

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2416

Introduced by Assembly Member Stone

February 21, 2014

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 ~~mechanics~~ 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 would, with certain exceptions, 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 wages, other compensation, and related penalties and damages owed the employee. The bill would prescribe requirements relating to the recording and enforcement of the wage lien and for its cancellation and removal. The bill would require a notice of lien on real property to be executed under penalty of perjury.

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.

~~This bill would state the intent of the Legislature to enact legislation that would specify a procedure for various classes of laborers to effectuate a lien for unpaid wages and allow employees to effectuate a lien on the property of their employer for unpaid wages.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~yes. State-mandated local program: ~~no~~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 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 apply to the employer’s principal residence only to the extent*
14 *that the employee provided labor to the benefit of the employer’s*
15 *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,*
18 *penalties available under the Labor Code, interest at the same*
19 *rate as for prejudgment interest in this state, and the costs of filing*
20 *and service of the lien. The amount of compensation that may be*
21 *claimed as lien under this section includes all wages agreed to be*
22 *paid to the employee, but no less than the amount required by law,*
23 *including direct wages and compensation required to be paid to*
24 *other persons or entities, that would qualify as “employer*
25 *payments” described in Section 1773.1 of the Labor Code.*

1 (d) An employee's lien upon personal property shall be limited
2 to property subject to a security interest under the Commercial
3 Code pursuant to the filing of a financing statement with the
4 Secretary of State.

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

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

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

22 3001. (a) The lien described in Section 3000 shall not attach
23 if the employer has obtained a surety bond or insurance that
24 provides for payment of the wages and other compensation,
25 penalties, and interest, claimed by the employee and is in an
26 amount that is adequate to fully satisfy the employee's claim. If
27 the surety bond or insurance contract is inadequate to cover the
28 entire amount of the employee's claim, the lien shall be limited to
29 the amount of the claim that exceeds the bond or insurance
30 coverage. Within 30 days of being provided with proof of a valid
31 surety bond or insurance contract that applies to the claim, the
32 employee shall file a release of any lien recorded or a notice
33 reducing the lien to the amount that exceeds the bond or insurance
34 coverage.

35 (b) The lien described in Section 3000 shall not attach for labor
36 performed under a valid collective bargaining agreement if the
37 agreement expressly provides for a regular hourly pay of not less
38 than 30 percent more than the state minimum wage rate, addresses
39 the issue of security for the payment of wages, and expressly waives
40 requirements of this chapter in clear and unambiguous terms. If

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

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

15 3001.5. (a) At least five days prior to recording a notice of
16 lien with a county recorder pursuant to Section 3003 or filing a
17 notice of lien with the Secretary of State pursuant to Section 3004,
18 the employee shall provide the owner or reputed owner of the
19 property against which the lien is to be recorded preliminary
20 written notice of the intent to record a notice of lien.

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

22 (1) All of the information required by subdivision (b) of Section
23 3003, to the extent known to the person giving the notice.

24 (2) The following statement in boldface type:

25
26 **NOTICE TO EMPLOYER**, if the person that has given you this
27 notice is not paid in full for work performed in your employ, a lien
28 may be placed on your property after a period of five days after
29 this notice is served. Foreclosure of the lien may lead to loss of
30 all or part of your property. You may wish to protect yourself
31 against this by (1) ensuring that the person that has given you this
32 notice is paid in full for work performed in your employ, or (2)
33 any other method that is appropriate under the circumstances.
34 This notice is required by law to be served by the undersigned as
35 a statement of your legal rights.

36
37 (c) Notice is not invalid by reason of any variance from the
38 requirements of this section if the notice is sufficient to substantially
39 inform the person given notice of the information required by this
40 section and other information required in the notice.

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

5 3002. (a) The lien described in Section 3000 shall be
6 permanently extinguished unless a notice of lien in accordance
7 with Section 3003 or 3004 is recorded or filed, and served upon
8 the employer, within 180 days of the date that the employee ceased
9 working for the employer.

