the owner to verify the contractor’s insurance
4 coverage and status.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (2) The creditor knows the primary purpose of the loan or the
2 primary purpose of establishing the open-end credit account when
3 the loan is initially made or the open-end credit account is
4 established.

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

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

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

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

21 (e) This section does not apply to mechanics liens established
22 pursuant to Chapter 4 (commencing with Section 8400) of Title 2
23 of Part 6 of Division 4 of the Civil Code.

24 SEC. 11. Section 1917.166 of the Civil Code is amended to
25 read:

26 1917.166. The lien of a shared appreciation loan, including the
27 principal amount and all interest, whether accrued or to be accrued,
28 and all amounts of contingent deferred interest, shall attach from
29 the time of the recordation of the deed of trust securing the loan,
30 and the lien, including the lien of the interest accrued or to be
31 accrued and of the contingent deferred interest, shall have priority
32 over any other lien or encumbrance affecting the property secured
33 by the shared appreciation instrument, recorded after the time of
34 recordation of the shared appreciation instrument. However,
35 nothing in this section or Section 1917.165 shall preclude a junior
36 lien or encumbrance subordinate to the obligation of the shared
37 appreciation loan. In no case may a junior lien achieve priority
38 over the lien securing the obligation of the shared appreciation
39 loan, provided that nothing in this section shall be construed to
40 supersede Section 8450.

1 SEC. 12. Section 1917.615 of the Civil Code is amended to
2 read:

3 1917.615. The lien of a shared appreciation loan for seniors,
4 including the total loan obligation, shall attach from the time of
5 the recordation of the deed of trust securing the loan, and the lien,
6 including the lien of the total loan obligation accrued or to be
7 accrued, shall have priority over any other lien or encumbrance
8 affecting the property secured by the shared appreciation instrument
9 and recorded after the time of recordation of the shared appreciation
10 instrument. However, nothing in this section or Section 1917.614
11 shall preclude a junior lien or encumbrance subordinate to the total
12 loan obligation of the shared appreciation loan for seniors. In no
13 case may a junior lien achieve priority over the lien securing the
14 total loan obligation of the shared appreciation loan, provided that
15 nothing in this section shall be construed to supersede Section
16 8450.

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

18 3059. The liens of mechanics, for materials and services upon
19 real property, are regulated by Chapter 4 (commencing with Section
20 8400) of Title 2 of Part 6 of Division 4.

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

22 3060. (a) As used in this section, “mine” means a mining claim
23 or real property worked on as a mine.

24 (b) Any person who performs labor in a mine, either in its
25 development or in working on it by the subtractive process, or
26 furnishes materials to be used or consumed in it, has a lien upon
27 the mine and the works owned and used by the owners for milling
28 or reducing the ores from the mine, for the value of the work or
29 labor done or materials furnished by each, whether done or
30 furnished at the instance of the owner of the mine, or the owner’s
31 agent, and every contractor, subcontractor, superintendent, or other
32 person having charge of any mining or work or labor performed
33 in and about the mine, either as lessee or under a working bond or
34 contract thereon shall be held to be the agent of the owner for the
35 purposes of this section. The liens provided for by this section
36 shall be enforced in the same manner as those provided for by Part
37 6 (commencing with Section 8000) of Division 4.

38 SEC. 15. Chapter 8 (commencing with Section 3081.1) of Title
39 14 of Part 4 of Division 3 of the Civil Code is repealed.

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

3 SEC. 16.3. Section 3084 of the Civil Code, as amended by
4 Section 1 of Chapter 109 of the Statutes of 2009, is amended to
5 read:

6 3084. (a) “Claim of lien” or “mechanic’s lien” means a written
7 statement, signed and verified by the claimant or by the claimant’s
8 agent, containing all of the following:

9 (1) A statement of the claimant’s demand after deducting all
10 just credits and offsets.

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

12 (3) A general statement of the kind of labor, services, equipment,
13 or materials furnished by the claimant.

14 (4) The name of the person by whom the claimant was employed
15 or to whom the claimant furnished the labor, services, equipment,
16 or materials.

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

18 (6) A proof of service affidavit completed and signed by the
19 person serving the Notice of Mechanic’s Lien pursuant to
20 subdivision (c). A “proof of service affidavit” is an affidavit of the
21 person making the service, showing the date, place, and manner
22 of service and facts showing that the service was made in
23 accordance with this section. The affidavit shall show the name
24 and address of the person or persons upon whom a copy of the
25 mechanic’s lien and the Notice of Mechanic’s Lien was served,
26 and, if appropriate, the title or capacity in which he or she was
27 served.

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

32
33 NOTICE OF MECHANIC’S LIEN
34 ATTENTION!
35

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

1 with the court no later than 90 days after the date the mechanic's
2 lien is recorded.

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

12 BECAUSE THE LIEN AFFECTS YOUR PROPERTY, YOU
13 MAY WISH TO SPEAK WITH YOUR CONTRACTOR
14 IMMEDIATELY, OR CONTACT AN ATTORNEY, OR FOR
15 MORE INFORMATION ON MECHANIC'S LIENS GO TO THE
16 CONTRACTORS STATE LICENSE BOARD INTERNET WEB
17 SITE AT www.cslb.ca.gov.

18
19 (b) A mechanic's lien or claim of lien in otherwise proper form,
20 verified and containing the information required by this section
21 shall be accepted by the recorder for recording and shall be deemed
22 duly recorded without acknowledgment.

23 (c) (1) The mechanic's lien and the Notice of Mechanic's Lien
24 described in this section shall be served on the owner or reputed
25 owner. Service shall be made as follows:

26 (A) For an owner or reputed owner to be notified who resides
27 in or outside this state, by registered mail, certified mail, or
28 first-class mail, evidenced by a certificate of mailing, postage
29 prepaid, addressed to the owner or reputed owner at the owner's
30 or reputed owner's residence or place of business address or at the
31 address shown by the building permit on file with the authority
32 issuing a building permit for the work, or as otherwise provided
33 in subdivision (j) of Section 3097.

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

39 (2) Service by registered mail, certified mail, or first-class mail,
40 evidenced by a certificate of mailing, postage prepaid, is complete

1 at the time of the deposit of that first-class certified or registered
2 mail.

3 (d) Failure to serve the mechanic’s lien, including the Notice
4 of Mechanic’s Lien, as prescribed by this section, shall cause the
5 mechanic’s lien to be unenforceable as a matter of law.

6 (e) This section shall remain in effect only until July 1, 2012,
7 and as of that date is repealed.

8 SEC. 16.5. Section 3252 of the Civil Code is amended to read:

9 3252. (a) With regard to a contract entered into on or after
10 January 1, 1995, in order to enforce a claim upon any payment
11 bond given in connection with a public work, a claimant shall give
12 the 20-day public works preliminary bond notice as provided in
13 Section 3098.

14 (b) With regard to a project completed on or before December
15 31, 2010, if the 20-day public work preliminary bond notice was
16 not given as provided in Section 3098, a claimant may enforce a
17 claim by giving written notice to the surety and the bond principal
18 as provided in Section 3227 within 15 days after recordation of a
19 notice of completion. If no notice of completion has been recorded,
20 the time for giving written notice to the surety and the bond
21 principal is extended to 75 days after completion of the work of
22 improvement.

23 (c) Commencing January 1, 2011, and except as provided in
24 subdivision (b), if the 20-day public works preliminary bond notice
25 was not given as provided in Section 3098, a claimant may enforce
26 a claim by giving written notice to the surety and bond principal,
27 as provided in Section 3227, prior to completion, as defined in
28 Section 3086, of the project, or recordation of notice of completion,
29 whichever is later. Prior to completion or recordation of a notice
30 of completion, every public entity shall provide written notice of
31 pending completion to each subcontractor that has provided a
32 20-day preliminary bond notice as provided in Section 3098.

33 (d) This section shall remain in effect only until July 1, 2012,
34 and as of that date is repealed.

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

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

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

3 (b) The penalty authorized pursuant to subdivision (a) shall be
4 separate from, and in addition to, the design professionals liens
5 provided by Chapter 3 (commencing with Section 8300) of Title
6 2 of Part 6 of Division 4, mechanics liens provided by Chapter 4
7 (commencing with Section 8400) of Title 2 of Part 6 of Division
8 4, and stop payment notices provided by Chapter 5 (commencing
9 with Section 8500) of Title 2 of Part 6 of Division 4.

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

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

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

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

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

27 3320. (a) In each contract for public works of improvement,
28 entered into on or after January 1, 1996, the public agency shall
29 pay to the prime design professional any progress payment within
30 30 days of receipt of a written demand for payment in accordance
31 with the contract, and the final retention payment within 45 days
32 of receipt of a written demand for payment in accordance with the
33 contract. If the public agency disputes in good faith any portion
34 of the amount due, it may withhold from the payment an amount
35 not to exceed 150 percent of the disputed amount. The disputed
36 amount withheld is not subject to any penalty authorized by this
37 section.

38 (b) If any amount is wrongfully withheld or is not timely paid
39 in violation of this section, the prime design professional shall be
40 entitled to a penalty of 1 ½ percent for the improperly withheld

1 amount, in lieu of any interest otherwise due, per month for every
2 month that payment is not made. In any action for the collection
3 of amounts withheld in violation of this section, the prevailing
4 party is entitled to his or her reasonable attorney’s fees and costs.

5 (c) The penalty described in subdivision (b) is separate from,
6 and in addition to, the design professionals liens provided by
7 Chapter 3 (commencing with Section 8300) of Title 2 of Part 6 of
8 Division 4, mechanics liens provided by Chapter 4 (commencing
9 with Section 8400) of Title 2 of Part 6 of Division 4, and stop
10 payment notices on public works provided by Chapter 4
11 (commencing with Section 9350) of Title 3 of Part 6 of Division
12 4.

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

15 (e) None of the rights or obligations created by this section
16 between prime design professionals and public agencies apply to
17 construction loan funds held by a lender pursuant to a construction
18 loan agreement.

19 (f) For purposes of this section:

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

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

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

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

35 3321. (a) In each contract for public works of improvement,
36 a prime design professional shall pay to each subconsultant design
37 professional the amount due him or her from the payment received,
38 not later than 15 days after receipt of each progress payment or
39 final retention payment. If the prime design professional disputes
40 in good faith any portion of the amount due, he or she may

1 withhold from the payment an amount not to exceed 150 percent
2 of the disputed amount. The disputed amount withheld shall not
3 be subject to any penalty authorized by this section.

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

12 (c) The penalty described in subdivision (b) shall be separate
13 from, and in addition to, the design professionals liens provided
14 by Chapter 3 (commencing with Section 8300) of Title 2 of Part
15 6 of Division 4, mechanics liens provided by Chapter 4
16 (commencing with Section 8400) of Title 2 of Part 6 of Division
17 4, and stop payment notices on public works provided by Chapter
18 4 (commencing with Section 9350) of Title 3 of Part 6 of Division
19 4.

20 (d) None of the rights or obligations created by this section
21 between prime design professionals and subconsultant design
22 professionals shall apply to construction loan funds held by a lender
23 pursuant to a construction loan agreement.

24 (e) For purposes of this section:

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

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

37 (3) "Prime design professional" means a design professional
38 having a written contract directly with the public agency.

1 (4) “Subconsultant design professional” means a design
2 professional having a written contract with a prime design
3 professional.

4 SEC. 19.5. The heading of Part 8 (commencing with Section
5 7100) of Division 4 of the Civil Code is amended to read:

6
7 PART 5.5. AUTOMATIC CHECKOUT SYSTEM

8
9 SEC. 20. Part 6 (commencing with Section 8000) is added to
10 Division 4 of the Civil Code, to read:

11
12 PART 6. WORKS OF IMPROVEMENT

13
14 TITLE 1. WORKS OF IMPROVEMENT GENERALLY

15
16 CHAPTER 1. GENERAL PROVISIONS

17
18 Article 1. Definitions

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

22 8002. “Admitted surety insurer” has the meaning provided in
23 Section 995.120 of the Code of Civil Procedure.

24 8004. “Claimant” means a person that has a right under this
25 part to record a claim of lien, give a stop payment notice, or assert
26 a claim against a payment bond, or do any combination of the
27 foregoing.

28 8006. “Construction lender” means either of the following:

29 (a) A mortgagee or beneficiary under a deed of trust lending
30 funds with which the cost of all or part of a work of improvement
31 is to be paid, or the assignee or successor in interest of the
32 mortgagee or beneficiary.

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

36 8008. “Contract” means an agreement that provides for all or
37 part of a work of improvement.

38 8010. “Contract price” means the price agreed to in a direct
39 contract for a work of improvement.

1 8012. “Contractor” includes a direct contractor, subcontractor,
2 or both. This section does not apply to Sections 8018 and 8046.

3 8014. “Design professional” means a person licensed as an
4 architect pursuant to Chapter 3 (commencing with Section 5500)
5 of Division 3 of the Business and Professions Code, licensed as a
6 landscape architect pursuant to Chapter 3.5 (commencing with
7 Section 5615) of Division 3 of the Business and Professions Code,
8 registered as a professional engineer pursuant to Chapter 7
9 (commencing with Section 6700) of Division 3 of the Business
10 and Professions Code, or licensed as a land surveyor pursuant to
11 Chapter 15 (commencing with Section 8700) of Division 3 of the
12 Business and Professions Code.

13 8016. “Direct contract” means a contract between an owner
14 and a direct contractor that provides for all or part of a work of
15 improvement.

16 8018. “Direct contractor” means a contractor that has a direct
17 contractual relationship with an owner. A reference in another
18 statute to a “prime contractor” in connection with the provisions
19 in this part means a “direct contractor.”

20 8020. For the purposes of Title 3 (commencing with Section
21 9000), “funds” means warrant, check, money, or bonds (if bonds
22 are to be issued in payment of the public works contract).

23 8022. “Labor, service, equipment, or material” includes, but
24 is not limited to, labor, skills, services, material, supplies,
25 equipment, appliances, power, and surveying, provided for a work
26 of improvement.

27 8024. (a) “Laborer” means a person who, acting as an
28 employee, performs labor upon, or bestows skill or other necessary
29 services on, a work of improvement.

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

36 (c) A person or entity described in subdivision (b) that has
37 standing under applicable law to maintain a direct legal action, in
38 its own name or as an assignee, to collect any portion of
39 compensation owed for a laborer for a work of improvement, shall
40 have standing to enforce any rights or claims of the laborer under

1 this part, to the extent of the compensation agreed to be paid to
2 the person or entity for labor on that improvement. This subdivision
3 is intended to give effect to the longstanding public policy of this
4 state to protect the entire compensation of a laborer on a work of
5 improvement, regardless of the form in which that compensation
6 is to be paid.

7 8026. “Lien” means a lien under Title 2 (commencing with
8 Section 8160) and includes a lien of a design professional under
9 Section 8302, a lien for a work of improvement under Section
10 8400, and a lien for a site improvement under Section 8402.

11 8028. “Material supplier” means a person that provides material
12 or supplies to be used or consumed in a work of improvement.

13 8030. (a) For the purposes of Title 2 (commencing with Section
14 8160), “payment bond” means a bond given under Section 8600.

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

17 8032. “Person” means an individual, corporation, public entity,
18 business trust, estate, trust, partnership, limited liability company,
19 association, or other entity.

20 8034. (a) For the purposes of Title 2 (commencing with Section
21 8160), “preliminary notice” means the notice provided for in
22 Chapter 2 (commencing with Section 8200) of Title 2.

23 (b) For the purposes of Title 3 (commencing with Section 9000),
24 “preliminary notice” means the notice provided for in Chapter 3
25 (commencing with Section 9300) of Title 3.

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

30 8038. “Public works contract” has the meaning provided in
31 Section 1101 of the Public Contract Code.

32 8040. “Site” means the real property on which a work of
33 improvement is situated or planned.

34 8042. “Site improvement” means any of the following work
35 on real property:

36 (a) Demolition or removal of improvements, trees, or other
37 vegetation.

38 (b) Drilling test holes.

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

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

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

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

9 8044. (a) (1) For the purposes of Title 2 (commencing with
10 Section 8160), “stop payment notice” means the notice given by
11 a claimant under Chapter 5 (commencing with Section 8500) of
12 Title 2.

13 (2) A stop payment notice given under Title 2 (commencing
14 with Section 8160) may be bonded or unbonded. A “bonded stop
15 payment notice” is a notice given with a bond under Section 8532.
16 An “unbonded stop payment notice” is a notice not given with a
17 bond under Section 8532.

18 (3) Except to the extent Title 2 (commencing with Section 8160)
19 distinguishes between a bonded and an unbonded stop payment
20 notice, a reference in that title to a stop payment notice includes
21 both a bonded and an unbonded notice.

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

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

28 8046. “Subcontractor” means a contractor that does not have
29 a direct contractual relationship with an owner. The term includes
30 a contractor that has a contractual relationship with a direct
31 contractor or with another subcontractor.

32 8048. “Work” means labor, service, equipment, or material
33 provided to a work of improvement.

34 8050. (a) “Work of improvement” includes, but is not limited
35 to:

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

39 (2) Seeding, sodding, or planting of real property for landscaping
40 purposes.

1 (3) Filling, leveling, or grading of real property.
 2 (b) Except as otherwise provided in this part, “work of
 3 improvement” means the entire structure or scheme of
 4 improvement as a whole, and includes site improvement.

5
 6 Article 2. Miscellaneous Provisions
 7

8 8052. (a) This part is operative on July 1, 2012.

9 (b) Notwithstanding subdivision (a), the effectiveness of a notice
 10 given or other action taken on a work of improvement before July
 11 1, 2012, is governed by the applicable law in effect before July 1,
 12 2012, and not by this part.

13 (c) A provision of this part, insofar as it is substantially the same
 14 as a previously existing provision relating to the same subject
 15 matter, shall be construed as a restatement and continuation thereof
 16 and not as a new enactment.

17 8054. (a) This part does not apply to a transaction governed
 18 by the Oil and Gas Lien Act (Chapter 2.5 (commencing with
 19 Section 1203.50) of Title 4 of Part 3 of the Code of Civil
 20 Procedure).

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

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

26 8056. Except as otherwise provided in this part, Part 2
 27 (commencing with Section 307) of the Code of Civil Procedure
 28 provides the rules of practice in proceedings under this part.

29 8058. For purposes of this part, “day” means a calendar day.

30 8060. (a) If this part provides for filing a contract, plan, or
 31 other paper with the county recorder, the provision is satisfied by
 32 filing the paper in the office of the county recorder of the county
 33 in which the work of improvement or part of it is situated.

34 (b) If this part provides for recording a notice, claim of lien,
 35 release of lien, payment bond, or other paper, the provision is
 36 satisfied by filing the paper for record in the office of the county
 37 recorder of the county in which the work of improvement or part
 38 of it is situated.

39 (c) The county recorder shall number, index, and preserve a
 40 contract, plan, or other paper presented for filing under this part,

1 and shall number, index, and transcribe into the official records,
2 in the same manner as a conveyance of real property, a notice,
3 claim of lien, payment bond, or other paper recorded under this
4 part.

5 (d) The county recorder shall charge and collect the fees
6 provided in Article 5 (commencing with Section 27360) of Chapter
7 6 of Part 3 of Division 2 of Title 3 of the Government Code for
8 performing duties under this section.

9 8062. No act of an owner in good faith and in compliance with
10 a provision of this part shall be construed to prevent a direct
11 contractor’s performance of the contract, or exonerate a surety on
12 a performance or payment bond.

13 8064. An owner may give a notice or execute or file a document
14 under this part on behalf of a co-owner if the owner acts on the
15 co-owner’s behalf and includes in the notice or document the name
16 and address of the co-owner on whose behalf the owner acts.

17 8066. An act that may be done by or to a person under this part
18 may be done by or to the person’s agent to the extent the act is
19 within the scope of the agent’s authority.

20

21

CHAPTER 2. NOTICE

22

23 8100. Notice under this part shall be in writing. Writing
24 includes printing and typewriting.

25 8102. (a) Notice under this part 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 on a work of
10 improvement governed by this part that employs a laborer and
11 fails to pay the full compensation due the laborer, including any
12 employer payments described in Section 1773.1 of the Labor Code
13 and implementing regulations, shall not later than the date the
14 compensation became delinquent, give the laborer, the laborer’s
15 bargaining representative, if any, the construction lender or reputed
16 construction lender, if any, and the owner or reputed owner, notice
17 that includes all of the following information, in addition to the
18 information required by Section 8102:

19 (1) The name and address of the laborer, and of any person or
20 entity described in subdivision (b) of Section 8024 to which
21 employer payments are due.

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

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

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

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

31 (a) Personal delivery.

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

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

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

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

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

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

11 (d) If the person to be notified is a direct contractor or a
12 subcontractor, the contractor's address shown on the building
13 permit, on the contractor's contract, or on the records of the
14 Contractors' State License Board.

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

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

22 8110. Except as otherwise provided by this part, notice by mail
23 under this part shall be given by registered or certified mail, express
24 mail, or overnight delivery by an express service carrier.

25 8114. A notice required by this part to be posted shall be
26 displayed in a conspicuous location at the site.

27 8116. Notice under this part is complete and deemed to have
28 been given at the following times:

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

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

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

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

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

- 1 8118. (a) Proof that notice was given to a person in the manner
- 2 required by this part shall be made by a proof of notice declaration
- 3 that states all of the following:
- 4 (1) The type or description of the notice given.
- 5 (2) The date, place, and manner of notice, and facts showing
- 6 that notice was given in the manner required by statute.
- 7 (3) The name and address of the person to which notice was
- 8 given, and, if appropriate, the title or capacity in which the person
- 9 was given notice.
- 10 (b) If the notice is given by mail, the declaration shall be
- 11 accompanied by one of the following:
- 12 (1) Documentation provided by the United States Postal Service
- 13 showing that payment was made to mail the notice using registered
- 14 or certified mail, or express mail.
- 15 (2) Documentation provided by an express service carrier
- 16 showing that payment was made to send the notice using an
- 17 overnight delivery service.
- 18 (3) A return receipt, delivery confirmation, signature
- 19 confirmation, tracking record, or other proof of delivery or
- 20 attempted delivery provided by the United States Postal Service,
- 21 or a photocopy of the record of delivery and receipt maintained
- 22 by the United States Postal Service, showing the date of delivery
- 23 and to whom delivered, or in the event of nondelivery, by the
- 24 returned envelope itself.
- 25 (4) A tracking record or other documentation provided by an
- 26 express service carrier showing delivery or attempted delivery of
- 27 the notice.

28
29 CHAPTER 3. WAIVER AND RELEASE

- 30
- 31 8120. The provisions of this chapter apply to a work of
- 32 improvement governed by this part.
- 33 8122. An owner, direct contractor, or subcontractor may not,
- 34 by contract or otherwise, waive, affect, or impair any other
- 35 claimant’s rights under this part, whether with or without notice,
- 36 and any term of a contract that purports to do so is void and
- 37 unenforceable unless and until the claimant executes and delivers
- 38 a waiver and release under this article.

1 8124. A claimant's waiver and release does not release the
2 owner, construction lender, or surety on a payment bond from a
3 lien or claim unless both of the following conditions are satisfied:

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

6 (b) If the release is a conditional release, there is evidence of
7 payment to the claimant. Evidence of payment may be either of
8 the following:

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

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

13 8126. An oral or written statement purporting to waive, release,
14 impair or otherwise adversely affect a lien or claim is void and
15 unenforceable and does not create an estoppel or impairment of
16 the lien or claim unless either of the following conditions is
17 satisfied:

18 (a) The statement is pursuant to a waiver and release under this
19 article.

20 (b) The claimant has actually received payment in full for the
21 claim.

22 8128. (a) A claimant may reduce the amount of, or release in
23 its entirety, a stop payment notice. The reduction or release shall
24 be in writing and may be given in a form other than a waiver and
25 release form provided in this article.

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

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

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

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

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

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

4 8130. This article does not affect the enforceability of either
5 an accord and satisfaction concerning a good faith dispute or an
6 agreement made in settlement of an action pending in court if the
7 accord and satisfaction or agreement and settlement make specific
8 reference to the lien or claim.

9 8132. If a claimant is required to execute a waiver and release
10 in exchange for, or in order to induce payment of, a progress
11 payment and the claimant is not, in fact, paid in exchange for the
12 waiver and release or a single payee check or joint payee check is
13 given in exchange for the waiver and release, the waiver and release
14 shall be null, void, and unenforceable unless it is in substantially
15 the following form:

16
17 **CONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT**

18
19 NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT’S LIEN, STOP
20 PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON
21 RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS
22 DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS
23 RECEIVED PAYMENT.

24
25 **Identifying Information**

26
27 Name of Claimant: _____
28 Name of Customer: _____
29 Job Location: _____
30 Owner: _____
31 Through Date: _____

32
33 **Conditional Waiver and Release**

34
35 This document waives and releases lien, stop payment notice, and payment
36 bond rights the claimant has for labor and service provided, and equipment
37 and material delivered, to the customer on this job through the Through Date
38 of this document. Rights based upon labor or service provided, or equipment
39 or material delivered, pursuant to a written change order that has been fully
40 executed by the parties prior to the date that this document is signed by the

1 claimant, are waived and released by this document, unless listed as an
2 Exception below. This document is effective only on the claimant’s receipt of
3 payment from the financial institution on which the following check is drawn:

4
5 Maker of Check: _____
6 Amount of Check: \$ _____
7 Check Payable to: _____

8
9 **Exceptions**

10
11 This document does not affect any of the following:

- 12 (1) Retentions.
- 13 (2) Extras for which the claimant has not received payment.
- 14 (3) The following progress payments for which the claimant has previously
15 given a conditional waiver and release but has not received payment:
16 Date(s) of waiver and release: _____
17 Amount(s) of unpaid progress payment(s): \$ _____
- 18 (4) Contract rights, including (A) a right based on rescission, abandonment,
19 or breach of contract, and (B) the right to recover compensation for work not
20 compensated by the payment.

21
22 **Signature**

23
24 Claimant’s Signature: _____
25 Claimant’s Title: _____
26 Date of Signature: _____

27
28 8134. If the claimant is required to execute a waiver and release
29 in exchange for, or in order to induce payment of, a progress
30 payment and the claimant asserts in the waiver that the claimant
31 has, in fact, been paid the progress payment, the waiver and release
32 shall be null, void, and unenforceable unless it is in substantially
33 the following form, with the text of the “Notice to Claimant” in at
34 least as large a type as the largest type otherwise in the form:

35
36 UNCONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT
37
38 NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES
39 LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS
40 UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID

1 FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE
2 AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID.
3 IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND
4 RELEASE FORM.

5

6 **Identifying Information**

7

8 Name of Claimant: _____

9 Name of Customer: _____

10 Job Location: _____

11 Owner: _____

12 Through Date: _____

13

14 **Unconditional Waiver and Release**

15

16 This document waives and releases lien, stop payment notice, and payment
17 bond rights the claimant has for labor and service provided, and equipment
18 and material delivered, to the customer on this job through the Through Date
19 of this document. Rights based upon labor or service provided, or equipment
20 or material delivered, pursuant to a written change order that has been fully
21 executed by the parties prior to the date that this document is signed by the
22 claimant, are waived and released by this document, unless listed as an
23 Exception below. The claimant has received the following progress payment:
24 \$ _____
25

26 **Exceptions**

27

28 This document does not affect any of the following:

- 29 (1) Retentions.
- 30 (2) Extras for which the claimant has not received payment.
- 31 (3) Contract rights, including (A) a right based on rescission, abandonment,
- 32 or breach of contract, and (B) the right to recover compensation for work not
- 33 compensated by the payment.

34

35 **Signature**

36

37 Claimant's Signature: _____

38 Claimant's Title: _____

39 Date of Signature: _____

40

1 8136. If the claimant is required to execute a waiver and release
 2 in exchange for, or in order to induce payment of, a final payment
 3 and the claimant is not, in fact, paid in exchange for the waiver
 4 and release or a single payee check or joint payee check is given
 5 in exchange for the waiver and release, the waiver and release shall
 6 be null, void, and unenforceable unless it is in substantially the
 7 following form:

8
 9 **CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT**

10
 11 NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT’S LIEN, STOP
 12 PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON
 13 RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS
 14 DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS
 15 RECEIVED PAYMENT.

16
 17 **Identifying Information**

18
 19 Name of Claimant: _____
 20 Name of Customer: _____
 21 Job Location: _____
 22 Owner: _____

23
 24 **Conditional Waiver and Release**

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

35
 36 Maker of Check: _____
 37 Amount of Check: \$ _____
 38 Check Payable to: _____

39
 40 **Exceptions**

1
 2 This document does not affect any of the following:
 3 Disputed claims for extras in the amount of: \$ _____
 4

5 **Signature**

6
 7 Claimant’s Signature: _____
 8 Claimant’s Title: _____
 9 Date of Signature: _____

10
 11 8138. If the claimant is required to execute a waiver and release
 12 in exchange for, or in order to induce payment of, a final payment
 13 and the claimant asserts in the waiver that the claimant has, in fact,
 14 been paid the final payment, the waiver and release shall be null,
 15 void, and unenforceable unless it is in substantially the following
 16 form, with the text of the “Notice to Claimant” in at least as large
 17 a type as the largest type otherwise in the form:

18 UNCONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

19
 20 NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES
 21 LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS
 22 UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID
 23 FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE
 24 AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID.
 25 IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND
 26 RELEASE FORM.
 27

28
 29 **Identifying Information**

30
 31 Name of Claimant: _____
 32 Name of Customer: _____
 33 Job Location: _____
 34 Owner: _____

35
 36 **Unconditional Waiver and Release**

37
 38 This document waives and releases lien, stop payment notice, and payment
 39 bond rights the claimant has for all labor and service provided, and equipment
 40 and material delivered, to the customer on this job. Rights based upon labor

1 or service provided, or equipment or material delivered, pursuant to a written
2 change order that has been fully executed by the parties prior to the date that
3 this document is signed by the claimant, are waived and released by this
4 document, unless listed as an Exception below. The claimant has been paid
5 in full.

6
7 **Exceptions**

8
9 This document does not affect the following:
10 Disputed claims for extras in the amount of: \$ _____

11
12 **Signature**

13
14 Claimant’s Signature: _____
15 Claimant’s Title: _____
16 Date of Signature: _____

17
18 CHAPTER 4. BONDS

19
20 8150. The Bond and Undertaking Law (Chapter 2 (commencing
21 with Section 995.010) of Title 14 of Part 2 of the Code of Civil
22 Procedure) applies to a bond given under this part, except to the
23 extent this part prescribes a different rule or is inconsistent.

24 8152. None of the following releases a surety from liability on
25 a bond given under this part:

26 (a) A change, alteration, or modification to a contract, plan,
27 specification, or agreement for a work of improvement or for work
28 provided for a work of improvement.

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

31 (c) A rescission or attempted rescission of a contract, agreement,
32 or bond.

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

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

1 8154. (a) A bond given under this part shall be construed most
2 strongly against the surety and in favor of all persons for whose
3 benefit the bond is given.

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

7 (c) Except as otherwise provided by statute, the sole conditions
8 of recovery on the bond are that the claimant is a person described
9 in Article 1 (commencing with Section 8400) of Chapter 4 of Title
10 2, or in Section 9100, and has not been paid the full amount of the
11 claim.

12
13 TITLE 2. PRIVATE WORKS OF IMPROVEMENT

14
15 CHAPTER 1. GENERAL PROVISIONS

16
17 Article 1. Application of Title

18
19 8160. This title applies to a work of improvement that is not
20 governed by Title 3 (commencing with Section 9000) of this part.

21
22 Article 2. Construction Documents

23
24 8170. (a) A written direct contract shall provide a space for
25 the owner to enter the following information:

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

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

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

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

36 8172. (a) A public entity that issues building permits shall, in
37 its application form for a building permit, provide space and a
38 designation for the applicant to enter the name, branch designation,
39 if any, and address of the construction lender and shall keep the

1 information on file open for public inspection during the regular
2 business hours of the public entity.

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

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

9 8174. (a) A mortgage, deed of trust, or other instrument
10 securing a loan, any of the proceeds of which may be used for a
11 work of improvement, shall bear the designation “Construction
12 Trust Deed” prominently on its face and shall state all of the
13 following:

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

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

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

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

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

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

26

27

Article 3. Completion

28

29 8180. (a) For the purpose of this title, completion of a work
30 of improvement occurs upon the occurrence of any of the following
31 events:

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

33 (2) Occupation or use by the owner accompanied by cessation
34 of labor.

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

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

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

1 8182. (a) An owner may record a notice of completion on or
2 within 15 days after the date of completion of a work of
3 improvement.

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

6 (c) The notice shall comply with the requirements of Chapter
7 2 (commencing with Section 8100) of Title 1, and shall also include
8 all of the following information:

9 (1) If the notice is given only of completion of a contract for a
10 particular portion of the work of improvement as provided in
11 Section 8186, the name of the direct contractor under that contract
12 and a general statement of the work provided pursuant to the
13 contract.

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

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

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

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

23 (e) For the purpose of this section, "owner" means the owner
24 who causes a building, improvement, or structure to be constructed,
25 altered, or repaired, or that person's successor in interest at the
26 date a notice of completion is recorded, whether the interest or
27 estate of the owner be in fee, as vendee under a contract of
28 purchase, as lessee, or other interest or estate less than the fee.
29 Where the interest or estate is held by two or more persons as joint
30 tenants or tenants in common, any one or more of the cotenants
31 may be deemed to be the "owner" within the meaning of this
32 section.

33 8184. A notice of completion in otherwise proper form, verified
34 and containing the information required by this title, shall be
35 accepted by the recorder for recording and is deemed duly recorded
36 without acknowledgment.

37 8186. If a work of improvement is made pursuant to two or
38 more direct contracts, each covering a portion of the work of
39 improvement:

1 (a) The owner may record a notice of completion of a direct
2 contract for a portion of the work of improvement. On recordation
3 of the notice of completion, for the purpose of Sections 8412 and
4 8414, a direct contractor is deemed to have completed the contract
5 for which the notice of completion is recorded and a claimant other
6 than a direct contractor is deemed to have ceased providing work.

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

10 8188. (a) An owner may record a notice of cessation if there
11 has been a continuous cessation of labor on a work of improvement
12 for at least 30 days prior to the recordation that continues through
13 the date of the recordation.

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

15 (c) The notice shall comply with the requirements of Chapter
16 2 (commencing with Section 8100) of Title 1, and shall also include
17 all of the following information:

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

19 (2) A statement that the cessation has continued until the
20 recordation of the notice.

21 (d) For the purpose of this section, “owner” means the owner
22 who causes a building, improvement, or structure to be constructed,
23 altered, or repaired, or that person’s successor in interest at the
24 date a notice of cessation is recorded, whether the interest or estate
25 of the owner be in fee, as vendee under a contract of purchase, as
26 lessee, or other interest or estate less than the fee. Where the
27 interest or estate is held by two or more persons as joint tenants
28 or tenants in common, any one or more of the cotenants may be
29 deemed to be the “owner” within the meaning of this section.

