

Mechanics Liens: Placing and Releasing Contractors Claims – Step by Step Guide

A Mechanics' Lien is an effective remedy for contractors, subcontractors, and others involved in the construction or improvement of real estate to resolve payment problems. If a service or materials provider records a Mechanics Lien against the real estate being improved, the owner cannot easily sell or refinance the property without first paying off the debt secured by the lien.

Templates and Forms

- $\bullet \ \ \, \underline{\text{Mechanics Lien, Claim of PDF}}\underline{\text{(https://saclaw.org/wp-content/uploads/2023/04/form-mechanics-lien-claim.pdf)}}\\$
- Preliminary Notice, California Private Works PDF (https://saclaw.org/wp-content/uploads/2023/04/form-california-preliminary-notice-private-works.pdf)
- Release of Mechanics Lien PDF (https://saclaw.org/wp-content/uploads/2023/04/form-release-of-mechanics-lien.pdf)

Related Guide

Petition to Release Mechanics Lien (https://www.saclaw.org/resource_library/petition-to-remove-mechanics-lien/)

A Mechanics Lien motivates the owner to make sure the contractors get paid, and is a prerequisite to filing a foreclosure action on the property. A claimant is defined by California Civil Code (C.C.) § 8004

Step by Step Guide

1. Determine if A Preliminary Notice is Required

According to C.C. § 8410 (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV§ionNum=8410.), for most claimants who furnish labor, service, equipment, or material to a private work of improvement, service of a 20-day preliminary notice is a prerequisite to the enforcement of both the Mechanics Lien and stop payment notice rights. Preliminary Notices must be served to the owner, general contractor, and lender. However, some claimants including some laborers, need not give prior notice per C.C. § 8200 (e)

(http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV§ionNum=8200.). A customizable template may be



downloaded from this link:

Preliminary Notice (https://www.saclaw.org/resource_library/preliminary-notice-california-private-works/)

2. Complete the Claim for Mechanics Lien and Required Notice of Lien

Mechanics Lien forms must be in a format that the Sacramento County Clerk/Recorder's Office will accept. A customizable template may be downloaded from this link:

 Claim of Mechanics Lien including the required Notice of Lien and a Proof of Service Affidavit (https://www.saclaw.org/resource_library/mechanics-lien-claim-of/)

Sample filled-in forms with instructions are available at the end of this Guide.

3. Serve the Claim for Mechanics Lien and Complete the Proof of Service Affidavit

Service of the claim of mechanics lien must be completed before the lien claim is recorded. C.C. §8416 (a)(7) http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=8416.&lawCode=CIV requires the recorded original claim for mechanics lien to contain a signed affidavit of proof of service.

4. Record the Mechanics Lien, Required Notice of Lien, and Proof of Service Affidavit at the Recorder's Office

The Recorder's Office charges a recording fee (currently \$20/first page plus \$3 for additional pages in Sacramento). Current fees are available on the County Clerk/Recorder's website at Fee Schedule. (http://www.ccr.saccounty.net/Pages/Fees.aspx)

Sacramento County Recorder's Office 3636 American River Drive, Ste. 110 Sacramento, CA 95864 (916) 874-6334

For More Information

On the Web:

Contractors State License Board

Understanding Mechanics Lien Laws (https://www.cslb.ca.gov/Consumers/Legal_Issues_For_Consumers/Mechanics_Lien/): What



609 9th St Sacramento, CA 95814 | 916-874-6012 | saclaw.org

is a mechanics lien, how to prevent a mechanics lien, what to do if a mechanics lien has been recorded on your property, lien release forms and instructions.

Informational pamphlet from the Department of Consumer Affairs' Contractors State License Board:
 <u>A Homeowner's Guide to Preventing Mechanics Liens</u>
 (http://www.cslb.ca.gov/Resources/GuidesAndPublications/HomeownersGuideToPreventingMechanicsLiens.pdf).

