

AMENDED IN ASSEMBLY MAY 6, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2416

Introduced by Assembly Member Stone
(Principal coauthor: Assembly Member Lowenthal)
(Coauthors: Assembly Members Gonzalez, Roger Hernández, and Pan)

February 21, 2014

An act to add Chapter 3 (commencing with Section 3000) to Title 14 of Part 4 of Division 3 of the Civil Code, relating to liens.

LEGISLATIVE COUNSEL'S DIGEST

AB 2416, as amended, Stone. Liens: laborers and employees.

Existing law grants specified persons, including laborers, as defined, who contribute labor, skill, or services to a work of improvement the right to record a mechanic's lien upon the property so improved. Under existing law, when an employer fails to pay wages due, the employee has the right to file a claim against his or her employer, or former employer, with the Division of Labor Standards Enforcement, which is authorized to conduct investigations, hold hearings, and impose fines and penalties for nonpayment of wages.

This bill would, with certain exceptions, authorize an employee to record and enforce a wage lien upon real and personal property of an employer, or a property owner, as specified, for wages, other compensation, and related penalties and damages owed the employee. The bill would prescribe requirements relating to the recording and enforcement of the wage lien and for its cancellation and removal. The

bill would require a notice of lien on real property to be executed under penalty of perjury. *The bill would authorize the employer or property owner to use a procedure to release the notice of lien if the employer makes specified contentions, and would require a certain notification under the procedure to be made under penalty of perjury.*

By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. This act shall be known, and may be cited, as the
2 California Wage Theft Prevention Act.

3 SEC. 2. Chapter 3 (commencing with Section 3000) is added
4 to Title 14 of Part 4 of Division 3 of the Civil Code, to read:

5

6

CHAPTER 3. WAGE LIENS

7

8 3000. (a) An employee shall have a lien on all property of the
9 employer in California, including after-acquired property, for the
10 full amount of any wages and other compensation, penalties, and
11 interest owed to the employee.

12 (b) If the employer is a natural person, a lien under this section
13 shall apply to the employer’s principal residence only to the extent
14 that the employee provided labor to the benefit of the employer’s
15 household or principal residence.

16 (c) The amount of the lien under this section shall include unpaid
17 wages and other compensation required by California law, penalties
18 available under the Labor Code, interest at the same rate as for
19 prejudgment interest in this state, and the costs of filing and service
20 of the lien. The amount of compensation that may be claimed as
21 lien under this section includes all wages agreed to be paid to the
22 employee, but no less than the amount required by law, including
23 direct wages and compensation required to be paid to other persons

1 or entities, that would qualify as “employer payments” described
2 in Section 1773.1 of the Labor Code.

3 (d) An employee’s lien upon personal property shall be limited
4 to property subject to a security interest under the Commercial
5 Code pursuant to the filing of a financing statement with the
6 Secretary of State.

7 (e) Any act authorized or required under this chapter with regard
8 to an employee may also be undertaken by any person or entity,
9 including any governmental agency, to which a portion of an
10 employer’s compensation is payable or that has standing under
11 applicable law to maintain a direct legal action on behalf of the
12 employee to collect any portion of compensation owed to the
13 employee, or that is authorized by the employee to act on the
14 employee’s behalf.

15 (f) A lien pursuant to this section shall not be claimed by an
16 employee who is exempt from the protections of Industrial Welfare
17 Commission wage orders under the administrative, executive, or
18 professional exemptions. In any action involving such a lien, the
19 employer shall plead and prove exempt status as an affirmative
20 defense.

21 (g) A lien pursuant to this section is in addition to any other lien
22 rights held by the employee and shall not be construed to limit
23 these rights.

24 3001. (a) The lien described in Section 3000 shall not attach
25 if the employer has obtained a surety bond or insurance that
26 provides for payment of the wages and other compensation,
27 penalties, and interest, claimed by the employee and is in an
28 amount that is adequate to fully satisfy the employee’s claim. If
29 the surety bond or insurance contract is inadequate to cover the
30 entire amount of the employee’s claim, the lien shall be limited to
31 the amount of the claim that exceeds the bond or insurance
32 coverage. Within 30 days of being provided with proof of a valid
33 surety bond or insurance contract that applies to the claim, the
34 employee shall file a release of any lien recorded or a notice
35 reducing the lien to the amount that exceeds the bond or insurance
36 coverage.