30 8190. (a) An owner that records a notice of completion or
31 cessation shall, within 10 days of the date the notice of completion
32 or cessation is filed for record, give a copy of the notice to all of
33 the following persons:

34 (1) A direct contractor.

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

36 (b) The copy of the notice shall be given in compliance with
37 the requirements of Chapter 2 (commencing with Section 8100)
38 of Title 1.

39 (c) If the owner fails to give notice to a person as required by
40 subdivision (a), the notice is ineffective to shorten the time within

1 which that person may record a claim of lien under Sections 8412
2 and 8414. The ineffectiveness of the notice is the sole liability of
3 the owner for failure to give notice to a person under subdivision
4 (a).

5 (d) For the purpose of this section, “owner” means a person
6 who has an interest in real property, or the person’s successor in
7 interest on the date a notice of completion or notice of cessation
8 is recorded, who causes a building, improvement, or structure, to
9 be constructed, altered, or repaired on the property. If the property
10 is owned by two or more persons as joint tenants or tenants in
11 common, any one or more of the cotenants may be deemed to be
12 the “owner” within the meaning of this section. However, this
13 section does not apply to any of the following owners:

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

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

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

19

20

CHAPTER 2. PRELIMINARY NOTICE

21

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

26 (1) The owner or reputed owner.

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

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

32 (b) The notice shall comply with the requirements of Chapter
33 2 (commencing with Section 8100) of Title 1.

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

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

39 (e) Notwithstanding the foregoing subdivisions:

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

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

4 8202. (a) The preliminary notice shall comply with the
5 requirements of Section 8102, and shall also include:

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

7 (2) An estimate of the total price of the work provided and to
8 be provided.

9 (3) The following statement in boldface type:

10
11 NOTICE TO PROPERTY OWNER
12

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

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

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

32
33 (b) If preliminary notice is given by a subcontractor that has
34 not paid all compensation due to a laborer, the notice shall include
35 the name and address of the laborer and any person or entity
36 described in subdivision (b) of Section 8024 to which payments
37 are due.

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

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

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

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

17 8206. (a) Except as provided in subdivision (b), a claimant
18 need give only one preliminary notice to each person to which
19 notice must be given under this chapter with respect to all work
20 provided by the claimant for a work of improvement.

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

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

30 8208. A direct contractor shall make available to any person
31 seeking to give preliminary notice the following information:

- 32 (a) The name and address of the owner.
- 33 (b) The name and address of the construction lender, if any.

34 8210. If one or more construction loans are obtained after
35 commencement of a work of improvement, the owner shall give
36 notice of the name and address of the construction lender or lenders
37 to each person that has given the owner preliminary notice.

38 8212. An agreement made or entered into by an owner whereby
39 the owner agrees to waive the rights conferred on the owner by
40 this chapter is void and unenforceable.

1 8214. (a) Each person who has served a preliminary notice
2 may file the preliminary notice with the county recorder. A
3 preliminary notice filed pursuant to this section shall comply with
4 the requirements of Section 8102.

5 (b) Upon the acceptance for recording of a notice of completion
6 or notice of cessation the county recorder shall mail to those
7 persons who have filed a preliminary notice, notification that a
8 notice of completion or notice of cessation has been recorded on
9 the property, and shall affix the date that the notice of completion
10 or notice of cessation was recorded with the county recorder. The
11 notification given by the county recorder under this section is not
12 governed by the requirements of Chapter 2 (commencing with
13 Section 8100) of Title 1.

14 (c) The failure of the county recorder to mail the notification to
15 the person who filed a preliminary notice, or the failure of those
16 persons to receive the notification or to receive complete
17 notification, shall not affect the period within which a claim of
18 lien is required to be recorded. However, the county recorder shall
19 make a good faith effort to mail notification to those persons who
20 have filed the preliminary notice under this section and to do so
21 within five days after the recording of a notice of completion or
22 notice of cessation.

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

25 (e) The preliminary notice that a person may file pursuant to
26 this section is for the limited purpose of facilitating the mailing of
27 notice by the county recorder of recorded notices of completion
28 and notices of cessation. The notice that is filed is not a recordable
29 document and shall not be entered into those official records of
30 the county which by law impart constructive notice.
31 Notwithstanding any other provision of law, the index maintained
32 by the recorder of filed preliminary notices shall be separate and
33 distinct from those indexes maintained by the county recorder of
34 those official records of the county which by law impart
35 constructive notice. The filing of a preliminary notice with the
36 county recorder does not give rise to any actual or constructive
37 notice with respect to any party of the existence or contents of a
38 filed preliminary notice nor to any duty of inquiry on the part of
39 any party as to the existence or contents of that notice.

1 8216. If the contract of any subcontractor on a particular work
 2 of improvement provides for payment to the subcontractor of more
 3 than four hundred dollars (\$400), the failure of that subcontractor,
 4 licensed under the Contractors’ State License Law (Chapter 9
 5 (commencing with Section 7000) of Division 3 of the Business
 6 and Professions Code), to give the notice provided for in this
 7 chapter, constitutes grounds for disciplinary action under the
 8 Contractors’ State License Law.

9
 10 CHAPTER 3. DESIGN PROFESSIONALS LIEN
 11

12 8300. For purposes of this chapter, a “design professional” is
 13 a person described in Section 8014 who provides services pursuant
 14 to a written contract with a landowner for the design, engineering,
 15 or planning of a work of improvement.

16 8302. (a) A design professional has, from the date of
 17 recordation of a claim of lien under this chapter, a lien on the site
 18 notwithstanding the absence of commencement of the planned
 19 work of improvement, if the landowner who contracted for the
 20 design professional’s services is also the owner of the site at the
 21 time of recordation of the claim of lien.

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

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

32 8304. A design professional is not entitled to a lien under this
 33 chapter unless all of the following conditions are satisfied:

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

36 (b) The landowner defaults in a payment required under the
 37 contract or refuses to pay the demand of the design professional
 38 made under the contract.

39 (c) Not less than 10 days before recording a claim of lien, the
 40 design professional gives the landowner notice making a demand

1 for payment, and stating that a default has occurred under the
2 contract and the amount of the default.

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

- 5 (1) The name of the design professional.
- 6 (2) The amount of the claim.
- 7 (3) The current owner of record of the site.
- 8 (4) A legal description of the site.
- 9 (5) Identification of the building permit or other governmental
10 approval for the work of improvement.

11 8306. (a) On recordation of the claim of lien, a lien is created
12 in favor of the named design professional.

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

- 16 (1) The commencement of the work of improvement for which
17 the design professional provided services.
- 18 (2) The expiration of 90 days after recording the claim of lien,
19 unless the design professional commences an action to enforce the
20 lien within that time.

21 (c) If the landowner partially or fully satisfies the lien, the design
22 professional shall execute and record a document that evidences
23 a partial or full satisfaction and release of the lien, as applicable.

24 8308. (a) Except as provided in subdivision (b), no provision
25 of this part applies to a lien created under this chapter.

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

- 28 (1) This chapter.
- 29 (2) Article 1 (commencing with Section 8000) of Chapter 1 of
30 Title 1.
- 31 (3) Section 8424.
- 32 (4) Article 6 (commencing with Section 8460) of Chapter 4.
- 33 (5) Article 7 (commencing with Section 8480) of Chapter 4.
- 34 (6) Article 8 (commencing with Section 8490) of Chapter 4.

35 8310. This chapter does not affect the ability of a design
36 professional to obtain a lien for a work of improvement under
37 Section 8400.

38 8312. A design professional shall record a claim of lien under
39 this chapter no later than 90 days after the design professional

1 knows or has reason to know that the work of improvement will
2 not be commenced.

3 8314. The creation of a lien under this chapter does not affect
4 the ability of the design professional to pursue other remedies.

5 8316. (a) No lien created under this chapter affects or takes
6 priority over the interest of record of a purchaser, lessee, or
7 encumbrancer, if the interest of the purchaser, lessee, or
8 encumbrancer in the real property was duly recorded before
9 recordation of the claim of lien.

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

14 8318. A design professional may not obtain a lien under this
15 chapter for services provided for a work of improvement relating
16 to a single-family, owner-occupied residence for which the
17 expected construction cost is less than one hundred thousand
18 dollars (\$100,000).

19

20 CHAPTER 4. MECHANICS LIEN

21

22 Article 1. Who is Entitled to Lien

23

24 8400. A person that provides work authorized for a work of
25 improvement, including, but not limited to, the following persons,
26 has a lien right under this chapter:

- 27 (a) Direct contractor.
- 28 (b) Subcontractor.
- 29 (c) Material supplier.
- 30 (d) Equipment lessor.
- 31 (e) Laborer.
- 32 (f) Design professional.

33 8402. A person that provides work authorized for a site
34 improvement has a lien right under this chapter.

35 8404. Work is authorized for a work of improvement or for a
36 site improvement in any of the following circumstances:

- 37 (a) It is provided at the request of or agreed to by the owner.
- 38 (b) It is provided or authorized by a direct contractor,
39 subcontractor, architect, project manager, or other person having

1 charge of all or part of the work of improvement or site
2 improvement.

3

4

Article 2. Conditions to Enforcing a Lien

5

6 8410. A claimant may enforce a lien only if the claimant has
7 given preliminary notice to the extent required by Chapter 2
8 (commencing with Section 8200) and made proof of notice.

9 8412. A direct contractor may not enforce a lien unless the
10 contractor records a claim of lien after the contractor completes
11 the direct contract, and before the earlier of the following times:

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

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

15 8414. A claimant other than a direct contractor may not enforce
16 a lien unless the claimant records a claim of lien within the
17 following times:

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

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

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

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

23 8416. (a) A claim of mechanics lien shall be a written
24 statement, signed and verified by the claimant, containing all of
25 the following:

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

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

29 (3) A general statement of the kind of work furnished by the
30 claimant.

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

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

34 (6) The claimant's address.

35 (7) A proof of service affidavit completed and signed by the
36 person serving a copy of the claim of mechanics lien pursuant to
37 subdivision (c). The affidavit shall show the date, place, and
38 manner of service, and facts showing that the service was made
39 in accordance with this section. The affidavit shall show the name
40 and address of the person or persons upon whom the copy of the

1 claim of mechanics lien was served, and, if appropriate, the title
2 or capacity in which he or she was served.

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

7
8 "NOTICE OF MECHANICS LIEN
9 ATTENTION!

10
11 Upon the recording of the enclosed MECHANICS LIEN with the county
12 recorder's office of the county where the property is located, your property is
13 subject to the filing of a legal action seeking a court-ordered foreclosure sale
14 of the real property on which the lien has been recorded. That legal action
15 must be filed with the court no later than 90 days after the date the mechanics
16 lien is recorded.

17 The party identified in the enclosed mechanics lien may have provided labor
18 or materials for improvements to your property and may not have been paid
19 for these items. You are receiving this notice because it is a required step in
20 filing a mechanics lien foreclosure action against your property. The foreclosure
21 action will seek a sale of your property in order to pay for unpaid labor,
22 materials, or improvements provided to your property. This may affect your
23 ability to borrow against, refinance, or sell the property until the mechanics
24 lien is released.

25 BECAUSE THE LIEN AFFECTS YOUR PROPERTY, YOU MAY WISH
26 TO SPEAK WITH YOUR CONTRACTOR IMMEDIATELY, OR CONTACT
27 AN ATTORNEY, OR FOR MORE INFORMATION ON MECHANICS
28 LIENS GO TO THE CONTRACTORS' STATE LICENSE BOARD WEB
29 SITE AT www.cslb.ca.gov."
30

31 (b) A claim of mechanics lien in otherwise proper form, verified
32 and containing the information required in subdivision (a), shall
33 be accepted by the recorder for recording and shall be deemed
34 duly recorded without acknowledgment.

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

39 (1) For an owner or reputed owner to be notified who resides
40 in or outside this state, by registered mail, certified mail, or

1 first-class mail, evidenced by a certificate of mailing, postage
2 prepaid, addressed to the owner or reputed owner at the owner's
3 or reputed owner's residence or place of business address or at the
4 address shown by the building permit on file with the authority
5 issuing a building permit for the work, or as otherwise provided
6 in Section 8174.

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

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

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

20 8422. (a) Except as provided in subdivision (b), erroneous
21 information contained in a claim of lien relating to the claimant's
22 demand, credits and offsets deducted, the work provided, or the
23 description of the site, does not invalidate the claim of lien.

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

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

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

35 8424. (a) An owner of real property or an owner of any interest
36 in real property subject to a recorded claim of lien, or a direct
37 contractor or subcontractor affected by the claim of lien, that
38 disputes the correctness or validity of the claim may obtain release
39 of the real property from the claim of lien by recording a lien

1 release bond. The principal on the bond may be the owner of the
2 property, the direct contractor, or the subcontractor.

3 (b) The bond shall be conditioned on payment of any judgment
4 and costs the claimant recovers on the lien. The bond shall be in
5 an amount equal to 125 percent of the amount of the claim of lien
6 or 125 percent of the amount allocated in the claim of lien to the
7 real property to be released. The bond shall be executed by an
8 admitted surety insurer.

9 (c) The bond may be recorded either before or after
10 commencement of an action to enforce the lien. On recordation of
11 the bond, the real property is released from the claim of lien and
12 from any action to enforce the lien.

13 (d) A person that obtains and records a lien release bond shall
14 give notice to the claimant. The notice shall comply with the
15 requirements of Chapter 2 (commencing with Section 8100) of
16 Title 1 and shall include a copy of the bond. Failure to give the
17 notice required by this section does not affect the validity of the
18 bond, but the statute of limitations for an action on the bond is
19 tolled until notice is given. The claimant shall commence an action
20 on the bond within six months after notice is given.

21
22 Article 3. Amount of Lien

23
24 8430. (a) The lien is a direct lien for the lesser of the following
25 amounts:

- 26 (1) The reasonable value of the work provided by the claimant.
- 27 (2) The price agreed to by the claimant and the person that
28 contracted for the work.

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

31 (c) This section does not preclude the claimant from including
32 in a claim of lien work performed based on a written modification
33 of the contract, or as a result of rescission, abandonment, or breach
34 of the contract. If there is a rescission, abandonment, or breach of
35 the contract, the amount of the lien may not exceed the reasonable
36 value of the work provided by the claimant.

37 8432. (a) A lien does not extend to work, whether or not the
38 work is authorized by a direct contractor or subcontractor, if the
39 work is not included in a direct contract or a modification of that
40 contract, and the claimant had actual knowledge or constructive

1 notice of the provisions of that contract or modification before
2 providing the work.

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

8 8434. A direct contractor or a subcontractor may enforce a lien
9 only for the amount due pursuant to that contractor's contract after
10 deducting all lien claims of other claimants for work provided and
11 embraced within that contract.

12

13 Article 4. Property Subject to Lien

14

15 8440. Subject to Section 8442, a lien attaches to the work of
16 improvement and to the real property on which the work of
17 improvement is situated, including as much space about the work
18 of improvement as is required for the convenient use and
19 occupation of the work of improvement.

20 8442. The following interests in real property to which a lien
21 attaches are subject to the lien:

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

24 (b) The interest of a person that did not contract for the work
25 of improvement, if work for which the lien is claimed was provided
26 with the knowledge of that person, unless that person gives notice
27 of nonresponsibility under Section 8444.

28 8444. (a) An owner of real property or a person claiming an
29 interest in real property on which a work of improvement is situated
30 that did not contract for the work of improvement may give notice
31 of nonresponsibility.

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

34 (c) The notice shall comply with the requirements of Chapter
35 2 (commencing with Section 8100) of Title 1.

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

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

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

1 (3) A statement that the person giving the notice is not
 2 responsible for claims arising from the work of improvement.
 3 (e) A notice of nonresponsibility is not effective unless, within
 4 10 days after the person giving notice has knowledge of the work
 5 of improvement, the person both posts and records the notice.
 6 8446. A claimant may record one claim of lien on two or more
 7 works of improvement, subject to the following conditions:
 8 (a) The works of improvement have or are reputed to have the
 9 same owner, or the work was contracted for by the same person
 10 for the works of improvement whether or not they have the same
 11 owner.
 12 (b) The claimant in the claim of lien designates the amount due
 13 for each work of improvement. If the claimant contracted for a
 14 lump sum payment for work provided for the works of
 15 improvement and the contract does not segregate the amount due
 16 for each work of improvement separately, the claimant may
 17 estimate an equitable distribution of the amount due for each work
 18 of improvement based on the proportionate amount of work
 19 provided for each. If the claimant does not designate the amount
 20 due for each work of improvement, the lien is subordinate to other
 21 liens.
 22 (c) If there is a single structure on real property of different
 23 owners, the claimant need not segregate the proportion of work
 24 provided for the portion of the structure situated on real property
 25 of each owner. In the lien enforcement action the court may, if it
 26 determines it equitable to do so, designate an equitable distribution
 27 of the lien among the real property of the owners.
 28 (d) The lien does not extend beyond the amount designated as
 29 against other creditors having liens, by judgment, mortgage, or
 30 otherwise, on either the works of improvement or the real property
 31 on which the works of improvement are situated.
 32 8448. (a) As used in this section, “separate residential unit”
 33 means one residential structure, including a residential structure
 34 containing multiple condominium units, together with any common
 35 area, garage, or other appurtenant improvements.
 36 (b) If a work of improvement consists of the construction of
 37 two or more separate residential units:
 38 (1) Each unit is deemed a separate work of improvement, and
 39 completion of each unit is determined separately for purposes of

1 the time for recording a claim of lien on that unit. This paragraph
2 does not affect any lien right under Section 8402 or 8446.

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

9

10 Article 5. Priorities

11

12 8450. (a) A lien under this chapter, other than a lien provided
13 for in Section 8402, has priority over a lien, mortgage, deed of
14 trust, or other encumbrance on the work of improvement or the
15 real property on which the work of improvement is situated, that
16 (1) attaches after commencement of the work of improvement or
17 (2) was unrecorded at the commencement of the work of
18 improvement and of which the claimant had no notice.

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

21 8452. A mortgage or deed of trust, otherwise subordinate to a
22 lien under Section 8450, has priority over a lien for work provided
23 after recordation of a payment bond that satisfies all of the
24 following requirements:

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

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

28 8454. If a site improvement is provided for in a direct contract
29 separate from the direct contract for the remainder of the work of
30 improvement, the site improvement is deemed a separate work of
31 improvement and commencement of the site improvement is not
32 commencement of the remainder of the work of improvement.

33 8456. (a) This section applies to a construction loan secured
34 by a mortgage or deed of trust that has priority over a lien under
35 this chapter.

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

1 8458. (a) Except as provided in subdivision (b), a lien provided
2 for in Section 8402 has priority over:

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

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

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

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

25 Article 6. Enforcement of Lien

26
27 8460. (a) The claimant shall commence an action to enforce
28 a lien within 90 days after recordation of the claim of lien. If the
29 claimant does not commence an action to enforce the lien within
30 that time, the claim of lien expires and is unenforceable.

31 (b) Subdivision (a) does not apply if the claimant and owner
32 agree to extend credit, and notice of the fact and terms of the
33 extension of credit is recorded (1) within 90 days after recordation
34 of the claim of lien or (2) more than 90 days after recordation of
35 the claim of lien but before a purchaser or encumbrancer for value
36 and in good faith acquires rights in the property. In that event the
37 claimant shall commence an action to enforce the lien within 90
38 days after the expiration of the credit, but in no case later than one
39 year after completion of the work of improvement. If the claimant

1 does not commence an action to enforce the lien within that time,
2 the claim of lien expires and is unenforceable.

3 8461. After commencement of an action to enforce a lien, the
4 plaintiff shall record in the office of the county recorder of the
5 county, or of the several counties in which the property is situated,
6 a notice of the pendency of the action, as provided in Title 4.5
7 (commencing with Section 405) of Part 2 of the Code of Civil
8 Procedure, on or before 20 days after the commencement of the
9 action. Only from the time of recording that notice shall a purchaser
10 or encumbrancer of the property affected thereby be deemed to
11 have constructive notice of the pendency of the action, and in that
12 event only of its pendency against parties designated by their real
13 names.

14 8462. Notwithstanding Section 583.420 of the Code of Civil
15 Procedure, if an action to enforce a lien is not brought to trial within
16 two years after commencement of the action, the court may in its
17 discretion dismiss the action for want of prosecution.

18 8464. In addition to any other costs allowed by law, the court
19 in an action to enforce a lien shall allow as costs to each claimant
20 whose lien is established the amount paid to verify and record the
21 claim of lien, whether the claimant is a plaintiff or defendant.

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

27 8468. (a) This chapter does not affect any of the following
28 rights of a claimant:

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

32 (2) The right to a writ of attachment. In an application for a writ
33 of attachment, the claimant shall refer to this section. The
34 claimant's recording of a claim of lien does not affect the right to
35 a writ of attachment.

36 (3) The right to enforce a judgment.

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

1 8470. In an action to enforce a lien for work provided to a
2 contractor:

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

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

16
17 Article 7. Release Order
18

19 8480. (a) The owner of property or the owner of any interest
20 in property subject to a claim of lien may petition the court for an
21 order to release the property from the claim of lien if the claimant
22 has not commenced an action to enforce the lien within the time
23 provided in Section 8460.

24 (b) This article does not bar any other cause of action or claim
25 for relief by the owner of the property. A release order does not
26 bar any other cause of action or claim for relief by the claimant,
27 other than an action to enforce the claim of lien that is the subject
28 of the release order.

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

33 (d) Notwithstanding Section 8056, Chapter 2.5 (commencing
34 with Section 1141.10) of Title 3 of Part 3 of the Code of Civil
35 Procedure does not apply to a proceeding under this article.

36 8482. An owner of property may not petition the court for a
37 release order under this article unless at least 10 days before filing
38 the petition the owner gives the claimant notice demanding that
39 the claimant execute and record a release of the claim of lien. The
40 notice shall comply with the requirements of Chapter 2

1 (commencing with Section 8100) of Title 1, and shall state the
2 grounds for the demand.

3 8484. A petition for a release order shall be verified and shall
4 allege all of the following:

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

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

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

10 (d) The legal description of the property subject to the claim of
11 lien.

12 (e) Whether an extension of credit has been granted under
13 Section 8460, if so to what date, and that the time for
14 commencement of an action to enforce the lien has expired.

15 (f) That the owner has given the claimant notice under Section
16 8482 demanding that the claimant execute and record a release of
17 the lien and that the claimant is unable or unwilling to do so or
18 cannot with reasonable diligence be found.

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

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

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

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

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

38 8488. (a) At the hearing both (1) the petition and (2) the issue
39 of compliance with the service and date for hearing requirements
40 of this article are deemed controverted by the claimant. The

1 petitioner has the initial burden of producing evidence on those
2 matters. The petitioner has the burden of proof as to the issue of
3 compliance with the service and date for hearing requirements of
4 this article. The claimant has the burden of proof as to the validity
5 of the lien.

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

8 (c) The prevailing party is entitled to reasonable attorney’s fees.
9

10 Article 8. Removal of Claim of Lien from Record

11
12 8490. (a) A court order dismissing a cause of action to enforce
13 a lien or releasing property from a claim of lien, or a judgment
14 that no lien exists, shall include all of the following information:

- 15 (1) The date of recordation of the claim of lien.
- 16 (2) The county in which the claim of lien is recorded.
- 17 (3) The book and page or series number of the place in the
18 official records where the claim of lien is recorded.
- 19 (4) The legal description of the property.

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

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

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

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

CHAPTER 5. STOP PAYMENT NOTICE

Article 1. General Provisions

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

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

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

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

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

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

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

(c) A stop payment notice shall comply with the requirements of Chapter 2 (commencing with Section 8100) of Title 1.

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

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

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

4 8510. (a) A person may obtain release of funds withheld
5 pursuant to a stop payment notice by giving the person withholding
6 the funds a release bond.

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

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

15

16 Article 2. Stop Payment Notice to Owner

17

18 8520. (a) A person that has a lien right under Chapter 4
19 (commencing with Section 8400), other than a direct contractor,
20 may give the owner a stop payment notice.

21 (b) The owner may give notice, in compliance with the
22 requirements of Chapter 2 (commencing with Section 8100) of
23 Title 1, demanding that a person that has a lien right under Chapter
24 4 (commencing with Section 8400) give the owner a stop payment
25 notice. If the person fails to give the owner a bonded or unbonded
26 stop payment notice, the person forfeits the right to a lien under
27 Chapter 4 (commencing with Section 8400).

28 8522. (a) Except as provided in subdivision (b), on receipt of
29 a stop payment notice an owner shall withhold from the direct
30 contractor or from any person acting under authority of a direct
31 contractor a sufficient amount due or to become due to the direct
32 contractor to pay the claim stated in the notice.

33 (b) The owner may, but is not required to, withhold funds if the
34 owner has previously recorded a payment bond under Section
35 8600. If the owner does not withhold funds, the owner shall, within
36 30 days after receipt of the stop payment notice, give notice to the
37 claimant that a payment bond has been recorded and provide the
38 claimant a copy of the bond. The notice shall comply with the
39 requirements of Chapter 2 (commencing with Section 8100) of
40 Title 1.

1 Article 3. Stop Payment Notice to Construction Lender

2
3 8530. A person that has a lien right under Chapter 4
4 (commencing with Section 8400) may give a construction lender
5 a stop payment notice.

6 8532. A claimant may give a construction lender a stop
7 payment notice accompanied by a bond in an amount equal to 125
8 percent of the amount of the claim. The bond shall be conditioned
9 that if the defendant recovers judgment in an action to enforce
10 payment of the claim stated in the stop payment notice or to enforce
11 a claim of lien recorded by the claimant, the claimant will pay all
12 costs that are awarded the owner, direct contractor, or construction
13 lender, and all damages to the owner, direct contractor, or
14 construction lender that result from the stop payment notice or
15 recordation of the claim of lien, not exceeding the amount of the
16 bond.

17 8534. (a) A construction lender that objects to the sufficiency
18 of sureties on the bond given with a bonded stop payment notice
19 shall give notice to the claimant of the objection, within 20 days
20 after the bonded stop payment notice is given. The notice shall
21 comply with the requirements of Chapter 2 (commencing with
22 Section 8100) of Title 1.

23 (b) The claimant may within 10 days after notice of the objection
24 is given substitute for the initial bond a bond executed by an
25 admitted surety insurer. If the claimant does not substitute a bond
26 executed by an admitted surety insurer, the construction lender
27 may disregard the bonded stop payment notice and release all funds
28 withheld in response to that notice.

29 8536. (a) Except as provided in subdivision (b), on receipt of
30 a stop payment notice a construction lender shall withhold from
31 the borrower or other person to whom the lender or the owner is
32 obligated to make payments or advancement out of the construction
33 fund sufficient funds to pay the claim stated in the notice.

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

36 (1) The stop payment notice is unbonded.

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

1 8538. (a) The claimant may make a written request for notice
 2 of an election by the construction lender under Section 8536 not
 3 to withhold funds. The request shall be made at the time the
 4 claimant gives the construction lender the stop payment notice and
 5 shall be accompanied by a preaddressed, stamped envelope.

6 (b) If the construction lender elects not to withhold funds under
 7 Section 8536, the lender shall, within 30 days after making the
 8 election, give notice of that fact to a claimant who has requested
 9 notice of the election under subdivision (a). The notice shall
 10 comply with the requirements of Chapter 2 (commencing with
 11 Section 8100) of Title 1. If the basis of the election is the
 12 recordation of a payment bond under Section 8600, the construction
 13 lender shall include a copy of the bond with the notice.

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

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

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

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

23

24

Article 4. Priorities

25

26 8540. (a) Funds withheld pursuant to a stop payment notice
 27 shall be distributed in the following order of priority:

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

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

39 (b) Pro rata distribution under this section shall be made among
 40 the persons entitled to share in the distribution without regard to

1 the order in which the person has given a stop payment notice or
2 commenced an enforcement action.

3 8542. Notwithstanding Section 8540:

4 (a) If funds are withheld pursuant to a stop payment notice given
5 to a construction lender by a direct contractor or subcontractor,
6 the direct contractor or subcontractor may recover only the net
7 amount due the direct contractor or subcontractor after deducting
8 any funds that are withheld by the construction lender pursuant to
9 the claims of subcontractors and material suppliers that have given
10 a stop payment notice for work done on behalf of the direct
11 contractor or subcontractor.

12 (b) In no event is the construction lender required to withhold,
13 pursuant to a stop payment notice, more than the net amount
14 provided in subdivision (a). Notwithstanding any other provision
15 of this chapter, a construction lender is not liable for failure to
16 withhold more than that net amount on receipt of a stop payment
17 notice.

18 8544. The rights of a claimant who gives a construction lender
19 a stop payment notice are not affected by an assignment of
20 construction loan funds made by the owner or direct contractor,
21 and the stop payment notice has priority over the assignment,
22 whether the assignment is made before or after the stop payment
23 notice is given.

24
25 Article 5. Enforcement of Claim Stated in Stop Payment Notice

26
27 8550. (a) A claimant shall commence an action to enforce
28 payment of the claim stated in a stop payment notice at any time
29 after 10 days from the date the claimant gives the stop payment
30 notice.

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

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

38 (d) If a claimant does not commence an action to enforce
39 payment of the claim stated in a stop payment notice within the
40 time prescribed in subdivision (b), the notice ceases to be effective

1 and the person withholding funds pursuant to the notice shall
2 release them.

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

9 8552. If more than one claimant has given a stop payment
10 notice:

11 (a) Any number of claimants may join in the same enforcement
12 action.

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

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

18 8554. Notwithstanding Section 583.420 of the Code of Civil
19 Procedure, if an action to enforce payment of the claim stated in
20 a stop payment notice is not brought to trial within two years after
21 commencement of the action, the court may in its discretion dismiss
22 the action for want of prosecution.

23 8556. A stop payment notice ceases to be effective, and a
24 person withholding funds pursuant to the notice shall release them,
25 in either of the following circumstances:

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

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

31 8558. (a) In an action to enforce payment of the claim stated
32 in a bonded stop payment notice, the prevailing party is entitled
33 to a reasonable attorney's fee in addition to costs and damages.

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

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

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

8 8560. If the claimant is the prevailing party in an action to
9 enforce payment of the claim stated in a bonded stop payment
10 notice, any amount awarded on the claim shall include interest at
11 the legal rate calculated from the date the stop payment notice is
12 given.

13
14 CHAPTER 6. PAYMENT BOND
15

16 8600. (a) This section applies if, before the commencement
17 of work, the owner in good faith files a direct contract with the
18 county recorder, and records a payment bond of the direct
19 contractor in an amount not less than 50 percent of the price stated
20 in the direct contract.

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

28 8602. Section 8600 does not preclude an owner from requiring
29 a performance bond, payment bond, or other security as protection
30 against a direct contractor's failure to perform the direct contract
31 or to make full payment for all work provided pursuant to the
32 contract.

33 8604. (a) If a lending institution requires that a payment bond
34 be given as a condition of lending money to finance a work of
35 improvement, and accepts in writing as sufficient a bond given in
36 fulfillment of the requirement, the lending institution may not
37 thereafter object to the borrower as to the validity of the bond or
38 refuse to make the loan based on an objection to the bond if the
39 bond is given by an admitted surety insurer.

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

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

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

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

14 8608. (a) This title does not give a claimant a right to recover
15 on a direct contractor’s payment bond given under this chapter
16 unless the claimant provided work to the direct contractor either
17 directly or through one or more subcontractors, pursuant to a direct
18 contract.

19 (b) Nothing in this section affects the stop payment notice right
20 of, and relative priorities among, design professionals and holders
21 of secured interests in the real property.

22 8609. Any provision in a payment bond attempting by contract
23 to shorten the period prescribed in Section 337 of the Code of Civil
24 Procedure for the commencement of an action on the bond shall
25 not be valid under either of the following circumstances:

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

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

31 8610. Notwithstanding Section 8609, if a payment bond under
32 this title is recorded before completion of a work of improvement,
33 an action to enforce the liability on the bond may not be
34 commenced later than six months after completion of the work of
35 improvement.

36 8612. (a) In order to enforce a claim against a payment bond
37 under this title, a claimant shall give the preliminary notice
38 provided in Chapter 2 (commencing with Section 8200).

39 (b) If preliminary notice was not given as provided in Chapter
40 2 (commencing with Section 8200), a claimant may enforce a

1 claim by giving written notice to the surety and the bond principal
2 within 15 days after recordation of a notice of completion. If no
3 notice of completion has been recorded, the time for giving written
4 notice to the surety and the bond principal is extended to 75 days
5 after completion of the work of improvement.

6 8614. Notice to the principal and surety under Section 8612
7 shall comply with the requirements of Chapter 2 (commencing
8 with Section 8100) of Title 1.

9
10 CHAPTER 7. SECURITY FOR LARGE PROJECT

11
12 Article 1. Application of Chapter

13
14 8700. (a) This chapter applies if any of the following
15 conditions is satisfied:

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

19 (2) The owner of a less than fee interest in property, including
20 a leasehold interest, contracts for a work of improvement on the
21 property with a contract price greater than one million dollars
22 (\$1,000,000).

23 (b) For the purpose of this section:

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

28 (2) A lessee of real property is deemed to be the owner of a fee
29 interest in the real property if all of the following conditions are
30 satisfied:

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

32 (B) The lease covers one or more lawful parcels under the
33 Subdivision Map Act, Division 2 (commencing with Section
34 66410) of Title 7 of the Government Code, and any applicable
35 local ordinance adopted under that act, in their entirety, including,
36 but not limited to, a parcel approved pursuant to a certificate of
37 compliance proceeding.

38 8702. This chapter does not apply to any of the following works
39 of improvement:

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

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

10 8704. This chapter does not apply to any of the following
11 owners:

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

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

1 Article 2. Security Requirement

2
3 8710. An owner described in subdivision (a) of Section 8700
4 shall provide the direct contractor all of the following:

5 (a) Security for the owner’s payment obligation pursuant to the
6 contract. The security shall be used only if the owner defaults on
7 the payment obligation to the direct contractor. This subdivision
8 does not apply to an owner that is the majority owner of the direct
9 contractor.

10 (b) A copy, certified by the county recorder, of any recorded
11 mortgage or deed of trust that secures the construction loan of a
12 lending institution for the work of improvement, disclosing the
13 amount of the loan.

14 8712. If an owner fails to provide or maintain the security
15 required by this chapter, the direct contractor may give the owner
16 notice demanding security. The notice shall comply with the
17 requirements of Chapter 2 (commencing with Section 8100) of
18 Title 1. If the owner does not provide or maintain the security
19 within 10 days after notice demanding security is given, the direct
20 contractor may suspend work until the owner provides or maintains
21 the security.

22 8714. It is against public policy to waive the provisions of this
23 chapter by contract.

