

Construction & Infrastructure Law Blog

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[Mechanic's Lien Update: Lien Claimants Must Now Give Owners "Notice of Mechanic's Lien"](#)

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California contractors and material suppliers beware. Beginning on January 1, 2011, a mechanic's lien claimant will be required to give *notice* of a mechanic's lien to the property owner. The notice must contain specific information, be included on the lien claim and be accompanied by a proof of service affidavit. Failure to comply invalidates the lien as a matter of law. (Assembly Bill 457 (2009), amending California Civil Code Section 3084.)

Even though a mechanic's lien is recorded, claimants were not previously required to give actual notice of such lien to the property owner. Beginning in 2011, the mechanic's lien document ("Claim of Lien") must include not only the amount claimed, a description of labor and materials furnished, the name of the person who employed the lien claimant, and a description of the property, *but also* a "Notice of Mechanic's Lien" and "Proof of Service Affidavit."

The "Notice of Mechanic's Lien" is three paragraphs and generally notifies the property owner that: (1) the lien claimant must file a lawsuit no later than 90 days after the date the mechanic's lien is recorded; (2) the lien may affect the owner's ability to borrow against, refinance, or sell the property; and (3) suggests that the owner speak to the contractor, lawyer, or to consult with the [Contractors' State License board website](#). The "Notice of Mechanic's Lien" must match the exact language of Section 3084. Lien claimants should ensure that their boilerplate forms have this new notice language.

The mechanic's lien and "Notice of Mechanic's Lien" must be served on the owner or reputed owner by registered, certified, or first-class mail, evidenced by a certificate of mailing. If the owner or reputed owner cannot be served by this method, then the notice may be given by one of these methods to the construction lender or to the original contractor. A "proof of service affidavit", showing the method of service, must be attached to the Claim of Lien in order to comply. Failure to serve the mechanic's lien, including "Notice of Mechanic's Lien" shall cause the lien to be *unenforceable*.

AB 457 adds another wrinkle to the mechanic's lien law. Beginning in January 2011, once the lien foreclosure lawsuit is filed, the plaintiff *shall* also record a "notice of pendency of the proceedings," or "lis pendens" in the county recorder's office where the property is located. Under the previous version of Civil Code section 3146, the lis pendens was optional, but not required. Under the new law, the lis pendens must be recorded on or before *20 days* after the filing of the foreclosure lawsuit. Only after the lis pendens is recorded will an encumbrancer or purchaser of the property have constructive notice of the pendency of the lawsuit.

The new "Notice of Mechanic's Lien" law presents one more pitfall for lien claimants. With contractors and suppliers sometimes waiting until the last minute to record their mechanic's liens, the additional notice of lien could get overlooked. Obviously, the next step is for potential lien claimants to update their form mechanic's

liens to comply with the statute right away.

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