37 (b) The lien described in Section 3000 shall not attach for labor
38 performed under a valid collective bargaining agreement if the
39 agreement expressly provides for a regular hourly pay of not less
40 than 30 percent more than the state minimum wage rate, addresses

1 the issue of security for the payment of wages, and expressly
 2 waives requirements of this chapter in clear and unambiguous
 3 terms. If part of the labor was performed under a collective
 4 bargaining agreement as so described the lien shall be limited to
 5 the amount of the claim based on labor that was not performed
 6 under the agreement. Within 30 days of being provided with proof
 7 of such a collective bargaining agreement, the employee shall file
 8 a release of any lien recorded or a notice reducing the lien to the
 9 amount permitted by this chapter.

10 (c) If an employee, after receiving proper notice under this
 11 section, acts unreasonably and in bad faith in recording or filing
 12 a notice of lien or in refusing to file a release or reduction of the
 13 lien, the employer shall be entitled to recover attorney’s fees and
 14 costs in an action to remove or reduce the lien, and the court in its
 15 discretion may also issue a fine, not to exceed one thousand dollars
 16 (\$1,000).

17 3001.5. (a) At least five days prior to recording a notice of
 18 lien with a county recorder pursuant to Section 3003 or filing a
 19 notice of lien with the Secretary of State pursuant to Section 3004,
 20 the employee shall provide the owner or reputed owner of the
 21 property against which the lien is to be recorded preliminary written
 22 notice of the intent to record a notice of lien.

- 23 (b) Notice under this part shall include the following:
 24 (1) All of the information required by subdivision (b) of Section
 25 3003, to the extent known to the person giving the notice.
 26 (2) The following statement in boldface type:

27
 28 **NOTICE TO EMPLOYER**, if the person that has given you this
 29 notice is not paid in full for work performed in your employ, a lien
 30 may be placed on your property after a period of five days after
 31 this notice is served. Foreclosure of the lien may lead to loss of all
 32 or part of your property. You may wish to protect yourself against
 33 this by (1) ensuring that the person that has given you this notice
 34 is paid in full for work performed in your employ, or (2) any other
 35 method that is appropriate under the circumstances. This notice is
 36 required by law to be served by the undersigned as a statement of
 37 your legal rights.

38
 39 (c) Notice is not invalid by reason of any variance from the
 40 requirements of this section if the notice is sufficient to

1 substantially inform the person given notice of the information
2 required by this section and other information required in the
3 notice.

4 (d) Service of the notice required by this section shall be by the
5 means described in subdivision (c) of Section 3004 and shall be
6 deemed to have been given three business days after mailing of
7 the notice.

8 3002. (a) The lien described in Section 3000 shall be
9 permanently extinguished unless a notice of lien in accordance
10 with Section 3003 or 3004 is recorded or filed, and served upon
11 the employer, within 180 days of the date that the employee ceased
12 working for the employer.

13 (b) The employee shall commence an action to enforce the lien
14 and prove the amount owed within 180 days of the date of filing
15 or recording of the notice of lien. If the employee does not
16 commence an action to enforce the lien within that time, the lien
17 shall be permanently extinguished and is unenforceable, unless
18 the employee and the owner of the property subject to the lien
19 agree to extend the time for enforcing the lien in writing and record
20 or file notice of the fact and terms of the extension prior to the
21 expiration of the time for commencing an action to enforce the
22 lien. If the employee does not commence an action to enforce the
23 lien within the extended time period, the lien shall be permanently
24 extinguished and is unenforceable.

25 (c) If the lien has been extinguished pursuant to subdivision (a)
26 or (b), upon demand and 15 days' notice by the employer or any
27 affected party, the employee shall record or file a release of the
28 lien. If an employee fails to file a release of the lien after proper
29 notice has been mailed to the employee's address as indicated on
30 the notice of the lien, the employer or affected party may petition
31 the court for an order releasing the lien. If the employee acted
32 unreasonably and in bad faith in refusing to file a release of lien,
33 the employer or affected party shall be entitled to recover its
34 attorney's fees and costs incurred in the action, and the court in
35 its discretion may also issue a fine not to exceed one thousand
36 dollars (\$1,000).

37 3003. (a) With regard to a lien on real property under Section
38 3000, the employee shall record a notice of lien with the county
39 recorder in the county where the real property is located.

1 (b) The notice of lien shall be executed under penalty of perjury,
2 as defined in Section 118 of the Penal Code, and shall include all
3 of the following:

4 (1) A statement of the employee’s demand for payment of the
5 wages and other compensation, penalties, and interest. The
6 statement shall specify the amount owed to the employee, and if
7 the amount is estimated, shall provide an explanation for the basis
8 of the estimate.