24 8716. This chapter does not affect any statute providing for
25 mechanics liens, stop payment notices, bond remedies, or prompt
26 payment rights of a subcontractor, including the direct contractor’s
27 payment responsibilities under Section 7108.5 of the Business and
28 Professions Code.

29
30 Article 3. Form of Security

31
32 8720. An owner shall provide security by any of the following
33 means:

34 (a) A bond that satisfies Section 8722.

35 (b) An irrevocable letter of credit that satisfies Section 8724.

36 (c) An escrow account that satisfies Section 8726.

37 8722. A bond under this chapter shall satisfy all of the
38 following requirements:

39 (a) The bond shall be executed by an admitted surety insurer
40 that is either listed in the Department of the Treasury’s Listing of

1 Approved Sureties (Department Circular 570) or that has an A.M.
2 Best rating of A or better and has an underwriting limitation, under
3 Section 12090 of the Insurance Code, greater than the amount of
4 the bond.

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

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

13 8724. An irrevocable letter of credit under this chapter shall
14 satisfy all of the following requirements:

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

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

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

28 8726. An escrow account under this chapter shall satisfy all of
29 the following requirements:

30 (a) The account shall be designated as a “construction security
31 escrow account.”

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

37 (c) The owner shall deposit funds in the account in the amount
38 provided in Section 8728. This chapter does not require a
39 construction lender to agree to deposit proceeds of a construction
40 loan in the account.

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

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

14 8728. The following provisions govern a deposit to or
15 disbursement from a construction security escrow account under
16 this chapter:

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

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

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

39 (d) The owner and the direct contractor shall authorize the
40 disbursement to the owner of any funds remaining on deposit after

1 the direct contractor has been paid all amounts due pursuant to the
 2 contract. The owner and the direct contractor shall authorize the
 3 disbursement of funds on deposit pursuant to a court order that is
 4 binding on both of them. The owner and the direct contractor may
 5 agree in the contract to additional conditions for the disbursement
 6 of funds on deposit, except that the conditions may not cause the
 7 amount remaining on deposit to be less than the amount required
 8 under this section.

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

15
 16 CHAPTER 8. PROMPT PAYMENT

17
 18 Article 1. Progress Payment

19
 20 8800. (a) Except as otherwise agreed in writing by the owner
 21 and direct contractor, the owner shall pay the direct contractor,
 22 within 30 days after notice demanding payment pursuant to the
 23 contract is given, any progress payment due as to which there is
 24 no good faith dispute between them. The notice given shall comply
 25 with the requirements of Chapter 2 (commencing with Section
 26 8100) of Title 1.

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

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

36 (d) This section does not supersede any requirement of Article
 37 2 (commencing with Section 8810) relating to the withholding of
 38 a retention.

1 8802. (a) This section applies to a contract between a public
2 utility and a direct contractor for all or part of a work of
3 improvement.

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

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

19 (d) This section does not limit or impair a contractual,
20 administrative, or judicial remedy otherwise available to a
21 contractor or subcontractor in a dispute involving late payment or
22 nonpayment by the contractor or deficient performance or
23 nonperformance by the subcontractor.

24

25 Article 2. Retention Payment

26

27 8810. This article governs a retention payment withheld by an
28 owner from a direct contractor or by a direct contractor from a
29 subcontractor.

30 8812. (a) If an owner withholds a retention from a direct
31 contractor, the owner shall, within 45 days after completion of the
32 work of improvement, pay the retention to the contractor.

33 (b) If part of a work of improvement ultimately will become
34 the property of a public entity, the owner may condition payment
35 of a retention allocable to that part on acceptance of the part by
36 the public entity.

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

1 8814. (a) If a direct contractor has withheld a retention from
2 one or more subcontractors, the direct contractor shall, within 10
3 days after receiving all or part of a retention payment, pay to each
4 subcontractor from whom retention has been withheld that
5 subcontractor's share of the payment.

6 (b) If a retention received by the direct contractor is specifically
7 designated for a particular subcontractor, the direct contractor shall
8 pay the retention payment to the designated subcontractor, if
9 consistent with the terms of the subcontract.

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

14 8816. (a) If the direct contractor gives the owner, or a
15 subcontractor gives the direct contractor, notice that work in dispute
16 has been completed in accordance with the contract, the owner or
17 direct contractor shall within 10 days give notice advising the
18 notifying party of the acceptance or rejection of the disputed work.
19 Both notices shall comply with the requirements of Chapter 2
20 (commencing with Section 8100) of Title 1.

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

24 8818. If an owner or direct contractor does not make a retention
25 payment within the time required by this article:

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

30 (b) In an action for collection of the amount wrongfully
31 withheld, the prevailing party is entitled to costs and reasonable
32 attorney's fees.

33 8820. It is against public policy to waive the provisions of this
34 article by contract.

35 8822. This article does not apply to a retention payment
36 withheld by a lender pursuant to a construction loan agreement.

Article 3. Stop Work Notice

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

8832. If a direct contractor is not paid the amount due pursuant to a written contract within 35 days after the date payment is due under the contract, and there is no dispute as to the satisfactory performance of the contractor, the contractor may give the owner a stop work notice. The notice shall comply with the requirements of Chapter 2 (commencing with Section 8100) of Title 1.

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

(a) At least five days before giving the stop work notice, the contractor shall post notice of intent to give a stop work notice. The notice shall comply with the requirements of Chapter 2 (commencing with Section 8100) of Title 1. In addition to posting the notice pursuant to Section 8114, the notice shall also be posted at the main office of the site, if one exists.

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

8836. Within five days after receipt of a stop work notice from a direct contractor, the owner shall give a copy of the notice to the construction lender, if any. The copy of the notice shall be given in compliance with the requirements of Chapter 2 (commencing with Section 8100) of Title 1.

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

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

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

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

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

9 8840. On resolution of the claim in the stop work notice or the
10 direct contractor’s cancellation of the stop work notice, the
11 contractor shall post, and give subcontractors with whom the
12 contractor has a direct contractual relationship on the work of
13 improvement, notice of the resolution or cancellation. The notice
14 shall comply with the requirements of Chapter 2 (commencing
15 with Section 8100) of Title 1. In addition to posting the notice
16 pursuant to Section 8114, the notice shall also be posted at the
17 main office of the site, if one exists.

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

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

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

32 8846. It is against public policy to waive the provisions of this
33 article by contract.

34 8848. (a) This article applies to a contract entered into on or
35 after January 1, 1999.

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

1 TITLE 3. PUBLIC WORK OF IMPROVEMENT

2
3 CHAPTER 1. GENERAL PROVISIONS

4
5 Article 1. Application of Title

6
7 9000. This title applies to a work of improvement contracted
8 for by a public entity.

9
10 Article 2. Claimants

11
12 9100. (a) Except as provided in subdivision (b), any of the
13 following persons that have not been paid in full may give a stop
14 payment notice to the public entity or assert a claim against a
15 payment bond:

16 (1) A person that provides work for a public works contract, if
17 the work is authorized by a direct contractor, subcontractor,
18 architect, project manager, or other person having charge of all or
19 part of the public works contract.

20 (2) A laborer.

21 (3) A person described in Section 4107.7 of the Public Contract
22 Code.

23 (b) A direct contractor may not give a stop payment notice or
24 assert a claim against a payment bond under this title.

25
26 CHAPTER 2. COMPLETION

27
28 9200. For the purpose of this title, completion of a work of
29 improvement occurs at the earliest of the following times:

30 (a) Acceptance of the work of improvement by the public entity.

31 (b) Cessation of labor on the work of improvement for a
32 continuous period of 60 days. This subdivision does not apply to
33 a contract awarded under the State Contract Act, Part 2
34 (commencing with Section 10100) of Division 2 of the Public
35 Contract Code.

36 9202. (a) A public entity may record a notice of cessation if
37 there has been a continuous cessation of labor for at least 30 days
38 prior to the recordation that continues through the date of the
39 recordation.

1 (b) The notice shall be signed and verified by the public entity
2 or its agent.

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

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

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

9 9204. (a) A public entity may record a notice of completion
10 on or within 15 days after the date of completion of a work of
11 improvement.

12 (b) The notice shall be signed and verified by the public entity
13 or its agent.

14 (c) The notice shall comply with the requirements of Chapter
15 2 (commencing with Section 8100) of Title 1, and shall also include
16 the date of completion. An erroneous statement of the date of
17 completion does not affect the effectiveness of the notice if the
18 true date of completion is 15 days or less before the date of
19 recordation of the notice.

20 9208. A notice of completion in otherwise proper form, verified
21 and containing the information required by this title shall be
22 accepted by the recorder for recording and is deemed duly recorded
23 without acknowledgment.

24

25 CHAPTER 3. PRELIMINARY NOTICE

26

27 9300. (a) Except as otherwise provided by statute, before
28 giving a stop payment notice or asserting a claim against a payment
29 bond, a claimant shall give preliminary notice to the following
30 persons:

31 (1) The public entity.

32 (2) The direct contractor to which the claimant provides work.

33 (b) Notwithstanding subdivision (a):

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

35 (2) A claimant that has a direct contractual relationship with a
36 direct contractor is not required to give preliminary notice.

37 (c) Compliance with this section is a necessary prerequisite to
38 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
6 Chapter 2 (commencing with Section 8100) of Title 1.

7 (b) If the public works contract is for work constructed by the
8 Department of Public Works or the Department of General Services
9 of the state, preliminary notice to the public entity shall be given
10 to the disbursing officer of the department constructing the work.

11 9303. The preliminary notice shall comply with the
12 requirements of Section 8102, and shall also include:

13 (a) A general description of the work to be provided.

14 (b) An estimate of the total price of the work provided and to
15 be provided.

16 9304. A claimant may give a stop payment notice or assert a
17 claim against a payment bond only for work provided within 20
18 days before giving preliminary notice and at any time thereafter.

19 9306. If the contract of any subcontractor on a particular work
20 of improvement provides for payment to the subcontractor of more
21 than four hundred dollars (\$400), the failure of that subcontractor,
22 licensed under the Contractors' State License Law (Chapter 9
23 (commencing with Section 7000) of Division 3 of the Business
24 and Professions Code), to give the notice provided for in this
25 chapter, constitutes grounds for disciplinary action under the
26 Contractors' State License Law.

27
28 CHAPTER 4. STOP PAYMENT NOTICE

29
30 Article 1. General Provisions

31
32 9350. The rights of all persons furnishing work pursuant to a
33 public works contract, with respect to any fund for payment of
34 construction costs, are governed exclusively by this chapter, and
35 no person may assert any legal or equitable right with respect to
36 that fund, other than a right created by direct written contract
37 between the person and the person holding the fund, except
38 pursuant to the provisions of this chapter.

1 9352. (a) A stop payment notice shall comply with the
2 requirements of Chapter 2 (commencing with Section 8100) of
3 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
12 Chapter 2 (commencing with Section 8100) of Title 1.

13 (b) A stop payment notice shall be given to the public entity by
14 giving the notice to the following person:

15 (1) In the case of a public works contract of the state, the director
16 of the department that awarded the contract.

17 (2) In the case of a public works contract of a public entity other
18 than the state, the office of the controller, auditor, or other public
19 disbursing officer whose duty it is to make payment pursuant to
20 the contract, or the commissioners, managers, trustees, officers,
21 board of supervisors, board of trustees, common council, or other
22 body by which the contract was awarded.

23 9356. A stop payment notice is not effective unless given before
24 the expiration of whichever of the following time periods is
25 applicable:

26 (a) If a notice of completion, acceptance, or cessation is
27 recorded, 30 days after that recordation.

28 (b) If a notice of completion, acceptance, or cessation is not
29 recorded, 90 days after cessation or completion.

30 9358. (a) The public entity shall, on receipt of a stop payment
31 notice, withhold from the direct contractor sufficient funds due or
32 to become due to the direct contractor to pay the claim stated in
33 the stop payment notice and to provide for the public entity's
34 reasonable cost of any litigation pursuant to the stop payment
35 notice.

36 (b) The public entity may satisfy its duty under this section by
37 refusing to release funds held in escrow under Section 10263 or
38 22300 of the Public Contract Code.

39 9360. (a) This chapter does not prohibit payment of funds to
40 a direct contractor or a direct contractor's assignee if a stop

1 payment notice is not received before the disbursing officer actually
2 surrenders possession of the funds.

3 (b) This chapter does not prohibit payment of any amount due
4 to a direct contractor or a direct contractor's assignee in excess of
5 the amount necessary to pay the total amount of all claims stated
6 in stop payment notices received by the public entity at the time
7 of payment plus any interest and court costs that might reasonably
8 be anticipated in connection with the claims.

9 9362. (a) Not later than 10 days after each of the following
10 events, the public entity shall give notice to a claimant that has
11 given a stop payment notice of the time within which an action to
12 enforce payment of the claim stated in the stop payment notice
13 must be commenced:

14 (1) Completion of a public works contract, whether by
15 acceptance or cessation.

16 (2) Recordation of a notice of cessation or completion.

17 (b) The notice shall comply with the requirements of Chapter
18 2 (commencing with Section 8100) of Title 1.

19 (c) A public entity need not give notice under this section unless
20 the claimant has paid the public entity ten dollars (\$10) at the time
21 of giving the stop payment notice.

22 9364. (a) A public entity may, in its discretion, permit the
23 direct contractor to give the public entity a release bond. The bond
24 shall be executed by an admitted surety insurer, in an amount equal
25 to 125 percent of the claim stated in the stop payment notice,
26 conditioned for the payment of any amount the claimant recovers
27 in an action on the claim, together with court costs if the claimant
28 prevails.

29 (b) On receipt of a release bond, the public entity shall not
30 withhold funds from the direct contractor pursuant to the stop
31 payment notice.

32 (c) The surety on a release bond is jointly and severally liable
33 to the claimant with the sureties on any payment bond given under
34 Chapter 5 (commencing with Section 9550).

35

36 Article 2. Summary Proceeding for Release of Funds

37

38 9400. A direct contractor may obtain release of funds withheld
39 pursuant to a stop payment notice under the summary proceeding
40 provided in this article on any of the following grounds:

1 (a) The claim on which the notice is based is not a type for
2 which a stop payment notice is authorized under this chapter.

3 (b) The claimant is not a person authorized under Section 9100
4 to give a stop payment notice.

5 (c) The amount of the claim stated in the stop payment notice
6 is excessive.

7 (d) There is no basis for the claim stated in the stop payment
8 notice.

9 9402. The direct contractor shall serve on the public entity an
10 affidavit, together with a copy of the affidavit, in compliance with
11 the requirements of Chapter 2 (commencing with Section 8100)
12 of Title 1, that includes all of the following information:

13 (a) An allegation of the grounds for release of the funds and a
14 statement of the facts supporting the allegation.

15 (b) A demand for the release of all or the portion of the funds
16 that are alleged to be withheld improperly or in an excessive
17 amount.

18 (c) A statement of the address of the contractor within the state
19 for the purpose of permitting service by mail on the contractor of
20 any notice or document.

21 9404. The public entity shall serve on the claimant a copy of
22 the direct contractor's affidavit, together with a notice stating that
23 the public entity will release the funds withheld, or the portion of
24 the funds demanded, unless the claimant serves on the public entity
25 a counteraffidavit on or before the time stated in the notice. The
26 time stated in the notice shall be not less than 10 days nor more
27 than 20 days after service on the claimant of the copy of the
28 affidavit. The notice shall comply with the requirements of Chapter
29 2 (commencing with Section 8100) of Title 1.

30 9406. (a) A claimant that contests the direct contractor's
31 affidavit shall serve on the public entity a counteraffidavit alleging
32 the details of the claim and describing the specific basis on which
33 the claimant contests or rebuts the allegations of the contractor's
34 affidavit. The counteraffidavit shall be served within the time stated
35 in the public entity's notice, together with proof of service of a
36 copy of the counteraffidavit on the direct contractor. The service
37 of the counteraffidavit on the public entity and the copy of the
38 affidavit on the direct contractor shall comply with the
39 requirements of Chapter 2 (commencing with Section 8100) of
40 Title 1.

1 (b) If no counteraffidavit with proof of service is served on the
2 public entity within the time stated in the public entity's notice,
3 the public entity shall immediately release the funds, or the portion
4 of the funds demanded by the affidavit, without further notice to
5 the claimant, and the public entity is not liable in any manner for
6 their release.

7 (c) The public entity is not responsible for the validity of an
8 affidavit or counteraffidavit under this article.

9 9408. (a) If a counteraffidavit, together with proof of service,
10 is served under Section 9406, either the direct contractor or the
11 claimant may commence an action for a declaration of the rights
12 of the parties.

13 (b) After commencement of the action, either the direct
14 contractor or the claimant may move the court for a determination
15 of rights under the affidavit and counteraffidavit. The party making
16 the motion shall give not less than five days' notice of the hearing
17 to the public entity and to the other party.

18 (c) The notice of hearing shall comply with the requirements
19 of Chapter 2 (commencing with Section 8100) of Title 1.
20 Notwithstanding Section 8116, when notice of the hearing is made
21 by mail, the notice is complete on the fifth day following deposit
22 of the notice in the mail.

23 (d) The court shall hear the motion within 15 days after the date
24 of the motion, unless the court continues the hearing for good
25 cause.

26 9410. (a) The affidavit and counteraffidavit shall be filed with
27 the court by the public entity and shall constitute the pleadings,
28 subject to the power of the court to permit an amendment in the
29 interest of justice. The affidavit of the direct contractor shall be
30 deemed controverted by the counteraffidavit of the claimant, and
31 both shall be received in evidence.

32 (b) At the hearing, the direct contractor has the burden of proof.

33 9412. (a) No findings are required in a summary proceeding
34 under this article.

35 (b) If at the hearing no evidence other than the affidavit and
36 counteraffidavit is offered, the court may, if satisfied that sufficient
37 facts are shown, make a determination on the basis of the affidavit
38 and counteraffidavit. If the court is not satisfied that sufficient
39 facts are shown, the court shall order the hearing continued for

1 production of other evidence, oral or documentary, or the filing
2 of other affidavits and counteraffidavits.

3 (c) At the conclusion of the hearing, the court shall make an
4 order determining whether the demand for release is allowed. The
5 court's order is determinative of the right of the claimant to have
6 funds further withheld by the public entity.

7 (d) The direct contractor shall serve a copy of the court's order
8 on the public entity in compliance with the requirements of Chapter
9 2 (commencing with Section 8100) of Title 1.

10 9414. A determination in a summary proceeding under this
11 article is not res judicata with respect to a right of action by the
12 claimant against either the principal or surety on a payment bond
13 or with respect to a right of action against a party personally liable
14 to the claimant.

15

16 Article 3. Distribution of Funds Withheld

17

18 9450. If funds withheld pursuant to a stop payment notice are
19 insufficient to pay in full the claims of all persons who have given
20 a stop payment notice, the funds shall be distributed among the
21 claimants in the ratio that the claim of each bears to the aggregate
22 of all claims for which a stop payment notice is given, without
23 regard to the order in which the notices were given or enforcement
24 actions were commenced.

25 9452. Nothing in this chapter impairs the right of a claimant
26 to recover from the direct contractor or the contractor's sureties
27 in an action on a payment bond under Chapter 5 (commencing
28 with Section 9550) any deficit that remains unpaid after the
29 distribution under Section 9450.

30 9454. A person that willfully gives a false stop payment notice
31 to the public entity or that willfully includes in the notice work
32 not provided for the public works contract for which the stop
33 payment notice is given forfeits all right to participate in the
34 distribution under Section 9450.

35 9456. (a) A stop payment notice takes priority over an
36 assignment by a direct contractor of any amount due or to become
37 due pursuant to a public works contract, including contract changes,
38 whether made before or after the giving of a stop payment notice,
39 and the assignment has no effect on the rights of the claimant.

1 (b) Any garnishment of an amount due or to become due
2 pursuant to a public works contract by a creditor of a direct
3 contractor under Article 8 (commencing with Section 708.710) of
4 Chapter 6 of Division 2 of Title 9 of Part 2 of the Code of Civil
5 Procedure and any statutory lien on that amount is subordinate to
6 the rights of a claimant.

7
8 Article 4. Enforcement of Payment of Claim Stated in Stop
9 Payment Notice

10
11 9500. (a) A claimant may not enforce payment of the claim
12 stated in a stop payment notice unless the claimant has complied
13 with all of the following conditions:

14 (1) The claimant has given preliminary notice to the extent
15 required by Chapter 3 (commencing with Section 9300).

16 (2) The claimant has given the stop payment notice within the
17 time provided in Section 9356.

18 (b) The claim filing procedures of Part 3 (commencing with
19 Section 900) of Division 3.6 of Title 1 of the Government Code
20 do not apply to an action under this article.

21 9502. (a) The claimant shall commence an action against the
22 public entity and the direct contractor to enforce payment of the
23 claim stated in a stop payment notice at any time after 10 days
24 from the date the claimant gives the stop payment notice.

25 (b) The claimant shall commence an action against the public
26 entity and the direct contractor to enforce payment of the claim
27 stated in a stop payment notice not later than 90 days after
28 expiration of the time within which a stop payment notice must
29 be given.

30 (c) An action under this section may not be brought to trial or
31 judgment entered before expiration of the time provided in
32 subdivision (b).

33 (d) If a claimant does not commence an action to enforce
34 payment of the claim stated in a stop payment notice within the
35 time provided in subdivision (b), the notice ceases to be effective
36 and the public entity shall release funds withheld pursuant to the
37 notice.

38 9504. Within five days after commencement of an action to
39 enforce payment of the claim stated in a stop payment notice, the
40 claimant shall give notice of commencement of the action to the

1 public entity in the same manner that a stop payment notice is
2 given.

3 9506. If more than one claimant has given a stop payment
4 notice:

5 (a) Any number of claimants may join in the same enforcement
6 action.

7 (b) If claimants commence separate actions, the court that first
8 acquires jurisdiction may order the actions consolidated.

9 (c) On request of the public entity, the court shall require that
10 all claimants be impleaded in one action and shall adjudicate the
11 rights of all parties in the action.

12 9508. Notwithstanding Section 583.420 of the Code of Civil
13 Procedure, if an action to enforce payment of the claim stated in
14 a stop payment notice is not brought to trial within two years after
15 commencement of the action, the court may in its discretion dismiss
16 the action for want of prosecution.

17 9510. A stop payment notice ceases to be effective, and the
18 public entity shall release funds withheld, in either of the following
19 circumstances:

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

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

25
26 CHAPTER 5. PAYMENT BOND

27
28 9550. (a) A direct contractor that is awarded a public works
29 contract involving an expenditure in excess of twenty-five thousand
30 dollars (\$25,000) shall, before commencement of work, give a
31 payment bond to and approved by the officer or public entity by
32 whom the contract was awarded.

33 (b) A public entity shall state in its call for bids that a payment
34 bond is required for a public works contract involving an
35 expenditure in excess of twenty-five thousand dollars (\$25,000).

36 (c) A payment bond given and approved under this section will
37 permit performance of and provide coverage for work pursuant to
38 a public works contract that supplements the contract for which
39 the bond is given, if the requirement of a new bond is waived by
40 the public entity.

1 (d) For the purpose of this section, a design professional is not
2 deemed a direct contractor and is not required to give a payment
3 bond.

4 (e) This section does not apply to a public works contract with
5 a “state entity” as defined in subdivision (d) of Section 7103 of
6 the Public Contract Code.

7 9552. If a payment bond is not given and approved as required
8 by Section 9550:

9 (a) Neither the public entity awarding the public works contract
10 nor any officer of the public entity shall audit, allow, or pay a claim
11 of the direct contractor pursuant to the contract.

12 (b) A claimant shall receive payment of a claim pursuant to a
13 stop payment notice in the manner provided by Chapter 4
14 (commencing with Section 9350).

15 9554. (a) A payment bond shall be in an amount not less than
16 100 percent of the total amount payable pursuant to the public
17 works contract. The bond shall be in the form of a bond and not a
18 deposit in lieu of a bond. The bond shall be executed by an
19 admitted surety insurer.

20 (b) The payment bond shall provide that if the direct contractor
21 or a subcontractor fails to pay any of the following, the surety will
22 pay the obligation and, if an action is brought to enforce the
23 liability on the bond, a reasonable attorney’s fee, to be fixed by
24 the court:

25 (1) A person authorized under Section 9100 to assert a claim
26 against a payment bond.

27 (2) Amounts due under the Unemployment Insurance Code with
28 respect to work or labor performed pursuant to the public works
29 contract.

30 (3) Amounts required to be deducted, withheld, and paid over
31 to the Employment Development Department from the wages of
32 employees of the contractor and subcontractors under Section
33 13020 of the Unemployment Insurance Code with respect to the
34 work and labor.

35 (c) The payment bond shall be conditioned for the payment in
36 full of the claims of all claimants and by its terms inure to the
37 benefit of any person authorized under Section 9100 to assert a
38 claim against a payment bond so as to give a right of action to that
39 person or that person’s assigns in an action to enforce the liability
40 on the bond.

1 (d) The direct contractor may require that a subcontractor give
2 a bond to indemnify the direct contractor for any loss sustained
3 by the direct contractor because of any default of the subcontractor
4 under this section.

5 9558. A claimant may commence an action to enforce the
6 liability on the bond at any time after the claimant ceases to provide
7 work, but not later than six months after the period in which a stop
8 payment notice may be given under Section 9356.

9 9562. Notice to the principal and surety under Section 9560
10 shall comply with the requirements of Chapter 2 (commencing
11 with Section 8100) of Title 1.

12 9564. (a) A claimant may maintain an action to enforce the
13 liability of a surety on a payment bond whether or not the claimant
14 has given the public entity a stop payment notice.

15 (b) A claimant may maintain an action to enforce the liability
16 on the bond separately from and without commencement of an
17 action against the public entity by whom the contract was awarded
18 or against any officer of the public entity.

19 (c) In an action to enforce the liability on the bond, the court
20 shall award the prevailing party a reasonable attorney's fee.

21 9566. (a) A claimant does not have a right to recover on a
22 payment bond unless the claimant provided work to the direct
23 contractor either directly or through one or more subcontractors
24 pursuant to a public works contract.

25 (b) Nothing in this section affects the stop payment notice rights
26 of, and relative priorities among, design professionals.

27 SEC. 20.1. Section 9560 is added to the Civil Code, to read:

28 9560. (a) In order to enforce a claim against a payment bond,
29 a claimant shall give the preliminary notice provided in Chapter
30 3 (commencing with Section 9300).

31 (b) If preliminary notice was not given as provided in Chapter
32 3 (commencing with Section 9300), a claimant may enforce a
33 claim by giving written notice to the surety and bond principal
34 within 15 days after recordation of a notice of completion. If no
35 notice of completion has been recorded, the time for giving written
36 notice to the surety and the bond principal is extended to 75 days
37 after completion of the work of improvement.

38 SEC. 20.2. Section 9560 is added to the Civil Code, to read:

1 9560. (a) In order to enforce a claim against a payment bond,
2 a claimant shall give the preliminary notice provided in Chapter
3 3 (commencing with Section 9300).

4 (b) If preliminary notice was not given as provided in Chapter
5 3 (commencing with Section 9300), a claimant may enforce a
6 claim by giving written notice to the surety and the bond principal
7 prior to completion of the work of improvement, or recordation
8 of notice of completion, whichever is later.

9 (c) Prior to completion of a work of improvement or recordation
10 of a notice of completion, a public entity shall give notice of
11 pending completion to each subcontractor that has given
12 preliminary notice as provided in Chapter 3 (commencing with
13 Section 9300). The notice of pending completion shall comply
14 with the requirements of Chapter 2 (commencing with Section
15 8100) of Title 1.

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 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 9100 of the
22 Civil Code. In ascertaining the sums due or to become due to such
23 persons, only claims which are filed against the moneys due or to
24 become due to the judgment debtor in accordance with Chapter 4
25 (commencing with Section 9350) of Title 3 of Part 6 of Division
26 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 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 8004
5 of the Civil Code, in exchange for the claimant's waiver or release
6 of any potential or asserted claim of lien, stop payment notice, or
7 right to recover on a payment bond, or any combination thereof.

8 (8) To the extent that the transfer was a bona fide payment of
9 a debt to a spouse, former spouse, or child of the debtor, for
10 alimony to, maintenance for, or support of, the spouse or child, in
11 connection with a separation agreement, divorce decree, or other
12 order of a court of record, or a determination made in accordance
13 with state or territorial law by a governmental unit, or property
14 settlement agreement; but not to the extent that either of the
15 following occurs:

16 (A) The debt is assigned to another entity voluntarily, by
17 operation of law or otherwise, in which case the assignee may not
18 recover that portion of the transfer that is assigned to the state or
19 any political subdivision of the state pursuant to Part D of Title
20 IV of the Social Security Act (42 U.S.C. Sec. 601 et seq.) and
21 passed on to the spouse, former spouse, or child of the debtor.

22 (B) The debt includes a liability designated as alimony,
23 maintenance, or support, unless the liability is actually in the nature
24 of alimony, maintenance, or support.

25 (d) An assignee of any general assignment for the benefit of
26 creditors, as defined in Section 493.010, may avoid a transfer of
27 property of the assignor transferred to secure reimbursement of a
28 surety that furnished a bond or other obligation to dissolve a
29 judicial lien that would have been avoidable by the assignee under
30 subdivision (b). The liability of the surety under the bond or
31 obligation shall be discharged to the extent of the value of the
32 property recovered by the assignee or the amount paid to the
33 assignee.

34 (e) (1) For the purposes of this section:

35 (A) A transfer of real property other than fixtures, but including
36 the interest of a seller or purchaser under a contract for the sale of
37 real property, is perfected when a bona fide purchaser of the
38 property from the debtor, against whom applicable law permits
39 the transfer to be perfected, cannot acquire an interest that is
40 superior to the interest of the transferee.

1 (B) A transfer of a fixture or property other than real property
2 is perfected when a creditor on a simple contract cannot acquire
3 a judicial lien that is superior to the interest of the transferee.

4 (2) For the purposes of this section, except as provided in
5 paragraph (3), a transfer is made at any of the following times:

6 (A) At the time the transfer takes effect between the transferor
7 and the transferee, if the transfer is perfected at, or within 10 days
8 after, the time, except as provided in subparagraph (B) of paragraph
9 (3) of subdivision (c).

10 (B) At the time the transfer is perfected, if the transfer is
11 perfected after the 10 days.

12 (C) Immediately before the date of making the assignment if
13 the transfer is not perfected at the later of:

14 (i) The making of the assignment.

15 (ii) Ten days after the transfer takes effect between the transferor
16 and the transferee.

17 (3) For the purposes of this section, a transfer is not made until
18 the assignor has acquired rights in the property transferred.

19 (f) For the purposes of this section, the assignor is presumed to
20 have been insolvent on and during the 90 days immediately
21 preceding the date of making the assignment.

22 (g) An action by an assignee under this section must be
23 commenced within one year after making the assignment.

24 SEC. 27. Section 17307.5 of the Education Code is amended
25 to read:

26 17307.5. (a) Notwithstanding any provision of law to the
27 contrary, including, but not limited to, Title 3 (commencing with
28 Section 9000) of Part 6 of Division 4 of the Civil Code, the
29 Department of General Services may issue a stop work order when
30 construction work on a public school is not being performed in
31 accordance with existing law and would compromise the structural
32 integrity of the building, thereby endangering the public safety.
33 The Department of General Services shall allow construction of
34 incidental and minor nonstructural additions or nonstructural
35 alterations without invoking its stop work authority.

36 (b) A school district, county superintendent of schools, county
37 board of education, or other public board, body, or officer whose
38 construction work on a public school is subject to a stop work
39 order issued pursuant to subdivision (a) shall not be held liable in
40 any action filed against the public board, body, or officer for

1 stopping work as required by the stop work order, or for any delays
2 caused by compliance with the stop work order, except to the extent
3 that an error or omission by the public board, body, or officer is
4 the basis for the issuance of the stop work order.

5 SEC. 28. Section 81133.5 of the Education Code is amended
6 to read:

7 81133.5. (a) Notwithstanding any provision of law to the
8 contrary, including, but not limited to, Title 3 (commencing with
9 Section 9000) of Part 6 of Division 4 of the Civil Code, the
10 Department of General Services may issue a stop work order when
11 construction work on a community college is not being performed
12 in accordance with existing law and would compromise the
13 structural integrity of the building, thereby endangering the public
14 safety. The Department of General Services shall allow
15 construction of incidental and minor nonstructural additions or
16 nonstructural alterations without invoking its stop work authority.

17 (b) A community college district or other public board, body,
18 or officer whose construction work on a community college is
19 subject to a stop work order issued pursuant to subdivision (a)
20 shall not be held liable in any action filed against the public board,
21 body, or officer for stopping work as required by the stop work
22 order, or for any delays caused by compliance with the stop work
23 order, except to the extent that an error or omission by the public
24 board, body, or officer is that basis for the issuance of the stop
25 work order.

26 SEC. 29. Section 7480 of the Government Code, as amended
27 by Section 1 of Chapter 234 of the Statutes of 2008, is amended
28 to read:

29 7480. Nothing in this chapter shall prohibit any of the
30 following:

31 (a) The dissemination of any financial information that is not
32 identified with, or identifiable as being derived from, the financial
33 records of a particular customer.

