

ASSEMBLY BILL

No. 2654

Introduced by Assembly Member Morrell

February 24, 2012

An act to amend and repeal Section 3060 of the Civil Code, relating to mining liens, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2654, as introduced, Morrell. Mining liens: definitions.

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 mining liens. These provisions govern the conditions required to enforce a lien and for a mining lien to be deemed valid, and, as of July 1, 2012, defines the term “mine” to mean a mining claim or real property worked on as a mine.

This bill would define “mine” for the purposes of enforcing mining liens to include any quarry or pit, from which rock, gravel, or any other mineral-containing property is extracted by any mining, or surface mining, operation.

The bill would declare that it is the intent of the Legislature in enacting the bill to supercede the holding of the Fourth Appellate District Court of Appeals in *Sukut Construction, Inc. v. Rimrock CA, LLC* (2011) 199 Cal.App.4th 817.

The bill would declare that its provisions are declaratory of existing law.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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 3060 of the Civil Code, as amended by
 2 Chapter 1362 of the Statutes of 1969, is amended to read:

3 3060. (a) Any person who performs labor in any mining claim
 4 or claims, or in or upon any real property worked as a mine, either
 5 in the development thereof or in working thereon by the subtractive
 6 process, or furnishes materials to be used or consumed therein,
 7 has a lien upon the same and the works owned and used by the
 8 owners for milling or reducing the ores from the same, for the
 9 value of the work or labor done or materials furnished by each
 10 respectively, whether done or furnished at the instance of the owner
 11 of such mining claim or claims or real property worked as a mine,
 12 or his agent, and every contractor, subcontractor, superintendent,
 13 or other person having charge of any mining or work or labor
 14 performed in and about such mining claim or claims or real
 15 property worked as a mine, either as lessee or under a working
 16 bond or contract thereon shall be held to be the agent of the owner
 17 for the purposes of this section. The liens provided for by this
 18 section shall be enforced in the same manner as those provided
 19 for by Title 15 (commencing with Section 3082), Part 4, Division
 20 3.

21 (b) As used in this section, “mine” means a mining claim or
 22 real property worked on as a mine, including any quarry or pit,
 23 from which rock, gravel, or any other mineral-containing property
 24 is extracted by any mining, or surface mining, operation.

25 (c) This section shall become inoperative on July 1, 2012, and,
 26 as of January 1, 2013, is repealed, unless a later enacted statute,
 27 that becomes operative on or before January 1, 2013, deletes or
 28 extends the dates on which it becomes inoperative and is repealed.

29 SEC. 2. Section 3060 of the Civil Code, as amended by Section
 30 14 of Chapter 697 of the Statutes of 2010, is amended to read:

1 3060. (a) As used in this section, “mine” means a mining claim
2 or real property worked on as a mine *including any quarry or pit,*
3 *from which rock, gravel, or any other mineral-containing property*
4 *is extracted by any mining, or surface mining, operation.*

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

19 (c) *This section shall become operative on July 1, 2012.*

20 SEC. 3. It is the intent of the Legislature, in amending the
21 definition of “mine” in Section 3060 of the Civil Code, to
22 supercede the holding of the Fourth District Court of Appeal in
23 *Sukut Construction, Inc. v. Rimrock CA, LLC* (2011) 199
24 *Cal.App.4th 817.*

25 SEC. 4. Sections 1 and 2 of this act are declaratory of existing
26 law.

27 SEC. 5. This act is an urgency statute necessary for the
28 immediate preservation of the public peace, health, or safety within
29 the meaning of Article IV of the Constitution and shall go into
30 immediate effect. The facts constituting the necessity are:

31 In its holding in *Sukut Construction, Inc. v. Rimrock CA, LLC*
32 (2011) 199 *Cal.App.4th 817*, the Fourth District Court of Appeal
33 misapplied Section 3060 of the Civil Code as it was intended by
34 the Legislature. In order to properly apply the law as intended by
35 the Legislature, it is necessary that this act take effect immediately.