9 (2) A general statement of the kind of work furnished by the
10 employee and the dates of employment.

11 (3) The name of the person or entity by whom the employee
12 was employed.

13 (4) The employee’s mailing address.

14 (c) The employee shall serve the notice of lien on the employer,
15 by certified mail with return receipt requested, evidenced by a
16 certificate of mailing, postage prepaid, addressed to the employer
17 at the employer’s residence or place of business.

18 (d) The lien attaches to all real property owned by the employer
19 at the time of the filing of the notice of lien, or that is subsequently
20 acquired by the employer, that is located in any county in which
21 the notice of lien is recorded, regardless of whether the property
22 is identified in the notice of lien.

23 3004. (a) With regard to a lien on personal property under
24 Section 3000, the employee shall file a notice of lien with the
25 Secretary of State. Except as otherwise provided in this chapter,
26 the manner, form, and place of filing shall be as described in
27 Chapter 5 (commencing with Section 9501) of Division 9 of the
28 Commercial Code. The notice of the lien shall be placed in the
29 same file as financing statements pursuant to Section 9522 of the
30 Commercial Code.

31 (b) The notice shall be executed under penalty of perjury, as
32 defined in Section 118 of the Penal Code, and shall state the
33 following:

34 (1) A statement of the employee’s demand for payment of the
35 wages and other compensation, penalties, and interest. The
36 statement shall specify the amount owed to the employee, and if
37 the amount is estimated, shall provide an explanation for the basis
38 of the estimate.

39 (2) A general statement of the kind of work furnished by the
40 employee and the dates of employment.

1 (3) The name of the person by whom the employee was
2 employed.

3 (4) The employee's mailing address.

4 (c) The employee shall serve the notice of lien on the employer
5 by certified mail with return receipt requested, evidenced by a
6 certificate of mailing, postage prepaid, addressed to the employer
7 at the employer's residence or place of business.

8 (d) The lien attaches to all personal property owned by the
9 employer or subsequently acquired by the employer that can be
10 made subject to a security interest under the Commercial Code.

11 3005. (a) In order to enforce a lien under Section 3000, the
12 employee shall demonstrate in a civil action, or in a proceeding
13 under Section 98 of the Labor Code, that he or she is owed wages
14 or other compensation and any related penalties and interest, or
15 the employer's liability shall be established pursuant to a citation
16 issued under Section 1197.2 of the Labor Code and the process
17 for contesting such a citation.

18 (b) If the employee chooses to pursue the wage claim in an
19 administrative proceeding before the Labor Commissioner pursuant
20 to Section 98 of the Labor Code, the Labor Commissioner may
21 establish the amount of lien if a lien has been recorded. If no lien
22 has been recorded at the time the administrative claim is filed, the
23 Labor Commissioner may provide the notice and record the lien
24 on behalf of the employee.

25 (c) If the Labor Commissioner issues a citation under Section
26 1197.2 of the Labor Code for the failure to pay wages to an
27 employee, the Labor Commissioner may provide preliminary notice
28 and record a lien on behalf of the employee.

29 (d) If a notice of lien is recorded or filed pursuant to Section
30 3003 or 3004 and an action to recover unpaid wages has been filed
31 by the employee, that action shall also be deemed an action to
32 enforce the lien and foreclose upon any property subject to the
33 recorded lien. In the judgment resulting from an action, the court
34 may order the sale at a sheriff's auction or the transfer to the
35 plaintiff of title or possession of any property subject to the lien.
36 Whether or not the court makes an order as part of the judgment,
37 any property subject to the lien may be foreclosed upon at any
38 point after a judgment for unpaid wages is issued.

1 (e) The employee is entitled to court costs and reasonable
2 attorney's fees for filing a successful action to enforce a lien
3 pursuant to this section.