34 (b) When any police or sheriff's department or district attorney
35 in this state certifies to a bank, credit union, or savings association
36 in writing that a crime report has been filed that involves the
37 alleged fraudulent use of drafts, checks, access cards, or other
38 orders drawn upon any bank, credit union, or savings association
39 in this state, the police or sheriff's department or district attorney,
40 a county adult protective services office when investigating the

1 financial abuse of an elder or dependent adult, or a long-term care
2 ombudsman when investigating the financial abuse of an elder or
3 dependent adult, may request a bank, credit union, or savings
4 association to furnish, and a bank, credit union, or savings
5 association shall furnish, a statement setting forth the following
6 information with respect to a customer account specified by the
7 requesting party for a period 30 days prior to, and up to 30 days
8 following, the date of occurrence of the alleged illegal act involving
9 the account:

- 10 (1) The number of items dishonored.
- 11 (2) The number of items paid that created overdrafts.
- 12 (3) The dollar volume of the dishonored items and items paid
13 which created overdrafts and a statement explaining any credit
14 arrangement between the bank, credit union, or savings association
15 and customer to pay overdrafts.
- 16 (4) The dates and amounts of deposits and debits and the account
17 balance on these dates.
- 18 (5) A copy of the signature card, including the signature and
19 any addresses appearing on a customer's signature card.
- 20 (6) The date the account opened and, if applicable, the date the
21 account closed.
- 22 (7) Surveillance photographs and video recordings of persons
23 accessing the crime victim's financial account via an automated
24 teller machine (ATM) or from within the financial institution for
25 dates on which illegal acts involving the account were alleged to
26 have occurred. Nothing in this paragraph does any of the following:
 - 27 (A) Requires a financial institution to produce a photograph or
28 video recording if it does not possess the photograph or video
29 recording.
 - 30 (B) Affects any existing civil immunities as provided in Section
31 47 of the Civil Code or any other provision of law.
- 32 (8) A bank, credit union, or savings association that provides
33 the requesting party with copies of one or more complete account
34 statements prepared in the regular course of business shall be
35 deemed to be in compliance with paragraphs (1), (2), (3), and (4).
- 36 (c) When any police or sheriff's department or district attorney
37 in this state certifies to a bank, credit union, or savings association
38 in writing that a crime report has been filed that involves the
39 alleged fraudulent use of drafts, checks, access cards, or other
40 orders drawn upon any bank, credit union, or savings association

1 doing business in this state, the police or sheriff's department or
2 district attorney, a county adult protective services office when
3 investigating the financial abuse of an elder or dependent adult,
4 or a long-term care ombudsman when investigating the financial
5 abuse of an elder or dependent adult, may request, with the consent
6 of the accountholder, the bank, credit union, or savings association
7 to furnish, and the bank, credit union, or savings association shall
8 furnish, a statement setting forth the following information with
9 respect to a customer account specified by the requesting party for
10 a period 30 days prior to, and up to 30 days following, the date of
11 occurrence of the alleged illegal act involving the account:

- 12 (1) The number of items dishonored.
- 13 (2) The number of items paid that created overdrafts.
- 14 (3) The dollar volume of the dishonored items and items paid
15 which created overdrafts and a statement explaining any credit
16 arrangement between the bank, credit union, or savings association
17 and customer to pay overdrafts.
- 18 (4) The dates and amounts of deposits and debits and the account
19 balance on these dates.
- 20 (5) A copy of the signature card, including the signature and
21 any addresses appearing on a customer's signature card.
- 22 (6) The date the account opened and, if applicable, the date the
23 account closed.
- 24 (7) Surveillance photographs and video recordings of persons
25 accessing the crime victim's financial account via an automated
26 teller machine (ATM) or from within the financial institution for
27 dates on which illegal acts involving this account were alleged to
28 have occurred. Nothing in this paragraph does any of the following:
 - 29 (A) Requires a financial institution to produce a photograph or
30 video recording if it does not possess the photograph or video
31 recording.
 - 32 (B) Affects any existing civil immunities as provided in Section
33 47 of the Civil Code or any other provision of law.
- 34 (8) A bank, credit union, or savings association doing business
35 in this state that provides the requesting party with copies of one
36 or more complete account statements prepared in the regular course
37 of business shall be deemed to be in compliance with paragraphs
38 (1), (2), (3), and (4).
- 39 (d) For purposes of subdivision (c), consent of the accountholder
40 shall be satisfied if an accountholder provides to the financial

1 institution and the person or entity seeking disclosure, a signed
2 and dated statement containing all of the following:

3 (1) Authorization of the disclosure for the period specified in
4 subdivision (c).

5 (2) The name of the agency or department to which disclosure
6 is authorized and, if applicable, the statutory purpose for which
7 the information is to be obtained.

8 (3) A description of the financial records that are authorized to
9 be disclosed.

10 (e) (1) The Attorney General, a supervisory agency, the
11 Franchise Tax Board, the State Board of Equalization, the
12 Employment Development Department, the Controller or an
13 inheritance tax referee when administering the Prohibition of Gift
14 and Death Taxes (Part 8 (commencing with Section 13301) of
15 Division 2 of the Revenue and Taxation Code), a police or sheriff's
16 department or district attorney, a county adult protective services
17 office when investigating the financial abuse of an elder or
18 dependent adult, a long-term care ombudsman when investigating
19 the financial abuse of an elder or dependent adult, a county welfare
20 department when investigating welfare fraud, a county
21 auditor-controller or director of finance when investigating fraud
22 against the county, or the Department of Corporations when
23 conducting investigations in connection with the enforcement of
24 laws administered by the Commissioner of Corporations, from
25 requesting of an office or branch of a financial institution, and the
26 office or branch from responding to a request, as to whether a
27 person has an account or accounts at that office or branch and, if
28 so, any identifying numbers of the account or accounts.

29 (2) No additional information beyond that specified in this
30 section shall be released to a county welfare department without
31 either the accountholder's written consent or a judicial writ, search
32 warrant, subpoena, or other judicial order.

33 (3) A county auditor-controller or director of finance who
34 unlawfully discloses information he or she is authorized to request
35 under this subdivision is guilty of the unlawful disclosure of
36 confidential data, a misdemeanor, which shall be punishable as
37 set forth in Section 7485.

38 (f) The examination by, or disclosure to, any supervisory agency
39 of financial records that relate solely to the exercise of its
40 supervisory function. The scope of an agency's supervisory

1 function shall be determined by reference to statutes that grant
2 authority to examine, audit, or require reports of financial records
3 or financial institutions as follows:

4 (1) With respect to the Commissioner of Financial Institutions
5 by reference to Division 1 (commencing with Section 99), Division
6 1.5 (commencing with Section 4800), Division 2 (commencing
7 with Section 5000), Division 5 (commencing with Section 14000),
8 Division 7 (commencing with Section 18000), Division 15
9 (commencing with Section 31000), and Division 16 (commencing
10 with Section 33000), of the Financial Code.

11 (2) With respect to the Controller by reference to Title 10
12 (commencing with Section 1300) of Part 3 of the Code of Civil
13 Procedure.

14 (3) With respect to the Administrator of Local Agency Security
15 by reference to Article 2 (commencing with Section 53630) of
16 Chapter 4 of Part 1 of Division 2 of Title 5 of the Government
17 Code.

18 (g) The disclosure to the Franchise Tax Board of (1) the amount
19 of any security interest that a financial institution has in a specified
20 asset of a customer or (2) financial records in connection with the
21 filing or audit of a tax return or tax information return that are
22 required to be filed by the financial institution pursuant to Part 10
23 (commencing with Section 17001), Part 11 (commencing with
24 Section 23001), or Part 18 (commencing with Section 38001), of
25 the Revenue and Taxation Code.

26 (h) The disclosure to the State Board of Equalization of any of
27 the following:

28 (1) The information required by Sections 6702, 6703, 8954,
29 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155,
30 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404,
31 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the
32 Revenue and Taxation Code.

33 (2) The financial records in connection with the filing or audit
34 of a tax return required to be filed by the financial institution
35 pursuant to Part 1 (commencing with Section 6001), Part 2
36 (commencing with Section 7301), Part 3 (commencing with Section
37 8601), Part 13 (commencing with Section 30001), Part 14
38 (commencing with Section 32001), and Part 17 (commencing with
39 Section 37001), of Division 2 of the Revenue and Taxation Code.

1 (3) The amount of any security interest a financial institution
2 has in a specified asset of a customer, if the inquiry is directed to
3 the branch or office where the interest is held.

4 (i) The disclosure to the Controller of the information required
5 by Section 7853 of the Revenue and Taxation Code.

6 (j) The disclosure to the Employment Development Department
7 of the amount of any security interest a financial institution has in
8 a specified asset of a customer, if the inquiry is directed to the
9 branch or office where the interest is held.

10 (k) The disclosure by a construction lender, as defined in Section
11 8006 of the Civil Code, to the Registrar of Contractors, of
12 information concerning the making of progress payments to a
13 prime contractor requested by the registrar in connection with an
14 investigation under Section 7108.5 of the Business and Professions
15 Code.

16 (l) Upon receipt of a written request from a local child support
17 agency referring to a support order pursuant to Section 17400 of
18 the Family Code, a financial institution shall disclose the following
19 information concerning the account or the person named in the
20 request, whom the local child support agency shall identify,
21 whenever possible, by social security number:

22 (1) If the request states the identifying number of an account at
23 a financial institution, the name of each owner of the account.

24 (2) Each account maintained by the person at the branch to
25 which the request is delivered, and, if the branch is able to make
26 a computerized search, each account maintained by the person at
27 any other branch of the financial institution located in this state.

28 (3) For each account disclosed pursuant to paragraphs (1) and
29 (2), the account number, current balance, street address of the
30 branch where the account is maintained, and, to the extent available
31 through the branch's computerized search, the name and address
32 of any other person listed as an owner.

33 (4) Whenever the request prohibits the disclosure, a financial
34 institution shall not disclose either the request or its response, to
35 an owner of the account or to any other person, except the officers
36 and employees of the financial institution who are involved in
37 responding to the request and to attorneys, employees of the local
38 child support agencies, auditors, and regulatory authorities who
39 have a need to know in order to perform their duties, and except
40 as disclosure may be required by legal process.

1 (5) No financial institution, or any officer, employee, or agent
2 thereof, shall be liable to any person for (A) disclosing information
3 in response to a request pursuant to this subdivision, (B) failing to
4 notify the owner of an account, or complying with a request under
5 this paragraph not to disclose to the owner, the request or disclosure
6 under this subdivision, or (C) failing to discover any account owned
7 by the person named in the request pursuant to a computerized
8 search of the records of the financial institution.

9 (6) The local child support agency may request information
10 pursuant to this subdivision only when the local child support
11 agency has received at least one of the following types of physical
12 evidence:

13 (A) Any of the following, dated within the last three years:

14 (i) Form 599.

15 (ii) Form 1099.

16 (iii) A bank statement.

17 (iv) A check.

18 (v) A bank passbook.

19 (vi) A deposit slip.

20 (vii) A copy of a federal or state income tax return.

21 (viii) A debit or credit advice.

22 (ix) Correspondence that identifies the child support obligor by
23 name, the bank, and the account number.

24 (x) Correspondence that identifies the child support obligor by
25 name, the bank, and the banking services related to the account of
26 the obligor.

27 (xi) An asset identification report from a federal agency.

28 (B) A sworn declaration of the custodial parent during the 12
29 months immediately preceding the request that the person named
30 in the request has had or may have had an account at an office or
31 branch of the financial institution to which the request is made.

32 (7) Information obtained by a local child support agency
33 pursuant to this subdivision shall be used only for purposes that
34 are directly connected with the administration of the duties of the
35 local child support agency pursuant to Section 17400 of the Family
36 Code.

37 (m) (1) As provided in paragraph (1) of subdivision (c) of
38 Section 666 of Title 42 of the United States Code, upon receipt of
39 an administrative subpoena on the current federally approved
40 interstate child support enforcement form, as approved by the

1 federal Office of Management and Budget, a financial institution
2 shall provide the information or documents requested by the
3 administrative subpoena.

4 (2) The administrative subpoena shall refer to the current federal
5 Office of Management and Budget control number and be signed
6 by a person who states that he or she is an authorized agent of a
7 state or county agency responsible for implementing the child
8 support enforcement program set forth in Part D (commencing
9 with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the
10 United States Code. A financial institution may rely on the
11 statements made in the subpoena and has no duty to inquire into
12 the truth of any statement in the subpoena.

13 (3) If the person who signs the administrative subpoena directs
14 a financial institution in writing not to disclose either the subpoena
15 or its response to any owner of an account covered by the subpoena,
16 the financial institution shall not disclose the subpoena or its
17 response to the owner.

18 (4) No financial institution, or any officer, employee, or agent
19 thereof, shall be liable to any person for (A) disclosing information
20 or providing documents in response to a subpoena pursuant to this
21 subdivision, (B) failing to notify any owner of an account covered
22 by the subpoena or complying with a request not to disclose to the
23 owner, the subpoena or disclosure under this subdivision, or (C)
24 failing to discover any account owned by the person named in the
25 subpoena pursuant to a computerized search of the records of the
26 financial institution.

27 (n) The dissemination of financial information and records
28 pursuant to any of the following:

29 (1) Compliance by a financial institution with the requirements
30 of Section 2892 of the Probate Code.

31 (2) Compliance by a financial institution with the requirements
32 of Section 2893 of the Probate Code.

33 (3) An order by a judge upon a written ex parte application by
34 a peace officer showing specific and articulable facts that there
35 are reasonable grounds to believe that the records or information
36 sought are relevant and material to an ongoing investigation of a
37 felony violation of Section 186.10 or of any felony subject to the
38 enhancement set forth in Section 186.11.

1 (A) The ex parte application shall specify with particularity the
2 records to be produced, which shall be only those of the individual
3 or individuals who are the subject of the criminal investigation.

4 (B) The ex parte application and any subsequent judicial order
5 shall be open to the public as a judicial record unless ordered sealed
6 by the court, for a period of 60 days. The sealing of these records
7 may be extended for 60-day periods upon a showing to the court
8 that it is necessary for the continuance of the investigation.
9 Sixty-day extensions may continue for up to one year or until
10 termination of the investigation of the individual or individuals,
11 whichever is sooner.

12 (C) The records ordered to be produced shall be returned to the
13 peace officer applicant or his or her designee within a reasonable
14 time period after service of the order upon the financial institution.

15 (D) Nothing in this subdivision shall preclude the financial
16 institution from notifying a customer of the receipt of the order
17 for production of records unless a court orders the financial
18 institution to withhold notification to the customer upon a finding
19 that the notice would impede the investigation.

20 (E) Where a court has made an order pursuant to this paragraph
21 to withhold notification to the customer under this paragraph, the
22 peace officer or law enforcement agency who obtained the financial
23 information shall notify the customer by delivering a copy of the
24 ex parte order to the customer within 10 days of the termination
25 of the investigation.

26 (4) No financial institution, or any officer, employee, or agent
27 thereof, shall be liable to any person for any of the following:

28 (A) Disclosing information to a probate court pursuant to
29 Sections 2892 and 2893.

30 (B) Disclosing information in response to a court order pursuant
31 to paragraph (3).

32 (C) Complying with a court order under this subdivision not to
33 disclose to the customer, the order, or the dissemination of
34 information pursuant to the court order.

35 (o) Disclosure by a financial institution to a peace officer, as
36 defined in Section 830.1 of the Penal Code, pursuant to the
37 following:

38 (1) Paragraph (1) of subdivision (a) of Section 1748.95 of the
39 Civil Code, provided that the financial institution has first complied

1 with the requirements of paragraph (2) of subdivision (a) and
2 subdivision (b) of Section 1748.95 of the Civil Code.

3 (2) Paragraph (1) of subdivision (a) of Section 4002 of the
4 Financial Code, provided that the financial institution has first
5 complied with the requirements of paragraph (2) of subdivision
6 (a) and subdivision (b) of Section 4002 of the Financial Code.

7 (3) Paragraph (1) of subdivision (a) of Section 22470 of the
8 Financial Code, provided that any financial institution that is a
9 finance lender has first complied with the requirements of
10 paragraph (2) of subdivision (a) and subdivision (b) of Section
11 22470 of the Financial Code.

12 (p) When the governing board of the Public Employees'
13 Retirement System or the State Teachers' Retirement System
14 certifies in writing to a financial institution that a benefit recipient
15 has died and that transfers to the benefit recipient's account at the
16 financial institution from the retirement system occurred after the
17 benefit recipient's date of death, the financial institution shall
18 furnish the retirement system with the name and address of any
19 coowner, cosigner, or any other person who had access to the funds
20 in the account following the date of the benefit recipient's death,
21 or if the account has been closed, the name and address of the
22 person who closed the account.

23 (q) When the retirement board of a retirement system established
24 under the County Employees Retirement Law of 1937 certifies in
25 writing to a financial institution that a retired member or the
26 beneficiary of a retired member has died and that transfers to the
27 account of the retired member or beneficiary of a retired member
28 at the financial institution from the retirement system occurred
29 after the date of death of the retired member or beneficiary of a
30 retired member, the financial institution shall furnish the retirement
31 system with the name and address of any coowner, cosigner, or
32 any other person who had access to the funds in the account
33 following the date of death of the retired member or beneficiary
34 of a retired member, or if the account has been closed, the name
35 and address of the person who closed the account.

36 (r) When the Franchise Tax Board certifies in writing to a
37 financial institution that (1) a taxpayer filed a tax return that
38 authorized a direct deposit refund with an incorrect financial
39 institution account or routing number that resulted in all or a
40 portion of the refund not being received, directly or indirectly, by

1 the taxpayer; (2) the direct deposit refund was not returned to the
 2 Franchise Tax Board; and (3) the refund was deposited directly
 3 on a specified date into the account of an accountholder of the
 4 financial institution who was not entitled to receive the refund,
 5 then the financial institution shall furnish to the Franchise Tax
 6 Board the name and address of any coowner, cosigner, or any other
 7 person who had access to the funds in the account following the
 8 date of direct deposit refund, or if the account has been closed, the
 9 name and address of the person who closed the account.

10 SEC. 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 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 8182 or 9204 of the Civil
25 Code, before an instrument can be recorded its execution shall be
26 acknowledged by the person executing it, or if executed by a
27 corporation, by its president or secretary or other person executing
28 it on behalf of the corporation, or, except for any quitclaim deed
29 or grant deed other than a trustee’s deed or a deed of reconveyance,
30 mortgage, deed of trust, or security agreement, proved by
31 subscribing witness or as provided in Sections 1198 and 1199 of
32 the Civil Code, and the acknowledgment or proof certified as
33 prescribed by law.

34 SEC. 34. Section 27361.9 of the Government Code is amended
35 to read:

36 27361.9. The board of supervisors of any county may provide
37 for an additional fee for filing every preliminary notice pursuant
38 to subdivision (a) of Section 8214 of the Civil Code for the
39 exclusive purpose of defraying the cost of implementing and

1 maintaining a system to facilitate compliance with subdivision (b)
2 of Section 8214 of the Civil Code.

3 SEC. 35. Section 66499.2 of the Government Code is amended
4 to read:

5 66499.2. A bond or bonds by one or more duly authorized
6 corporate sureties for the security of laborers and material suppliers
7 shall be in substantially the following form:

8 Whereas, The Board of Supervisors of the County of ____ (or
9 City Council of the City of ____), State of California, and ____
10 (hereinafter designated as “the principal”) have entered into an
11 agreement whereby the principal agrees to install and complete
12 certain designated public improvements, which agreement, dated
13 ____, 20__, and identified as project ____, is hereby referred to and
14 made a part hereof; and

15 Whereas, Under the terms of the agreement, the principal is
16 required before entering upon the performance of the work, to file
17 a good and sufficient payment bond with the County of ____ (or
18 the City of ____) to secure the claims to which reference is made
19 in Title 3 (commencing with Section 9000) of Part 6 of Division
20 4 of the Civil Code.

21 Now, therefore, the principal and the undersigned as corporate
22 surety, are held firmly bound unto the County of ____ (or the City
23 of ____) and all contractors, subcontractors, laborers, material
24 suppliers, and other persons employed in the performance of the
25 agreement and referred to in Title 3 (commencing with Section
26 9000) of Part 6 of Division 4 of the Civil Code in the sum of ____
27 dollars (\$____), for materials furnished or labor thereon of any
28 kind, or for amounts due under the Unemployment Insurance Act
29 with respect to this work or labor, that the surety will pay the same
30 in an amount not exceeding the amount hereinabove set forth, and
31 also in case suit is brought upon this bond, will pay, in addition to
32 the face amount thereof, costs and reasonable expenses and fees,
33 including reasonable attorney’s fees, incurred by county (or city)
34 in successfully enforcing this obligation, to be awarded and fixed
35 by the court, and to be taxed as costs and to be included in the
36 judgment therein rendered.

37 It is hereby expressly stipulated and agreed that this bond shall
38 inure to the benefit of any and all persons, companies, and
39 corporations entitled to file claims under Title 3 (commencing
40 with Section 9000) of Part 6 of Division 4 of the Civil Code, so

1 as to give a right of action to them or their assigns in any suit
2 brought upon this bond.

3 Should the condition of this bond be fully performed, then this
4 obligation shall become null and void, otherwise it shall be and
5 remain in full force and effect.

6 The surety hereby stipulates and agrees that no change, extension
7 of time, alteration, or addition to the terms of the agreement or the
8 specifications accompanying the same shall in any manner affect
9 its obligations on this bond, and it does hereby waive notice of
10 any such change, extension, alteration, or addition.

11 In witness whereof, this instrument has been duly executed by
12 the principal and surety above named, on _____, 20__.

13 SEC. 36. Section 66499.7 of the Government Code is amended
14 to read:

15 66499.7. The security furnished by the subdivider shall be
16 released in whole or in part in the following manner:

17 (a) Security given for faithful performance of any act or
18 agreement shall be released upon the performance of the act or
19 final completion and acceptance of the required work. The
20 legislative body may provide for the partial release of the security
21 upon the partial performance of the act or the acceptance of the
22 work as it progresses, consistent with the provisions of this section.
23 The security may be a surety bond, a cash deposit, a letter of credit,
24 escrow account, or other form of performance guarantee required
25 as security by the legislative body that meets the requirements as
26 acceptable security pursuant to law. If the security furnished by
27 the subdivider is a documentary evidence of security such as a
28 surety bond or a letter of credit, the legislative body shall release
29 the documentary evidence and return the original to the issuer upon
30 performance of the act or final completion and acceptance of the
31 required work. In the event that the legislative body is unable to
32 return the original documentary evidence to the issuer, the security
33 shall be released by written notice sent by certified mail to the
34 subdivider and issuer of the documentary evidence within 30 days
35 of the acceptance of the work. The written notice shall contain a
36 statement that the work for which the security was furnished has
37 been performed or completed and accepted by the legislative body,
38 a description of the project subject to the documentary evidence
39 and the notarized signature of the authorized representative of the
40 legislative body.

1 (b) At the time that the subdivider believes that the obligation
2 to perform the work for which security was required is complete,
3 the subdivider may notify the local agency in writing of the
4 completed work, including a list of work completed. Upon receipt
5 of the written notice, the local agency shall have 45 days to review
6 and comment or approve the completion of the required work. If
7 the local agency does not agree that all work has been completed
8 in accordance with the plans and specifications for the
9 improvements, it shall supply a list of all remaining work to be
10 completed.

11 (c) Within 45 days of receipt of the list of remaining work from
12 the local agency, the subdivider may then provide cost estimates
13 for all remaining work for review and approval by the local agency.
14 Upon receipt of the cost estimates, the local agency shall then have
15 45 days to review, comment, and approve, modify, or disapprove
16 those cost estimates. No local agency shall be required to engage
17 in this process of partial release more than once between the start
18 of work and completion and acceptance of all work; however,
19 nothing in this section prohibits a local agency from allowing for
20 a partial release as it otherwise deems appropriate.

21 (d) If the local agency approves the cost estimate, the local
22 agency shall release all performance security except for security
23 in an amount up to 200 percent of the cost estimate of the
24 remaining work. The process allowing for a partial release of
25 performance security shall occur when the cost estimate of the
26 remaining work does not exceed 20 percent of the total original
27 performance security unless the local agency allows for a release
28 at an earlier time. Substitute bonds or other security may be used
29 as a replacement for the performance security, subject to the
30 approval of the local agency. If substitute bonds or other security
31 is used as a replacement for the performance security released, the
32 release shall not be effective unless and until the local agency
33 receives and approves that form of replacement security. A
34 reduction in the performance security, authorized under this section,
35 is not, and shall not be deemed to be, an acceptance by the local
36 agency of the completed improvements, and the risk of loss or
37 damage to the improvements and the obligation to maintain the
38 improvements shall remain the sole responsibility of the subdivider
39 until all required public improvements have been accepted by the
40 local agency and all other required improvements have been fully

1 completed in accordance with the plans and specifications for the
2 improvements.

3 (e) The subdivider shall complete the works of improvement
4 until all remaining items are accepted by the local agency.

5 (f) Upon the completion of the improvements, the subdivider,
6 or his or her assigns, shall be notified in writing by the local agency
7 within 45 days.

8 (g) Within 45 days of the issuance of the notification by the
9 local agency, the release of any remaining performance security
10 shall be placed upon the agenda of the legislative body of the local
11 agency for approval of the release of any remaining performance
12 security. If the local agency delegates authority for the release of
13 performance security to a public official or other employee, any
14 remaining performance security shall be released within 60 days
15 of the issuance of the written statement of completion.

16 (h) Security securing the payment to the contractor, his or her
17 subcontractors and to persons furnishing labor, materials or
18 equipment shall, after passage of the time within which claims of
19 lien are required to be recorded pursuant to Article 2 (commencing
20 with Section 8410) of Chapter 4 of Title 2 of Part 6 of Division 4
21 of the Civil Code and after acceptance of the work, be reduced to
22 an amount equal to the total claimed by all claimants for whom
23 claims of lien have been recorded and notice thereof given in
24 writing to the legislative body, and if no claims have been recorded,
25 the security shall be released in full.

26 (i) The release shall not apply to any required guarantee and
27 warranty period required by Section 66499.9 for the guarantee or
28 warranty nor to the amount of the security deemed necessary by
29 the local agency for the guarantee and warranty period nor to costs
30 and reasonable expenses and fees, including reasonable attorneys'
31 fees.

32 (j) The legislative body may authorize any of its public officers
33 or employees to authorize release or reduction of the security in
34 accordance with the conditions hereinabove set forth and in
35 accordance with any rules that it may prescribe.

36 (k) This section shall remain in effect only until January 1, 2011,
37 and as of that date is repealed, unless a later enacted statute, that
38 is enacted before January 1, 2011, deletes or extends that date.

39 SEC. 37. Section 5463 of the Health and Safety Code is
40 amended to read:

1 5463. Any health officer or governing board of any city, county,
2 sanitary district, or other district having the power to operate and
3 maintain a sewerage system, having served written notice upon
4 the owner or reputed owner of land upon which there is a dwelling
5 house, and the owner or reputed owner, after 30 days, having
6 refused, neglected, or failed to connect the dwelling house, together
7 with all toilets, sinks, and other plumbing therein, properly vented,
8 and in a sanitary manner, with the adjoining street sewer, may
9 construct the same at a reasonable cost, and the person doing that
10 work at the request of the health officer or governing board has a
11 lien upon that real estate for his or her work done and materials
12 furnished, and the work done and materials furnished shall be held
13 to have been done and furnished at the instance of the owner or
14 reputed owner, or person claiming or having any interest therein.
15 The governing board may pay all or any part of the cost or price
16 of such connection to the person or persons who furnished labor,
17 materials, or equipment for the same, and, to the extent the
18 governing board pays the cost or price of the connection, it shall
19 succeed to and have all the rights, including the lien provided for
20 above, of the person or persons against the real estate and against
21 the owner or reputed owner thereof.

22 As an alternative power to the enforcement of the lien provided
23 for in this section, the governing body of the public agency
24 performing the work of connection to the public sewer may, by
25 order entered upon its minutes, declare that the amount of the costs
26 of the work and the administrative expenses incurred by the
27 governing body incident to the proceedings, together with other
28 charges uniformly applicable within the jurisdiction of the
29 governing body for the connection of the premises to the public
30 sewer, shall be transmitted to the assessor and tax collector of the
31 public agency, whereupon it shall be the duty of those officers to
32 add the amount of the assessment to the next regular bill for taxes
33 levied against the lot or parcel of land.

34 The liens provided for by this section shall be enforced in the
35 same manner as those provided for by Part 6 (commencing with
36 Section 8000) of Division 4, of the Civil Code.

37 The governing board may also use the procedures in Section
38 5474 for levying the costs incurred for the construction of the
39 improvements for the connection of the premises to the public
40 sewer.

1 SEC. 38. Section 16017.5 of the Health and Safety Code is
2 amended to read:

3 16017.5. (a) Notwithstanding any provision of law to the
4 contrary, including, but not limited to, Part 6 (commencing with
5 Section 8000) of Division 4 of the Civil Code, the Department of
6 General Services may issue a stop work order when construction
7 work on an essential services facility is not being performed in
8 accordance with existing law and would compromise the structural
9 integrity of the building, thereby endangering the public safety.
10 The Department of General Services shall allow construction of
11 incidental and minor nonstructural additions or nonstructural
12 alterations without invoking its stop work authority.

13 (b) A public board, body, or officer whose construction work
14 on an essential services facility is subject to a stop work order
15 issued pursuant to subdivision (a) shall not be held liable in any
16 action filed against the public board, body, or officer for stopping
17 work as required by the stop work order, or for any delays caused
18 by compliance with the stop work order, except to the extent that
19 an error or omission by the public board, body, or officer is the
20 basis for the issuance of the stop work order.

21 SEC. 39. Section 19825 of the Health and Safety Code is
22 amended to read:

23 19825. (a) Every city, county, or city and county, whether
24 general law or chartered, that requires the issuance of a permit as
25 a condition precedent to the construction, alteration, improvement,
26 demolition, or repair of any building or structure, shall require the
27 execution of a permit application, in substantially the same form
28 set forth under this subdivision, and require any individual who
29 executes the Owner-Builder Declaration to present documentation
30 sufficient to identify the property owner and, as necessary, verify
31 the signature of the property owner. A city, county, or city and
32 county may require additional information on the permit
33 application.

34
35 PERMIT APPLICATION
36 BUILDING PROJECT IDENTIFICATION

37 Applicant’s Mailing Address _____
38 _____
39 _____
40 Property Location or Address

1 _____
 2 Property Owner's Name _____
 3 Property Owner's Telephone No. _____
 4 Licensed Design Professional (Architect or
 5 Engineer) in charge of the project _____
 6 Mailing Address of Licensed Design
 7 Professional _____
 8 _____
 9 License No. _____

11 LICENSED CONTRACTOR'S DECLARATION

12 I hereby affirm under penalty of perjury that I am licensed under provisions
13 of Chapter 9 (commencing with Section 7000) of Division 3 of the Business
14 and Professions Code, and my license is in full force and effect.

15 License Class _____ License No. _____
16 Date _____ Contractor Signature _____

18 OWNER-BUILDER DECLARATION

19 I hereby affirm under penalty of perjury that I am exempt from the
20 Contractors' State License Law for the reason(s) indicated below by the
21 checkmark(s) I have placed next to the applicable item(s) (Section 7031.5,
22 Business and Professions Code: Any city or county that requires a permit to
23 construct, alter, improve, demolish, or repair any structure, prior to its issuance,
24 also requires the applicant for the permit to file a signed statement that he or
25 she is licensed pursuant to the provisions of the Contractors' State License
26 Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business
27 and Professions Code) or that he or she is exempt from licensure and the basis
28 for the alleged exemption. Any violation of Section 7031.5 by any applicant
29 for a permit subjects the applicant to a civil penalty of not more than five
30 hundred dollars (\$500).):

31 () I, as owner of the property, or my employees with wages as their sole
32 compensation, will do () all of or () portions of the work, and the structure
33 is not intended or offered for sale (Section 7044, Business and Professions
34 Code: The Contractors' State License Law does not apply to an owner of
35 property who, through employees' or personal effort, builds or improves the
36 property, provided that the improvements are not intended or offered for sale.
37 If, however, the building or improvement is sold within one year of completion,
38 the Owner-Builder will have the burden of proving that it was not built or
39 improved for the purpose of sale.).

1 () I, as owner of the property, am exclusively contracting with licensed
2 Contractors to construct the project (Section 7044, Business and Professions
3 Code: The Contractors' State License Law does not apply to an owner of
4 property who builds or improves thereon, and who contracts for the projects
5 with a licensed Contractor pursuant to the Contractors' State License Law.).
6

7 () I am exempt from licensure under the Contractors' State License Law for
8 the following reason:
9

10
11 By my signature below I acknowledge that, except for my personal residence
12 in which I must have resided for at least one year prior to completion of the
13 improvements covered by this permit, I cannot legally sell a structure that I
14 have built as an owner-builder if it has not been constructed in its entirety by
15 licensed contractors. I understand that a copy of the applicable law, Section
16 7044 of the Business and Professions Code, is available upon request when
17 this application is submitted or at the following Web site:

18 <http://www.leginfo.ca.gov/calaw.html>.

19 Date _____

20
21 Signature of Property Owner or Authorized Agent
22

23 _____

24
25 **WORKERS' COMPENSATION DECLARATION**

26 **WARNING: FAILURE TO SECURE WORKERS' COMPENSATION**
27 **COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER**
28 **TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED**
29 **THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF**
30 **COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706**
31 **OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.**

32
33 I hereby affirm under penalty of perjury one of the following declarations:
34 ____ I have and will maintain a certificate of consent to self-insure for workers'
35 compensation, issued by the Director of Industrial Relations as provided for
36 by Section 3700 of the Labor Code, for the performance of the work for which
37 this permit is issued.

38 Policy No. _____
39

1 ____ I have and will maintain workers' compensation insurance, as required
2 by Section 3700 of the Labor Code, for the performance of the work for which
3 this permit is issued. My workers' compensation insurance carrier and policy
4 number are:

5
6 Carrier _____ Policy Number _____ Expiration Date _____
7 Name of Agent _____ Phone # _____
8

9 ____ I certify that, in the performance of the work for which this permit is
10 issued, I shall not employ any person in any manner so as to become subject
11 to the workers' compensation laws of California, and agree that, if I should
12 become subject to the workers' compensation provisions of Section 3700 of
13 the Labor Code, I shall forthwith comply with those provisions.

14 _____
15 Signature of Applicant _____ Date _____
16

17 DECLARATION REGARDING CONSTRUCTION LENDING AGENCY

18
19 I hereby affirm under penalty of perjury that there is a construction lending
20 agency for the performance of the work for which this permit is issued (Section
21 8172, Civil Code).

22 Lender's Name _____
23
24 Branch Designation _____
25
26 Lender's Address _____
27

28 By my signature below, I certify to each of the following:
29 I am the property owner or authorized to act on the property owner's behalf.
30 I have read this application and the information I have provided is correct.
31 I agree to comply with all applicable city and county ordinances and state laws
32 relating to building construction.
33 I authorize representatives of this city or county to enter the above-identified
34 property for inspection purposes.
35 Signature of Property Owner or Authorized Agent _____
36 Date _____
37

38 (b) When the Permit Application and the Owner-Builder
39 Declaration have been executed by a person other than the property

1 owner, prior to issuing the permit, the following shall be completed
2 by the property owner and returned to the agency responsible for
3 issuing the permit:

4

5 AUTHORIZATION OF AGENT TO ACT ON PROPERTY OWNER'S
6 BEHALF

7

8 Excluding the Notice to Property Owner, the execution of which I understand
9 is my personal responsibility, I hereby authorize the following person(s) to act
10 as my agent(s) to apply for, sign, and file the documents necessary to obtain
11 an Owner-Builder Permit for my project.

12

13 Scope of Construction Project (or Description of Work):

14 _____

15 Project Location or Address: _____

16 Name of Authorized

17 Agent: _____

18

19 Address of Authorized

20 Agent: _____

21

22 Phone Number of Authorized

23 Agent: _____

24

25 I declare under penalty of perjury that I am the property owner for the address
26 listed above and I personally filled out the above information and certify its
27 accuracy.

28 Property Owner's Signature: _____ Date: _____

29

30 Note: A copy of the owner's driver's license, form notarization, or other
31 verification acceptable to the agency is required to be presented when the
32 permit is issued to verify the property owner's signature.

