

MECHANICS LIEN

Placing and Releasing Contractors' Liens

This Guide includes instructions and sample forms. The Guide and related forms may be downloaded from: saclaw.org/mechanics-lien-guide

BACKGROUND

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](#), [§ 8024](#), [§§ 8400-8404](#).

Related Guide

[Petition to Release Mechanics Lien](#)

STEP-BY-STEP INSTRUCTIONS

Step 1: Determine if A Preliminary Notice is Required

According to C.C. [§ 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 \(e\)](#). A customizable template may be downloaded from this link:

- [Preliminary Notice](#)
(saclaw.org/wp-content/uploads/2015/03/form-california-preliminary-notice-private-works.pdf)

Step 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](#)
(saclaw.org/wp-content/uploads/2015/03/form-mechanics-lien-claim.pdf)

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

Disclaimer: This Guide is intended as general information only. Your case may have factors requiring different procedures or forms. The information and instructions are provided for use in Sacramento County. Please keep in mind that each county may have different requirements. If you need further assistance consult a lawyer.

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Step 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 \(a\)\(7\)](#) requires the recorded original claim for mechanics lien to contain a signed affidavit of proof of service.

Step 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 \$21/first page plus \$3 for additional pages). Current fees are available on the County Clerk/Recorder's website at www.ccr.saccounty.net/Pages/Fees.aspx.

**Sacramento County
Recorder's Office**
600 8th Street
Sacramento, CA 95814
(916)874-6334

FOR MORE INFORMATION

On the Web:

American Subcontractors Association of California

The American Subcontractors Association of California provides information on California Lien Laws. www.asacalif.com/calienlaw.html

Contractors State License Board

Informational pamphlet from the Department of Consumer Affairs' Contractors State License Board. 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*.

IF YOU HAVE QUESTIONS ABOUT THIS GUIDE, OR IF YOU NEED HELP FINDING OR USING THE MATERIALS LISTED, DON'T HESITATE TO ASK A REFERENCE LIBRARIAN.

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ATTACHMENTS: FORMS AND INSTRUCTIONS

Customizable templates may be downloaded from these links:

- [Preliminary Notice](#)
(saclaw.org/wp-content/uploads/2015/03/form-california-preliminary-notice-private-works.pdf)
- [Claim of Mechanics Lien including the required Notice of Lien and a Proof of Service Affidavit](#)
(saclaw.org/wp-content/uploads/2015/03/form-mechanics-lien-claim.pdf)

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

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]

[Mailing Address of new owners]

[Mailing Address of new owners]

[Mailing Address City, State, ZIP]

Name and address of person who should receive the stamped copy of this document when recorded, and tax statements from now on.

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.

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)

**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.

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

PROOF OF SERVICE AFFIDAVIT (ON OWNER)
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), _____ (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)(1)

I, : [Name of person signing] (name), declare that the owner or reputed owner was served 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), _____ (county), California.

By: _____
(Signature of person making 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.

Name of person recording the 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]

Name and address of person who should receive stamped copy of this document when recorded, and future tax statements.

1/1/2018: In additions to standard fees, a new \$75 fee is now charged for recording documents unless an exemption applies.

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)

Claimant or Authorized Agent should print name, sign, and date the release form in front of a notary

ACKNOWLEDGMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Seal)

Signature _____