4 (f) If judgment is entered against the employee in the action to
5 enforce the lien or if the case is dismissed with prejudice, the lien
6 shall be extinguished. The judgment shall include the date the
7 notice of lien was recorded and, to the extent applicable, the county
8 in which it was recorded, the book and page or series number of
9 the place in the legal records in which the lien was recorded, and
10 a legal description of the property to which the lien attaches. The
11 judgment may be appealed by filing a notice of appeal on or before
12 60 days after the entry of judgment. If an appeal is filed, the lien
13 shall continue in force until all issues on the appeal have been
14 decided. If the period for appeal runs without an appeal having
15 been filed, or if the appeal fails, the judgment entered under this
16 section shall be equivalent to cancellation of the lien and its
17 removal from the record. A judgment entered pursuant to this
18 subdivision is a recordable instrument. Upon recordation of a
19 certified copy of the judgment, the property described in the
20 judgment is released from claim of lien. Alternatively, if the lien
21 is extinguished, upon demand and 15 days' notice by the property
22 owner, the employee shall file a release of the lien. If an employee
23 refuses to file a release of the lien after proper notice, an employer
24 or property owner may petition the court for an order to file a
25 release of the lien. If the employee acted unreasonably and in bad
26 faith in refusing to file a release of the lien, the employer or
27 property owner shall be entitled to attorney's fees and costs
28 incurred in the action, and the court in its discretion may also issue
29 a fine not to exceed one thousand dollars (\$1,000).

30 (g) Any number of claims to enforce employee liens against the
31 same employer may be joined in a single proceeding, but the court
32 may order separate trials or hearings. If the proceeds of the sale
33 of the property subject to a lien are insufficient to pay all the
34 claimants, whether or not claims have been joined together, the
35 court shall order the claimants to be paid in proportion to the
36 amount due each claimant.

37 (h) If a court finds that false information was knowingly and in
38 bad faith included in a notice of lien by an employee with an intent
39 to defraud, both of the following shall apply:

1 (1) The lien shall be extinguished and the right to a lien as
2 provided by this chapter shall be forfeited.

3 (2) The court may award reasonable attorney's fees and court
4 costs to the property owner or employer for action taken to defeat
5 the lien claim.

6 3005.5. (a) *An employer may use the procedure established*
7 *pursuant to this section to release the notice of lien if the employer*
8 *contends any of the following:*

9 (1) *That a notice of lien established pursuant to Section 3000*
10 *is not effective.*

11 (2) *That the lien has been extinguished because the*
12 *circumstances provided by Section 3000 are not present.*

13 (3) *All wages due the employee have been paid.*

14 (4) *The employer has obtained a surety bond pursuant to*
15 *subdivision (a) of Section 3001.*

16 (5) *The exception provided by subdivision (b) of Section 3001*
17 *applies.*

18 (6) *The employee has failed to provide the notice required by*
19 *Section 3001.5.*

20 (7) *The employee or Labor Commissioner has failed to*
21 *commence an action to enforce the lien within the specified time.*

22 (8) *The action has been resolved against the employee.*

23 (b) *The procedure to release the notice of lien shall be as*
24 *follows:*

25 (1) *The employer shall provide notice to the employee that the*
26 *employer believes that the lien should be released and the basis*
27 *for that belief, and request that the employee record or file a*
28 *release of the notice of lien. The notice shall be made by certified*
29 *mail with return receipt requested, evidenced by a certificate of*
30 *mailing, postage prepaid, addressed to the employee at the*
31 *employee's residence or place of business.*

32 (2) *If the employee fails to respond within 30 days of the date*
33 *of mailing of the notice provided by paragraph (1), the employer*
34 *may give notice to the Labor Commissioner that the employee did*
35 *not respond, and request that the Labor Commissioner file or*
36 *record a release of the notice of lien. The notice shall include a*
37 *copy of the notice of lien and a certification, made under penalty*
38 *of perjury, that the employer followed the procedures provided by*
39 *this section and that the employee did not respond.*

1 (3) Upon receiving a request pursuant to paragraph (2), the
2 Labor Commissioner shall notify the employee that unless the
3 employee serves an objection on the Labor Commissioner within
4 30 days, the Labor Commissioner shall release the notice of lien.
5 The notice shall be made by certified mail with return receipt
6 requested, evidenced by a certificate of mailing, postage prepaid,
7 addressed to the employee at the employee's residence or place
8 of business. If the employee does not serve a timely objection, the
9 Labor Commissioner shall record or file a release of the notice of
10 lien.

11 (c) The procedure established pursuant to this section to release
12 the notice of lien is an additional means of releasing a notice of
13 lien.

14 3006. A lien established pursuant to Section 3000 takes
15 precedence over all other claims, debts, judgments, decrees, liens,
16 encumbrances, or mortgages, originating after the date that the
17 notice of lien is filed or recorded, except as to the following:

18 (a) A tax lien or other government lien.

