

AMENDED IN SENATE JUNE 26, 2014

AMENDED IN ASSEMBLY MAY 23, 2014

AMENDED IN ASSEMBLY MAY 6, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2416**

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

February 21, 2014

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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 with certain exceptions, would 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 unpaid wages and other

compensation owed the employee, and certain other penalties, interest, and costs. The bill would prescribe requirements relating to the recording and enforcement of the wage lien and for its extinguishment 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 specific certification under the procedure to be made under penalty of perjury. *The bill would also require the Department of Industrial Relations to issue a report to the Legislature by January 1, 2019, on the effect of these provisions, as specified.*

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~~ Recovery 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 *not* apply to the employer's principal residence ~~only to the~~  
14 ~~extent that the employee provided labor to the benefit of the~~  
15 ~~employer's 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

1 available under the Labor Code, interest at the same rate as for  
2 prejudgment interest in this state, and the costs of filing and service  
3 of the lien. The amount of compensation that may be claimed as  
4 lien under this section includes all wages agreed to be paid to the  
5 employee, but no less than the amount required by law, including  
6 direct wages and compensation required to be paid to other persons  
7 or entities, that would qualify as “employer payments” described  
8 in Section 1773.1 of the Labor Code.

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

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

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

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

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

1 reducing the lien to the amount that exceeds the bond or insurance  
2 coverage.

3 (b) The lien described in Section 3000 shall not attach for labor  
4 performed under a valid collective bargaining agreement if the  
5 agreement expressly provides for a regular hourly pay of not less  
6 than 30 percent more than the state minimum wage rate, addresses  
7 the issue of security for the payment of wages, and expressly  
8 waives requirements of this chapter in clear and unambiguous  
9 terms. If part of the labor was performed under a collective  
10 bargaining agreement as so described the lien shall be limited to  
11 the amount of the claim based on labor that was not performed  
12 under the agreement. Within 30 days of being provided with proof  
13 of such a collective bargaining agreement, the employee shall file  
14 a release of any lien recorded or a notice reducing the lien to the  
15 amount permitted by this chapter.

16 (c) If an employee, after receiving proper notice under this  
17 section, acts unreasonably and in bad faith in recording or filing  
18 a notice of lien or in refusing to file a release or reduction of the  
19 lien, the employer shall be entitled to recover attorney's fees and  
20 costs in an action to remove or reduce the lien, and the court in its  
21 discretion may also issue a fine, not to exceed one thousand dollars  
22 (\$1,000).

23 (d) *The lien described in Section 3000 shall not attach if the*  
24 *employer receives a court order or an order from the Labor*  
25 *Commissioner finding that the employee does not have a*  
26 *reasonable likelihood of success on the claim for wages and other*  
27 *compensation, penalties, and interest owed to the employee. The*  
28 *employee shall release the lien within 30 days of being provided*  
29 *with proof of the order.*

30 3001.5. (a) At least ~~five~~ 20 days prior to recording a notice of  
31 lien with a county recorder pursuant to Section 3003 or filing a  
32 notice of lien with the Secretary of State pursuant to Section 3004,  
33 the employee shall provide the owner or reputed owner of the  
34 property against which the lien is to be recorded preliminary written  
35 notice of the intent to record a notice of lien.

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

37 (1) All of the information required by subdivision (b) of Section  
38 3003, to the extent known to the person giving the notice.

39 (2) The following statement in boldface type:

40

1 NOTICE TO EMPLOYER, if the person that has given you this  
2 notice is not paid in full for work performed in your employ, a lien  
3 may be placed on your property after a period of ~~five~~ 20 days after  
4 this notice is served. Foreclosure of the lien may lead to loss of all  
5 or part of your property. You may wish to protect yourself against  
6 this by (1) ensuring that the person that has given you this notice  
7 is paid in full for work performed in your employ, or (2) any other  
8 method that is appropriate under the circumstances. This notice is  
9 required by law to be served by the undersigned as a statement of  
10 your legal rights.

11  
12 (c) Notice is not invalid by reason of any variance from the  
13 requirements of this section if the notice is sufficient to  
14 substantially inform the person given notice of the information  
15 required by this section and other information required in the  
16 notice.

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

21 3002. (a) The lien described in Section 3000 shall be  
22 permanently extinguished unless a notice of lien in accordance  
23 with Section 3003 or 3004 is recorded or filed, and served upon  
24 the employer, within 180 days of the date that the employee ceased  
25 working for the employer. The lien described in Section 3000 shall  
26 also be permanently extinguished as to property that is transferred  
27 or sold by the employer, unless a notice of lien was recorded or  
28 filed before the transfer or sale in accordance with Section 3003  
29 or 3004.