At the Law Library:

California Mechanics Lien Law and Construction Industry Practice KFC229 .M31

California Mechanics Lien Law provides in-depth treatment of the basic law and procedure relating to works of improvement, from the standpoint of the contractor.

Electronic Access: On the Law Library's computers, using Lexis Advance.

California Mechanics Liens and Related Construction Remedies KFC229 .C3

This CEB practice guide discusses Mechanics Liens, stop notices, and bond remedies.

Electronic Access: On the Law Library's computers, using OnLaw.

Handling Mechanics Liens and Related Remedies (Private Works) KFC 229 .H86

This CEB Action Guide describes the rights and remedies, including Mechanics Liens, stop notices, and bonds of the principal parties involved in a private work of improvement.

Electronic Access: On the Law Library's computers, using OnLaw.



Samples

Mechanics Lien

Recording requested by (name): [Name(s) of new owners]		f person recording the f Mechanics Lien.	Rec	order's Use Only
When recorded mail to				
and mail tax statements to:		nd address of person		1/1/2018: In addition to standard
[Name(s) of new owners]	AND DESIGNATIONS OF STREET	ould receive the document		fees, a new \$75 fee is charged
[Mailing Address of new owners		corded, and tax		for recording documents unless an exemption applies. See back
[Mailing Address of new owners		nts from now on.		of sheet for more info.
[Mailing Address City, State, ZIP	1		· /	
CLAIM OF	ľ	Declaration of Exemp	ion From	Gov't Code § 27388.1 Fee
MECHANICS LIEN (Cal. Civ. Code § 8416)		☐ Transfer is exempt f ☐ recorded concurre ☐ recorded concurr residential dwellir ☐ Transfer is exempt f	rom fee pe ently "in cor ently "in co g to an ow rom fee pe	r GC § 27388.1(a)(2): nnection with" transfer subject to DTT nnection with" a transfer of 'ner-occupier
[Claimant /business name]	l			nechanics lien for the labor or
services or equipment or materials desc	ribed in no			
property located in the County of _[Cou		- 1000000000000000000000000000000000000		and more particularly described as
(address and/or sufficient description):_	<u>[address c</u>	or description of project	site	
[interest rate in contract] per annun	n from <u>[in</u>	itial due date] (da	te when ba	, together with interest at the rate of alance became due), is due
[interest rate in contract] per annun claimant for the following labor, material 3. Claimant furnished the labor or	n from <u>[in</u> s, services services or	itial due date] (da , or equipment: [descrip equipment or materials,	te when ba	alance became due), is due
[interest rate in contract] per annun claimant for the following labor, material 3. Claimant furnished the labor or contractor, etc.]	n from <u>[in</u> s, services services or	itial due date] (da , or equipment: [descrip equipment or materials,	te when ba	alance became due), is due
[interest rate in contract] per annun claimant for the following labor, material 3. Claimant furnished the labor or contractor, etc.] were furnished).	n from <u>[in</u> s, services services or <u>[emplo]</u>	itial due date] (da c, or equipment: [descrip r equipment or materials, yer, person, or entity to w	te when bation] at the requirements to the requirement to the requirements to the requirement to the requirements to the requirements to the requ	est of <u>[owner, general</u>] materials, services, or equipment
[interest rate in contract] per annun claimant for the following labor, material 3. Claimant furnished the labor or contractor, etc.] were furnished).	n from <u>[in</u> s, services services or <u>[emplo]</u>	itial due date] (da c, or equipment: [descrip r equipment or materials, yer, person, or entity to w	te when bation] at the requirements to the requirement to the requirements to the requirement to the requirements to the requirements to the requ	alance became due), is due
[interest rate in contract] per annun claimant for the following labor, material 3. Claimant furnished the labor or contractor, etc.] were furnished). 4. The name and address of the contractor.	n from _[in s, services services or(emplo	itial due date] (da , or equipment: [descrip equipment or materials, yer, person, or entity to we puted owner of the real p	te when bation] at the requirements to the requirement to the requirements to the requirement to the requirements to the requirements to the requ	est of <u>[owner, general</u>] materials, services, or equipment
[interest rate in contract] per annun claimant for the following labor, material 3. Claimant furnished the labor or contractor, etc.] were furnished). 4. The name and address of the contractor.	n from _[in s, services services or(emplo	itial due date] (da , or equipment: [descrip equipment or materials, yer, person, or entity to we puted owner of the real p	te when ba tion] at the requ hom labor, roperty is/a	est of <u>[owner, general]</u> materials, services, or equipment are: <u>[owner name and address]</u> zed Agent Sign again to verify the truth of your claim under penalty of