19 (b) A purchase money mortgage.

20 (c) A security interest in personal property retained by the seller
21 of that personal property in a sales transaction.

22 (d) Other liens that also arise from the performance of labor,
23 including, but not limited to, mechanic's liens arising under Section
24 8400.

25 ~~3007. As to the first fifty thousand dollars (\$50,000) of the~~
26 ~~amount claimed, a lien established pursuant to Section 3000 takes~~
27 ~~precedence over all other claims, debts, judgments, decrees, liens,~~
28 ~~encumbrances, or mortgages originating prior to the date that the~~
29 ~~notice of lien is filed or recorded and after January 1, 2016, except~~
30 ~~as to the following:~~

31 ~~(a) A tax lien or other government lien.~~

32 ~~(b) A purchase money mortgage.~~

33 ~~(c) A security interest in personal property retained by the seller~~
34 ~~of that personal property in a sales transaction.~~

35 ~~(d) Other liens that also arise from the performance of labor,~~
36 ~~including, but not limited to, mechanic's liens arising under Section~~
37 ~~8400.~~

38 ~~(e) The lien of a financial institution for any amount advanced~~
39 ~~by the financial institution pursuant to a contract entered into prior~~

1 to January 1, 2016, including any extension or renewal of a
2 contract.

3 3010. (a) An employee shall have a lien on the real property
4 at which the employee performed work, for the amount of any
5 wages and other compensation, penalties, and interest owed to the
6 employee for performing work at that property, under any of the
7 following circumstances:

8 (1) The property owner and the employee's employer are related
9 parties. If the property owner is a natural person, this lien shall
10 apply to the property owner's principal residence only to the extent
11 that the employee provided labor to the benefit of that household
12 or residence.

13 (2) The employee was employed by a contractor or subcontractor
14 performing services for the property owner or its agent, or for a
15 related party to the property owner, or for the related party's agent,
16 regardless of whether a written contract exists. This subdivision
17 shall not apply if the services were provided to a household or
18 residence.

19 ~~(3) The employee was employed on commercial property by~~
20 ~~the property owner's lawful tenant or subtenant, if the work was~~
21 ~~performed in an industry with a traditionally high risk of wage~~
22 ~~theft. For purposes of this subdivision, an industry with a~~
23 ~~traditionally high risk of wage theft means the restaurant, garment,~~
24 ~~car wash, grocery store, recycling and waste collection, trucking~~
25 ~~and hauling, and warehouse industries. This subdivision shall not~~
26 ~~apply if the commercial property was leased by the property owner~~
27 ~~pursuant to a lease entered into prior to January 1, 2015, unless~~
28 ~~the lease is modified or extended after that date.~~

29 ~~(4)~~

30 (3) The employee was employed to perform property services
31 work on commercial property by the property owner's lawful
32 tenant or subtenant or by the tenant's or subtenant's agent, or by
33 a contractor or subcontractor in the execution of a contract awarded
34 by the tenant or subtenant or by the tenant's or subtenant's agent,
35 regardless of whether a written contract exists. For purposes of
36 this subdivision, "property services work" means work in the
37 janitorial, security guard, parking services, and landscaping and
38 gardening industries. This subdivision shall not apply if the
39 commercial property was leased by the property owner pursuant

1 to a lease entered into prior to January 1, 2015, unless the lease is
2 modified or extended after that date.

3 (b) For purposes of this section, “related parties” means a party
4 owns or controls, or is owned or controlled, or is under common
5 ownership or control, with the other party. For purposes of defining
6 “related parties,” “ownership” means 50 percent or greater
7 ownership, and “control” means the right granted by law to exercise
8 decision power over administration, finances, and operations.

9 (c) The amount of the lien under this section shall include unpaid
10 wages and other compensation required by California law, penalties
11 available under the Labor Code, interest at the same rate as for
12 prejudgment interest in this state, and the costs of filing and service
13 of the lien. The amount of compensation that may be claimed as
14 lien under this section includes all wages agreed to be paid to the
15 employee, but no less than the amount required by law, including
16 direct wages and compensation required to be paid to other persons
17 or entities, that would qualify as “employer payments” described
18 in Section 1773.1 of the Labor Code.

19 (d) Any act authorized or required under this chapter with regard
20 to an employee may also be undertaken by any person or entity,
21 including any governmental agency, to which a portion of an
22 employee’s compensation is payable or that has standing under
23 applicable law to maintain a direct legal action on behalf of the
24 employee to collect any portion of compensation owed to the
25 employee, or that is authorized by the employee to act on the
26 employee’s behalf.