30 (b) (1) The employee shall commence an action to enforce the  
31 lien and prove the amount owed within ~~90~~ 45 days of the date of  
32 filing or recording of the notice of lien. If the employee does not  
33 commence an action to enforce the lien within that time, the lien  
34 shall be permanently extinguished and is unenforceable, unless  
35 the employee and the owner of the property subject to the lien  
36 agree to extend the time for enforcing the lien in writing and record  
37 or file notice of the fact and terms of the extension prior to the  
38 expiration of the time for commencing an action to enforce the  
39 lien. If the employee does not commence an action to enforce the

1 lien within the extended time period, the lien shall be permanently  
2 extinguished and is unenforceable.

3 (2) *If a lien has been permanently extinguished pursuant to this*  
4 *subdivision because the employee has not commenced an action*  
5 *to enforce the lien within the applicable time period, the employee*  
6 *may not record or file another lien under Section 3000 claiming*  
7 *the same unpaid wages, compensation, penalties, or costs claimed*  
8 *by the extinguished lien.*

9 (c) If the lien has been extinguished pursuant to subdivision (a)  
10 or (b), upon demand and 15 days' notice by the employer or any  
11 affected party, the employee shall record or file a release of the  
12 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 lien,  
17 the employer or affected party shall be entitled to recover its  
18 attorney's fees and costs incurred in the action, and the court in  
19 its discretion may also issue a fine not to exceed one thousand  
20 dollars (\$1,000).

21 3003. (a) With regard to a lien on real property under Section  
22 3000, the employee shall record a notice of lien with the county  
23 recorder in the county where the real property is located.

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

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

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

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

36 (4) The employee's mailing address.

37 (5) *A description of the address or site of the property sufficient*  
38 *for identification.*

39 (c) The employee shall serve the notice of lien on the employer,  
40 by certified mail with return receipt requested, evidenced by a

1 certificate of mailing, postage prepaid, addressed to the employer  
2 at the employer's residence or place of business.

3 (d) The lien attaches to all real property owned by the employer  
4 at the time of the filing of the notice of lien, or that is subsequently  
5 acquired by the employer, that is located in any county in which  
6 the notice of lien is recorded, regardless of whether the property  
7 is identified in the notice of lien recorded.

8 3004. (a) With regard to a lien on personal property under  
9 Section 3000, the employee shall file a notice of lien with the  
10 Secretary of State. Except as otherwise provided in this chapter,  
11 the manner, form, and place of filing shall be as described in  
12 Chapter 5 (commencing with Section 9501) of Division 9 of the  
13 Commercial Code. The notice of the lien shall be placed in the  
14 same file as financing statements pursuant to Section 9522 of the  
15 Commercial Code.

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

19 (1) A statement of the employee's demand for payment of the  
20 wages and other compensation, penalties, and interest. The  
21 statement shall specify the amount owed to the employee, and if  
22 the amount is estimated, shall provide an explanation for the basis  
23 of the estimate.

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

26 (3) The name of the person by whom the employee was  
27 employed.

28 (4) The employee's mailing address.

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

33 (d) The lien attaches to all personal property that is owned by  
34 the employer at the time of the filing of the notice of lien, or that  
35 is subsequently acquired by the employer, that can be made subject  
36 to a security interest under the Commercial Code.

37 3005. (a) In order to enforce a lien under Section 3000, the  
38 employee shall demonstrate in a civil action, or in a proceeding  
39 under Section 98 of the Labor Code, that he or she is owed wages  
40 or other compensation and any related penalties and interest, or

1 the employer’s liability shall be established pursuant to a citation  
2 issued under Section 1197.2 of the Labor Code and the process  
3 for contesting such a citation.

4 (b) If the employee chooses to pursue the wage claim in an  
5 administrative proceeding before the Labor Commissioner pursuant  
6 to Section 98 of the Labor Code, the Labor Commissioner may  
7 establish the amount of lien if a lien has been recorded. If no lien  
8 has been recorded at the time the administrative claim is filed, the  
9 Labor Commissioner may provide the notice and record the lien  
10 on behalf of the employee.

11 (c) If the Labor Commissioner issues a citation under Section  
12 1197.2 of the Labor Code for the failure to pay wages to an  
13 employee, the Labor Commissioner may provide preliminary notice  
14 and record a lien on behalf of the employee.

15 (d) If a notice of lien is recorded or filed pursuant to Section  
16 3003 or 3004 and an action to recover unpaid wages has been filed  
17 by the employee, that action shall also be deemed an action to  
18 enforce the lien and foreclose upon any property subject to the  
19 recorded lien. In the judgment resulting from an action, the court  
20 may order the sale at a sheriff’s auction or the transfer to the  
21 plaintiff of title or possession of any property subject to the lien.  
22 Whether or not the court makes an order as part of the judgment,  
23 any property subject to the lien may be foreclosed upon at any  
24 point after a judgment for unpaid wages is issued.