10 (b) The employee shall commence an action to enforce the lien
11 and prove the amount owed within 180 days of the date of filing
12 or recording of the notice of lien. If the employee does not
13 commence an action to enforce the lien within that time, the lien
14 shall be permanently extinguished and is unenforceable, unless
15 the employee and the owner of the property subject to the lien
16 agree to extend the time for enforcing the lien in writing and record
17 or file notice of the fact and terms of the extension prior to the
18 expiration of the time for commencing an action to enforce the
19 lien. If the employee does not commence an action to enforce the
20 lien within the extended time period, the lien shall be permanently
21 extinguished and is unenforceable.

22 (c) If the lien has been extinguished pursuant to subdivision (a)
23 or (b), upon demand and 15 days' notice by the employer or any
24 affected party, the employee shall record or file a release of the
25 lien. If an employee fails to file a release of the lien after proper
26 notice has been mailed to the employee's address as indicated on
27 the notice of the lien, the employer or affected party may petition
28 the court for an order releasing the lien. If the employee acted
29 unreasonably and in bad faith in refusing to file a release of lien,
30 the employer or affected party shall be entitled to recover its
31 attorney's fees and costs incurred in the action, and the court in
32 its discretion may also issue a fine not to exceed one thousand
33 dollars (\$1,000).

34 3003. (a) With regard to a lien on real property under Section
35 3000, the employee shall record a notice of lien with the county
36 recorder in the county where the real property is located.

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

- 1 (1) A statement of the employee’s demand for payment of the
 2 wages and other compensation, penalties, and interest. The
 3 statement shall specify the amount owed to the employee, and if
 4 the amount is estimated, shall provide an explanation for the basis
 5 of the estimate.
- 6 (2) A general statement of the kind of work furnished by the
 7 employee and the dates of employment.
- 8 (3) The name of the person or entity by whom the employee was
 9 employed.
- 10 (4) The employee’s mailing address.
- 11 (c) The employee shall serve the notice of lien on the employer;
 12 by certified mail with return receipt requested, evidenced by a
 13 certificate of mailing, postage prepaid, addressed to the employer
 14 at the employer’s residence or place of business.
- 15 (d) The lien attaches to all real property owned by the employer
 16 at the time of the filing of the notice of lien, or that is subsequently
 17 acquired by the employer, that is located in any county in which
 18 the notice of lien is recorded, regardless of whether the property
 19 is identified in the notice of lien.
- 20 3004. (a) With regard to a lien on personal property under
 21 Section 3000, the employee shall file a notice of lien with the
 22 Secretary of State. Except as otherwise provided in this chapter,
 23 the manner, form, and place of filing shall be as described in
 24 Chapter 5 (commencing with Section 9501) of Division 9 of the
 25 Commercial Code. The notice of the lien shall be placed in the
 26 same file as financing statements pursuant to Section 9522 of the
 27 Commercial Code.
- 28 (b) The notice shall be executed under penalty of perjury, as
 29 defined in Section 118 of the Penal Code, and shall state the
 30 following:
- 31 (1) A statement of the employee’s demand for payment of the
 32 wages and other compensation, penalties, and interest. The
 33 statement shall specify the amount owed to the employee, and if
 34 the amount is estimated, shall provide an explanation for the basis
 35 of the estimate.
- 36 (2) A general statement of the kind of work furnished by the
 37 employee and the dates of employment.
- 38 (3) The name of the person by whom the employee was
 39 employed.
- 40 (4) The employee’s mailing address.