27 (e) A lien pursuant to this section shall not be claimed by an
28 employee who is exempt from the protections of Industrial Welfare
29 Commission wage orders under the administrative, executive, or
30 professional exemptions. In any action involving a lien, the
31 property owner shall plead and prove exempt status as an
32 affirmative defense.

33 (f) This section shall not apply to the extent that the employee
34 would be entitled to a mechanic’s lien on the same property under
35 Section 8400.

36 (g) A lien pursuant to this section is in addition to any other lien
37 rights held by the employee and shall not be construed to limit
38 these rights.

39 3011. (a) The lien described in Section 3010 shall not attach
40 if the employer or property owner has obtained a surety bond or

1 insurance that provides for payment of the wages and other
2 compensation, penalties, and interest claimed by the employee and
3 is in an amount that is adequate to fully satisfy the employee's
4 claim. If the surety bond or insurance contract is inadequate to
5 cover the entire amount of the employee's claim, the lien shall be
6 limited to the amount of the claim that exceeds the bond or
7 insurance coverage. Within 30 days of being provided with proof
8 of a valid surety bond or insurance contract that applies to the
9 claim, the employee shall file a release of any lien recorded or a
10 notice reducing the lien to the amount that exceeds the bond or
11 insurance coverage.

12 (b) The lien described in Section 3010 shall not attach for labor
13 performed under a valid collective bargaining agreement if the
14 agreement expressly provides for a regular hourly pay of not less
15 than 30 percent more than the state minimum wage rate, addresses
16 the issue of security for the payment of wages, and expressly
17 waives requirements of this chapter in clear and unambiguous
18 terms. If part of the labor was performed under a collective
19 bargaining agreement as so described, the lien shall be limited to
20 the amount of the claim based on labor that was not performed
21 under the agreement. Within 30 days of being provided with proof
22 of such a collective bargaining agreement, the employee shall file
23 a release of any lien recorded or a notice reducing the lien to the
24 amount permitted by this chapter.

25 (c) If an employee, after receiving proper notice under this
26 section, acts unreasonably and in bad faith in recording or filing
27 a notice of lien or in refusing to file a release or reduction of the
28 lien, the property owner shall be entitled to recover attorney's fees
29 and costs in an action to remove or reduce the lien, and the court
30 in its discretion may also issue a fine not to exceed one thousand
31 dollars (\$1,000).

32 3012. (a) At least 20 days prior to recording a notice of lien
33 with a county recorder pursuant to Section 3014, the employee
34 shall provide the owner or reputed owner of the property against
35 which the lien is to be recorded preliminary written notice of the
36 intent to record a notice of lien.

37 (b) Notice under this part shall include the following:

38 (1) All of the information required by subdivision (b) of Section
39 3014.

1 (2) The name and address of any entity with which the
 2 employee’s employer has contracted to provide the labor for which
 3 the employee seeks past due wages or other compensation, to the
 4 extent known by the person giving notice.

5 (3) The following statement in boldface type:

6
 7 **NOTICE TO PROPERTY OWNER**, if the person that has given
 8 you this notice is not paid in full for work performed at real
 9 property you own, a lien may be placed on your property after a
 10 period of 20 days from the date this notice is served. Foreclosure
 11 of the lien may lead to loss of all or part of your property. You
 12 may wish to protect yourself against this by (1) ensuring that the
 13 person that has given you this notice is paid in full for work
 14 performed, or (2) any other method that is appropriate under the
 15 circumstances. This notice is required by law to be served by the
 16 undersigned as a statement of your legal rights. This notice is not
 17 intended to reflect upon the financial condition of your related
 18 party, contractor, subcontractor, tenant, or subtenant.

19
 20 (c) Notice is not invalid by reason of any variance from the
 21 requirements of this section if the notice is sufficient to
 22 substantially inform the person given notice of the information
 23 required by this section and other information required in the
 24 notice.

25 (d) An employer, contractor, subcontractor, tenant, or subtenant
 26 shall make available to any person seeking to give preliminary
 27 notice the name and address of the property owner.

28 (e) Service of the notice required by this section shall be by the
 29 means described in subdivision (c) of Section 3014 and shall be
 30 deemed to have been given three business days after mailing of
 31 the notice.