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

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



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

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

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

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

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

29 3005.5. (a) An employer may use the procedure established  
30 pursuant to this section to release the notice of lien if the employer  
31 contends any of the following:

32 (1) That a notice of lien established pursuant to Section 3000  
33 is not effective.

34 (2) That the lien has been extinguished because the  
35 circumstances provided by Section 3000 are not present.

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

37 (4) The employer has obtained a surety bond pursuant to  
38 subdivision (a) of Section 3001.

39 (5) The exception provided by subdivision (b) of Section 3001  
40 applies.

1 (6) The employee has failed to provide the notice required by  
2 Section 3001.5.

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

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

6 (b) The procedure to release the notice of lien shall be as  
7 follows:

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

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

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

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

36 3010. (a) An employee shall have a lien on the real property  
37 at which the employee performed work, for the amount of any  
38 wages and other compensation, penalties, and interest owed to the  
39 employee for performing work at that property, under any of the  
40 following circumstances:

1 (1) The property owner and the employee’s employer are related  
2 parties. If the property owner is a natural person, this lien shall *not*  
3 apply to the property owner’s principal residence ~~only to the extent~~  
4 ~~that the employee provided labor to the benefit of that household~~  
5 ~~or residence.~~

6 (2) The employee was employed by a contractor or subcontractor  
7 performing services for the property owner or its agent, or for a  
8 related party to the property owner, or for the related party’s agent,  
9 regardless of whether a written contract exists. This subdivision  
10 shall not apply if the services were provided to a household or  
11 residence.

12 (3) The employee was employed to perform property services  
13 work on commercial property by the property owner’s lawful  
14 tenant or subtenant or by the tenant’s or subtenant’s agent, or by  
15 a contractor or subcontractor in the execution of a contract awarded  
16 by the tenant or subtenant or by the tenant’s or subtenant’s agent,  
17 regardless of whether a written contract exists. For purposes of  
18 this subdivision, “property services work” means work in the  
19 janitorial, security guard, parking services, and landscaping and  
20 gardening industries. This subdivision shall not apply if the  
21 commercial property was leased by the property owner pursuant  
22 to a lease entered into prior to January 1, 2015, unless the lease is  
23 modified or extended after that date.

24 (b) For purposes of this section, “related parties” means a party  
25 owns or controls, or is owned or controlled, or is under common  
26 ownership or control, with the other party. For purposes of defining  
27 “related parties,” “ownership” means 50 percent or greater  
28 ownership, and “control” means the right granted by law to exercise  
29 decision power over administration, finances, and operations.

30 (c) The amount of the lien under this section shall include unpaid  
31 wages and other compensation required by California law, penalties  
32 available under the Labor Code, interest at the same rate as for  
33 prejudgment interest in this state, and the costs of filing and service  
34 of the lien. The amount of compensation that may be claimed as  
35 lien under this section includes all wages agreed to be paid to the  
36 employee, but no less than the amount required by law, including  
37 direct wages and compensation required to be paid to other persons  
38 or entities, that would qualify as “employer payments” described  
39 in Section 1773.1 of the Labor Code.

1 (d) Any act authorized or required under this chapter with regard  
2 to an employee may also be undertaken by any person or entity,  
3 including any governmental agency, to which a portion of an  
4 employee's compensation is payable or that has standing under  
5 applicable law to maintain a direct legal action on behalf of the  
6 employee to collect any portion of compensation owed to the  
7 employee, or that is authorized by the employee to act on the  
8 employee's behalf.

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

15 (f) This section shall not apply to the extent that the employee  
16 would be entitled to a mechanic's lien on the same property under  
17 Section 8400.

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

21 3011. (a) The lien described in Section 3010 shall not attach  
22 if the employer or property owner has obtained a surety bond or  
23 insurance that provides for payment of the wages and other  
24 compensation, penalties, and interest claimed by the employee and  
25 is in an amount that is adequate to fully satisfy the employee's  
26 claim. If the surety bond or insurance contract is inadequate to  
27 cover the entire amount of the employee's claim, the lien shall be  
28 limited to the amount of the claim that exceeds the bond or  
29 insurance coverage. Within 30 days of being provided with proof  
30 of a valid surety bond or insurance contract that applies to the  
31 claim, the employee shall file a release of any lien recorded or a  
32 notice reducing the lien to the amount that exceeds the bond or  
33 insurance coverage.