[interest rate in contract] per annum claimant for the following labor, material 3. Claimant furnished the labor or contractor, etc.] were furnished). 4. The name and address of the contractor of the contracto	n from _[in s, services services or (emplo owner or re nt /busine	itial due date] (data, or equipment: _fdescrip requipment or materials, yer, person, or entity to w. puted owner of the real p	te when ba tion] at the requ hom labor, roperty is/a it or Authoria and Title]	est of <u>[owner, general]</u> materials, services, or equipment are: <u>[owner name and address]</u> zed Agent Sign again to verify the truth of
[interest rate in contract] per annum claimant for the following labor, material 3. Claimant furnished the labor or contractor, etc.] were furnished). 4. The name and address of the contractor is claimant's address is: [Claimant Dated Isignature date] I, Iname of signer] "authorized agent," "partner," etc.) of claimant of clai	n from _[in s, services services or (emplo owner or re , am th , am th	itial due date] (date, or equipment: Idescrip requipment or materials, yer, person, or entity to we puted owner of the real puted owner ow	te when ba tion] at the requ hom labor, reperty is/a tor Authori and Title]	rest of <u>[owner, general]</u> materials, services, or equipment re: <u>[owner name and address]</u> zed Agent Sign again to verify the truth of your claim under penalty of perjury. Cowner, president, and am authorized to make this
[interest rate in contract] per annum claimant for the following labor, material 3. Claimant furnished the labor or contractor, etc.] were furnished). 4. The name and address of the contractor is claimant's address is: [Claimant's address is: [Cl	n from _[in s, services services or (emplo owner or re , am th imant on tread the for	itial due date] (date, or equipment: Idescrip requipment or materials, yer, person, or entity to we puted owner of the real puted owner ow	te when ba tion] at the requ hom labor, reperty is/a tor Authori and Title]	rest of <u>[owner, general]</u> materials, services, or equipment re: <u>[owner name and address]</u> zed Agent Sign again to verify the truth of your claim under penalty of perjury. Cowner, president, and am authorized to make this
[interest rate in contract] per annum claimant for the following labor, material 3. Claimant furnished the labor or contractor, etc.] were furnished). 4. The name and address of the contractor is claimant's address is: [Claimant's address is: [Cl	n from _[in s, services services or (emplo owner or re , am the , am the imant on the read the for owledge.	itial due date] (data, or equipment: Idescrip requipment or materials, yer, person, or entity to we puted owner of the real puted owner ow	te when ba tion] at the requ hom labor, reperty is/a tor Authori and Title] mant] cos lien and	rest of <u>[owner, general]</u> materials, services, or equipment re: <u>[owner name and address]</u> zed Agent Sign again to verify the truth of your claim under penalty of perjury. Journal of the claim of the claim of the claim of
[interest rate in contract] per annum claimant for the following labor, material 3. Claimant furnished the labor or contractor, etc.] were furnished). 4. The name and address of the contractor of the contracto	n from _[in s, services services or (emplo owner or re , am the , am the imant on the read the for owledge.	itial due date] (data, or equipment: Idescrip requipment or materials, yer, person, or entity to we puted owner of the real puted owner. [Signature] Signature] Signature] Signature] VERIFICATION et Irole of signer at claime foregoing claim of mechanical puted owner.	te when ba tion] at the requ hom labor, roperty is/a tor Authoria and Title] mant] hanics light cs lien and	rest of <u>[owner, general]</u> materials, services, or equipment re: <u>[owner name and address]</u> zed Agent Sign again to verify the truth of your claim under penalty of perjury. Cowner, president, and am authorized to make this
[interest rate in contract] per annum claimant for the following labor, material 3. Claimant furnished the labor or contractor, etc.] were furnished). 4. The name and address of the contractor of the contracto	n from _[in s, services services or (emplo owner or re , am the , am the imant on the read the for owledge.	itial due date] (data, or equipment: Idescrip requipment or materials, yer, person, or entity to we puted owner of the real puted owner ow	te when ba tion] at the requ hom labor, roperty is/a tor Authoria and Title] mant] hanics light cs lien and	rest of <u>[owner, general]</u> materials, services, or equipment re: <u>[owner name and address]</u> zed Agent Sign again to verify the truth of your claim under penalty of perjury. Journal of the claim of the claim of the claim of

