

Mechanics Liens: Placing and Releasing Contractors Claims

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.

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](#)

(http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV§ionNum=8004),

[§ 8024](#) (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV§ionNum=8024), [§§ 8400-8404](#)

(http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV§ionNum=8400).

Related Guide

[Petition to Release Mechanics Lien](#)

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

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/) (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/) (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/) (https://www.cslb.ca.gov/Consumers/Legal_Issues_For_Consumers/Mechanics_Lien/): What 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: [A Homeowner's Guide to Preventing Mechanics Liens](http://www.cslb.ca.gov/Resources/GuidesAndPublications/HomeownersGuideToPreventingMechanicsLiens.pdf) (<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] Name of person recording the Claim of Mechanics Lien. Recorder's Use Only

When recorded mail to and mail tax statements to: [Name(s) of new owners] Name and address of person who should receive the stamped copy of this document when recorded, and tax statements from now on.

[Mailing Address of new owners] 1/1/2018: In addition to standard fees, a new \$75 fee is charged for recording documents unless an exemption applies. See back of sheet for more info.

[Mailing Address of new owners]

[Mailing Address City, State, ZIP]

CLAIM OF MECHANICS LIEN

(Cal. Civ. Code § 8416)

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 DTT

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

1. [Claimant /business name] ("claimant") claims a mechanics lien for the labor or services or equipment or materials described in paragraph 2, furnished for a work of improvement on that certain real property located in the County of [County], State of California, and more particularly described as (address and/or sufficient description): [address or description of project site]

2. After deducting all just credits and offsets, the sum of [amount due], together with interest at the rate of [interest rate in contract] per annum from [initial due date] (date when balance became due), is due claimant for the following labor, materials, services, or equipment: [description]

3. Claimant furnished the labor or services or equipment or materials, at the request of [owner, general contractor, etc.] (employer, person, or entity to whom labor, materials, services, or equipment were furnished).

4. The name and address of the owner or reputed owner of the real property is/are: [owner name and address]

5. Claimant's address is: [Claimant /business address]

Dated [signature date] [Claimant's Name]
 Claimant
[Signature]
 Signature of Claimant or Authorized Agent
[Signer's Name and Title]
 Print Name and Title

Sign again to verify the truth of your claim under penalty of perjury.

VERIFICATION

I, [name of signer], am the: [role of signer at claimant] (owner, president, "authorized agent," "partner," etc.) of claimant on the foregoing claim of mechanics lien, and am authorized to make this verification for and on its behalf. I have read the foregoing claim of mechanics lien and know the contents of the claim of mechanics lien to be true of my own knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated [signature date] [signature]
 (Signature)

saclaw.org 1/24/18

**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.

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 Mechanic's Lien and Notice of Mechanic's Lien.

PROOF OF SERVICE AFFIDAVIT (ON OWNER)
California Civil Code section 8416(a)(7) and (c)

Serve the owner if you are able to locate a valid address. Then fill out the top proof of service.

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), _____ (county), California.

By: _____
(Signature of person making service)

ALTERNATE PROOF OF SERVICE AFFIDAVIT (ON LENDER OR DIRECT CONTRACTOR)

California Civil Code Section 8416(a)(7) and (c)

I, : [Name of person signing] (name), declare that the owner or reputed owner cannot be located at a valid address. 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. 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:

If you cannot locate a valid address for the owner, serve the lender or direct contractor, then fill out the bottom proof of service.

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), _____ (county), California.

By: _____
(Signature of person making service)

Release of Mechanics Lien

Recording requested by (name):
[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 [Name of Claimant]
 (name of claimant as printed on Contractor's License or Secretary of State records) against
[Name of Owner]
 (owner(s)) affecting the real property in the city of [Insert Name of City], County of
[Insert Name of County], California, located at (address and/or sufficient description):
[Provide the Address and Full Legal Descriptions of the Property where the Work Occurred]

is hereby waived and released, and that certain Mechanics' Lien recorded on [Insert Date] (date) as
 Instrument No. [Leave Blank if None] and/or in Book/Reel [Insert Book Number], Page/Image
[Insert Page Number], in the official records of [Insert Name of County] County, California, is
 hereby fully satisfied, released, and discharged.

[Date Release is Being Signed]
 (Date)

[Print Name & Title of Claimant/Authorized Agent]
 (Print Name of Claimant or Authorized Agent)

 (Signature of Claimant or Authorized Agent)

Release of Mechanics Lien (page 1)

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

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