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

5 (d) *The lien attaches to all personal property owned by the*
6 *employer or subsequently acquired by the employer that can be*
7 *made subject to a security interest under the Commercial Code.*

8 3005. (a) *In order to enforce a lien under Section 3000, the*
9 *employee shall demonstrate in a civil action, or in a proceeding*
10 *under Section 98 of the Labor Code, that he or she is owed wages*
11 *or other compensation and any related penalties and interest, or*
12 *the employer's liability shall be established pursuant to a citation*
13 *issued under Section 1197.2 of the Labor Code and the process*
14 *for contesting such a citation.*

15 (b) *If the employee chooses to pursue the wage claim in an*
16 *administrative proceeding before the Labor Commissioner*
17 *pursuant to Section 98 of the Labor Code, the Labor Commissioner*
18 *may establish the amount of lien if a lien has been recorded. If no*
19 *lien has been recorded at the time the administrative claim is filed,*
20 *the Labor Commissioner may provide the notice and record the*
21 *lien on behalf of the employee.*

22 (c) *If the Labor Commissioner issues a citation under Section*
23 *1197.2 of the Labor Code for the failure to pay wages to an*
24 *employee, the Labor Commissioner may provide preliminary notice*
25 *and record a lien on behalf of the employee.*

26 (d) *If a notice of lien is recorded or filed pursuant to Section*
27 *3003 or 3004 and an action to recover unpaid wages has been*
28 *filed by the employee, that action shall also be deemed an action*
29 *to enforce the lien and foreclose upon any property subject to the*
30 *recorded lien. In the judgment resulting from an action, the court*
31 *may order the sale at a sheriff's auction or the transfer to the*
32 *plaintiff of title or possession of any property subject to the lien.*
33 *Whether or not the court makes an order as part of the judgment,*
34 *any property subject to the lien may be foreclosed upon at any*
35 *point after a judgment for unpaid wages is issued.*

36 (e) *The employee is entitled to court costs and reasonable*
37 *attorney's fees for filing a successful action to enforce a lien*
38 *pursuant to this section.*

39 (f) *If judgment is entered against the employee in the action to*
40 *enforce the lien or if the case is dismissed with prejudice, the lien*

1 shall be extinguished. The judgment shall include the date the
2 notice of lien was recorded and, to the extent applicable, the county
3 in which it was recorded, the book and page or series number of
4 the place in the legal records in which the lien was recorded, and
5 a legal description of the property to which the lien attaches. The
6 judgment may be appealed by filing a notice of appeal on or before
7 60 days after the entry of judgment. If an appeal is filed, the lien
8 shall continue in force until all issues on the appeal have been
9 decided. If the period for appeal runs without an appeal having
10 been filed, or if the appeal fails, the judgment entered under this
11 section shall be equivalent to cancellation of the lien and its
12 removal from the record. A judgment entered pursuant to this
13 subdivision is a recordable instrument. Upon recordation of a
14 certified copy of the judgment, the property described in the
15 judgment is released from claim of lien. Alternatively, if the lien
16 is extinguished, upon demand and 15 days' notice by the property
17 owner, the employee shall file a release of the lien. If an employee
18 refuses to file a release of the lien after proper notice, an employer
19 or property owner may petition the court for an order to file a
20 release of the lien. If the employee acted unreasonably and in bad
21 faith in refusing to file a release of the lien, the employer or
22 property owner shall be entitled to attorney's fees and costs
23 incurred in the action, and the court in its discretion may also
24 issue a fine not to exceed one thousand dollars (\$1,000).

25 (g) Any number of claims to enforce employee liens against the
26 same employer may be joined in a single proceeding, but the court
27 may order separate trials or hearings. If the proceeds of the sale
28 of the property subject to a lien are insufficient to pay all the
29 claimants, whether or not claims have been joined together, the
30 court shall order the claimants to be paid in proportion to the
31 amount due each claimant.

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

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

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

1 3006. A lien established pursuant to Section 3000 takes
2 precedence over all other claims, debts, judgments, decrees, liens,
3 encumbrances, or mortgages, originating after the date that the
4 notice of lien is filed or recorded, except as to the following:

5 (a) A tax lien or other government lien.

6 (b) A purchase money mortgage.

7 (c) A security interest in personal property retained by the seller
8 of that personal property in a sales transaction.

9 (d) Other liens that also arise from the performance of labor,
10 including, but not limited to, mechanic's liens arising under Section
11 8400.