33

34 (c) When the Owner-Builder Declaration required under
35 subdivision (a) is executed, a Notice to Property Owner also shall
36 be executed by the property owner in substantially the same form
37 set forth under this section. The Notice to Property Owner shall
38 appear on the official letterhead of the issuer and shall be provided
39 to the applicant by one of the following methods chosen by the
40 permitting authority: regular mail, electronic format, or given

1 directly to the applicant at the time the application for the permit
 2 is made. Except as otherwise provided, the Notice to Property
 3 Owner pursuant to this section shall be completed and signed by
 4 the property owner and returned prior to issuance of the permit.
 5 An agent of the owner shall not execute this notice unless the
 6 property owner obtains the prior approval of the permitting
 7 authority. A permit shall not be issued unless the property owner
 8 complies with this section.

9
 10 NOTICE TO PROPERTY OWNER

11 Dear Property Owner:

12 An application for a building permit has been submitted in your name listing
 13 yourself as the builder of the property improvements specified at

14 _____.

15 We are providing you with an Owner-Builder Acknowledgment and
 16 Information Verification Form to make you aware of your responsibilities and
 17 possible risk you may incur by having this permit issued in your name as the
 18 Owner-Builder.

19 We will not issue a building permit until you have read, initialed your
 20 understanding of each provision, signed, and returned this form to us at our
 21 official address indicated. An agent of the owner cannot execute this notice
 22 unless you, the property owner, obtain the prior approval of the permitting
 23 authority.

24
 25 OWNER’S ACKNOWLEDGMENT AND VERIFICATION OF
 26 INFORMATION

27
 28 DIRECTIONS: Read and initial each statement below to signify you understand
 29 or verify this information.

30
 31 ____1. I understand a frequent practice of unlicensed persons is to have the
 32 property owner obtain an “Owner-Builder” building permit that erroneously
 33 implies that the property owner is providing his or her own labor and material
 34 personally. I, as an Owner-Builder, may be held liable and subject to serious
 35 financial risk for any injuries sustained by an unlicensed person and his or her
 36 employees while working on my property. My homeowner’s insurance may
 37 not provide coverage for those injuries. I am willfully acting as an
 38 Owner-Builder and am aware of the limits of my insurance coverage for injuries
 39 to workers on my property.

1 ____2. I understand building permits are not required to be signed by property
2 owners unless they are responsible for the construction and are not hiring a
3 licensed Contractor to assume this responsibility.

4
5 ____3. I understand as an “Owner-Builder” I am the responsible party of record
6 on the permit. I understand that I may protect myself from potential financial
7 risk by hiring a licensed Contractor and having the permit filed in his or her
8 name instead of my own.

9
10 ____4. I understand Contractors are required by law to be licensed and bonded
11 in California and to list their license numbers on permits and contracts.

12
13 ____5. I understand if I employ or otherwise engage any persons, other than
14 California licensed Contractors, and the total value of my construction is at
15 least five hundred dollars (\$500), including labor and materials, I may be
16 considered an “employer” under state and federal law.

17
18 ____6. I understand if I am considered an “employer” under state and federal
19 law, I must register with the state and federal government, withhold payroll
20 taxes, provide workers’ compensation disability insurance, and contribute to
21 unemployment compensation for each “employee.” I also understand my failure
22 to abide by these laws may subject me to serious financial risk.

23
24 ____7. I understand under California Contractors’ State License Law, an
25 Owner-Builder who builds single-family residential structures cannot legally
26 build them with the intent to offer them for sale, unless all work is performed
27 by licensed subcontractors and the number of structures does not exceed four
28 within any calendar year, or all of the work is performed under contract with
29 a licensed general building Contractor.

30
31 ____8. I understand as an Owner-Builder if I sell the property for which this
32 permit is issued, I may be held liable for any financial or personal injuries
33 sustained by any subsequent owner(s) that result from any latent construction
34 defects in the workmanship or materials.

35
36 ____9. I understand I may obtain more information regarding my obligations
37 as an “employer” from the Internal Revenue Service, the United States Small
38 Business Administration, the California Department of Benefit Payments, and
39 the California Division of Industrial Accidents. I also understand I may contact

1 the California Contractors’ State License Board (CSLB) at 1-800-321-CSLB
2 (2752) or www.cslb.ca.gov for more information about licensed contractors.

3
4 ____ 10. I am aware of and consent to an Owner-Builder building permit applied
5 for in my name, and understand that I am the party legally and financially
6 responsible for proposed construction activity at the following address:

7 _____
8

9 ____ 11. I agree that, as the party legally and financially responsible for this
10 proposed construction activity, I will abide by all applicable laws and
11 requirements that govern Owner-Builders as well as employers.

12
13 ____ 12. I agree to notify the issuer of this form immediately of any additions,
14 deletions, or changes to any of the information I have provided on this form.

15
16 Licensed contractors are regulated by laws designed to protect the public. If
17 you contract with someone who does not have a license, the Contractors’ State
18 License Board may be unable to assist you with any financial loss you may
19 sustain as a result of a complaint. Your only remedy against unlicensed
20 Contractors may be in civil court. It is also important for you to understand
21 that if an unlicensed Contractor or employee of that individual or firm is injured
22 while working on your property, you may be held liable for damages. If you
23 obtain a permit as Owner-Builder and wish to hire Contractors, you will be
24 responsible for verifying whether or not those Contractors are properly licensed
25 and the status of their workers’ compensation insurance coverage.

26
27 Before a building permit can be issued, this form must be completed and signed
28 by the property owner and returned to the agency responsible for issuing the
29 permit.

30 Note: A copy of the property owner’s driver’s license, form notarization, or
31 other verification acceptable to the agency is required to be presented when
32 the permit is issued to verify the property owner’s signature.

33
34 Signature of Property Owner _____ Date: _____

35
36 SEC. 39.5. Section 19825 of the Health and Safety Code is
37 amended to read:

38 19825. (a) Every city, county, or city and county, whether
39 general law or chartered, that requires the issuance of a permit as
40 a condition precedent to the construction, alteration, improvement,

1 demolition, or repair of any building or structure, shall require the
 2 execution of a permit application, in substantially the same form
 3 set forth under this subdivision, and require any individual who
 4 executes the Owner-Builder Declaration to present documentation
 5 sufficient to identify the property owner and, as necessary, verify
 6 the signature of the property owner. A city, county, or city and
 7 county may require additional information on the permit
 8 application.

10 PERMIT APPLICATION

11 BUILDING PROJECT IDENTIFICATION

12 Applicant’s Mailing Address _____
 13 _____
 14 _____
 15 Property Location or Address _____
 16 _____
 17 _____
 18 Property Owner’s Name _____
 19 Property Owner’s Telephone No. _____
 20 Licensed Design Professional (Architect or
 21 Engineer) in charge of the project _____
 22 Mailing Address of Licensed Design _____
 23 Professional _____
 24 _____
 25 _____
 26 License No. _____

28 LICENSED CONTRACTOR’S DECLARATION

29 I hereby affirm under penalty of perjury that I am licensed under provisions
 30 of Chapter 9 (commencing with Section 7000) of Division 3 of the Business
 31 and Professions Code, and my license is in full force and effect.
 32 License Class _____ License No. _____
 33 Date _____ Contractor Signature _____

35 OWNER-BUILDER DECLARATION

36 I hereby affirm under penalty of perjury that I am exempt from the Contractors
 37 State License Law for the reason(s) indicated below by the checkmark(s) I
 38 have placed next to the applicable item(s) (Section 7031.5, Business and
 39 Professions Code: Any city or county that requires a permit to construct, alter,
 40 improve, demolish, or repair any structure, prior to its issuance, also requires

1 the applicant for the permit to file a signed statement that he or she is licensed
 2 pursuant to the provisions of the Contractors State License Law (Chapter 9
 3 (commencing with Section 7000) of Division 3 of the Business and Professions
 4 Code) or that he or she is exempt from licensure and the basis for the alleged
 5 exemption. Any violation of Section 7031.5 by any applicant for a permit
 6 subjects the applicant to a civil penalty of not more than five hundred dollars
 7 (~~(\$500);~~ (\$500)):

8 I, as owner of the property, or my employees with wages as their sole
 9 compensation, will do all of or portions of the work, and the structure
 10 is not intended or offered for sale (Section 7044, Business and Professions
 11 Code: The Contractors State License Law does not apply to an owner of
 12 property who, through employees' or personal effort, builds or improves the
 13 property, provided that the improvements are not intended or offered for sale.
 14 If, however, the building or improvement is sold within one year of completion,
 15 the Owner-Builder will have the burden of proving that it was not built or
 16 improved for the purpose of ~~sale;~~ sale).

17
 18 I, as owner of the property, am exclusively contracting with licensed
 19 Contractors to construct the project (Section 7044, Business and Professions
 20 Code: The Contractors State License Law does not apply to an owner of
 21 property who builds or improves thereon, and who contracts for the projects
 22 with a licensed Contractor pursuant to the Contractors State License Law.).

23
 24 I am exempt from licensure under the Contractors State License Law for
 25 the following reason:
 26 _____

27
 28 By my signature below I acknowledge that, except for my personal residence
 29 in which I must have resided for at least one year prior to completion of the
 30 improvements covered by this permit, I cannot legally sell a structure that I
 31 have built as an owner-builder if it has not been constructed in its entirety by
 32 licensed contractors. I understand that a copy of the applicable law, Section
 33 7044 of the Business and Professions Code, is available upon request when
 34 this application is submitted or at the following Web site:

35 <http://www.leginfo.ca.gov/calaw.html>.

36 Date _____

37
 38 Signature of Property Owner or Authorized Agent

39
 40 _____

WORKERS' COMPENSATION DECLARATION

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

I hereby affirm under penalty of perjury one of the following declarations:

I have and will maintain a certificate of consent to self-insure for workers' compensation, issued by the Director of Industrial Relations as provided for by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued.

Policy No. _____

I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My workers' compensation insurance carrier and policy number are:

Carrier _____ Policy Number _____ Expiration Date _____
Name of Agent _____ Phone # _____

I certify that, in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that, if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

Signature of Applicant Date

DECLARATION REGARDING CONSTRUCTION LENDING AGENCY

I hereby affirm under penalty of perjury that there is a construction lending agency for the performance of the work for which this permit is issued (Section 3097.8172, Civil Code).

Lender's Name _____

Lender's Address _____

1
 2 By my signature below, I certify to each of the following:
 3 I am the property owner or authorized to act on the property owner’s behalf.
 4 I have read this application and the information I have provided is correct.
 5 I agree to comply with all applicable city and county ordinances and state laws
 6 relating to building construction.
 7 I authorize representatives of this city or county to enter the above-identified
 8 property for inspection purposes.
 9 Signature of Property Owner or Authorized Agent _____
 10 Date _____

11
 12 (b) When the Permit Application and the Owner-Builder
 13 Declaration have been executed by a person other than the property
 14 owner, prior to issuing the permit, the following shall be completed
 15 by the property owner and returned to the agency responsible for
 16 issuing the permit:

17
 18 AUTHORIZATION OF AGENT TO ACT ON PROPERTY OWNER’S
 19 BEHALF

20
 21 Excluding the Notice to Property Owner, the execution of which I understand
 22 is my personal responsibility, I hereby authorize the following person(s) to act
 23 as my agent(s) to apply for, sign, and file the documents necessary to obtain
 24 an Owner-Builder Permit for my project.

25
 26 Scope of Construction Project (or Description of Work):
 27 _____
 28 Project Location or Address: _____
 29 Name of Authorized
 30 Agent: _____
 31
 32 Address of Authorized
 33 Agent: _____
 34
 35 Phone Number of Authorized
 36 Agent: _____

37
 38 I declare under penalty of perjury that I am the property owner for the address
 39 listed above and I personally filled out the above information and certify its
 40 accuracy.

1 Property Owner’s Signature: _____ Date: _____

2

3 Note: A copy of the owner’s driver’s license, form notarization, or other
4 verification acceptable to the agency is required to be presented when the
5 permit is issued to verify the property owner’s signature.

6

7 (c) When the Owner-Builder Declaration required under
8 subdivision (a) is executed, a Notice to Property Owner also shall
9 be executed by the property owner in substantially the same form
10 set forth under this section. The Notice to Property Owner shall
11 appear on the official letterhead of the issuer and shall be provided
12 to the applicant by one of the following methods chosen by the
13 permitting authority: regular mail, electronic format, or given
14 directly to the applicant at the time the application for the permit
15 is made. Except as otherwise provided, the Notice to Property
16 Owner pursuant to this section shall be completed and signed by
17 the property owner and returned prior to issuance of the permit.
18 An agent of the owner shall not execute this notice unless the
19 property owner obtains the prior approval of the permitting
20 authority. A permit shall not be issued unless the property owner
21 complies with this section.

22

23 NOTICE TO PROPERTY OWNER

24

Dear Property Owner:

25

An application for a building permit has been submitted in your name listing
26 yourself as the builder of the property improvements specified at

27

_____.

28

We are providing you with an Owner-Builder Acknowledgment and
29 Information Verification Form to make you aware of your responsibilities and
30 possible risk you may incur by having this permit issued in your name as the
31 Owner-Builder.

32

We will not issue a building permit until you have read, initialed your
33 understanding of each provision, signed, and returned this form to us at our
34 official address indicated. An agent of the owner cannot execute this notice
35 unless you, the property owner, obtain the prior approval of the permitting
36 authority.

37

38 OWNER’S ACKNOWLEDGMENT AND VERIFICATION OF
39 INFORMATION

40

1 DIRECTIONS: Read and initial each statement below to signify you understand
2 or verify this information.

3
4 ___ 1. I understand a frequent practice of unlicensed persons is to have the
5 property owner obtain an “Owner-Builder” building permit that erroneously
6 implies that the property owner is providing his or her own labor and material
7 personally. I, as an Owner-Builder, may be held liable and subject to serious
8 financial risk for any injuries sustained by an unlicensed person and his or her
9 employees while working on my property. My homeowner’s insurance may
10 not provide coverage for those injuries. I am willfully acting as an
11 Owner-Builder and am aware of the limits of my insurance coverage for injuries
12 to workers on my property.

13
14 ___ 2. I understand building permits are not required to be signed by property
15 owners unless they are responsible for the construction and are not hiring a
16 licensed Contractor to assume this responsibility.

17
18 ___ 3. I understand as an “Owner-Builder” I am the responsible party of record
19 on the permit. I understand that I may protect myself from potential financial
20 risk by hiring a licensed Contractor and having the permit filed in his or her
21 name instead of my own.

22
23 ___ 4. I understand Contractors are required by law to be licensed and bonded
24 in California and to list their license numbers on permits and contracts.

25
26 ___ 5. I understand if I employ or otherwise engage any persons, other than
27 California licensed Contractors, and the total value of my construction is at
28 least five hundred dollars (\$500), including labor and materials, I may be
29 considered an “employer” under state and federal law.

30
31 ___ 6. I understand if I am considered an “employer” under state and federal
32 law, I must register with the state and federal government, withhold payroll
33 taxes, provide workers’ compensation disability insurance, and contribute to
34 unemployment compensation for each “employee.” I also understand my failure
35 to abide by these laws may subject me to serious financial risk.

36
37 ___ 7. I understand under California Contractors State License Law, an
38 Owner-Builder who builds single-family residential structures cannot legally
39 build them with the intent to offer them for sale, unless all work is performed
40 by licensed subcontractors and the number of structures does not exceed four

1 within any calendar year, or all of the work is performed under contract with
2 a licensed general building Contractor.

3
4 ___8. I understand as an Owner-Builder if I sell the property for which this
5 permit is issued, I may be held liable for any financial or personal injuries
6 sustained by any subsequent owner(s) that result from any latent construction
7 defects in the workmanship or materials.

8
9 ___9. I understand I may obtain more information regarding my obligations
10 as an “employer” from the Internal Revenue Service, the United States Small
11 Business Administration, the California Department of Benefit Payments, and
12 the California Division of Industrial Accidents. I also understand I may contact
13 the California Contractors State License Board (CSLB) at 1-800-321-CSLB
14 (2752) or www.cslb.ca.gov for more information about licensed contractors.

15
16 ___10. I am aware of and consent to an Owner-Builder building permit applied
17 for in my name, and understand that I am the party legally and financially
18 responsible for proposed construction activity at the following address:

19 _____
20

21 ___11. I agree that, as the party legally and financially responsible for this
22 proposed construction activity, I will abide by all applicable laws and
23 requirements that govern Owner-Builders as well as employers.

24
25 ___12. I agree to notify the issuer of this form immediately of any additions,
26 deletions, or changes to any of the information I have provided on this form.

27
28 Licensed contractors are regulated by laws designed to protect the public. If
29 you contract with someone who does not have a license, the Contractors State
30 License Board may be unable to assist you with any financial loss you may
31 sustain as a result of a complaint. Your only remedy against unlicensed
32 Contractors may be in civil court. It is also important for you to understand
33 that if an unlicensed Contractor or employee of that individual or firm is injured
34 while working on your property, you may be held liable for damages. If you
35 obtain a permit as Owner-Builder and wish to hire Contractors, you will be
36 responsible for verifying whether or not those Contractors are properly licensed
37 and the status of their workers’ compensation insurance coverage.
38

1 Before a building permit can be issued, this form must be completed and signed
2 by the property owner and returned to the agency responsible for issuing the
3 permit.

4 Note: A copy of the property owner’s driver’s license, form notarization, or
5 other verification acceptable to the agency is required to be presented when
6 the permit is issued to verify the property owner’s signature.

7
8 Signature of Property Owner _____ Date: _____
9

10 SEC. 40. Section 34218 of the Health and Safety Code is
11 amended to read:

12 34218. Chapter 5 (commencing with Section 9550) of Title 3
13 of Part 6 of Division 4 of the Civil Code applies to any housing
14 project constructed under this chapter. Notwithstanding the
15 provisions of this section, a housing authority may require a 20
16 percent cash escrow or a 25 percent irrevocable letter of credit or
17 the payment bond required by this section if the contract is for
18 work undertaken pursuant to the Comprehensive Improvement
19 Assistance Program established by Section 14 of the United States
20 Housing Act of 1937, as amended (42 U.S.C.A. Secs. 1437d and
21 1437l), or the Public Housing Modernization Act established by
22 Section 5(c)(3)(C) of the United States Housing Act of 1937, as
23 amended (42 U.S.C.A. Secs. 1437d and 1437l).

24 SEC. 41. Section 11751.82 of the Insurance Code is amended
25 to read:

26 11751.82. (a) An insurer under a wrap-up insurance policy
27 shall report workers’ compensation losses and payroll information
28 for each contractor and subcontractor to its rating organization on
29 a timely basis and in accordance with the uniform statistical plan.
30 Within 10 days, upon request, the insurer shall provide to each
31 contractor and subcontractor copies of the report covering workers’
32 compensation losses and payroll information for that contractor
33 or subcontractor.

34 (b) For the purposes of this section, a “wrap-up insurance
35 policy” is an insurance policy, or series of policies, written to cover
36 risks associated with a work of improvement, as defined in Section
37 8050 of the Civil Code, and covering two or more of the contractors
38 or subcontractors that work on that work of improvement.

39 SEC. 42. Section 218.5 of the Labor Code is amended to read:

1 218.5. In any action brought for the nonpayment of wages,
2 fringe benefits, or health and welfare or pension fund contributions,
3 the court shall award reasonable attorney's fees and costs to the
4 prevailing party if any party to the action requests attorney's fees
5 and costs upon the initiation of the action. This section shall not
6 apply to an action brought by the Labor Commissioner. This
7 section shall not apply to a surety issuing a bond pursuant to
8 Chapter 9 (commencing with Section 7000) of Division 3 of the
9 Business and Professions Code or to an action to enforce a
10 mechanics lien brought under Chapter 4 (commencing with Section
11 8400) of Title 2 of Part 6 of Division 2 of the Civil Code.

12 This section does not apply to any action for which attorney's
13 fees are recoverable under Section 1194.

14 SEC. 43. Section 4107.7 of the Public Contract Code is
15 amended to read:

16 4107.7. If a contractor who enters into a contract with a public
17 entity for investigation, removal or remedial action, or disposal
18 relative to the release or presence of a hazardous material or
19 hazardous waste fails to pay a subcontractor registered as a
20 hazardous waste hauler pursuant to Section 25163 of the Health
21 and Safety Code within 10 days after the investigation, removal
22 or remedial action, or disposal is completed, the subcontractor may
23 serve a stop notice upon the public entity in accordance with
24 Chapter 4 (commencing with Section 9350) of Title 3 of Part 6 of
25 Division 4 of the Civil Code.

26 SEC. 44. Section 7103 of the Public Contract Code is amended
27 to read:

28 7103. (a) (1) Every original contractor that is awarded a
29 contract by a state entity, as defined in subdivision (d), involving
30 an expenditure in excess of twenty-five thousand dollars (\$25,000)
31 for any public work shall, before entering upon the performance
32 of the work, file a payment bond with and approved by the officer
33 or state entity that awarded the contract. The bond shall be in a
34 sum not less than 100 percent of the total amount payable by the
35 terms of the contract.

36 (2) The state entity shall state in its call for bids for any contract
37 that a payment bond is required in the case of such an expenditure.

38 (b) A payment bond filed and approved in accordance with this
39 section shall be sufficient to enter upon the performance of work
40 under a duly authorized contract that supplements the contract for

1 which the payment bond was filed if the requirement of a new
2 bond is waived by the state entity.

3 (c) For purposes of this section, providers of architectural,
4 engineering, and land surveying services pursuant to a contract
5 with a state entity for a public work shall not be deemed an original
6 contractor and shall not be required to post or file the payment
7 bond required in subdivisions (a) and (b).

8 (d) For purposes of this section, “state entity” means every state
9 office, department, division, bureau, board, or commission, but
10 does not include the Legislature, the courts, any agency in the
11 judicial branch of government, or the University of California. All
12 other public entities shall be governed by Section 9550 of the Civil
13 Code.

14 (e) For purposes of this section, “public work” includes the
15 erection, construction, alteration, repair, or improvement of any
16 state structure, building, road, or other state improvement of any
17 kind.

18 SEC. 45. Section 10222 of the Public Contract Code is amended
19 to read:

20 10222. (a) Each bond shall equal at least one-half of the
21 contract price, except as otherwise provided in Section 9554 of
22 the Civil Code, in the California Toll Bridge Authority Act
23 (Chapter 1 (commencing with Section 30000) of Division 7 of the
24 Streets and Highways Code), or in subdivision (b).

25 (b) Notwithstanding subdivision (a), for projects with a contract
26 price greater than two hundred fifty million dollars (\$250,000,000),
27 the Department of Transportation shall have the discretion to
28 specify that the payment bond shall equal not less than one-half
29 of the contract price or five hundred million dollars (\$500,000,000),
30 whichever is less.

31 SEC. 46. Section 10822 of the Public Contract Code is amended
32 to read:

33 10822. Each bond shall be in a sum equal to at least one-half
34 of the contract price, except as otherwise provided in Section 9554
35 of the Civil Code.

36 SEC. 47. Section 20104 of the Public Contract Code is amended
37 to read:

38 20104. (a) (1) This article applies to all public works claims
39 of three hundred seventy-five thousand dollars (\$375,000) or less
40 which arise between a contractor and a local agency.

1 (2) This article shall not apply to any claims resulting from a
2 contract between a contractor and a public agency when the public
3 agency has elected to resolve any disputes pursuant to Article 7.1
4 (commencing with Section 10240) of Chapter 1 of Part 2.

5 (b) (1) "Public work" means "public works contract" as defined
6 in Section 1101 but does not include any work or improvement
7 contracted for by the state or the Regents of the University of
8 California.

9 (2) "Claim" means a separate demand by the contractor for (A)
10 a time extension, (B) payment of money or damages arising from
11 work done by, or on behalf of, the contractor pursuant to the
12 contract for a public work and payment of which is not otherwise
13 expressly provided for or the claimant is not otherwise entitled to,
14 or (C) an amount the payment of which is disputed by the local
15 agency.

16 (c) The provisions of this article or a summary thereof shall be
17 set forth in the plans or specifications for any work which may
18 give rise to a claim under this article.

19 (d) This article applies only to contracts entered into on or after
20 January 1, 1991.

21 SEC. 48. Section 20134 of the Public Contract Code is amended
22 to read:

23 20134. (a) In cases of emergency, when repair or replacements
24 are necessary to permit the continued conduct of county operations
25 or services, the board of supervisors, by majority consent, may
26 proceed at once to replace or repair any and all structures without
27 adopting the plans, specifications, strain sheets, or working details
28 or, subject to Chapter 2.5 (commencing with Section 22050), giving
29 notice for bids to let contracts. If notice for bids to let contracts
30 will not be given, the board shall comply with Chapter 2.5
31 (commencing with Section 22050). The work may be done by day
32 labor under the direction of the board, by contract, or by a
33 combination of the two. If the work is done wholly or in part by
34 contract, the contractor shall be paid the actual cost of the use of
35 machinery and tools and of material, and labor and of workers'
36 compensation insurance expended by him or her in doing the work,
37 plus not more than 15 percent to cover all profits and
38 administration. No more than the lowest current market prices
39 shall be paid for materials whenever possible.

1 (b) In a county of the first, second, third, or fourth class, which
2 is under court order to relieve jail overcrowding or in which the
3 sheriff certifies that the inmate capacity of the county jail system
4 is exceeded by more than 20 percent and that the overpopulation
5 is likely to continue and poses a threat to public safety, health, and
6 welfare, the board of supervisors may contract for the construction
7 or expansion of jail facilities without the formality of obtaining
8 bids, adopting plans and specifications, or complying with other
9 requirements of this article, except as required by this subdivision.
10 The person to whom the contract is awarded shall execute a bond
11 for faithful performance in accordance with Section 20129. Any
12 plans and specifications adopted by the board may only be altered
13 or changed in accordance with Section 20135 and all contracts
14 awarded pursuant to this subdivision may only be altered or
15 changed in accordance with Sections 20136, 20137, and 20138.
16 The award of the contract shall be made after a public hearing on
17 the basis of a request for proposals advertised in accordance with
18 Section 6062 or 6062a of the Government Code. The contract may
19 be awarded only to a contractor who has responded to the request
20 for proposals and who is licensed to do the work in accordance
21 with Chapter 9 (commencing with Section 7000) of Division 3 of
22 the Business and Professions Code. The contract shall be upon
23 terms which the board determines are necessary for the expeditious
24 completion of the work. A contract shall not be entered into unless
25 at least three proposals to do the work have been evaluated by a
26 competitive process established by the board. If the board does
27 not select the lowest bid, it shall make a finding stating the reasons
28 that the lowest bid was not selected.

29 (c) In any county that has agreed to permit the transfer of
30 prisoners or parole violators under Section 2910 or 2910.5 of the
31 Penal Code or of wards under Section 1753.3 of the Welfare and
32 Institutions Code, the board of supervisors may contract for the
33 construction or expansion of the facilities to be used for that
34 purpose without the formality of obtaining bids, adopting plans
35 and specifications, or complying with other requirements of this
36 article, except as required by this subdivision. The person to whom
37 the contract is awarded shall execute a bond for faithful
38 performance in accordance with Section 20129. Any plans and
39 specifications adopted by the board may only be altered or changed
40 in accordance with Section 20135 and all contracts awarded

1 pursuant to this subdivision may only be altered or changed in
2 accordance with Sections 20136, 20137, and 20138. The award
3 of the contract shall be made after a public hearing on the basis of
4 a request for proposals advertised in accordance with Section 6062
5 or 6062a of the Government Code. The contract may be awarded
6 only to a contractor who has responded to the request for proposals
7 and who is licensed to do the work in accordance with Chapter 9
8 (commencing with Section 7000) of Division 3 of the Business
9 and Professions Code. The contract shall be upon terms which the
10 board determines are necessary for the expeditious completion of
11 the work. A contract shall not be entered into unless at least three
12 proposals to do the work have been evaluated by a competitive
13 process established by the board and the lowest bid is selected.

14 (d) Proposed construction or expansion of jail or
15 return-to-custody facilities as authorized under subdivision (b) or
16 (c) shall not commence in a county of the third class without the
17 affirmative vote of a majority of the city council of the incorporated
18 city within which the construction or expansion is proposed.

19 (e) The board of supervisors may waive the requirements of
20 Title 3 (commencing with Section 9000) of Part 6 of Division 4
21 of the Civil Code for work performed pursuant to subdivision (b)
22 or (c).

23 (f) If any county that is under court order to relieve
24 overcrowding in a county juvenile facility, as defined by
25 subdivision (c) of Section 4481 of the Penal Code or in which the
26 chief probation officer certifies that the juvenile detention capacity
27 of the county juvenile facilities is exceeded by more than 20
28 percent and that the overpopulation is likely to continue and poses
29 a threat to public safety, health, and welfare, the board of
30 supervisors may contract for the construction or expansion of
31 county juvenile facilities without the formality of obtaining bids,
32 adopting plans and specifications, or complying with other
33 requirements of this article, except as required by this subdivision.
34 The person to whom the contract is awarded shall execute a bond
35 for faithful performance in accordance with Section 20129. Any
36 plans and specifications adopted by the board may only be altered
37 or changed in accordance with Section 20135 and all contracts
38 awarded pursuant to this subdivision may only be altered or
39 changed in accordance with Sections 20136, 20137, and 20138.
40 The award of the contract shall be made after a public hearing on

1 the basis of a request for proposals advertised in accordance with
2 Section 6062 or 6062a of the Government Code. The contract may
3 be awarded only to a contractor who has responded to the request
4 for proposals and who is licensed to do the work in accordance
5 with Chapter 9 (commencing with Section 7000) of Division 3 of
6 the Business and Professions Code. The contract shall be upon
7 terms which the board determines are necessary for the expeditious
8 completion of the work. A contract shall not be entered into unless
9 at least three proposals to do the work have been evaluated by a
10 competitive process established by the board. If the board does
11 not select the lowest bidder, it shall make a finding stating the
12 reasons that the lowest bidder was not selected.

13 (g) In a county of the third class in which there are no available
14 courtrooms to accommodate all authorized judicial positions or in
15 which the board of supervisors certifies that there is a significant
16 need to expeditiously construct new court and court support
17 facilities, the board of supervisors may contract for the construction
18 or expansion of court and court support facilities without the
19 formality of obtaining bids, adopting plans and specifications, or
20 complying with other requirements of this article, except as
21 required by this subdivision. The person to whom the contract is
22 awarded shall execute a bond for faithful performance in
23 accordance with Section 20129. Any plans and specifications
24 adopted by the board may only be altered or changed in accordance
25 with Section 20135 and all contracts awarded pursuant to this
26 subdivision may only be altered or changed in accordance with
27 Sections 20136, 20137, and 20138. The award of the contract shall
28 be made after a public hearing on the basis of a request for
29 proposals advertised in accordance with Section 6062 or 6062a of
30 the Government Code. The contract may be awarded only to a
31 contractor who has responded to the request for proposals and who
32 is licensed to do the work in accordance with Chapter 9
33 (commencing with Section 7000) of Division 3 of the Business
34 and Professions Code. The contract shall be upon terms which the
35 board determines are necessary for the expeditious completion of
36 the work. A contract shall not be entered into unless at least three
37 proposals to do the work have been evaluated by a competitive
38 process established by the board and the lowest bid is selected.
39 This subdivision shall remain in effect until December 31, 1994.

1 SEC. 49. Section 20461 of the Public Contract Code is amended
2 to read:

3 20461. No assignment by the contractor of the whole or any
4 part of the money, assessment, partial assessment, any reassessment
5 and any bonds which may be issued to represent any assessment
6 or reassessment, due or to be due under the contract, or for “extras”
7 in connection therewith, whether made before or after a verified
8 claim is filed pursuant to this chapter, shall take priority over the
9 claims, and the assignment shall have no binding force insofar as
10 the rights of the claimants, or their assigns, are concerned. None
11 of the provisions of Title 3 (commencing with Section 9000) of
12 Part 6 of Division 4 of the Civil Code shall be applicable to any
13 assessment, partial assessment, reassessment, bonds, moneys or
14 funds payable to the contractor or assignee under this division or
15 to any matter contained in this chapter.

16 SEC. 50. Section 20496 of the Public Contract Code is amended
17 to read:

18 20496. The provisions of Title 3 (commencing with Section
19 9000) of Part 6 of Division 4 of the Civil Code are hereby expressly
20 made applicable to the construction of works and improvements
21 under this article.

22 SEC. 51. Section 20682.5 of the Public Contract Code is
23 amended to read:

24 20682.5. (a) A district may construct or complete any building,
25 structure, or improvement with its own forces or by contract
26 without bidding when the cost does not exceed twenty-five
27 thousand dollars (\$25,000).

28 (b) All contracts for the construction or completion of any
29 building, structure, or improvement, when the cost exceeds
30 twenty-five thousand dollars (\$25,000), shall be contracted for and
31 let to the lowest responsible bidder after notice. If two or more
32 bids are the same and the lowest, the district board may accept the
33 one it chooses.

34 (c) The district shall publish a notice inviting bids for any
35 contract for which competitive bidding is required at least one time
36 in a newspaper of general circulation in the district at least 10 days
37 before the time specified for receiving bids. The notice inviting
38 bids shall set a date for opening the bids and distinctly state the
39 work to be done.

1 (d) If the general manager recommends and the board of
2 directors determines that the publication of advertisements of the
3 notice in trade journals and papers in lieu of publication pursuant
4 to subdivision (c) will increase the number of business enterprises
5 receiving that notice, the board of directors may by resolution
6 declare that those notices shall be published in trade journals and
7 papers at least 10 days prior to the time specified for receiving
8 bids.

9 (e) If plans and specifications are prepared describing the work,
10 all bidders shall be afforded an opportunity to examine the plans
11 and specifications, and the plans and specifications shall be
12 attached to and become part of the contract, if one is awarded.

13 (f) At its discretion, the board of directors may reject any bids
14 presented and readvertise.

15 (g) In the case of an emergency, the board of directors may act
16 pursuant to Chapter 2.5 (commencing with Section 22050).

17 (h) The board of directors may, subject to Chapter 5
18 (commencing with Section 9550) of Title 3 of Part 6 of Division
19 4 of the Civil Code, require the posting of those bonds it deems
20 desirable as a condition to the filing of a bid or the letting of a
21 contract.

22 (i) The district shall keep cost records of the work in the manner
23 provided in Chapter 1 (commencing with Section 4000) of Division
24 5 of Title 1 of the Government Code.

25 (j) As an alternate to the procedures required by this section, a
26 district may rely on the Uniform Public Construction Cost
27 Accounting Act, Chapter 2 (commencing with Section 22000) of
28 Part 3 of Division 2.