Mechanics Lien (page 1)

609 9th St Sacramento, CA 95814 | 916-874-6012 | saclaw.org

NOTICE OF MECHANICS LIEN CLAIM ATTENTION!

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

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

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

This page must be served on the owner and filed at the recorder's office along with the notice. The office will reject the lien if it is not included.

saclaw.org 1/24/18

Mechanics Lien (page 2)



609 9th St Sacramento, CA 95814 | 916-874-6012 | saclaw.org

Serve the owner of the project if you can. If you can't find the owner, serve the construction lender or (if you're a sub or supplier) the direct contractor

Serve the mechanics lien yourself, by registered, certified, or first class mail with certificate of mailing—no need to hire a process server or have the lien personally served. Then fill out whichever of these two affidavits fits your situation.

PROOF OF SERVICE AFFIDAVIT California Civil Code section 8416

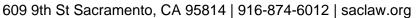
Failure to serve the Mechanic's Lien and Notice of Mechanic's Lien on the owner, or alternatively if the owner cannot be served on the lender or direct contractor, shall cause the Mechanic's Lien to be unenforceable as a matter of law (Civil Code Section 8024(d)). Service of the Mechanic's Lien and Notice of Mechanic's Lien must be by (1) registered mail, (2) certified mail, or (3) first-class mail evidenced by a certificate of mailing, postage prepaid, and to a residence or business address for the owner, lender or contractor. Further, a Proof of Service Affidavit (below) must be completed and signed by the person serving the Mechanic's Lien and Notice of Mechanic's Lien. This page should be completed (either one of the sections below) and recorded with the County Recorder along with the Mechan

PROOF OF SERVICE AFFIDAVIT (ON OWNER) to locate a valid address. The fill out the top proof of service.

Serve the owner if you are able to locate a valid address. Then

California Civil Code Section 8416(a)(7) and (c)(1
I, :_[Name of person signing] (name), declare that I served a copy of this Mechanic's Lien and Notice of Mechanic's Lien by registered mail, certified mail, or first-class mail evidenced by a certificate of mailing, postage prepaid, addressed as follows to the owner(s) or reputed owner(s) of the property:
Company/Person Served: [Owner's name]
Title or capacity of person served (if appropriate): [If owner is a business, identify person served]
Service address: [Owner's address]
Said service address is the owner's residence, place of business, or address showed by the building permit
on file with the permitting authority for the work.
Executed on, 20 (date) at (city),
By:(Signature of
If you cannot locate a valid address for the owner, serve the lender or direct contractor, then fill out the bottom proof of service. If you cannot locate a valid address for the owner, serve the lender or direct contractor, then fill out the bottom proof of service.
with a copy of this Mechanic's Lien and Notice of Mechanic's Lien by registered mail, certified mail, or first-class mail. Pursuant to California civil Code section 8416(c)(2), I served a copy of this Mechanic's Lien and Notice of Mechanic's Lien by registered mail, certified mail, or first-class mail evidenced by a certificate of mailing, postage prepaid, addressed as follows to the construction lender or direct contractor as follows:
Company/Person Served: [Lender or Direct Contractor's name]
Title or capacity of person served (if appropriate): [If owner is a business, identify person served]
Service address: [Lender or Direct Contractor's address]
Executed on, 20 (date) at (city),
By:(Signature of person making service)
saclaw.org 1/24/18