12 3007. As to the first fifty thousand dollars (\$50,000) of the
13 amount claimed, a lien established pursuant to Section 3000 takes
14 precedence over all other claims, debts, judgments, decrees, liens,
15 encumbrances, or mortgages originating prior to the date that the
16 notice of lien is filed or recorded and after January 1, 2016, except
17 as to the following:

18 (a) A tax lien or other government lien.

19 (b) A purchase money mortgage.

20 (c) A security interest in personal property retained by the seller
21 of that personal property in a sales transaction.

22 (d) Other liens that also arise from the performance of labor,
23 including, but not limited to, mechanic's liens arising under Section
24 8400.

25 (e) The lien of a financial institution for any amount advanced
26 by the financial institution pursuant to a contract entered into
27 prior to January 1, 2016, including any extension or renewal of a
28 contract.

29 3010. (a) An employee shall have a lien on the real property
30 at which the employee performed work, for the amount of any
31 wages and other compensation, penalties, and interest owed to
32 the employee for performing work at that property, under any of
33 the following circumstances:

34 (1) The property owner and the employee's employer are related
35 parties. If the property owner is a natural person, this lien shall
36 apply to the property owner's principal residence only to the extent
37 that the employee provided labor to the benefit of that household
38 or residence.

39 (2) The employee was employed by a contractor or
40 subcontractor performing services for the property owner or its

1 agent, or for a related party to the property owner, or for the
2 related party's agent, regardless of whether a written contract
3 exists. This subdivision shall not apply if the services were provided
4 to a household or residence.

5 (3) The employee was employed on commercial property by the
6 property owner's lawful tenant or subtenant, if the work was
7 performed in an industry with a traditionally high risk of wage
8 theft. For purposes of this subdivision, an industry with a
9 traditionally high risk of wage theft means the restaurant, garment,
10 car wash, grocery store, recycling and waste collection, trucking
11 and hauling, and warehouse industries. This subdivision shall not
12 apply if the commercial property was leased by the property owner
13 pursuant to a lease entered into prior to January 1, 2015, unless
14 the lease is modified or extended after that date.

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

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

34 (c) The amount of the lien under this section shall include unpaid
35 wages and other compensation required by California law,
36 penalties available under the Labor Code, interest at the same
37 rate as for prejudgment interest in this state, and the costs of filing
38 and service of the lien. The amount of compensation that may be
39 claimed as lien under this section includes all wages agreed to be
40 paid to the employee, but no less than the amount required by law,

1 *including direct wages and compensation required to be paid to*
2 *other persons or entities, that would qualify as “employer*
3 *payments” described in Section 1773.1 of the Labor Code.*

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

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

18 *(f) This section shall not apply to the extent that the employee*
19 *would be entitled to a mechanic’s lien on the same property under*
20 *Section 8400.*

21 *(g) A lien pursuant to this section is in addition to any other*
22 *lien rights held by the employee and shall not be construed to limit*
23 *these rights.*

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

37 *(b) The lien described in Section 3010 shall not attach for labor*
38 *performed under a valid collective bargaining agreement if the*
39 *agreement expressly provides for a regular hourly pay of not less*
40 *than 30 percent more than the state minimum wage rate, addresses*

1 *the issue of security for the payment of wages, and expressly waives*
 2 *requirements of this chapter in clear and unambiguous terms. If*
 3 *part of the labor was performed under a collective bargaining*
 4 *agreement as so described, the lien shall be limited to the amount*
 5 *of the claim based on labor that was not performed under the*
 6 *agreement. Within 30 days of being provided with proof of such*
 7 *a collective bargaining agreement, the employee shall file a release*
 8 *of any lien recorded or a notice reducing the lien to the amount*
 9 *permitted by this chapter.*

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

17 *3012. (a) At least 20 days prior to recording a notice of lien*
 18 *with a county recorder pursuant to Section 3014, the employee*
 19 *shall provide the owner or reputed owner of the property against*
 20 *which the lien is to be recorded preliminary written notice of the*
 21 *intent to record a notice of lien.*