29 SEC. 52. Section 20688.4 of the Public Contract Code is
30 amended to read:

31 20688.4. An agency shall require each successful bidder to file
32 with it good and sufficient bonds, to be approved by it. The bonds
33 shall be conditioned upon the faithful performance of the contract
34 and upon the payment of all claims for labor and material in
35 connection with the contract. The bonds shall contain the terms
36 and conditions set forth in Chapter 5 (commencing with Section
37 9550) of Title 3 of Part 6 of Division 4 of the Civil Code and are
38 subject to the provisions of that chapter.

39 SEC. 53. Section 20813 of the Public Contract Code is amended
40 to read:

1 20813. (a) All contracts for the construction or completion of
 2 any building, structure, or improvement, when the expenditure
 3 required for the work exceeds ten thousand dollars (\$10,000), shall
 4 be contracted for and let to the lowest responsible bidder after
 5 notice. If two or more bids are the same and the lowest, the district
 6 board may accept the one it chooses.

7 (b) The notice inviting bids shall set a date for the opening of
 8 bids. The first publication or posting of the notice shall be at least
 9 10 days before the date of opening the bids. Notice shall be
 10 published at least twice, not less than five days apart, in a
 11 newspaper of general circulation in the district, or if there is none,
 12 it shall be posted in at least three public places in the district. The
 13 notice shall distinctly state the work to be done.

14 (c) In its discretion, the district board may reject any bids
 15 presented and readvertise.

16 (d) In the case of an emergency, the district board may act
 17 pursuant to Chapter 2.5 (commencing with Section 22050).

18 (e) The district board may, subject to the provisions of Chapter
 19 5 (commencing with Section 9550) of Title 3 of Part 6 of Division
 20 4 of the Civil Code, require the posting of those bonds it deems
 21 desirable as a condition to the filing of a bid or the letting of a
 22 contract.

23 (f) Cost records of the work shall be kept in the manner provided
 24 in Chapter 1 (commencing with Section 4000) of Division 5 of
 25 Title 1 of the Government Code.

26 SEC. 54. Section 20815.3 of the Public Contract Code is
 27 amended to read:

28 20815.3. (a) A district shall publish notice inviting bids for
 29 any contract for which competitive bidding is required at least one
 30 time in a newspaper of general circulation in the district at least
 31 one week before the time specified for receiving bids. The notice
 32 shall distinctly state the work to be done.

33 (b) In its discretion, the board of directors may do any of the
 34 following:

- 35 (1) Reject all bids and readvertise.
- 36 (2) By a four-fifths vote, elect to purchase the materials or
 37 supplies in the open market.
- 38 (3) By a four-fifths vote, elect to construct the building,
 39 structure, or improvement by force account.

1 (c) In the case of an emergency, the board of directors may act
2 pursuant to Chapter 2.5 (commencing with Section 22050).

3 (d) The board of directors may, subject to the provisions of
4 Chapter 5 (commencing with Section 9550) of Title 3 of Part 6 of
5 Division 4 of the Civil Code, require the posting of those bonds it
6 deems as a condition to the filing of a bid or the letting of a
7 contract.

8 (e) The district shall keep cost records of the work pursuant to
9 Chapter 1 (commencing with Section 4000) of Division 5 of Title
10 1 of the Government Code.

11 SEC. 55. Section 20991 of the Public Contract Code is amended
12 to read:

13 20991. All contracts for any improvement or unit of work,
14 except as provided in this article, estimated to cost in excess of
15 twenty-five thousand dollars (\$25,000), shall be let to the lowest
16 responsible bidder in the manner provided in this article. The board
17 of supervisors of the district shall advertise by five or more
18 insertions in a daily newspaper of general circulation, or by two
19 or more insertions in a weekly newspaper of general circulation,
20 printed and published in the district, inviting sealed proposals for
21 the construction of the improvement or work. The board shall
22 require the successful bidder or bidders to file with the board good
23 and sufficient bonds, to be approved by the board, conditioned
24 upon the faithful performance of the contract and upon the payment
25 of all claims for labor and material. The bonds shall contain the
26 terms and conditions set forth in Chapter 5 (commencing with
27 Section 9550) of Title 3 of Part 6 of Division 4 of the Civil Code
28 and shall be subject to the provisions of that chapter. The board
29 shall have the right to reject any bid not suitable to the best interests
30 of the district. In the event all proposals are rejected or no proposals
31 are received pursuant to advertisement, or the estimated cost of
32 the work does not exceed ten thousand dollars (\$10,000), or the
33 work consists of channel protection, dam protection, temporary
34 work, maintenance work, or emergency work, the board of
35 supervisors may, without advertising for bids, have the work done
36 by force account. Emergency work may also be done by negotiated
37 contract without advertising for bids. In case of an emergency, if
38 notice for bids to let contracts will not be given, the board shall
39 comply with Chapter 2.5 (commencing with Section 22050).

1 SEC. 56. Section 21061 of the Public Contract Code is amended
2 to read:

3 21061. (a) All contracts for any improvement or unit of work,
4 except as provided in this article, estimated to cost in excess of
5 twenty-five thousand dollars (\$25,000), shall be let to the lowest
6 responsible bidder in the manner provided in this article.

7 (b) The board of supervisors of the district shall advertise by
8 five or more insertions in a daily newspaper of general circulation,
9 or by two or more insertions in a weekly newspaper of general
10 circulation, printed and published in the district, inviting sealed
11 proposals for the construction of the improvement or work. The
12 board shall require the successful bidder or bidders to file with the
13 board good and sufficient bonds, to be approved by the board,
14 conditioned upon the faithful performance of the contract and upon
15 the payment of all claims for labor and material, the bonds to
16 contain the terms and conditions set forth in Chapter 5
17 (commencing with Section 9550) of Title 3 of Part 6 of Division
18 4 of the Civil Code and to be subject to that chapter.

19 (c) The board may also reject any bid not suitable to the best
20 interests of the district. If all proposals are rejected or no proposals
21 are received pursuant to advertisement therefor, or the work
22 consists of channel protection, dam protection, temporary work,
23 maintenance work, or of emergency work, the board of supervisors
24 may, without advertising for bids, have the work done by force
25 account. Emergency work may also be done by negotiated contract
26 without advertising for bids or requiring bonds. In case of an
27 emergency, if notice for bids to let contracts will not be given, the
28 board shall comply with Chapter 2.5 (commencing with Section
29 22050).

30 (d) The board of supervisors, acting as the board of the district,
31 may, by ordinance, resolution, or board order, authorize the flood
32 control engineer or other county officer to order changes or
33 additions in work being performed under a construction contract.
34 When so authorized, any change or addition in the work shall be
35 ordered in writing by the flood control engineer, or other designated
36 officer, and the extra cost for any change or addition to the work
37 so ordered shall not exceed five thousand dollars (\$5,000) when
38 the total amount of the original contract does not exceed fifty
39 thousand dollars (\$50,000), nor 10 percent of the amount of any
40 original contract that exceeds fifty thousand dollars (\$50,000), but

1 does not exceed two hundred fifty thousand dollars (\$250,000).
2 For contracts whose original cost exceeds two hundred fifty
3 thousand dollars (\$250,000), the extra cost for any change or
4 addition to the work so ordered shall not exceed twenty-five
5 thousand dollars (\$25,000), plus 5 percent of the amount of the
6 original contract costs in excess of two hundred fifty thousand
7 dollars (\$250,000). In no event shall any such change or alteration
8 exceed one hundred fifty thousand dollars (\$150,000).

9 SEC. 57. Section 21071 of the Public Contract Code is amended
10 to read:

11 21071. (a) All contracts for any improvement or unit of work
12 except as provided in this article estimated to cost in excess of ten
13 thousand dollars (\$10,000) shall be let to the lowest responsible
14 bidder in the manner provided in this article. The board of
15 supervisors of the district shall advertise by three insertions in a
16 daily newspaper of general circulation or two insertions in a weekly
17 newspaper of general circulation printed and published in the
18 district inviting sealed proposals for the construction of, the
19 improvement or work before any contract shall be made for the
20 improvement or work, and may let by contract separately any part
21 of the work or improvement. The board shall require the successful
22 bidder to file with the board good and sufficient bonds to be
23 approved by the board conditioned upon the faithful performance
24 of the contract and upon the payment of their claims for labor and
25 material in connection with the contract. The bonds shall contain
26 the terms and conditions set forth in Chapter 5 (commencing with
27 Section 9550) of Title 3 of Part 6 of Division 4 of the Civil Code
28 and be subject to the provisions of that chapter. The board shall
29 also have the right to reject any and all bids. If all proposals are
30 rejected or no proposals are received pursuant to the advertisement,
31 the estimated cost of the work does not exceed the sum of ten
32 thousand dollars (\$10,000), or the work consists of channel
33 protection, maintenance work, or emergency work when necessary
34 in order to protect life and property from impending flood damage,
35 the board of supervisors may, without advertising for bids, have
36 the work done by force account or negotiated contract.

37 (b) The district shall have the power to purchase in the open
38 market without advertising for bids, materials, supplies, equipment,
39 and other personal property for use in any work either under
40 contract or by force account if the costs do not exceed ten thousand

1 dollars (\$10,000). It shall be the duty of the purchasing agent of
 2 Ventura County, as the ex officio purchasing agent of the Ventura
 3 County Watershed Protection District, unless otherwise ordered
 4 by the board of supervisors, to purchase for the district all
 5 materials, supplies, equipment, and other personal property
 6 necessary to carry out the purposes of this article, and to engage
 7 independent contractors to perform sundry services for the district,
 8 if the aggregate cost of such work, exclusive of materials to be
 9 furnished by the district, does not exceed ten thousand dollars
 10 (\$10,000).

11 (c) The purchasing agent shall make all purchases and contracts
 12 upon proper requisition, signed by the engineer-manager of the
 13 district, or his or her authorized representative.

14 (d) If the work consists of the maintenance or alteration of
 15 existing facilities, including electrical, painting, and roofing if the
 16 cost of labor and materials for the work according to the engineer's
 17 estimate will exceed five thousand dollars (\$5,000), and if the
 18 work is not of the type of work referred to in this section, the
 19 maintenance and alteration work shall be performed under a
 20 contract or contracts that shall be let to the lowest responsible
 21 bidder or bidders in the manner described in this section.

22 SEC. 58. Section 21081 of the Public Contract Code is amended
 23 to read:

24 21081. All contracts for any improvement or unit of work,
 25 when the cost, according to the estimate of the engineer, will
 26 exceed five thousand dollars (\$5,000), shall be let to the lowest
 27 responsible bidder or bidders in the manner provided in this article.
 28 The board shall first determine whether the contract shall be let as
 29 a single unit for the whole of the work, or shall be divided into
 30 severable parts, or both, according to the best interests of the
 31 district. The board shall call for bids and advertise the call by three
 32 insertions in a daily newspaper of general circulation or by two
 33 insertions in a weekly newspaper of general circulation printed
 34 and published in the district inviting sealed proposals for the
 35 construction or performance of the improvement or work before
 36 any contract is made. The call for bids shall state whether the work
 37 is to be performed as a unit or divided into severable specific parts,
 38 or both, as stated in the call. The board may let the work by single
 39 contract for the whole or it may divide such work into severable
 40 parts by separate contracts, as stated in such call, according to the

1 best interests of the district. The board shall require the successful
2 bidder or bidders to file with the board good and sufficient bonds
3 to be approved by the board conditioned upon the faithful
4 performance of the contract and upon the payment of their claims
5 for labor and material, the bonds to contain the terms and
6 conditions set forth in Title 3 (commencing with Section 9000) of
7 Part 6 of Division 4 of the Civil Code and to be subject to the
8 provisions of that title. The board shall also have the right to reject
9 any bid. In the event all proposals are rejected or no proposals are
10 received pursuant to advertisement, or the estimated cost of such
11 work does not exceed five thousand dollars (\$5,000), or the work
12 consists of channel protection, maintenance work, or emergency
13 work, the board of supervisors may, without advertising for bids,
14 have the work done by force account. The district may purchase
15 in the open market, without advertising for bids, materials and
16 supplies for use in any work either under contract or by force
17 account.

18 SEC. 59. Section 21091 of the Public Contract Code is amended
19 to read:

20 21091. All contracts for any improvement or unit of work,
21 except as otherwise provided in this act, estimated to cost in excess
22 of fifteen thousand dollars (\$15,000) shall be let to the lowest
23 responsible bidder in the manner provided in this article. The board
24 of supervisors of the district shall advertise by three insertions in
25 a daily newspaper of general circulation or two insertions in a
26 weekly newspaper of general circulation printed and published in
27 the district inviting sealed proposals for the construction of the
28 improvement or work before any contract is made, and may let by
29 contract separately any part of the work or improvement. The board
30 shall require the successful bidder to file with the board good and
31 sufficient bonds to be approved by the board conditioned upon the
32 faithful performance of the contract and upon the payment of their
33 claims for labor and material. The bonds shall contain the terms
34 and conditions set forth in Sections 10223 and 10224, and Section
35 9554 of the Civil Code and be subject to those sections. The board
36 shall also have the right to reject any bid. If all proposals are
37 rejected or no proposals are received pursuant to advertisement,
38 or where the estimated cost of the work does not exceed fifteen
39 thousand dollars (\$15,000), or the work consists of channel
40 protection, maintenance work, or emergency work, the board of

1 supervisors may, without advertising for bids, have the work done
2 by force account. In case of an emergency, if notice for bids to let
3 contracts will not be given, the board shall comply with Chapter
4 2.5 (commencing with Section 22050). The district may purchase
5 in the open market, without advertising for bids, materials and
6 supplies for use in any improvement or unit of work either under
7 contract or by force account.

8 SEC. 60. Section 21101 of the Public Contract Code is amended
9 to read:

10 21101. All contracts for any improvement or unit of work,
11 when the cost, according to the estimate of the engineer, will
12 exceed five thousand dollars (\$5,000), shall be let to the lowest
13 responsible bidder or bidders in the manner provided in this article.
14 The board shall first determine whether the contract shall be let as
15 a single unit for the whole of the work, or shall be divided into
16 parts, or both, according to the best interests of the district. The
17 board shall call for bids and advertise the call by three insertions
18 in a daily newspaper of general circulation or two insertions in a
19 weekly newspaper of general circulation printed and published in
20 the district inviting sealed proposals for the construction or
21 performance of the improvement or work before any contract shall
22 be made. The call for bids shall state whether the work is to be
23 performed as a unit or is to be divided into severable specific parts,
24 or both, as stated in the call. The board may let the work by single
25 contract for the whole as a unit or it may divide the work into
26 severable parts by separate contracts, as stated in the call, according
27 to the best interests of the district. The board shall require the
28 successful bidder or bidders to file with the board good and
29 sufficient bonds to be approved by the board conditioned upon the
30 faithful performance of the contract and upon the payment of their
31 claims for labor and material, the bonds to contain the terms and
32 conditions set forth in Title 3 (commencing with Section 9000) of
33 Part 6 of Division 4 of the Civil Code and to be subject to the
34 provisions of that title. The board shall also have the right to reject
35 any bid. In the event all proposals are rejected or no proposals are
36 received pursuant to advertisement, or the estimated cost of the
37 work does not exceed five thousand dollars (\$5,000), or the work
38 consists of channel protection, maintenance work, or emergency
39 work, the board of supervisors may, without advertising for bids,
40 have the work done by force account. In case of an emergency, if

1 notice for bids to let contracts will not be given, the board shall
2 comply with Chapter 2.5 (commencing with Section 22050). The
3 district shall have the power to purchase in the open market without
4 advertising for bids, materials and supplies for use in any work
5 either under contract or by force account.

6 SEC. 61. Section 21111 of the Public Contract Code is amended
7 to read:

8 21111. (a) All contracts for the construction of any unit of
9 work, except as provided in this article, estimated to cost in excess
10 of ten thousand dollars (\$10,000) shall be let to the lowest
11 responsible bidder in the manner provided in this article. The board
12 of directors of the agency shall advertise by three insertions in a
13 daily newspaper of general circulation or two insertions in a weekly
14 newspaper of general circulation published in the agency's
15 jurisdiction inviting sealed proposals for the construction of the
16 work before any contract shall be made, and may let by contract
17 separately any part of the work. The board shall require the
18 successful bidder to file with the board good and sufficient bonds
19 to be approved by the board conditioned upon the faithful
20 performance of the contract and upon the payment of the claims
21 for labor and material. The faithful performance bond shall contain
22 terms and conditions as the board may specify, and the payment
23 bond shall be subject to the provisions of, and shall contain the
24 terms and conditions set forth in Title 3 (commencing with Section
25 9000) of Part 6 of Division 4 of the Civil Code, as applicable. The
26 board shall also have the right to reject any bid, in which case the
27 board may advertise for new bids. In the event no proposals are
28 received pursuant to advertisement, or where the estimated cost
29 of the work does not exceed ten thousand dollars (\$10,000), or the
30 work consists of emergency work, the board of directors by
31 unanimous vote of all members present may, without advertising
32 for bids, have the work done by force account. In case of an
33 emergency, if notice for bids to let contracts will not be given, the
34 board shall comply with Chapter 2.5 (commencing with Section
35 22050). The agency may purchase in the open market, and may
36 authorize the Purchasing Agent of the County of Santa Barbara to
37 purchase, without advertisement for bids, materials and supplies
38 for use in any work either under contract or by force account.

39 (b) If the work to be performed by or on behalf of the agency
40 does not involve an expenditure of ten thousand dollars (\$10,000)

1 or more, or if the work consists of emergency work, the agency
2 may require a faithful performance bond. The agency may require
3 a payment bond on work performed on behalf of the agency which
4 does not involve an expenditure of more than ten thousand dollars
5 (\$10,000).

6 SEC. 62. Section 21121 of the Public Contract Code is amended
7 to read:

8 21121. (a) All contracts for any improvement or unit of work,
9 if the cost according to the estimate of the engineer, exceeds five
10 thousand dollars (\$5,000), shall be let to the lowest responsible
11 bidder or bidders.

12 (b) The board shall first determine whether the contract shall
13 be let as a single unit for the whole of the work, or shall be divided
14 into severable parts, or both, according to the best interests of the
15 agency.

16 (c) The board shall call for bids and advertise the call by three
17 insertions in a daily newspaper of general circulation or by two
18 insertions in a weekly newspaper of general circulation printed
19 and published in the territory of the agency inviting sealed
20 proposals for the construction or performance of the improvement
21 or work before any contract is entered into. The call for bids shall
22 state whether the work is to be performed as a unit or shall be
23 divided into severable specific parts, or both, as stated in the call.
24 The board may let the work by single contract or it may divide the
25 work into severable parts by separate contracts, as stated in the
26 call, according to the best interests of the agency.

27 (d) The board shall require the successful bidder or bidders to
28 file with the board good and sufficient bonds to be approved by
29 the board conditioned upon the faithful performance of the contract
30 and upon the payment of their claims for labor and material in
31 connection with the contract. The bonds shall contain the terms
32 and conditions set forth in Title 3 (commencing with Section 9000)
33 of Part 6 of Division 4 of the Civil Code and are subject to the
34 provisions of that title.

35 (e) The board may reject any bid. The board of supervisors may,
36 without advertising for bids, have the work done by force account
37 if any of the following requirements are met:

38 (1) All the projects are rejected.

39 (2) No proposals are received in response to the advertisement.

1 (3) The estimated cost of the work does not exceed five thousand
2 dollars (\$5,000).

3 (4) The work consists of channel protection, maintenance work,
4 or emergency work. In case of an emergency, if notice for bids to
5 let contracts will not be given, the board shall comply with Chapter
6 2.5 (commencing with Section 22050).

7 (f) The agency may purchase in the open market, without
8 advertising for bids, materials and supplies for use in any work
9 either under contract or by force account.

10 (g) The Monterey County Board of Supervisors may grant to
11 the board of directors, appointed pursuant to Section 49 of the
12 Monterey County Water Resources Agency Act (Chapter 1159 of
13 the Statutes of 1990), any of the powers or duties granted to the
14 Monterey County Board of Supervisors by this section.

15 SEC. 63. Section 21131 of the Public Contract Code is amended
16 to read:

17 21131. (a) All contracts for the construction of any unit of
18 work, except as provided in this article, estimated to cost in excess
19 of two thousand five hundred dollars (\$2,500) shall be let to the
20 lowest responsible bidder in the manner provided in this article.
21 The board shall advertise by three placements in a daily newspaper
22 of general circulation or two insertions in a weekly newspaper of
23 general circulation published in the district inviting sealed
24 proposals for the construction of the work before any contract is
25 made, and may let by contract separately any part of the work. The
26 board shall require the successful bidder to file with the board
27 good and sufficient bonds to be approved by the board conditioned
28 upon the faithful performance of the contract and upon the payment
29 of the claims for labor and material in connection therewith, the
30 bonds to contain the terms and conditions set forth in Title 3
31 (commencing with Section 9000) of Part 6 of Division 4 of the
32 Civil Code, and to be subject to the provisions of that title. The
33 board may reject any bid, in which case the board may advertise
34 for new bids.

35 (b) In the event no proposals are received pursuant to
36 advertisement therefor, or where the work consists of emergency
37 work, the board of directors, by unanimous vote of all members
38 present, may, without advertising for bids, have the work done by
39 force account. In case of an emergency, if notice for bids to let

1 contracts will not be given, the board shall comply with Chapter
2 2.5 (commencing with Section 22050).

3 (c) The district may purchase in the open market without
4 advertisement for bids, materials and supplies for use in any work
5 either under contract or by force account; provided, however, that
6 materials and supplies for use in any new construction work or
7 improvement, except work authorized and required under
8 circumstances referred to in subdivision (b), may not be purchased
9 if the cost exceeds two thousand five hundred dollars (\$2,500),
10 without advertising for bids and awarding the contract to the lowest
11 responsible bidder.

12 (d) This section does not apply to a contract entered into with
13 the United States or the State of California or other governmental
14 agency under the authority of Section 3 of Chapter 2126 of the
15 Statutes of 1959, or to a contract authorized by a vote of the
16 electorate of the district.

17 (e) The district may rent or otherwise contract for equipment
18 with or without an operator and use it on works of the district, if
19 the contract is approved by the board.

20 SEC. 64. Section 21141 of the Public Contract Code is amended
21 to read:

22 21141. (a) All contracts for the construction of any unit of
23 work, except as provided in this article, estimated to cost in excess
24 of two thousand dollars (\$2,000) shall be let to the lowest
25 responsible bidder in the manner provided in this article. The board
26 shall advertise by three insertions in a daily newspaper of general
27 circulation or two insertions in a weekly newspaper of general
28 circulation published in the district inviting sealed proposals for
29 the construction of the work before any contract shall be made,
30 and may let by contract separately any part of the work. The board
31 shall require the successful bidder 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 the
34 claims for labor and material, the bonds to contain the terms and
35 conditions set forth in Title 3 (commencing with Section 9000) of
36 Part 6 of Division 4 of the Civil Code, and to be subject to the
37 provisions of that title. The board shall also have the right to reject
38 any bid, in which case the board may advertise for new bids.

39 (b) In the event no proposals are received pursuant to
40 advertisement, where the estimated cost of the work does not

1 exceed the sum of two thousand dollars (\$2,000), or where the
2 work consists of emergency work, the board of directors, by
3 unanimous vote of all members present, may, without advertising
4 for bids, have the work done by force account. In case of an
5 emergency, if notice for bids to let contracts will not be given, the
6 board shall comply with Chapter 2.5 (commencing with Section
7 22050).

8 (c) The district may purchase in the open market, without
9 advertisement for bids, materials and supplies for use in any work
10 either under contract or by force account; provided, however, that
11 materials and supplies for use in any new construction work or
12 improvement, except work referred to in subdivision (b), may not
13 be purchased if the cost exceeds two thousand five hundred dollars
14 (\$2,500), without advertising for bids and awarding the contract
15 therefor to the lowest responsible bidder.

16 (d) The provisions of this section have no application to a
17 contract entered into with the United States under the authority of
18 Section 3, or to a contract authorized by a vote of the electorate
19 of the district.

20 SEC. 65. Section 21151 of the Public Contract Code is amended
21 to read:

22 21151. All contracts for any improvement or unit of work when
23 the cost according to the estimate of the engineer will exceed
24 twenty-five thousand dollars (\$25,000), with or without the
25 furnishing of materials or supplies, shall be let to the lowest
26 responsible bidder or bidders in the manner provided in this article.
27 Construction of improvements or works shall not be staged to
28 avoid the bidding process. The board shall first determine whether
29 the contract shall be let as a single unit for the whole of the work,
30 or shall be divided into severable parts, or both, according to the
31 best interests of the district. The board shall call for bids and
32 advertise the call by inviting sealed proposals for the construction
33 or performance of the improvement or work before any contract
34 is made. The board shall invite the bids by publishing a notice of
35 the call for bids pursuant to Section 6062 or 6066 of the
36 Government Code in a newspaper of general circulation in the
37 county. The call for bids shall state whether the work is to be
38 performed as a unit or shall be divided into severable specific parts,
39 or both, as stated in the call. The board may let the work by single
40 contract or it may divide the work into severable parts by separate

1 contracts, as stated in the call, according to the best interests of
 2 the district. The board shall require the successful bidder or bidders
 3 to file with the board good and sufficient bonds to be approved by
 4 the board conditioned upon the faithful performance of the contract
 5 and upon the payment of their claims for labor and material, the
 6 bonds to contain the terms and conditions set forth in Title 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 shall also have the right to reject any bid. In the event the
 10 engineer’s estimate is twenty-five thousand dollars (\$25,000) or
 11 less, or in the event no proposals are received pursuant to
 12 advertisement therefor, or in the event the work consists of channel
 13 protection or maintenance work, or emergency work, the board of
 14 supervisors may, without advertising for bids, have the work done
 15 by day labor under the direction of the board, by contract, or by a
 16 combination of the two. In case of an emergency, if notice for bids
 17 to let contracts will not be given, the board shall comply with
 18 Chapter 2.5 (commencing with Section 22050). The district may
 19 acquire in the open market without advertising for bids, materials,
 20 equipment, and supplies for use in any work or for any other
 21 purpose.

22 SEC. 66. Section 21161 of the Public Contract Code is amended
 23 to read:

24 21161. (a) Any improvement or unit of work not performed
 25 by district personnel and estimated by the engineer to cost in excess
 26 of twenty-five thousand dollars (\$25,000) shall be done by contract.
 27 All contracts shall be let to the lowest responsible bidder or bidders
 28 in the manner provided in this article. The board shall first
 29 determine whether the contract shall be let as a single unit for the
 30 whole of the work, 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 by three insertions in a daily
 33 newspaper of general circulation or by two insertions in a weekly
 34 newspaper of general circulation printed and published in the
 35 district inviting sealed proposals for the construction or
 36 performance of the improvement or work before any contract is
 37 made. The call for bids shall state whether the work is to be
 38 performed as a unit for the whole thereof or shall be divided into
 39 severable specific parts, or both, as stated in the call. The board
 40 may let the work by single contract or it may divide the work into

1 severable parts by separate contracts, as stated in the call, according
2 to the best interests of the district. The board shall require the
3 successful bidder or 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 to contain the terms and
7 conditions set forth in Title 3 (commencing with Section 9000) of
8 Part 6 of Division 4 of the Civil Code and to be subject to the
9 provisions of that title. The board shall also have the right to reject
10 any bid. In the event all proposals are rejected or no proposals are
11 received pursuant to advertisement, or the estimated cost of the
12 work does not exceed five thousand dollars (\$5,000), or the work
13 consists of channel protection, maintenance work, or emergency
14 work, the board may, without advertising for bids, have the work
15 done by force account. In case of an emergency, if notice for bids
16 to let contracts will not be given, the board shall comply with
17 Chapter 2.5 (commencing with Section 22050). The district may
18 purchase in the open market, without advertising for bids, materials
19 and supplies for use in any work either under contract or by force
20 account.

21 (b) The provisions of this section requiring competitive bidding
22 and the award of contracts to the lowest responsible bidder are
23 inapplicable to the extent the improvement or unit of work is to
24 be performed on its own facilities by a public utility subject to the
25 jurisdiction of the California Public Utilities Commission.

26 SEC. 67. Section 21171 of the Public Contract Code is amended
27 to read:

28 21171. (a) All contracts for any improvement or unit of work
29 when the cost, according to the estimate of the engineer, will
30 exceed two thousand dollars (\$2,000), shall be let to the lowest
31 responsible bidder or bidders in the manner provided in this article.
32 The board shall first determine whether the contract shall be let as
33 a single unit for the whole of the work, or shall be divided into
34 severable parts, or both, according to the best interests of the
35 district. The board shall call for bids and advertise the call by three
36 insertions in a daily newspaper of general circulation or by two
37 insertions in a weekly newspaper of general circulation printed
38 and published in the district inviting sealed proposals for the
39 construction or performance of the improvement or work before
40 any contract is made. The call for bids shall state whether the work

1 is to be performed as a unit for the whole thereof or shall be divided
 2 into severable specific parts, or both, as stated in the call. The
 3 board may let the work by single contract as a unit or it may divide
 4 the work into severable parts by separate contracts, as stated in the
 5 call, according to the best interests of the district. The board shall
 6 require the successful bidder or bidders to file with the board good
 7 and sufficient bonds to be approved by the board conditioned upon
 8 the faithful performance of the contract and upon the payment of
 9 their claims for labor and material, the bonds to contain the terms
 10 and conditions set forth in Title 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.

14 (b) In the event all proposals are rejected or no proposals are
 15 received pursuant to advertisement, or the estimated cost of the
 16 work does not exceed two thousand dollars (\$2,000), or the work
 17 consists of channel protection, maintenance work, or emergency
 18 work, the board of supervisors may, without advertising for bids,
 19 have the work done by force account. 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).

22 (c) The district may purchase in the open market, without
 23 advertising for bids, materials and supplies for use in any work
 24 either under contract or by force account; provided, however, that
 25 materials and supplies for use in any new construction work or
 26 improvements, except work referred to in subdivision (b), may not
 27 be purchased if the cost exceeds two thousand five hundred dollars
 28 (\$2,500), without advertising for bids and awarding the contract
 29 to the lowest responsible bidder.

30 SEC. 68. Section 21181 of the Public Contract Code is amended
 31 to read:

32 21181. (a) All contracts for any improvement or unit of work
 33 when the cost according to the estimate of the engineer, will exceed
 34 four thousand dollars (\$4,000), shall be let to the lowest responsible
 35 bidder or bidders in the manner provided in this article. The board
 36 shall first determine whether the contract shall be let as a single
 37 unit or shall be divided into severable parts, or both, according to
 38 the best interests of the district. The board shall call for bids and
 39 advertise the call in the district pursuant to Section 6066 of the
 40 Government Code inviting sealed proposals for the construction

1 or performance of the improvement or before any contract is made.
2 The call for bids shall state whether the work is to be performed
3 as a unit or shall be divided into severable specific parts, or both,
4 as stated in the call. The board may let the work by single contract
5 or it may divide the work into severable parts by separate contracts,
6 as stated in the call, according to the best interests of the district.
7 The board shall require the successful bidder or bidders to file with
8 the board good and sufficient bonds to be approved by the board
9 conditioned upon the faithful performance of the contract and upon
10 the payment of their claims for labor and material, the bonds to
11 contain the terms and conditions set forth in Title 3 (commencing
12 with Section 9000) of Part 6 of Division 4 of the Civil Code and
13 to be subject to the provisions of that title. The board shall also
14 have the right to reject any bid.

15 (b) In the event no proposals are received pursuant to
16 advertisement or the estimated cost of the work does not exceed
17 four thousand dollars (\$4,000), or the work consists of channel
18 protection, maintenance work, or emergency work, the board of
19 supervisors may, without advertising for bids, have the work done
20 by day labor, under the direction of the board, by contract, or by
21 the combination of the two. In case of an emergency, if notice for
22 bids to let contracts will not be given, the board shall comply with
23 Chapter 2.5 (commencing with Section 22050).

24 (c) The district may acquire in the open market, without
25 advertising for bids, materials, equipment, and supplies for use in
26 any work or for any other purpose; provided, however, that
27 materials and supplies for use in any new construction work or
28 improvement, except work referred to in subdivision (b), may not
29 be purchased if the cost exceeds two thousand five hundred dollars
30 (\$2,500), without advertising for bids and awarding the contract
31 to the lowest responsible bidder.

32 SEC. 69. Section 21196 of the Public Contract Code is amended
33 to read:

34 21196. (a) All contracts for the construction of any unit of
35 work, except as provided in this article, estimated to cost in excess
36 of two thousand five hundred dollars (\$2,500) shall be let to the
37 lowest responsible bidder in the manner provided in this article.
38 The board of directors of the district shall call for bids and advertise
39 the call by three insertions in a daily newspaper of general
40 circulation or two insertions in a weekly newspaper of general

1 circulation published in the district inviting sealed proposals for
2 the construction of the work before any contract is made, and may
3 let by contract separately any part of the work. The board shall
4 require the successful bidder to file with the board good and
5 sufficient bonds to be approved by the board conditioned upon the
6 faithful performance of the contract and upon the payment of the
7 claims for labor and material, the bonds to contain the terms and
8 conditions set forth in Title 3 (commencing with Section 9000) of
9 Part 6 of Division 4 of the Civil Code and to be subject to the
10 provisions of that title. The board shall also have the right to reject
11 any bid, in which case the board may advertise for new bids.

12 (b) In the event no proposals are received pursuant to
13 advertisement, or where the estimated cost of the work does not
14 exceed two thousand five hundred dollars (\$2,500), or the work
15 consists of emergency work, the board of directors by unanimous
16 vote of all members present, 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 may purchase in the open market, without advertisement
21 for bids, materials and supplies for use in any work either under
22 contract or by force account.

23 (c) The provisions of this section have no application to a
24 contract entered into with the United States under the authority of
25 the Solano County Flood Control and Water Conservation District
26 Act, or to a contract authorized by a vote of the electorate of the
27 district.

28 SEC. 70. Section 21212 of the Public Contract Code is amended
29 to read:

30 21212. (a) All contracts for the construction of any unit of
31 work, except as provided in this article, estimated to cost in excess
32 of three thousand dollars (\$3,000), shall be let to the lowest
33 responsible bidder in the manner provided in this article. The board
34 of directors of the agency shall advertise pursuant to Section 6066
35 of the Government Code in a newspaper of general circulation
36 published in the agency's jurisdiction inviting sealed proposals
37 for the construction of the work before any contract is made, and
38 may let by contract separately any part of the work. The board
39 shall require the successful bidder to file with the board good and
40 sufficient bonds to be approved by the board conditioned upon the

1 faithful performance of the contract and upon the payment of any
2 claims for labor and material and containing the terms and
3 conditions set forth in Title 3 (commencing with Section 9000) of
4 Part 6 of Division 4 of the Civil Code and to be subject to the
5 provisions of that title. The board shall also have the right to reject
6 any bid, in which case the board may advertise for new bids.