34 (b) The lien described in Section 3010 shall not attach for labor  
35 performed under a valid collective bargaining agreement if the  
36 agreement expressly provides for a regular hourly pay of not less  
37 than 30 percent more than the state minimum wage rate, addresses  
38 the issue of security for the payment of wages, and expressly  
39 waives requirements of this chapter in clear and unambiguous  
40 terms. If part of the labor was performed under a collective

1 bargaining agreement as so described, the lien shall be limited to  
2 the amount of the claim based on labor that was not performed  
3 under the agreement. Within 30 days of being provided with proof  
4 of such a collective bargaining agreement, the employee shall file  
5 a release of any lien recorded or a notice reducing the lien to the  
6 amount permitted by this chapter.

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

14 (d) *The lien described in Section 3010 shall not attach if the*  
15 *employer receives a court order or an order from the Labor*  
16 *Commissioner finding that the employee does not have a*  
17 *reasonable likelihood of success on the claim for wages and other*  
18 *compensation, penalties, and interest owed to the employee. The*  
19 *employee shall release the lien within 30 days of being provided*  
20 *with proof of the order.*

21 3012. (a) At least 20 days prior to recording a notice of lien  
22 with a county recorder pursuant to Section 3014, the employee  
23 shall provide the owner or reputed owner of the property against  
24 which the lien is to be recorded preliminary written notice of the  
25 intent to record a notice of lien.

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

27 (1) All of the information required by subdivision (b) of Section  
28 3014.

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

33 (3) The following statement in boldface type:

34  
35 **NOTICE TO PROPERTY OWNER, if the person that has given**  
36 **you this notice is not paid in full for work performed at real**  
37 **property you own, a lien may be placed on your property after a**  
38 **period of 20 days from the date this notice is served. Foreclosure**  
39 **of the lien may lead to loss of all or part of your property. You**  
40 **may wish to protect yourself against this by (1) ensuring that the**

1 person that has given you this notice is paid in full for work  
2 performed, or (2) any other method that is appropriate under the  
3 circumstances. This notice is required by law to be served by the  
4 undersigned as a statement of your legal rights. This notice is not  
5 intended to reflect upon the financial condition of your related  
6 party, contractor, subcontractor, tenant, or subtenant.

7

8 (c) Notice is not invalid by reason of any variance from the  
9 requirements of this section if the notice is sufficient to  
10 substantially inform the person given notice of the information  
11 required by this section and other information required in the  
12 notice.

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

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

20 3013. (a) The lien described in Section 3010 shall be  
21 permanently extinguished unless a notice of lien in accordance  
22 with Section 3014 is recorded, and served upon the property owner,  
23 within 180 days of the date that the employee ceased to perform  
24 work at the property. The lien described in Section 3010 shall also  
25 be permanently extinguished as to property that is transferred or  
26 sold by the property owner, unless a notice of lien was recorded  
27 before the transfer or sale in accordance with Section 3014.

28 (b) (1) The employee shall commence an action to enforce the  
29 lien and prove the amount owed within ~~90~~ 45 days of the date of  
30 filing or recording of the notice of lien. If the employee does not  
31 commence an action to enforce the lien within that time, the lien  
32 shall be permanently extinguished and is unenforceable, unless  
33 the employee and the owner of the property subject to the lien  
34 agree to extend the time for enforcing the lien in writing and record  
35 or file notice of the fact and terms of the extension prior to the  
36 expiration of the time for commencing an action to enforce the  
37 lien. If the employee does not commence an action to enforce the  
38 lien within the extended time period, the lien shall be permanently  
39 extinguished and is unenforceable.

1 (2) *If a lien has been permanently extinguished pursuant to this*  
2 *subdivision because the employee has not commenced an action*  
3 *to enforce the lien within the applicable time period, the employee*  
4 *may not record or file another lien under Section 3010 claiming*  
5 *the same unpaid wages, compensation, penalties, or costs claimed*  
6 *by the extinguished lien.*

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

19 3014. (a) The employee shall record a notice of lien with the  
20 county recorder in the county where the real property is located.

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

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

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

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

33 (4) The employee's mailing address.

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

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

37 (c) The employee shall serve the notice of lien on the employer  
38 and the property owner or reputed owner, by certified mail with  
39 return receipt requested, evidenced by a certificate of mailing,  
40 postage prepaid, addressed to the employer at the employer's

1 residence or place of business, to the address of the property subject  
2 to the lien, and to the residence or place of business of the property  
3 owner or reputed owner.

4 (d) The lien attaches only to real property owned by the property  
5 owner described in Section 3010 at the time of the recording of  
6 the notice of lien. The lien attaches only to the property that is  
7 specifically 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 *3017. On or before January 1, 2019, the Department of*  
4 *Industrial Relations shall issue a report to the Legislature, in*  
5 *compliance with Section 9795 of the Government Code, on the*  
6 *impact of the Wage Theft Recovery Act. The report shall, at a*  
7 *minimum, report on the number of wage liens filed, the number of*  
8 *wage liens that led to foreclosure of seizure of property, and the*  
9 *impact of this act on unpaid wage collection.*

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