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

23 *(1) All of the information required by subdivision (b) of Section*
 24 *3014.*

25 *(2) The name and address of any entity with which the*
 26 *employee’s employer has contracted to provide the labor for which*
 27 *the employee seeks past due wages or other compensation, to the*
 28 *extent known by the person giving notice.*

29 *(3) The following statement in boldface type:*

30

31 ***NOTICE TO PROPERTY OWNER, if the person that has given***
 32 *you this notice is not paid in full for work performed at real*
 33 *property you own, a lien may be placed on your property after a*
 34 *period of 20 days from the date this notice is served. Foreclosure*
 35 *of the lien may lead to loss of all or part of your property. You*
 36 *may wish to protect yourself against this by (1) ensuring that the*
 37 *person that has given you this notice is paid in full for work*
 38 *performed, or (2) any other method that is appropriate under the*
 39 *circumstances. This notice is required by law to be served by the*
 40 *undersigned as a statement of your legal rights. This notice is not*

1 *intended to reflect upon the financial condition of your related*
2 *party, contractor, subcontractor, tenant, or subtenant.*

3
4 *(c) Notice is not invalid by reason of any variance from the*
5 *requirements of this section if the notice is sufficient to substantially*
6 *inform the person given notice of the information required by this*
7 *section and other information required in the notice.*

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

11 *(e) Service of the notice required by this Section shall be by the*
12 *means described in subdivision (c) of Section 3014 and shall be*
13 *deemed to have been given three business days after mailing of*
14 *the notice.*

15 *3013. (a) The lien described in Section 3010 shall be*
16 *permanently extinguished unless a notice of lien in accordance*
17 *with Section 3014 is recorded, and served upon the property owner;*
18 *within 180 days of the date that the employee ceased to perform*
19 *work at the property.*

20 *(b) The employee shall commence an action to enforce the lien*
21 *and prove the amount owed within 180 days of the date of filing*
22 *or recording of the notice of lien. If the employee does not*
23 *commence an action to enforce the lien within that time, the lien*
24 *shall be permanently extinguished and is unenforceable, unless*
25 *the employee and the owner of the property subject to the lien*
26 *agree to extend the time for enforcing the lien in writing and record*
27 *or file notice of the fact and terms of the extension prior to the*
28 *expiration of the time for commencing an action to enforce the*
29 *lien. If the employee does not commence an action to enforce the*
30 *lien within the extended time period, the lien shall be permanently*
31 *extinguished and is unenforceable.*

32 *(c) If the lien has been extinguished pursuant to subdivision (a)*
33 *or (b), upon demand and 15 days' notice by the property owner*
34 *or any affected party, the employee shall record or file a release*
35 *of the lien. If an employee fails to file a release of the lien after*
36 *proper notice has been mailed to the employee's address as*
37 *indicated on the notice of the lien, the employer or affected party*
38 *may petition the court for an order releasing the lien. If the*
39 *employee acted unreasonably and in bad faith in refusing to file*
40 *a release of the lien, the property owner or affected party shall be*

1 entitled to recover its attorney's fees and costs incurred in the
2 action, and the court in its discretion may also issue a fine not to
3 exceed one thousand dollars (\$1,000).

4 3014. (a) The employee shall record a notice of lien with the
5 county recorder in the county where the real property is located.

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

9 (1) A statement of the employee's demand for payment of the
10 wages and other compensation, penalties, and interest. The
11 statement shall specify the amount owed to the employee, and if
12 the amount is estimated, shall provide an explanation for the basis
13 of the estimate.

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

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

18 (4) The employee's mailing address.

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

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

22 (c) The employee shall serve the notice of lien on the employer
23 and the property owner or reputed owner, by certified mail with
24 return receipt requested, evidenced by a certificate of mailing,
25 postage prepaid, addressed to the employer at the employer's
26 residence or place of business, to the address of the property
27 subject to the lien, and to the residence or place of business of the
28 property owner or reputed owner.

