

AMENDED IN SENATE SEPTEMBER 2, 2011

AMENDED IN SENATE JUNE 21, 2011

AMENDED IN ASSEMBLY APRIL 12, 2011

AMENDED IN ASSEMBLY MARCH 17, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 456**

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**Introduced by Assembly Member Wagner**

February 15, 2011

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An act to amend Sections 3084 and 8416 of the Civil Code, relating to mechanics liens.

### LEGISLATIVE COUNSEL'S DIGEST

AB 456, as amended, Wagner. Mechanics liens.

The California Constitution gives workers the right to a mechanics lien for the value of labor and materials provided for the improvement of real property, and authorizes the Legislature to provide for the speedy and efficient enforcement of these liens. Existing law requires a claim of mechanics lien to be served on the owner or reputed owner of the property in order to be valid, and requires a proof of service affidavit to show the name of the person upon whom the mechanics lien was served.

This bill would clarify that the affidavit is required to show the name of the owner or reputed owner of the property, *and the title or capacity in which the person or entity was served*.

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

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

SECTION 1. Section 3084 of the Civil Code is amended to read:

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

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

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

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

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

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

(6) A proof of service affidavit completed and signed by the person serving the Notice of Mechanics Lien pursuant to subdivision (c). A “proof of service affidavit” is an affidavit of the person making the service, showing the date, place, and manner of service and facts showing that the service was made in accordance with this section. The affidavit shall show the name and address of the owner or reputed owner upon whom a copy of the mechanics lien and the Notice of Mechanics Lien was served; ~~and, if appropriate, pursuant to paragraphs (1) or (2) of subdivision (c), and the title or capacity in which the owner or reputed owner person or entity was served.~~

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

~~NOTICE~~ “NOTICE OF MECHANICS LIEN  
ATTENTION!

Upon the recording of the enclosed MECHANICS LIEN with the county recorder’s office of the county where the property is located, your property is subject to the filing of a legal action seeking a court-ordered foreclosure sale of the real property on 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 mechanics  
2 lien is recorded.

3 The party identified in the mechanics 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 mechanics 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 mechanics 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 MECHANICS LIENS GO TO THE  
16 CONTRACTORS' STATE LICENSE BOARD WEB SITE AT  
17 ~~www.cslb.ca.gov:~~ [www.cslb.ca.gov](http://www.cslb.ca.gov).”  
18

19 (b) A mechanics 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 mechanics lien and the Notice of Mechanics 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 mechanics lien, including the Notice of  
4 Mechanics Lien, as prescribed by this section, shall cause the  
5 mechanics lien to be unenforceable as a matter of law.

6 SEC. 2. Section 8416 of the Civil Code is amended to read:

7 8416. (a) A claim of mechanics lien shall be a written  
8 statement, signed and verified by the claimant, containing all of  
9 the following:

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

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

13 (3) A general statement of the kind of work furnished by the  
14 claimant.

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

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

18 (6) The claimant's address.

19 (7) A proof of service affidavit completed and signed by the  
20 person serving a copy of the claim of mechanics lien pursuant to  
21 subdivision (c). The affidavit shall show the date, place, and  
22 manner of service, and facts showing that the service was made  
23 in accordance with this section. The affidavit shall show the name  
24 and address of the owner or reputed owner upon whom the copy  
25 of the claim of mechanics lien was served, ~~and, if appropriate,~~  
26 *pursuant to paragraphs (1) or (2) of subdivision (c), and the title*  
27 *or capacity in which the owner or reputed owner person or entity*  
28 *was served.*

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

33  
34 "NOTICE OF MECHANICS LIEN  
35 ATTENTION!  
36

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

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

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

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

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

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

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

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

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

- 1 certificate of mailing, postage prepaid, is complete at the time of
- 2 the deposit of that first-class, certified, or registered mail.
- 3 (e) Failure to serve the copy of the claim of mechanics lien as
- 4 prescribed by this section, including the Notice of Mechanics Lien
- 5 required by paragraph (8) of subdivision (a), shall cause the claim
- 6 of mechanics lien to be unenforceable as a matter of law.