32 3013. (a) The lien described in Section 3010 shall be
 33 permanently extinguished unless a notice of lien in accordance
 34 with Section 3014 is recorded, and served upon the property owner,
 35 within 180 days of the date that the employee ceased to perform
 36 work at the property.

37 (b) The employee shall commence an action to enforce the lien
 38 and prove the amount owed within 180 days of the date of filing
 39 or recording of the notice of lien. If the employee does not
 40 commence an action to enforce the lien within that time, the lien

1 shall be permanently extinguished and is unenforceable, unless
2 the employee and the owner of the property subject to the lien
3 agree to extend the time for enforcing the lien in writing and record
4 or file notice of the fact and terms of the extension prior to the
5 expiration of the time for commencing an action to enforce the
6 lien. If the employee does not commence an action to enforce the
7 lien within the extended time period, the lien shall be permanently
8 extinguished and is unenforceable.

9 (c) If the lien has been extinguished pursuant to subdivision (a)
10 or (b), upon demand and 15 days' notice by the property owner or
11 any affected party, the employee shall record or file a release of
12 the lien. If an employee fails to file a release of the lien after proper
13 notice has been mailed to the employee's address as indicated on
14 the notice of the lien, the employer or affected party may petition
15 the court for an order releasing the lien. If the employee acted
16 unreasonably and in bad faith in refusing to file a release of the
17 lien, the property owner or affected party shall be entitled to
18 recover its attorney's fees and costs incurred in the action, and the
19 court in its discretion may also issue a fine not to exceed one
20 thousand dollars (\$1,000).

21 3014. (a) The employee shall record a notice of lien with the
22 county recorder in the county where the real property is located.

23 (b) The notice of lien shall be executed under penalty of perjury,
24 as defined in Section 118 of the Penal Code, and shall include all
25 of the following:

26 (1) A statement of the employee's demand for payment of the
27 wages and other compensation, penalties, and interest. The
28 statement shall specify the amount owed to the employee, and if
29 the amount is estimated, shall provide an explanation for the basis
30 of the estimate.

31 (2) A general statement of the kind of work furnished by the
32 employee and the dates of employment.

33 (3) The name of the person or entity by whom the employee
34 was employed.

35 (4) The employee's mailing address.

36 (5) A description of the address or site of the property at which
37 the work was performed sufficient for identification.

38 (6) The name of the property owner or reputed owner, if known.

39 (c) The employee shall serve the notice of lien on the employer
40 and the property owner or reputed owner, by certified mail with

1 return receipt requested, evidenced by a certificate of mailing,
2 postage prepaid, addressed to the employer at the employer's
3 residence or place of business, to the address of the property subject
4 to the lien, and to the residence or place of business of the property
5 owner or reputed owner.

6 (d) The lien attaches only to the property that is specifically
7 identified in the notice of lien.

8 3015. (a) In order to enforce a lien under Section 3010, the
9 employee shall demonstrate in a civil action that he or she is owed
10 wages or other compensation and any related penalties and interest
11 and that the property is property subject to a lien under Section
12 3010.

13 (b) If a notice of lien is recorded or filed pursuant to Section
14 3014 and an action to recover unpaid wages has been filed by the
15 employee against the employer, and the property owner has been
16 joined as a party, that action shall also be deemed an action to
17 enforce the lien and foreclose upon any property subject to the
18 recorded lien. In the judgment resulting from an action, the court
19 may order the sale at a sheriff's auction or the transfer to the
20 plaintiff of title or possession of any property subject to the lien.
21 Whether or not the court makes an order as part of the judgment,
22 any property subject to the lien may be foreclosed upon at any
23 point after a judgment for unpaid wages is issued.

24 (c) The employee is entitled to court costs and reasonable
25 attorney's fees for filing a successful action to enforce a lien
26 pursuant to this section.

27 (d) If judgment is entered against the employee in the action to
28 enforce the lien or if the case is dismissed with prejudice, the lien
29 shall be extinguished. The judgment shall include the date the
30 notice of lien was recorded, the county in which it was recorded,
31 the book and page or series number of the place in the legal records
32 in which the lien was recorded, and a legal description of the
33 property to which the lien attaches. The judgment may be appealed
34 by filing a notice of appeal on or before 60 days after the entry of
35 judgment. If an appeal is filed, the lien shall continue in force until
36 all issues on the appeal have been decided. If the period for appeal
37 runs without an appeal having been filed, or if the appeal fails, the
38 judgment entered under this section shall be equivalent to
39 cancellation of the lien and its removal from the record. A judgment
40 entered pursuant to this subdivision is a recordable instrument.