29 (d) The lien attaches only to the property that is specifically
30 identified in the notice of lien.

31 3015. (a) In order to enforce a lien under Section 3010, the
32 employee shall demonstrate in a civil action that he or she is owed
33 wages or other compensation and any related penalties and interest
34 and that the property is property subject to a lien under Section
35 3010.

36 (b) If a notice of lien is recorded or filed pursuant to Section
37 3014 and an action to recover unpaid wages has been filed by the
38 employee against the employer, and the property owner has been
39 joined as a party, that action shall also be deemed an action to
40 enforce the lien and foreclose upon any property subject to the

1 recorded lien. In the judgment resulting from an action, the court
2 may order the sale at a sheriff's auction or the transfer to the
3 plaintiff of title or possession of any property subject to the lien.
4 Whether or not the court makes an order as part of the judgment,
5 any property subject to the lien may be foreclosed upon at any
6 point after a judgment for unpaid wages is issued.

7 (c) The employee is entitled to court costs and reasonable
8 attorney's fees for filing a successful action to enforce a lien
9 pursuant to this section.

10 (d) If judgment is entered against the employee in the action to
11 enforce the lien or if the case is dismissed with prejudice, the lien
12 shall be extinguished. The judgment shall include the date the
13 notice of lien was recorded, the county in which it was recorded,
14 the book and page or series number of the place in the legal
15 records in which the lien was recorded, and a legal description of
16 the property to which the lien attaches. The judgment may be
17 appealed by filing a notice of appeal on or before 60 days after
18 the entry of judgment. If an appeal is filed, the lien shall continue
19 in force until all issues on the appeal have been decided. If the
20 period for appeal runs without an appeal having been filed, or if
21 the appeal fails, the judgment entered under this section shall be
22 equivalent to cancellation of the lien and its removal from the
23 record. A judgment entered pursuant to this subdivision is a
24 recordable instrument. Upon recordation of a certified copy of the
25 judgment, the property described in the judgment is released from
26 claim of lien. Alternatively, if the lien is extinguished, upon demand
27 and 15 days' notice by the property owner, the employee shall file
28 a release of the lien. If an employee refuses to file a release of the
29 lien after proper notice, a property owner may petition the court
30 for an order to file a release of the lien. If the employee acted
31 unreasonably and in bad faith in refusing to file a release of the
32 lien, the property owner shall be entitled to attorney's fees and
33 costs incurred in the action, and the court in its discretion may
34 also issue a fine not to exceed one thousand dollars (\$1,000).

35 (e) Any number of claims to enforce employee liens against the
36 same property owner may be joined in a single proceeding, but
37 the court may order separate trials or hearings. If the proceeds of
38 the sale of the property subject to a lien are insufficient to pay all
39 the claimants, whether or not claims have been joined together,

1 the court shall order the claimants to be paid in proportion to the
2 amount due each claimant.

3 (f) If a court finds that false information was knowingly and in
4 bad faith included in a notice of lien by an employee with an intent
5 to defraud, the following shall apply:

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

8 (2) The court may award reasonable attorney’s fees and court
9 costs to the property owner for action taken to defeat the lien claim.

10 3016. If the judgment in an action is against the property of a
11 property owner who is not the employer, the owner may deduct
12 the amount of the judgment and costs from any amount owed to
13 the employer. If the amount of the judgment and costs exceed the
14 amount owed to the employer, the owner may recover from the
15 owner, or the sureties on a bond given by the employer, if any, the
16 remaining amount of the judgment and costs.

17 SEC. 3. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.

26 ~~SECTION 1. It is the intent of the Legislature to enact~~
27 ~~legislation that would specify a procedure for various classes of~~
28 ~~laborers to effectuate a lien for unpaid wages, and allow employees~~
29 ~~to effectuate a lien on the property of their employer for unpaid~~
30 ~~wages.~~