7 (b) In the event no proposals are received pursuant to
8 advertisement, or where the estimated cost of the work does not
9 exceed three thousand dollars (\$3,000), or the work consists of
10 emergency work, the board of directors, by unanimous vote of all
11 members present, may, without advertising for bids, have the work
12 done by force account. In case of an emergency, if notice for bids
13 to let contracts will not be given, the board shall comply with
14 Chapter 2.5 (commencing with Section 22050).

15 (c) The agency may purchase in the open market without
16 advertisement for bids, materials and supplies for use in any work
17 either under contract or by force account.

18 (d) The provisions of this section have no application to a
19 contract entered into with the United States under the authority of
20 Section 6 of Chapter 10 of the Statutes of the 1952 First
21 Extraordinary Session, or to a contract authorized by a vote of the
22 electorate of the agency.

23 SEC. 71. Section 21231 of the Public Contract Code is amended
24 to read:

25 21231. 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 let to the lowest
28 responsible bidder or bidders in the manner provided in this article.
29 The board shall first determine whether the contract will be let as
30 a single unit, or will 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 improvement or before any
35 contract is made. The call for bids shall state whether the work is
36 to be performed as a unit or shall be divided into separate 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 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 to contain the terms and
5 conditions set forth in Title 3 (commencing with Section 9000) of
6 Part 6 of Division 4 of the Civil Code and to be subject to the
7 provisions of that title. The board shall also have the right to reject
8 any bid. In the event no proposals are received pursuant to
9 advertisement, or the estimated cost of the work does not exceed
10 five thousand dollars (\$5,000), or the work consists of channel
11 protection, maintenance work, or emergency work, the board of
12 supervisors may, without advertising for bids, have the work done
13 by day labor, under the direction of the board, by contract, or by
14 a combination of the two. In case of an emergency, if notice for
15 bids to let contracts will not be given, the board shall comply with
16 Chapter 2.5 (commencing with Section 22050). The district may
17 acquire in the open market without advertising for bids, materials,
18 equipment, and supplies for use in any work or for any other
19 purpose; provided, however, that materials and supplies for use in
20 any new construction work or improvement, except work referred
21 to in the preceding sentence, may not be purchased if the cost
22 exceeds five thousand dollars (\$5,000), without advertising for
23 bids and awarding the contract to the lowest responsible bidder.

24 SEC. 72. Section 21241 of the Public Contract Code is amended
25 to read:

26 21241. All contracts for any improvement or unit of work when
27 the cost, according to the estimate of the engineer, will exceed two
28 thousand dollars (\$2,000), shall be let to the lowest responsible
29 bidder or bidders in the manner provided in this article. The board
30 shall first determine whether the contract shall be let as a single
31 unit or shall be divided into severable parts, or both, according to
32 the best interests of the zone. The board shall call for bids and
33 advertise the call pursuant to Section 6066 of the Government
34 Code in the district inviting sealed proposals for the construction
35 or performance of the improvement or work before any contract
36 is made. The call for bids shall state whether the work is to be
37 performed as a unit or shall be divided into severable specific parts,
38 or both, as stated in the call. The board may let the work by single
39 contract or it may divide the work into severable parts by separate
40 contracts, as stated in the call, according to the best interests of

1 the district. The board shall require the successful bidder or bidders
2 to file with the board good and sufficient bonds to be approved by
3 the board conditioned upon the faithful performance of the contract
4 and upon the payment of their claims for labor and material, the
5 bonds to contain the terms and conditions set forth in Title 3
6 (commencing with Section 9000) of Part 6 of Division 4 of the
7 Civil Code and to be subject to the provisions of that title. The
8 board shall also have the right to reject any bid. In the event no
9 proposals are received pursuant to advertisement, or the estimated
10 cost of the work does not exceed two thousand dollars (\$2,000),
11 or the work consists of emergency work, the board of supervisors
12 may, without advertising for bids, have the work done by day
13 labor, under the direction of the board, by contract, or by a
14 combination of the two. In case of an emergency, if notice for bids
15 to let contracts will not be given, the board shall comply with
16 Chapter 2.5 (commencing with Section 22050). The board may
17 acquire in the open market, without advertising for bids, materials,
18 equipment, and supplies for use in any work or for any other
19 purpose; provided, however, that materials and supplies for use in
20 any new construction work or improvement, except work referred
21 to in the preceding sentence, may not be purchased if the cost
22 exceeds two thousand five hundred dollars (\$2,500), without
23 advertising for bids and awarding the contract to the lowest
24 responsible bidder.

25 SEC. 73. Section 21251 of the Public Contract Code is amended
26 to read:

27 21251. (a) (1) All contracts for any improvement or unit of
28 work, if the cost according to the estimate of the engineer will
29 exceed thirty thousand dollars (\$30,000), shall be let to the lowest
30 responsible bidder or bidders as provided in this article. The board
31 shall first determine whether the contract shall be let as a single
32 unit or divided into severable parts, or both.

33 (2) All contracts for any improvement or unit of work, if the
34 cost according to the estimate of the engineer is thirty thousand
35 dollars (\$30,000) or less, may be let without advertising for bids
36 in accordance with procedures adopted by the board.

37 (b) The board shall call for bids and advertise the call pursuant
38 to Section 6063 of the Government Code in the district, inviting
39 sealed proposals for the construction or performance of the
40 improvement or work before any contract is made. The call for

1 bids shall state whether the work is to be performed as one unit or
2 divided into severable specific parts.

3 (c) The work may be let under a single contract or several
4 contracts, or both, as stated in the call. 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 shall comply with Title
9 3 (commencing with Section 9000) of Part 6 of Division 4 of the
10 Civil Code. The board may reject any bid.

11 (d) If all proposals are rejected or no proposals are received, or
12 the estimated cost of the work does not exceed five thousand
13 dollars (\$5,000), or the work consists of channel protection,
14 maintenance work, or emergency work, the board may have the
15 work done by force account without advertising for bids. In case
16 of an emergency, if notice for bids to let contracts will not be given,
17 the board shall comply with Chapter 2.5 (commencing with Section
18 22050).

19 (e) The district 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.

22 SEC. 74. Section 21261 of the Public Contract Code is amended
23 to read:

24 21261. All contracts for any improvement or unit of work when
25 the cost, according to the estimate of the engineer, will exceed two
26 thousand dollars (\$2,000), shall be let to the lowest responsible
27 bidder or bidders in the manner provided in this article. The board
28 shall first determine whether the contract shall be let as a single
29 unit for the work, or shall be divided into severable parts, or both,
30 according to the best interests of the district. The board shall call
31 for bids and advertise the call pursuant to Section 6066 of the
32 Government Code in the district inviting sealed proposals for the
33 construction or performance of the improvement or work before
34 any contract is made. The call for bids shall state whether the work
35 is to be performed as a unit or shall be divided into severable
36 specific parts, or both, as stated in the call. The board may let the
37 work by single contract or it may divide the work into severable
38 parts by separate contracts, as stated in the call, according to the
39 best interests of the district. The board shall require the successful
40 bidder or bidders to file with the board good and sufficient bonds

1 to be approved by the board conditioned upon the faithful
2 performance of the contract and upon the payment of their claims
3 for labor and material, the bonds to contain the terms and
4 conditions set forth in Title 3 (commencing with Section 9000) of
5 Part 6 of Division 4 of the Civil Code and to be subject to the
6 provisions of that title. The board shall also have the right to reject
7 any bid. In the event all proposals are rejected or no proposals are
8 received pursuant to advertisement, or the estimated cost of the
9 work does not exceed two thousand dollars (\$2,000), or the work
10 consists of channel protection, maintenance work, or emergency
11 work, the board of supervisors may, without advertising for bids,
12 have the work done by force account. In case of an emergency, if
13 notice for bids to let contracts will not be given, the board shall
14 comply with Chapter 2.5 (commencing with Section 22050). The
15 district may purchase in the open market, without advertising for
16 bids, materials and supplies for use in any work either under
17 contract or by force account.

18 SEC. 75. Section 21271 of the Public Contract Code is amended
19 to read:

20 21271. All improvement and units of work to be performed by
21 or for the district shall be performed in accordance with the
22 following procedures and requirements:

23 (a) If the work consists of the protection or maintenance of
24 channels, storm drains, dams or other flood control works, or
25 emergency work, the board of directors may, without advertising
26 for bids therefor, have the work done by day labor under the
27 direction of the board, by contract, or by a combination of the two.
28 In case of an emergency, if notice for bids to let contracts will not
29 be given, the board shall comply with Chapter 2.5 (commencing
30 with Section 22050).

31 (b) If the work consists of the construction of new flood control
32 channels, storm drains, dams, or other unit or units of work, and
33 if the cost of the work, according to the estimate of the engineer,
34 will exceed ten thousand dollars (\$10,000), and if the work is not
35 the type of work referred to in subdivision (a) or (c) of this section,
36 the new construction shall be performed under a contract or
37 contracts which shall be let to the lowest responsible bidder or
38 bidders in the manner provided in subdivision (d) of this section.

39 (c) If the work consists of the maintenance or alteration of
40 existing facilities, including electrical, painting, and roofing work,

1 and if the cost of labor and materials for the work according to the
2 engineer's estimate, will exceed three thousand five hundred dollars
3 (\$3,500), and if the work is not the type of work referred to in
4 subdivision (a) or (b) of this section, the maintenance and alteration
5 work shall be performed under a contract or contracts which shall
6 be let to the lowest responsible bidder or bidders in the manner
7 provided in subdivision (d) of this section.

8 (d) The board shall first determine whether the work shall be
9 let as a single unit or shall be divided into severable parts, or both,
10 according to the best interests of the district. The board shall call
11 for bids and advertise the call pursuant to Section 6066 of the
12 Government Code in the district inviting sealed proposals for the
13 construction or performance of the work before any contract is
14 made. The call for bids shall state whether the work is to be
15 performed as a unit or shall be divided into severable, specific
16 parts, or both, as stated in the call. The board may let the work by
17 single contract or it may divide the work into severable parts by
18 separate contracts, as stated in the call, according to the best
19 interests of the district. The board shall require the successful
20 bidder or bidders to file with the board good and sufficient bond
21 to be approved by the board conditioned upon the faithful
22 performance of the contract and upon the payment of the claims
23 for labor and material. The faithful performance bond shall contain
24 the terms and conditions as the board may specify, and the payment
25 bond shall contain the terms and conditions set forth in, and shall
26 be subject to, the provisions of Title 3 (commencing with Section
27 9000) of Part 6 of Division 4 of the Civil Code. If the work to be
28 performed on behalf of the district does not involve an expenditure
29 of fifteen thousand dollars (\$15,000) or more, the district may
30 require a faithful performance bond or a payment bond. The board
31 shall also have the right to reject any bid.

32 (e) If no proposals are received pursuant to advertisement, or
33 if the estimated cost of work of the type referred to in subdivision
34 (b) of this section does not exceed ten thousand dollars (\$10,000),
35 or if the estimated cost of work of the type referred to in
36 subdivision (c) of this section does not exceed three thousand five
37 hundred dollars (\$3,500), the board of directors may, without
38 advertising for bids, have the work done by day labor, under the
39 direction of the board, by contract, or by combination of the two.
40 If any change or alteration in a contract awarded under the

1 provisions of this section for work of the type referred to in
2 subdivision (b) or (c) is deemed necessary and the cost does not
3 exceed 10 percent of the original contract price, the board may
4 authorize the contractor to proceed with the change or alteration
5 without the formality of obtaining bids.

6 (f) Notwithstanding the foregoing provisions, the district shall
7 have the power to acquire in the open market, and may authorize
8 the Purchasing Agents of the County of Santa Barbara to acquire
9 in the open market, without advertising for bids, materials,
10 equipment, and supplies for use in any work or for any other
11 purpose; provided, however, that materials and supplies for use in
12 any new construction work or improvement, except work referred
13 to in subdivision (a) of this section, may not be purchased without
14 advertising for bids and awarding the contract to the lowest
15 responsible bidder if the cost exceeds two thousand five hundred
16 dollars (\$2,500), unless the purchase is made by the county
17 purchasing agent at the request of the district, in which case the
18 cost shall not exceed six thousand five hundred dollars (\$6,500).

19 SEC. 76. Section 21311 of the Public Contract Code is amended
20 to read:

21 21311. (a) All contracts for any improvement or unit of work
22 when the cost, according to the estimate of the engineer, will
23 exceed two thousand dollars (\$2,000), shall be let to the lowest
24 responsible bidder or bidders in the manner provided in this article.
25 The board shall first determine whether the contract shall be let as
26 a single unit, or shall be divided into severable parts, or both,
27 according to the best interests of the district. The board shall call
28 for bids and advertise the call by three insertions in a daily
29 newspaper of general circulation or by two insertions in a weekly
30 newspaper of general circulation printed and published in the
31 district inviting sealed proposals for the construction or
32 performance of the improvement or work before any contract is
33 made. The call for bids shall state whether the work is to be
34 performed as a unit or shall be divided into severable specific parts,
35 or both, as stated in the call. The board may let the work by single
36 contract for the whole as a unit or it may divide the work into
37 severable parts by separate contracts, as stated in the call, according
38 to the best interests of the district. The board shall require the
39 successful bidder or bidders to file with the board good and
40 sufficient bonds to be approved by the board conditioned upon the

1 faithful performance of the contract and upon the payment of their
2 claims for labor and material, the bonds to contain the terms and
3 conditions set forth in Title 3 (commencing with Section 9000) of
4 Part 6 of Division 4 of the Civil Code and to be subject to the
5 provisions of that title. The board shall also have the right to reject
6 any bid.

7 (b) In the event no proposals are received pursuant to
8 advertisement, or the estimated cost of the work does not exceed
9 two thousand dollars (\$2,000), or the work consists of channel
10 protection, maintenance work, or emergency work, the board of
11 supervisors may, without advertising for bids, have the work done
12 by day labor, under the direction of the board, by contract, or by
13 a combination of the two. In case of an emergency, if notice for
14 bids to let contracts will not be given, the board shall comply with
15 Chapter 2.5 (commencing 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), shall not
21 be purchased if the cost exceeds two thousand five hundred dollars
22 (\$2,500), without advertising for bids and awarding the contract
23 to the lowest responsible bidder.

24 SEC. 77. Section 21321 of the Public Contract Code is amended
25 to read:

26 21321. (a) All contracts for any improvement or unit of work,
27 when the cost according to the estimate of the engineer will exceed
28 thirty thousand dollars (\$30,000), shall be let to the lowest
29 responsible bidder or bidders as provided in this article. The board
30 shall first determine whether the contract shall be let as a single
31 unit, or divided into severable parts. The board shall advertise for
32 bids by three insertions in a daily newspaper of general circulation
33 or by two insertions in a weekly newspaper of general circulation
34 printed and published in the agency's jurisdiction, inviting sealed
35 proposals for the construction or performance of the improvement
36 or work. The call for bids shall state whether the work shall be
37 performed in one unit or divided into parts. The work may be let
38 under a single contract or several contracts, as stated in the call.

39 The board shall require the successful bidders to file with the
40 board good and sufficient bonds to be approved by the board

1 conditioned upon the faithful performance of the contract and upon
2 the payment of their claims for labor and material. The bonds shall
3 comply with Title 3 (commencing with Section 9000) of Part 6 of
4 Division 4 of the Civil Code.

5 (b) The board may reject any bid. In the event all proposals are
6 rejected or no proposals are received, or the estimated cost of the
7 work does not exceed five thousand dollars (\$5,000), or the work
8 consists of channel protection, maintenance, or emergency work,
9 the board may have the work done by force account without
10 advertising for bids. In case of an emergency, if notice for bids to
11 let contracts will not be given, the board shall comply with Chapter
12 2.5 (commencing with Section 22050). In the event that no
13 proposals are received, or if only one responsive proposal is
14 received, the board may negotiate a contract for construction or
15 performance of the work or improvement or substantially similar
16 work or improvement. However, if only one responsive proposal
17 is received, the contract must be negotiated with the bidder.

18 (c) The agency may purchase in the open market without
19 advertising for bids, materials and supplies for use in any work,
20 either under contract or by force account.

21 (d) Sections 4300 to 4305, inclusive, of the Government Code
22 do not apply to the agency's Middle Fork American River Project.

23 (e) This section applies to all proposals or contracts whether or
24 not received or entered into prior to the effective date of the
25 amendment of this provision made at the 1963 Regular Session of
26 the Legislature.

27 SEC. 78. Section 21331 of the Public Contract Code is amended
28 to read:

29 21331. (a) All contracts for the construction of any unit of
30 work, except as provided in this article, estimated to cost in excess
31 of three thousand five hundred dollars (\$3,500) shall be let to the
32 lowest responsible bidder in the manner provided in this article.
33 The board shall advertise by three insertions in a daily newspaper
34 of general circulation or two insertions in a weekly newspaper of
35 general circulation published in the district inviting sealed
36 proposals for the construction of the work before any contract shall
37 be made, and may let by contract separately any part of the work.
38 The board shall require the successful bidder to file with the board
39 good and sufficient bonds to be approved by the board conditioned
40 upon the faithful performance of the contract and upon the payment

1 of all claims for labor and material, the bonds to contain the terms
2 and conditions set forth in Title 3 (commencing with Section 9000)
3 of Part 6 of Division 4 of the Civil Code, and to be subject to the
4 provisions of that title. The board shall also have the right to reject
5 any bid, in which case the board may advertise for new bids.

6 (b) In the event no proposals are received pursuant to
7 advertisement, where the estimated cost of the work does not
8 exceed five thousand dollars (\$5,000), or where the work consists
9 of emergency work, the board of directors, by unanimous vote of
10 all members present, may, without advertising for bids, have the
11 work done by force account. In case of an emergency, if notice
12 for bids to let contracts will not be given, the board shall comply
13 with Chapter 2.5 (commencing with Section 22050).

14 (c) The district may purchase in the open market, without
15 advertisement for bids, materials and supplies for use in any work
16 either under contract or by force account; provided, however, that
17 materials and supplies for use in any new construction work or
18 improvement, except work referred to in subdivision (b), may not
19 be purchased if the cost exceeds five thousand dollars (\$5,000),
20 without advertising for bids and awarding the contract to the lowest
21 responsible bidder.

22 (d) The provisions of this section have no application to a
23 contract entered into with the United States under the authority of
24 Section 3 of Chapter 1280 of the Statutes of 1957, or to a contract
25 authorized by a vote of the electorate of the district.

26 SEC. 79. Section 21341 of the Public Contract Code is amended
27 to read:

28 21341. (a) All contracts for the construction of any unit of
29 work, except as provided in this article, estimated to cost in excess
30 of five thousand dollars (\$5,000) shall be let to the lowest
31 responsible bidder. The board shall advertise by three insertions
32 in a daily newspaper of general circulation or two insertions in a
33 weekly newspaper of general circulation published by the agency
34 inviting sealed proposals for the construction of the work before
35 any contract is made, and may let by contract separately any part
36 of the work. The board shall require the successful bidder to file
37 with the board good and sufficient bonds to be approved by the
38 board conditioned upon the faithful performance of the contract
39 and upon the payment of the claims for labor and material, the
40 bonds to contain the terms and conditions set forth in Title 3

1 (commencing with Section 9000) of Part 6 of Division 4 of the
2 Civil Code, and to be subject to the provisions of that title. The
3 board shall also have the right to reject any bid, in which case the
4 board may advertise for new bids. In the event no proposals are
5 received pursuant to advertisement or where the estimated cost of
6 the work does not exceed five thousand dollars (\$5,000), or where
7 the work consists of emergency work, the board, by unanimous
8 vote of all members present, may, without advertising for bids,
9 have the work done by force account. In case of an emergency, if
10 notice for bids to let contracts will not be given, the board shall
11 comply with Chapter 2.5 (commencing with Section 22050). The
12 agency may purchase in the open market, without advertisement
13 for bids, materials and supplies for use in any work either under
14 contract or by force account.

15 (b) The provisions of this section have no application to a
16 contract entered into with the United States under the authority of
17 Section 59 of Chapter 1512 of the Statutes of 1957, or to a contract
18 authorized by a vote of the electorate of the agency.

19 SEC. 80. Section 21351 of the Public Contract Code is amended
20 to read:

21 21351. All contracts for any improvement or unit of work,
22 when the cost according to the estimate of the engineer will exceed
23 five thousand dollars (\$5,000), shall be let to the lowest responsible
24 bidder or bidders as provided in this article. The board shall first
25 determine whether the contract shall be let as a single unit, or
26 divided into severable parts. The board shall advertise for bids by
27 three insertions in a daily newspaper of general circulation or by
28 two insertions in a weekly newspaper of general circulation printed
29 and published by the agency, inviting sealed proposals for the
30 construction or performance of the improvement or work. The call
31 for bids shall state whether the work shall be performed in one
32 unit or divided into parts. The work may be let under a single
33 contract or several contracts, as stated in the call. The board shall
34 require the successful bidders to file with the board good and
35 sufficient bonds to be approved by the board conditioned upon the
36 faithful performance of the contract and upon the payment of their
37 claims for labor and material. The bonds shall comply with Title
38 3 (commencing with Section 9000) of Part 6 of Division 4 of the
39 Civil Code. The board may reject any bid. In the event all proposals
40 are rejected or no proposals are received, or the estimated cost of

1 the work does not exceed five thousand dollars (\$5,000), or the
 2 work consists of channel protection, maintenance work, or
 3 emergency work, the board may have the work done by force
 4 account without advertising for bids. In case of an emergency, if
 5 notice for bids to let contracts will not be given, the board shall
 6 comply with Chapter 2.5 (commencing with Section 22050). The
 7 board may purchase in the open market without advertising for
 8 bids, materials and supplies for use in any work, either under
 9 contract or by force account. In awarding any contract or
 10 authorizing any work, the board shall comply with the provisions
 11 of Article 2 (commencing with Section 1770) of Chapter 1 of Part
 12 7 of Division 2 of the Labor Code.

13 SEC. 81. Section 21361 of the Public Contract Code is amended
 14 to read:

15 21361. All contracts for any improvement or unit of work,
 16 when the cost according to the estimate of the engineer will exceed
 17 five thousand dollars (\$5,000), shall be let to the lowest responsible
 18 bidder or bidders as provided in this article. The board shall first
 19 determine whether the contract shall be let as a single unit, or
 20 divided into severable parts. The board shall advertise for bids by
 21 three insertions in a daily newspaper of general circulation or by
 22 two insertions in a weekly newspaper of general circulation printed
 23 and published in the agency’s jurisdiction, inviting sealed proposals
 24 for the construction or performance of the improvement or work.
 25 The call for bids shall state whether the work shall be performed
 26 in one unit or divided into parts. The work may be let under a
 27 single contract or several contracts, as stated in the call. The board
 28 shall require the successful bidders to file with the board good and
 29 sufficient bonds to be approved by the board conditioned upon the
 30 faithful performance of the contract and upon the payment of their
 31 claims for labor and material. The bonds shall comply with Title
 32 3 (commencing with Section 9000) of Part 6 of Division 4 of the
 33 Civil Code. The board may reject any bid. In the event all proposals
 34 are rejected or no proposals are received, or the estimated cost of
 35 the work does not exceed five thousand dollars (\$5,000), or the
 36 work consists of channel protection, maintenance work, or
 37 emergency work, the board of supervisors may have the work done
 38 by force account without advertising for bids. In case of an
 39 emergency, if notice for bids to let contracts will not be given, the
 40 board shall comply with Chapter 2.5 (commencing with Section

1 22050). The district may purchase in the open market without
2 advertising for bids, materials and supplies for use in any work,
3 either under contract or by force account.

4 SEC. 82. Section 21371 of the Public Contract Code is amended
5 to read:

6 21371. All contracts for any improvement or unit of work,
7 when the cost according to the estimate of the engineer will exceed
8 five thousand dollars (\$5,000), shall be let to the lowest responsible
9 bidder or bidders as provided in this article. The board shall first
10 determine whether the contract shall be let as a single unit, or
11 divided into severable parts. The board shall advertise for bids by
12 three insertions in a daily newspaper of general circulation or by
13 two insertions in a weekly newspaper of general circulation printed
14 and published in the agency's jurisdiction, inviting sealed proposals
15 for the construction or performance of the improvement or work.
16 The call for bids shall state whether the work shall be performed
17 in one unit or divided into parts. The work may be let under a
18 single contract or several contracts, as stated in the call. The board
19 shall require the successful bidders 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 their
22 claims for labor and material. The bonds shall comply with Title
23 3 (commencing with Section 9000) of Part 6 of Division 4 of the
24 Civil Code. The board may reject any bid. In the event all proposals
25 are rejected or no proposals are received, or the estimated cost of
26 the work does not exceed five thousand dollars (\$5,000), or the
27 work consists of emergency work, the board may have the work
28 done by force account without advertising for bids. In case of an
29 emergency, if notice for bids to let contracts will not be given, the
30 board shall comply with Chapter 2.5 (commencing with Section
31 22050). The district may purchase in the open market without
32 advertising for bids, materials and supplies for use in any work,
33 either under contract or by force account.

34 SEC. 83. Section 21381 of the Public Contract Code is amended
35 to read:

36 21381. All contracts for any improvement or unit of work,
37 except as provided in this article, estimated to cost in excess of
38 five thousand dollars (\$5,000) shall be let to the lowest responsible
39 bidder in the manner provided in this article. The board of
40 supervisors of the district shall advertise by three insertions in a

1 daily newspaper of general circulation or two insertions in a weekly
2 newspaper of general circulation printed and published in the
3 district inviting sealed proposals for the construction of the
4 improvement or work before any contract shall be made, and may
5 let by contract separately any part of said work or improvement.
6 The board shall require the successful bidder to file with the board
7 good and sufficient bonds to be approved by the board conditioned
8 upon the faithful performance of the contract and upon the payment
9 of their claims for labor and material, the bonds to contain the
10 terms and conditions set forth in Title 3 (commencing with Section
11 9000) of Part 6 of Division 4 of the Civil Code and to be subject
12 to the provisions of that part. The board shall also have the right
13 to reject any bid. In the event all proposals are rejected or no
14 proposals are received pursuant to advertisement, or where the
15 estimated cost of the work does not exceed five thousand dollars
16 (\$5,000), or the work consists of channel protection, maintenance
17 work, or emergency work, the board of supervisors may, without
18 advertising for bids, have the work done by force account. In case
19 of an emergency, if notice for bids to let contracts will not be given,
20 the board shall comply with Chapter 2.5 (commencing with Section
21 22050). The district may purchase in the open market without
22 advertising for bids, materials and supplies for use in any work
23 either under contract or by force account.

24 SEC. 84. Section 21391 of the Public Contract Code is amended
25 to read:

26 21391. (a) All contracts for the construction of any unit of
27 work, except as provided in this article, estimated to cost in excess
28 of two thousand dollars (\$2,000) shall be let to the lowest
29 responsible bidder in the manner provided in this article. The board
30 shall advertise by three insertions in a daily newspaper of general
31 circulation or two insertions in a weekly newspaper of general
32 circulation published in the district, inviting sealed proposals for
33 the construction of the work before any contract shall be made,
34 and may let by contract separately any part of the work. The board
35 shall require the successful bidder to file with the board good and
36 sufficient bonds to be approved by the board conditioned upon the
37 faithful performance of the contract and upon the payment of all
38 claims for labor and material, the bonds to contain the terms and
39 conditions set forth in Title 3 (commencing with Section 9000) of
40 Part 6 of Division 4 of the Civil Code, and to be subject to the

1 provisions of that title. The board shall also have the right to reject
2 any and all bids, in which case the board may advertise for new
3 bids.

4 (b) In the event no proposals are received pursuant to
5 advertisement therefor, where the estimated cost of the work does
6 not exceed two thousand dollars (\$2,000), or where the work
7 consists of emergency work necessary in order to protect life and
8 property, the board of directors, by unanimous vote of all members
9 present, may, without advertising for bids, have the work done by
10 force account. In case of an emergency, if notice for bids to let
11 contracts will not be given, the board shall comply with Chapter
12 2.5 (commencing with Section 22050).

13 (c) The district may purchase in the open market without
14 advertisement for bids, materials and supplies for use in any work
15 either under contract or by force account; provided, however, that
16 materials and supplies for use in any new construction work or
17 improvement, except work referred to in subdivision (b), may not
18 be purchased if the cost exceeds two thousand five hundred dollars
19 (\$2,500), without advertising for bids and awarding the contract
20 to the lowest responsible bidder.

21 (d) The provisions of this section have no application to a
22 contract entered into with the United States under the authority of
23 Section 3 of Chapter 2114 of the Statutes of 1959, or to a contract
24 authorized by a vote of the electorate of the district.

25 SEC. 85. Section 21401 of the Public Contract Code is amended
26 to read:

27 21401. (a) All contracts for the construction of any unit of
28 work, except as provided in this article, estimated to cost in excess
29 of two thousand dollars (\$2,000) shall be let to the lowest
30 responsible bidder in the manner provided in this article. The board
31 shall advertise by three insertions in a daily newspaper of general
32 circulation or two insertions in a weekly newspaper of general
33 circulation published in the district inviting sealed proposals for
34 the construction of the work before any contract shall be made,
35 and may let by contract separately any part of the work. The board
36 shall require the successful bidder to file with the board good and
37 sufficient bonds to be approved by the board conditioned upon the
38 faithful performance of the contract and upon the payment of all
39 claims for labor and material, the bonds to contain the terms and
40 conditions set forth in Title 3 (commencing with Section 9000) of

1 Part 6 of Division 4 of the Civil Code, and to be subject to the
2 provisions of that title. The board shall also have the right to reject
3 any bids, in which case the board may advertise for new bids.

4 (b) In the event no proposals are received pursuant to
5 advertisement, where the estimated cost of the work does not
6 exceed two thousand dollars (\$2,000), or where work consists of
7 emergency work, the board of directors, by unanimous vote of all
8 members present, may, without advertising for bids, have the work
9 done by force account. In case of an emergency, if notice for bids
10 to let contracts will not be given, the board shall comply with
11 Chapter 2.5 (commencing with Section 22050).

12 (c) The district may purchase in the open market without
13 advertisement for bids, materials and supplies for use in any work
14 either under contract or by force account; provided, however, that
15 materials and supplies for use in any new construction work or
16 improvement, except work referred to in subdivision (b), may not
17 be purchased if the cost exceeds two thousand five hundred dollars
18 (\$2,500), without advertising for bids and awarding the contract
19 to the lowest responsible bidder.

20 (d) The provisions of this section have no application to a
21 contract entered into with the United States under the authority of
22 Section 3 of Chapter 2121 of the Statutes of 1959, or to a contract
23 authorized by a vote of the electorate of the district.

24 SEC. 86. Section 21411 of the Public Contract Code is amended
25 to read:

26 21411. All contracts for any improvement or unit of work,
27 when the cost according to the estimate of the engineer will exceed
28 five thousand dollars (\$5,000) shall be let to the lowest responsible
29 bidder or bidders as provided in this article. The board shall first
30 determine whether the contract shall be let as a single unit, or
31 divided into severable parts. The board shall advertise for bids by
32 three insertions in a daily newspaper of general circulation or by
33 two insertions in a weekly newspaper of general circulation printed
34 and published in the agency's jurisdiction, inviting sealed proposals
35 for the construction or performance of the improvement or work.
36 The call for bids shall state whether the work shall be performed
37 in one unit or divided into parts. The work may be let under a
38 single contract or several contracts, as stated in the call. The board
39 shall require the successful bidders to file with the board good and
40 sufficient bonds to be approved by the board conditioned upon the

1 faithful performance of the contract and upon the payment of their
2 claims for labor and material. The bonds shall comply with Title
3 3 (commencing with Section 9000) of Part 6 of Division 4 of the
4 Civil Code. The board may reject any bid. In the event all proposals
5 are rejected or no proposals are received, or the estimated cost of
6 the work does not exceed five thousand dollars (\$5,000), or the
7 work consists of channel protection, maintenance work, or
8 emergency work, the board may have the work done by force
9 account without advertising for bids. In case of an emergency, if
10 notice for bids to let contracts will not be given, the board shall
11 comply with Chapter 2.5 (commencing with Section 22050). In
12 that event a majority vote of all board members shall be required.
13 The board may purchase in the open market, without advertising
14 for bids, materials and supplies for use in any work, either under
15 contract or by force account.

16 SEC. 87. Section 21421 of the Public Contract Code is amended
17 to read:

18 21421. (a) All contracts for the construction of any unit of
19 work, except as provided in this article, estimated to cost in excess
20 of two thousand dollars (\$2,000), shall be let to the lowest
21 responsible bidder in the manner provided in this article. The board
22 shall advertise by three insertions in a daily newspaper of general
23 circulation or two insertions in a weekly newspaper of general
24 circulation published in the district inviting sealed proposals for
25 the construction of the work before any contract shall be made,
26 and may let by contract separately any part of the work. The board
27 shall require the successful bidder to file with the board good and
28 sufficient bonds to be approved by the board conditioned upon the
29 faithful performance of the contract and upon the payment of all
30 claims for labor and material, the bonds to contain the terms and
31 conditions set forth in Title 3 (commencing with Section 9000) of
32 Part 6 of Division 4 of the Civil Code, and to be subject to the
33 provisions of that title. The board shall also have the right to reject
34 any bid, in which case the board may advertise for new bids.

35 (b) In the event no proposals are received pursuant to
36 advertisement, where the estimated cost of the work does not
37 exceed two thousand dollars (\$2,000), or where the work consists
38 of emergency work, the board of directors, by unanimous vote of
39 all members present, may, without advertising for bids, have the
40 work done by force account. In case of an emergency, if notice

1 for bids to let contracts will not be given, the board shall comply
2 with Chapter 2.5 (commencing with Section 22050).

3 (c) The district may purchase in the open market without
4 advertisement for bids, materials and supplies for use in any work
5 either under contract or by force account; provided, however, that
6 materials and supplies for use in any new construction work or
7 improvement, except work referred to in subdivision (b), may not
8 be purchased if the cost exceeds two thousand five hundred dollars
9 (\$2,500), without advertising for bids and awarding the contract
10 to the lowest responsible bidder.

11 (d) The provisions of this section have no application to a
12 contract entered into with the United States under the authority of
13 Section 3 of Chapter 2123 of the Statutes of 1959, or to a contract
14 authorized by a vote of the electorate of the district.

15 SEC. 88. Section 21431 of the Public Contract Code is amended
16 to read:

17 21431. (a) All contracts for the construction of any unit of
18 work, except as provided in this article, estimated to cost in excess
19 of two thousand dollars (\$2,000), shall be let to the lowest
20 responsible bidder in the manner provided in this article. The board
21 shall advertise by three insertions in a daily newspaper of general
22 circulation or two insertions in a weekly newspaper of general
23 circulation published in the district inviting sealed proposals for
24 the construction of the work before any contract shall be made,
25 and may let by contract separately any part of the work. The board
26 shall require the successful bidder to file with the board good and
27 sufficient bonds to be approved by the board conditioned upon the
28 faithful performance of the contract and upon the payment of all
29 claims for labor and material, the bonds to contain the terms and
30 conditions set forth in Title 3 (commencing with Section 9000) of
31 Part 6 of Division 4 of the Civil Code, and to be subject to the
32 provisions of that title. The board shall also have the right to reject
33 any bid, in which case the board may advertise for new bids.