Mechanics Lien (page 3)





Release of Mechanics Lien

[Name of Person Requesting the Recording] When recorded mail to	_
and mail tax statements to: [Name of Person Receiving Tax Statements]	
[Street Mailing Address]	_
[Street Mailing Address]	_
[City, State, Zip Code]	
	Recorder's Use Only
RELEASE OF MECHANICS' LIEN (CA Civil Code §§ 8120-8130, 8400 et seq.)	Declaration of Exemption From Gov't Code § 27388.1 Fee ☐ Transfer is exempt from fee per GC § 27388.1(a)(2): ☐ recorded concurrently "in connection with" transfer subject to _ Documentary Transfer Tax
	☐ recorded concurrently "in connection with" a transfer of residential dwelling to an owner-occupier ☐ Transfer is exempt from fee per GC 27388.1(a)(1): ☐ Fee cap of \$225.00 reached ☐ Not related to real property
The claim of mechanics' lien asserted by <u>[Name</u> (name of claimant as printed on Contractor's Lie <u>[Name of Owner]</u> (owner(s)) affecting the real property in the city	of <u>[Insert Name of City]</u> , County of
(name of claimant as printed on Contractor's Lic [Name of Owner] (owner(s)) affecting the real property in the city	of <u>[Insert Name of City]</u> , County of located at (address and/or sufficient description):
(name of claimant as printed on Contractor's Lic [Name of Owner] (owner(s)) affecting the real property in the city [Insert Name of County], California,	cense or Secretary of State records) against of <u>[Insert Name of Citv]</u> , County of located at (address and/or sufficient description): as of the Property where the Work Occurred] Mechanics' Lien recorded on <u>[Insert Date]</u> (date) as in Book/Reel <u>[Insert Book Number]</u> , Page/Image <u>[Insert Name of County]</u> County, California, is
(name of claimant as printed on Contractor's Lic Name of Owner] (owner(s)) affecting the real property in the city Insert Name of County], California, Provide the Address and Full Legal Description is hereby waived and released, and that certain Instrument No. [Leave Blank if None] and/or insert Page Number], in the official records of	cense or Secretary of State records) against of <u>[Insert Name of Citv]</u> , County of located at (address and/or sufficient description): as of the Property where the Work Occurred] Mechanics' Lien recorded on <u>[Insert Date]</u> (date) as in Book/Reel <u>[Insert Book Number]</u> , Page/Image <u>[Insert Name of County]</u> County, California, is
(name of claimant as printed on Contractor's Lic Name of Owner] (owner(s)) affecting the real property in the city Insert Name of County], California, Provide the Address and Full Legal Description is hereby waived and released, and that certain Instrument No. [Leave Blank if None] and/or in Insert Page Number], in the official records of hereby fully satisfied, released, and discharged. [Date Release is Being Signed]	of Insert Name of City, County of located at (address and/or sufficient description): Insert Name of City, County of located at (address and/or sufficient description): Insert Name of County, County of located at (address and/or sufficient description): Insert Name of County, Page/Image, Page/Image, Page/Image, County, California, is, County, California, is, Page/Image, Page/Image, Page/Image, Page/Image

Release of Mechanics Lien (page 1)

Note: Release of Mechanics Lien Page 2, notary acknowledgement, is not reproduced.