1 Upon recordation of a certified copy of the judgment, the property
2 described in the judgment is released from claim of lien.
3 Alternatively, if the lien is extinguished, upon demand and 15
4 days' notice by the property owner, the employee shall file a release
5 of the lien. If an employee refuses to file a release of the lien after
6 proper notice, a property owner may petition the court for an order
7 to file a release of the lien. If the employee acted unreasonably
8 and in bad faith in refusing to file a release of the lien, the property
9 owner shall be entitled to attorney's fees and costs incurred in the
10 action, and the court in its discretion may also issue a fine not to
11 exceed one thousand dollars (\$1,000).

12 (e) Any number of claims to enforce employee liens against the
13 same property owner may be joined in a single proceeding, but
14 the court may order separate trials or hearings. If the proceeds of
15 the sale of the property subject to a lien are insufficient to pay all
16 the claimants, whether or not claims have been joined together,
17 the court shall order the claimants to be paid in proportion to the
18 amount due each claimant.

19 (f) If a court finds that false information was knowingly and in
20 bad faith included in a notice of lien by an employee with an intent
21 to defraud, the following shall apply:

22 (1) The lien shall be extinguished and the right to a lien as
23 provided by this chapter shall be forfeited.

24 (2) The court may award reasonable attorney's fees and court
25 costs to the property owner for action taken to defeat the lien claim.

26 *3015.5. (a) An employer or property owner may use the*
27 *procedure established pursuant to this section to release the notice*
28 *of lien if the employer or property owner contend any of the*
29 *following:*

30 (1) *That a notice of lien established pursuant to Section 3010*
31 *is not effective.*

32 (2) *The lien has been extinguished because the circumstances*
33 *provided by Section 3010 are not present.*

34 (3) *The amount claimed by the employee has been paid.*

35 (4) *The employer or property owner has obtained a surety bond*
36 *pursuant to subdivision (a) of Section 3011.*

37 (5) *The exception provided by subdivision (b) of Section 3011*
38 *applies.*

39 (6) *The employee has failed to provide the notice required by*
40 *Section 3012.*

1 (7) *The employee or Labor Commissioner has failed to*
2 *commence an action to enforce the lien within the specified time.*

3 (8) *The action has been resolved against the employee.*

4 (b) *The procedure to release the notice of lien shall be as*
5 *follows:*

6 (1) *The employer or property owner shall provide notice to the*
7 *employee that the employer or property owner believes that the*
8 *lien should be released and the basis for that belief, and request*
9 *that the employee record or file a release of the notice of lien. The*
10 *notice shall be made by certified mail with return receipt requested,*
11 *evidenced by a certificate of mailing, postage prepaid, addressed*
12 *to the employee at the employee's residence or place of business.*

13 (2) *If the employee fails to respond within 30 days of the date*
14 *of mailing of the notice provided by paragraph (1), the employer*
15 *or property owner may give notice to the Labor Commissioner*
16 *that the employee did not respond, and request that the Labor*
17 *Commissioner file or record a release of the notice of lien. The*
18 *notice shall include a copy of the notice of lien and a certification,*
19 *made under penalty of perjury, that the employer or property owner*
20 *followed the procedures provided by this section and that the*
21 *employee did not respond.*

22 (3) *Upon receiving a request pursuant to paragraph (2), the*
23 *Labor Commissioner shall notify the employee that unless the*
24 *employee serves an objection on the Labor Commissioner within*
25 *30 days, the Labor Commissioner shall release the notice of lien.*
26 *The notice shall be made by certified mail with return receipt*
27 *requested, evidenced by a certificate of mailing, postage prepaid,*
28 *addressed to the employee at the employee's residence or place*
29 *of business. If the employee does not serve a timely objection, the*
30 *Labor Commissioner shall record or file a release of the notice of*
31 *lien.*

32 (c) *The procedure established pursuant to this section to release*
33 *the notice of lien is an additional means of releasing a notice of*
34 *lien.*

35 3016. *If the judgment in an action is against the property of a*
36 *property owner who is not the employer, the owner may deduct*
37 *the amount of the judgment and costs from any amount owed to*
38 *the employer. If the amount of the judgment and costs exceed the*
39 *amount owed to the employer, the owner may recover from the*

1 owner, or the sureties on a bond given by the employer, if any, the
2 remaining amount of the judgment and costs.

3 SEC. 3. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

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