34 (b) In the event no proposals are received pursuant to
35 advertisement, where the estimated cost of the work does not
36 exceed two thousand dollars (\$2,000), the board of directors, by
37 unanimous vote of all members present, may without advertising
38 for bids, have the work done by force account. In case of an
39 emergency, if notice for bids to let contracts will not be given, the

1 board shall comply with Chapter 2.5 (commencing with Section
2 22050).

3 (c) The district may purchase in the open market without
4 advertisement for bids, materials and supplies for use in any work
5 either under contract or by force account; provided, however, that
6 materials and supplies for use in any new construction work or
7 improvement, except work referred to in subdivision (b), may not
8 be purchased if the cost exceeds two thousand five hundred dollars
9 (\$2,500), without advertising for bids and awarding the contract
10 to the lowest responsible bidder.

11 (d) The provisions of this section have no application to a
12 contract entered into with the United States under the authority of
13 Section 3 of Chapter 2127 of the Statutes of 1959, or to a contract
14 authorized by a vote of the electorate of the district.

15 SEC. 89. Section 21441 of the Public Contract Code is amended
16 to read:

17 21441. (a) All contracts for any improvement or unit of work,
18 when the cost according to the estimate of the engineer will exceed
19 five thousand dollars (\$5,000) shall be let to the lowest responsible
20 bidder or bidders as provided in this article. The board shall first
21 determine whether the contract shall be let as a single unit, or
22 divided into severable parts. The board shall advertise for bids by
23 three insertions in a daily newspaper of general circulation or by
24 two insertions in a weekly newspaper of general circulation printed
25 and published in the authority, inviting sealed proposals for the
26 construction or performance of the improvement work. The call
27 for bids shall state whether the work shall be performed in one
28 unit or divided into parts. The work may be let under a single
29 contract or several contracts, as stated in the call. The board shall
30 require the successful bidders to file with the board good and
31 sufficient bonds to be approved by the board conditioned upon the
32 faithful performance of the contract and upon the payment of their
33 claims for labor and material. The bonds shall comply with Title
34 3 (commencing with Section 9000) of Part 6 of Division 4 of the
35 Civil Code. The board may reject any bid. In the event all proposals
36 are rejected or no proposals are received, or the estimated cost of
37 the work does not exceed five thousand dollars (\$5,000), or the
38 work consists of channel protection, maintenance work, or
39 emergency work, the board may have the work done by force
40 account without advertising for bids.

1 (b) In case of an emergency, if notice for bids to let contracts
 2 will not be given, the board shall comply with Chapter 2.5
 3 (commencing with Section 22050). The authority may purchase
 4 in the open market without advertising for bids, materials, and
 5 supplies for use in any work, either under contract or by force
 6 account.

7 SEC. 90. Section 21451 of the Public Contract Code is amended
 8 to read:

9 21451. All contracts for any improvement or unit of work,
 10 when the cost according to the estimate of the engineer will exceed
 11 twelve thousand five hundred dollars (\$12,500), shall be let to the
 12 lowest responsible bidder or bidders as provided in this article.
 13 The board shall first determine whether the contract shall be let as
 14 a single unit or divided into severable parts. The board shall
 15 advertise for bids by three insertions in a daily newspaper of
 16 general circulation or by two insertions in a weekly newspaper of
 17 general circulation printed and published in the agency, inviting
 18 sealed proposals for the construction or performance of the
 19 improvement or work. The call for bids shall state whether the
 20 work shall be performed in one unit or divided into parts. The work
 21 may be let under a single contract or several contracts, as stated
 22 in the call. The board shall require the successful bidders to file
 23 with the board good and sufficient bonds to be approved by the
 24 board conditioned upon the faithful performance of the contract
 25 and upon the payment of their claims for labor and material. The
 26 payment bonds shall comply with Chapter 5 (commencing with
 27 Section 9550) of Title 3 of Part 6 of Division 4 of the Civil Code.
 28 The board may reject any bid. If all proposals are rejected or no
 29 proposals are received, or the estimated cost of the work does not
 30 exceed twelve thousand five hundred dollars (\$12,500), or the
 31 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). The
 36 agency may purchase in the open market without advertising for
 37 bids, materials and supplies for use in any work, either under
 38 contract or by force account.

39 SEC. 91. Section 21461 of the Public Contract Code is amended
 40 to read:

1 21461. All contracts for any improvement or unit of work,
2 when the cost according to the estimate of the engineer will exceed
3 five thousand dollars (\$5,000), shall be let to the lowest responsible
4 bidder or bidders as provided in this article. The board shall first
5 determine whether the contract shall be let as a single unit, or
6 divided into severable parts. The board shall advertise for bids by
7 three insertions in a daily newspaper of general circulation or by
8 two insertions in a weekly newspaper of general circulation printed
9 and published in the agency, inviting sealed proposals for the
10 construction or performance of the improvement or work. The call
11 for bids shall state whether the work shall be performed in one
12 unit or divided into parts. The work may be let under a single
13 contract or several contracts, as stated in such call. The board shall
14 require the successful bidders to file with the board good and
15 sufficient bonds to be approved by the board conditioned upon the
16 faithful performance of the contract and upon payment of their
17 claims for labor and material. The bonds shall comply with Title
18 3 (commencing with Section 9000) of Part 6 of Division 4 of the
19 Civil Code. The board may reject any and all bids. In the event all
20 proposals are rejected or no proposals are received, or the estimated
21 cost of the work does not exceed five thousand dollars (\$5,000),
22 or the work consists of channel protection, maintenance work, or
23 emergency work, the board of supervisors may have the work done
24 by force account without advertising for bids. 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). The district may purchase in the open market without
28 advertising for bids, materials and supplies for use in any work,
29 either under contract or by force account.

30 SEC. 92. Section 21491 of the Public Contract Code is amended
31 to read:

32 21491. (a) All contracts for any improvement or unit of work,
33 when the cost according to the estimate of the engineer will exceed
34 ten thousand dollars (\$10,000), 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 such call. The board shall
5 require the successful 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 shall comply with Title
9 3 (commencing with Section 9000) of Part 6 of Division 4 of the
10 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 ten
13 thousand dollars (\$10,000), 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; provided, however, that
22 materials and supplies for use in any new construction work or
23 improvement, except work referred to in subdivision (b), may not
24 be purchased if the cost exceeds ten thousand dollars (\$10,000),
25 without advertising for bids and awarding the contract to the lowest
26 responsible bidder.

27 SEC. 93. Section 21501 of the Public Contract Code is amended
28 to read:

29 21501. (a) All contracts for any improvement or unit of work,
30 when the cost according to the estimate of the engineer will exceed
31 fifteen thousand dollars (\$15,000), shall be let to the lowest
32 responsible bidder or bidders as provided in this article. The board
33 shall first determine whether the contract shall be let as a single
34 unit, or divided into severable parts. The board shall advertise for
35 bids by three insertions in a daily newspaper of general circulation
36 or by two insertions in a weekly newspaper of general circulation
37 printed and published in the agency, inviting sealed proposals for
38 the construction or performance of the improvement or work. The
39 call for bids shall state whether the work shall be performed in one
40 unit or divided into parts. The work may be let under a single

1 contract or several contracts, as stated in such call. The board shall
2 require the successful bidders to file with the board good and
3 sufficient bonds to be approved by the board conditioned upon the
4 faithful performance of the contract and upon the payment of their
5 claims for labor and material. The bonds shall comply with Chapter
6 5 (commencing with Section 9550) of Title 3 of Part 6 of Division
7 4 of the Civil Code. The board may reject any and all bids.

8 (b) The board may have work done by force account without
9 advertising for bids or by informal bidding procedures in any of
10 the following situations:

- 11 (1) All proposals are rejected.
- 12 (2) No proposals are received.
- 13 (3) The estimated cost of the work does not exceed fifteen
14 thousand dollars (\$15,000) until January 1, 1989. After January
15 1, 1989, the estimated cost of the work shall not exceed ten
16 thousand dollars (\$10,000).
- 17 (4) The work consists of channel protection.
- 18 (5) The work consists of maintenance work, except that informal
19 bidding procedures may be used only where the estimated cost
20 does not exceed twenty-five thousand dollars (\$25,000).
- 21 (6) The work consists of emergency work. In case of an
22 emergency, if notice for bids to let contracts will not be given, the
23 board shall comply with Chapter 2.5 (commencing with Section
24 22050).

25 (c) The agency may purchase in the open market without
26 advertising for bids, materials and supplies for use in any work,
27 either under contract or by force account, except that, materials
28 and supplies for use in any new construction work or improvement,
29 except work referred to in subdivision (b), may not be purchased,
30 if the cost exceeds fifteen thousand dollars (\$15,000), without
31 advertising for bids and awarding the contract to the lowest
32 responsible bidder.

33 (d) As used in this section, “informal bidding procedures” means
34 that the board shall, at a minimum, award a contract to the lowest
35 responsible bidder after publishing a notice which generally
36 describes the work to be performed and invites written bids in a
37 newspaper of general circulation in the agency once a week for
38 two successive weeks. The board shall obtain a minimum of three
39 written bids.

1 SEC. 94. Section 21511 of the Public Contract Code is amended
2 to read:

3 21511. (a) All contracts for any improvement or unit of work,
4 when the cost according to the estimate of the engineer will exceed
5 fifty thousand dollars (\$50,000), shall be let to the lowest
6 responsible bidder or bidders as provided in this article. The board
7 shall first determine whether the contract shall be let as a single
8 unit or divided into severable parts. The board shall advertise for
9 bids by three insertions in a daily newspaper of general circulation
10 or by two insertions in a weekly newspaper of general circulation
11 printed and published in the agency, inviting sealed proposals for
12 the construction or performance of the improvement or work. The
13 call for bids shall state whether the work shall be performed in one
14 unit or divided into parts. The work may be let under a single
15 contract or several contracts, as stated in the call. The board shall
16 require the successful bidders to file with the board good and
17 sufficient bonds to be approved by the board conditioned upon the
18 faithful performance of the contract and upon the payment of their
19 claims for labor and material. The bonds shall comply with Title
20 3 (commencing with Section 9000) of Part 6 of Division 4 of the
21 Civil Code. The board may reject any and all bids.

22 (b) In the event all proposals are rejected or no proposals are
23 received, or the estimated cost of the work does not exceed ten
24 thousand dollars (\$10,000), or the work consists of channel
25 protection, maintenance work, or emergency work, the board may
26 have the work done by force account without advertising for bids.
27 In case of an emergency, if notice for bids to let contracts will not
28 be given, the board shall comply with Chapter 2.5 (commencing
29 with Section 22050).

30 (c) The agency may purchase in the open market without
31 advertising for bids, materials and supplies for use in any work,
32 either under contract or by force account. However, materials and
33 supplies for use in any new construction work or improvement,
34 except work referred to in subdivision (b), may not be purchased,
35 if the cost exceeds fifty thousand dollars (\$50,000), without
36 advertising for bids and awarding the contract to the lowest
37 responsible bidder.

38 SEC. 95. Section 21521 of the Public Contract Code is amended
39 to read:

1 21521. All contracts for any improvement or unit of work,
2 when the cost according to the estimate of the engineer will exceed
3 five thousand dollars (\$5,000) shall be let to the lowest responsible
4 bidder or bidders as provided in this article. The board shall first
5 determine whether the contract shall be let as a single unit, or
6 divided into severable parts. The board shall advertise for bids by
7 three insertions in a daily newspaper of general circulation or by
8 two insertions in a weekly newspaper of general circulation printed
9 and published in the agency, inviting sealed proposals for the
10 construction or performance of the improvement or work. The call
11 for bids shall state whether the work shall be performed in one
12 unit or divided into parts. The work may be let under a single
13 contract or several contracts, as stated in the call. The board shall
14 require the successful bidders to file with the board good and
15 sufficient bonds to be approved by the board conditioned upon the
16 faithful performance of the contract and upon the payment of their
17 claims for labor and material. The bonds shall comply with Title
18 3 (commencing with Section 9000) of Part 6 of Division 4 of the
19 Civil Code. The board may reject any bid. In the event all proposals
20 are rejected or no proposals are received, or the estimated cost of
21 the work does not exceed five thousand dollars (\$5,000), or the
22 work consists of channel protection, maintenance work, or
23 emergency work, the board may have the work done by force
24 account without advertising for bids. In case of an emergency, if
25 notice for bids to let contracts will not be given, the board shall
26 comply with Chapter 2.5 (commencing with Section 22050). In
27 that event a majority vote of all board members shall be required.
28 The board may purchase in the open market without advertising
29 for bids, materials and supplies for use in any work, either under
30 contract or by force account.

31 SEC. 96. Section 21531 of the Public Contract Code is amended
32 to read:

33 21531. (a) The Castaic Lake Water Agency shall have power
34 to prescribe methods for the construction of works and for the
35 letting of contracts for the construction of works, structures, or
36 equipment, or the performance or furnishing of labor, materials,
37 or supplies, necessary or convenient for carrying out any of the
38 purposes of this act or for the acquisition or disposal of any real
39 or personal property; provided, that all contracts for any
40 improvement or unit of work, when the cost according to the

1 estimate of the engineer will exceed five thousand dollars (\$5,000),
2 shall be let to the lowest responsible bidder or bidders as provided
3 in this article. The board shall first determine whether the contract
4 shall be let as a single unit or divided into severable parts. The
5 board shall advertise for bids by three insertions in a daily
6 newspaper of general circulation published in the agency or by
7 two insertions in a nondaily newspaper of general circulation
8 published in the agency or, if no newspaper is published in the
9 agency, in any newspaper of general circulation distributed in the
10 agency, inviting sealed proposals for the construction or
11 performance of the improvement or work. The call for bids shall
12 state whether the work shall be performed in one unit or divided
13 into parts. The work may be let under a single contract or several
14 contracts, as stated in the call. The board shall require the
15 successful bidders to file with the board good and sufficient bonds
16 to be approved by the board conditioned upon the faithful
17 performance of the contract and upon the payment of their claims
18 for labor and material. The bonds shall comply with Title 3
19 (commencing with Section 9000) of Part 6 of Division 4 of the
20 Civil Code. The board may reject any bid.

21 (b) In the event all proposals are rejected or no proposals are
22 received, or the estimated cost of the work does not exceed five
23 thousand dollars (\$5,000), or the work consists of channel
24 protection, maintenance work, or emergency work, the board may
25 have the work done by force account without advertising for bids.
26 In case of an emergency, if notice for bids to let contracts will not
27 be given, the board shall comply with Chapter 2.5 (commencing
28 with Section 22050).

29 (c) The agency may purchase in the open market without
30 advertising for bids, materials and supplies for use in any work,
31 either under contract or by force account; provided, however, that
32 materials and supplies for use in any new construction work or
33 improvement, except work referred to in subdivision (b), may not
34 be purchased if the cost exceeds five thousand dollars (\$5,000),
35 without advertising for bids and awarding the contract to the lowest
36 responsible bidder.

37 SEC. 97. Section 21541 of the Public Contract Code is amended
38 to read:

39 21541. (a) The Crestline-Lake Arrowhead Water Agency shall
40 have power to prescribe methods for the construction of works

1 and for the letting of contracts for the construction of works,
2 structures, or equipment, or the performance or furnishing of labor,
3 materials, or supplies, necessary or convenient for carrying out
4 any of the purposes of this act or for the acquisition or disposal of
5 any real or personal property. However, all contracts for the
6 construction of any improvement or unit of work, when the cost,
7 according to the estimate of the engineer, will exceed twenty-five
8 thousand dollars (\$25,000), shall be let to the lowest responsible
9 bidder or bidders as provided in this article. The board shall first
10 determine whether the contract shall be let as a single unit or
11 divided into severable parts. The board shall advertise for bids by
12 three insertions in a daily newspaper of general circulation or by
13 two insertions in a weekly newspaper of general circulation printed
14 and published in the agency, inviting sealed proposals for the
15 construction or performance of the improvement or work. The call
16 for bids shall state whether the work shall be performed in one
17 unit or divided into parts. The work may be let under a single
18 contract or several contracts, as stated in the call.

19 The board shall require the successful bidders to file with the
20 board good and sufficient bonds to be approved by the board
21 conditioned upon the faithful performance of the contract and upon
22 the payment of their claims for labor and material. The bonds shall
23 comply with Title 3 (commencing with Section 9000) of Part 6 of
24 Division 4 of the Civil Code. The board may reject any bid.

25 (b) In the event all proposals are rejected or no proposals are
26 received, or the estimated cost of the work does not exceed five
27 thousand dollars (\$5,000), or the work consists of channel
28 protection, maintenance work, or emergency work, the board may
29 have the work done by force account without advertising for bids.
30 In case of an emergency, if notice for bids to let contracts will not
31 be given, the board shall comply with Chapter 2.5 (commencing
32 with Section 22050).

33 (c) The agency may purchase in the open market without
34 advertising for bids, materials and supplies for use in any work,
35 either under contract or by force account. However, materials and
36 supplies for use in any new construction work or improvement,
37 except work referred to in subdivision (b), may not be purchased
38 if the cost exceeds twenty-five thousand dollars (\$25,000), without
39 advertising for bids and awarding the contract to the lowest
40 responsible bidder.

1 SEC. 98. Section 21572 of the Public Contract Code is amended
2 to read:

3 21572. Any improvement or unit of work, except as provided
4 in this article, estimated to cost in excess of five thousand dollars
5 (\$5,000), shall be done by contract and let to the lowest responsible
6 bidder in the manner provided in this article. The board of directors
7 of the agency shall advertise by three insertions in a daily
8 newspaper of general circulation or two insertions in a weekly
9 newspaper of general circulation published in the agency, inviting
10 sealed proposals for the construction of the work before any
11 contract shall be made, and may let by contract separately any part
12 of the work. The board shall require the successful bidder to file
13 with the board good and sufficient bonds to be approved by the
14 board, conditioned upon the faithful performance of the contract,
15 and upon the payment of the claims for labor and material, the
16 bonds to contain the terms and conditions set forth in Title 3
17 (commencing with Section 9000) of Part 6 of Division 4 of the
18 Civil Code, and to be subject to the provisions of that title. The
19 board shall also have the right to reject any and all bids, and
20 readvertise for new bids, or by a two-thirds vote may elect to
21 undertake the work by force account. In the event no proposals
22 are received pursuant to advertisement, or where the estimated
23 cost of such work does not exceed five thousand dollars (\$5,000),
24 the board of directors by unanimous vote of all members present
25 may without advertising for bids have the work done by force
26 account. In case of an emergency, if notice for bids to let contracts
27 will not be given, the board shall comply with Chapter 2.5
28 (commencing with Section 22050). The agency may purchase in
29 the open market without advertisement for bids, materials and
30 supplies for use in any work either under contract or by force
31 account.

32 SEC. 99. Section 21581 of the Public Contract Code is amended
33 to read:

34 21581. (a) Any improvement or unit of work when the cost
35 according to the estimate of the engineer will exceed five thousand
36 dollars (\$5,000), shall be done by contract and shall be let to the
37 lowest responsible bidder or bidders in the manner provided in
38 this article. The board shall first determine whether the contract
39 shall be let as a single unit or shall be divided into severable parts,
40 or both, according to the best interests of the district. The board

1 shall call for bids and advertise the call by three insertions in a
2 daily newspaper of general circulation or by two insertions in a
3 weekly newspaper of general circulation printed in the district
4 inviting sealed proposals for the construction or performance of
5 the improvement or work before any contract is made. The call
6 for bids shall state whether the work is to be performed as a unit
7 or shall be divided into severable specific parts, or both, as stated
8 in the call. The board may let the work by single contract for the
9 whole or it may divide the work into severable parts by separate
10 contracts, as stated in the call, according to the best interests of
11 the district. The board shall require the successful bidder or bidders
12 to file with the board a good and sufficient bond to be approved
13 by the board conditioned upon the payment of their claims for
14 labor and material, the bond to contain the terms and conditions
15 set forth in Title 3 (commencing with Section 9000) of Part 6 of
16 Division 4 of the Civil Code and to be subject to the provisions of
17 that title. The board shall also have the right to reject any and all
18 bids and readvertise for new bids, or by a two-thirds vote may
19 elect to undertake the work by force account.

20 (b) In the event no proposals are received pursuant to
21 advertisement, or the estimated cost of the work does not exceed
22 five thousand dollars (\$5,000), or the work consists of channel
23 protection, maintenance work, or emergency work, the board of
24 supervisors may, without advertising for bids, have the work done
25 by employees of the district, by day labor, under the direction of
26 the board, by contract, or by any combination of those methods.
27 In case of an emergency, if notice for bids to let contracts will not
28 be given, the board shall comply with Chapter 2.5 (commencing
29 with Section 22050).

30 (c) The district may acquire in the open market without
31 advertising for bids, materials, equipment, and supplies for use in
32 any work or for any other purpose; provided, however, that
33 materials and supplies for use in any new construction work or
34 improvement, except work referred to in subdivision (b), may not
35 be purchased if the cost exceeds five thousand dollars (\$5,000),
36 without advertising for bids and awarding the contract to the lowest
37 responsible bidder.

38 SEC. 100. Section 21591 of the Public Contract Code is
39 amended to read:

1 21591. (a) Any improvement or unit of work, when the cost,
2 according to the estimate of the engineer, will exceed twenty-five
3 thousand dollars (\$25,000), shall be done by contract and shall be
4 let to the lowest responsible bidder or bidders as provided in this
5 article. The board shall first determine whether the contract shall
6 be let as a single unit or divided into severable parts. The board
7 shall advertise for bids by three insertions in a daily newspaper of
8 general circulation or by two insertions in a weekly newspaper of
9 general circulation printed and published in the agency, if there is
10 a newspaper printed and published in the agency, inviting sealed
11 proposals for the construction or performance of the improvement
12 or work. The call for bids shall state whether the work shall be
13 performed in one unit or divided into parts. The work may be let
14 under a single contract or several contracts, as stated in the call.
15 The board shall require the successful bidders to file with the board
16 good and sufficient bonds to be approved by the board conditioned
17 upon the faithful performance of the contract and upon the payment
18 of their claims for labor and material. The bonds shall comply with
19 Title 3 (commencing with Section 9000) of Part 6 of Division 4
20 of the Civil Code. The board may reject any and all bids and
21 readvertise, or by a two-thirds vote may elect to undertake work
22 by force account.

23 (b) If no proposals are received, or the estimated cost of the
24 work does not exceed twenty-five thousand dollars (\$25,000), or
25 the work consists of channel protection, maintenance work, or
26 emergency work, the board may have the work done by force
27 account without advertising for bids. In case of an emergency, if
28 notice for bids to let contracts will not be given, the board shall
29 comply with Chapter 2.5 (commencing with Section 22050).

30 (c) The agency may purchase in the open market without
31 advertising for bids, materials and supplies for use in any work,
32 either under contract or by force account; provided, however, that
33 materials and supplies for use in any new construction work or
34 improvement, except work referred to in subdivision (b), may not
35 be purchased if the cost exceeds twenty-five thousand dollars
36 (\$25,000), without advertising for bids and awarding the contract
37 to the lowest responsible bidder.

38 SEC. 101. Section 21601 of the Public Contract Code is
39 amended to read:

1 21601. 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 and let to the lowest
4 responsible bidder or bidders as provided in this article. The board
5 shall first determine whether the contract shall be let as a single
6 unit or divided into severable parts. The board shall advertise for
7 bids by three insertions in a daily newspaper of general circulation,
8 or by two insertions in a weekly newspaper of general circulation,
9 printed and published in the agency, inviting sealed proposals for
10 the construction or performance of the improvement or work. The
11 call for bids shall state whether the work shall be performed in one
12 unit or divided into parts. The work may be let under a single
13 contract or several contracts, as stated in the call. The board shall
14 require the successful bidders to file with the board good and
15 sufficient bonds to be approved by the board conditioned upon the
16 faithful performance of the contract and upon payment of their
17 claims for labor and material. The bonds shall comply with Title
18 3 (commencing with Section 9000) of Part 6 of Division 4 of the
19 Civil Code. The board may reject any and all bids and readvertise,
20 or, by a two-thirds vote, may elect to undertake the work by force
21 account. If no proposals are received, the estimated cost of the
22 work does not exceed five thousand dollars (\$5,000), or the work
23 consists of channel protection, maintenance work, or emergency
24 work, the board of supervisors may have the work done by force
25 account without advertising for bids. In case of an emergency, if
26 notice for bids to let contracts will not be given, the board shall
27 comply with Chapter 2.5 (commencing with Section 22050). The
28 district may purchase in the open market without advertising for
29 bids, materials, and supplies for use in any work, either under
30 contract or by force account.

31 SEC. 102. Section 21622 of the Public Contract Code is
32 amended to read:

33 21622. The board shall require the successful bidder or bidders
34 to file with the board, good and sufficient bonds, to be approved
35 by the board conditioned upon the faithful performance of the
36 contract and upon the payment of their claims for labor and
37 material in connection therewith. Such contracts shall be subject
38 to the provisions of Title 3 (commencing with Section 9000) of
39 Part 6 of Division 4 of the Civil Code.

1 SEC. 103. Section 21631 of the Public Contract Code is
2 amended to read:

3 21631. (a) Any improvement or unit of work when the cost,
4 according to the estimate of the engineer, will exceed six thousand
5 five hundred dollars (\$6,500), shall be done by contract and shall
6 be let to the lowest responsible bidder or bidders in the manner
7 provided in this article. The board shall first determine whether
8 the contract shall be let as a single unit, 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 in
13 the 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 parts, or
17 both, as stated in the call. The board may let the work by single
18 contract or it may divide the work into severable parts by separate
19 contracts, as stated in the call, according to the best interests of
20 the district. The board shall require the successful bidder or bidders
21 to file with the board a good and sufficient bond, to be approved
22 by the board, conditioned upon the payment of their claims for
23 labor and material. The bond shall contain the terms and conditions
24 set forth in Title 3 (commencing with Section 9000) of Part 6 of
25 Division 4 of the Civil Code and be subject to the provisions of
26 that title. The board may reject any and all bids and readvertise
27 for new bids, or by a two-thirds vote may elect to undertake the
28 work by force account.

29 (b) If no proposals are received pursuant to advertisement or
30 the estimated cost of the work does not exceed six thousand five
31 hundred dollars (\$6,500), 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 employees of the district, by day labor, under the direction of
35 the board, by contract, or by a combination of those methods. In
36 case of an emergency, if notice for bids to let contracts will not be
37 given, the board shall comply with Chapter 2.5 (commencing with
38 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 that work referred to in subdivision (b), may
4 not be purchased if the cost exceeds six thousand five hundred
5 dollars (\$6,500), without advertising for bids and awarding the
6 contract to the lowest responsible bidder.

7 SEC. 104. Section 136.5 of the Streets and Highways Code is
8 amended to read:

9 136.5. (a) The contracts referred to in Sections 135, 136, and
10 136.1 are not subject to the State Contract Act (Part 2 (commencing
11 with Section 10100) of Division 2 of the Public Contract Code).
12 Except for emergency work of the type described in subdivision
13 (b), whenever the estimated amount of a contract exceeds two
14 thousand five hundred dollars (\$2,500), it shall be awarded to the
15 lowest responsible bidder, after competitive bidding on any
16 reasonable notice that the department may prescribe. Posting of
17 notice for five days in a public place in the district office within
18 which the work is to be done, or the equipment used, is sufficient.
19 Those contracts shall be subject to the applicable payment bond
20 provisions of Chapter 5 (commencing with Section 9550) of Title
21 3 of Part 6 of Division 4 of the Civil Code. The department may
22 require faithful performance bonds when considered necessary.
23 The advertisement for each contract shall state whether or not a
24 bond shall be required.

25 (b) In cases of emergency work necessitated by the imminence
26 or occurrence of a landslide, flood, storm damage, accident, or
27 other casualty, tools or equipment may be rented for a period of
28 not to exceed 60 days without competitive bidding, and the
29 department may waive the requirements of Chapter 5 (commencing
30 with Section 9550) of Title 3 of Part 6 of Division-2 4 of the Civil
31 Code to the extent that a contractor may commence performance
32 of the work under the contract for the rental of tools or equipment
33 prior to filing a payment bond with the department. In that case,
34 no payment shall be made to the contractor until a payment bond
35 covering all work of the contract is filed with the department.

36 SEC. 105. (a) (1) Except as otherwise provided in paragraphs
37 (2) and (3), Sections 1 to 16, inclusive, Sections 17 to 20, inclusive,
38 and Sections 21 to 104, inclusive, of this act are operative on July
39 1, 2012.

40 (2) As provided in Section 108:

1 (A) Section 16.5 of this act shall become operative on January
2 1, 2011.

3 (B) Sections 20.1 and 20.2 of this act shall become operative
4 on July 1, 2012.

5 (3) As provided in Section 109:

6 (A) Section 16.3 shall become operative on January 1, 2011.

7 (B) Sections 1.5, 2.5, 3.5, 4.5, and 39.5 of this act shall become
8 operative on July 1, 2012.

9 (b) Notwithstanding subdivision (a), the effectiveness of a notice
10 given, or other action taken, before July 1, 2012, is governed by
11 the applicable law in effect before July 1, 2012, and not by this
12 act.

13 SEC. 106. Any section of any act, except Assembly Bill 2216,
14 Assembly Bill 2419, or Senate Bill 1330, enacted by the Legislature
15 during the 2010 calendar year that takes effect on or before January
16 1, 2011, and that amends, amends and renumbers, amends and
17 repeals, adds, repeals and adds, or repeals a section that is amended,
18 amended and renumbered, amended and repealed, added, repealed
19 and added, or repealed by this act, shall prevail over this act,
20 whether that act is chaptered before or after this act.

21 SEC. 107. (a) Except as provided in subdivisions (b) and (c):

22 (1) This act is intended to be nonsubstantive in effect.

23 (2) Nothing in this act is intended to affect a court decision
24 construing or relating to a provision of former Chapter 8
25 (commencing with Section 3081.1) of Title 14 of Part 4 of Division
26 3 of the Civil Code, or former Title 15 (commencing with Section
27 3082) of Part 4 of Division 3 of the Civil Code. A court decision
28 construing or relating to a provision of one of those former laws
29 also applies to a provision of this act that restates and continues
30 the former provision. However, in enacting this act, the Legislature
31 has not evaluated the correctness of those court decisions. This act
32 is not intended to, and does not, reflect any legislative assessment
33 of those court decisions.

34 (b) The following provisions of the Civil Code, which are
35 enacted by this act, are either substantively new or are substantively
36 different from former law:

37 (1) Section 8014.

38 (2) Section 8064.

39 (3) Chapter 2 (commencing with Section 8100) of Title 1 of
40 Part 6 of Division 4.

- 1 (4) Section 8122.
- 2 (5) Section 8128.
- 3 (6) Section 8132.
- 4 (7) Section 8182.
- 5 (8) Section 8186.
- 6 (9) Section 8190.
- 7 (10) Section 8200.
- 8 (11) Section 8424.
- 9 (12) Section 8460.
- 10 (13) Section 8482.
- 11 (14) Section 8486.
- 12 (15) Section 8488.
- 13 (16) Section 8510.
- 14 (17) Section 8604.
- 15 (18) Section 8606.
- 16 (19) Section 8610.
- 17 (20) Section 8800.
- 18 (21) Section 8834.
- 19 (22) Section 8844.
- 20 (23) Section 9200.
- 21 (24) Section 9204.
- 22 (25) Section 9362.
- 23 (26) Section 9408.
- 24 (27) Section 9550.
- 25 (28) Section 9558.
- 26 (c) The following provisions of former Title 15 (commencing
- 27 with Section 3082) of Part 4 of Division 3 of the Civil Code are
- 28 not continued by this act:
- 29 (1) Subdivision (b) of Section 3086.
- 30 (2) Section 3105.
- 31 (3) Subdivision (c) of Section 3123.
- 32 (4) The second paragraph of Section 3131.
- 33 (5) Section 3149.
- 34 (6) Section 3204.
- 35 (7) Paragraph (1) of subdivision (c) of Section 3260.
- 36 (8) Paragraph (2) of subdivision (c) of Section 3260.
- 37 SEC. 108. Sections 16.5 of this bill incorporates amendments
- 38 to Section 3252 of the Civil Code, as proposed by Assembly Bill
- 39 2216, and Section 20.2 adds Section 9560 to the Civil Code, with
- 40 additional changes as proposed by Assembly Bill 2216. Sections

1 16.5 and 20.2 of this bill shall only become operative if (1) this
2 bill and Assembly Bill 2216 are enacted and become effective on
3 or before January 1, 2011, (2) Assembly Bill 2216 amends Section
4 3252 of the Civil Code, and this bill repeals Title 15 (commencing
5 with Section 3082) of Part 4 of Division 3 of the Civil Code, and
6 (3) this bill is enacted after Assembly Bill 2216, in which case
7 Section 20.1 of this bill shall not become operative.

8 SEC. 109. (a) Sections 1.5, 2.5, 3.5, 4.5, and 39.5 of this bill
9 incorporate amendments to Sections 7034, 7071.5, 7071.10, and
10 7159 of the Business and Professions Code, and to Section 19825
11 of the Health and Safety Code, respectively, proposed by this bill
12 and Assembly Bill 2419. These provisions shall only become
13 operative if (1) both bills are enacted and become effective on or
14 before January 1, 2011, (2) each bill amends Sections 7034, 7071.5,
15 7071.10, and 7159 of the Business and Professions Code, and
16 Section 19825 of the Health and Safety Code, and (3) this bill is
17 enacted after Assembly Bill 2419, in which case Sections 7034,
18 7071.5, 7071.10, and 7159 of the Business and Professions Code,
19 Section 3084 of the Civil Code, and Section 19825 of the Health
20 and Safety Code, as amended by ~~AB~~ *Assembly Bill 2419*, shall
21 remain operative only until the operative date of this bill, at which
22 time Section 1.5, 2.5, 3.5, 4.5, and 39.5 of this bill shall become
23 operative, and Sections 1, 2, 3, 4, and 39 of this bill shall not
24 become operative.

25 (b) Section 16.3 of this bill incorporates amendments to Section
26 3084 of the Civil Code, proposed by Assembly Bill 2419. Section
27 16.3 of this bill shall only become operative if (1) this bill and
28 Assembly Bill 2419 are enacted and become effective on or before
29 January 1, 2011, (2) Assembly Bill 2419 amends Section 3084 of
30 the Civil Code, and this bill repeals Title 15 (commencing with
31 Section 3082) of Part 4 of Division 3 of the Civil Code, and (3)
32 this bill is enacted after Assembly Bill 2419.

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