

AMENDED IN ASSEMBLY MAY 23, 2014

AMENDED IN ASSEMBLY MAY 6, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2416

**Introduced by Assembly Member Stone
(Principal coauthor: Assembly Member Lowenthal)
(Coauthors: Assembly Members Gonzalez, Roger Hernández, and
Pan)**

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 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, *would* 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, unpaid wages and other compensation, and related penalties and damages~~ *compensation* owed the ~~employee~~. *employee, and certain other*

penalties, interest, and costs. The bill would prescribe requirements relating to the recording and enforcement of the wage lien and for its ~~enforcement~~ *extinguishment* and removal. The bill would require a notice of lien on real property to be executed under penalty of perjury. The bill would authorize the employer or property owner to use a procedure to release the notice of lien if the employer makes specified contentions, and would require a ~~certain notification~~ *specific certification* under the procedure to be made 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: 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, penalties
18 available under the Labor Code, interest at the same rate as for
19 prejudgment interest in this state, and the costs of filing and service
20 of the lien. The amount of compensation that may be claimed as

1 lien under this section includes all wages agreed to be paid to the
2 employee, but no less than the amount required by law, including
3 direct wages and compensation required to be paid to other persons
4 or entities, that would qualify as “employer payments” described
5 in Section 1773.1 of the Labor Code.

6 (d) An employee’s lien upon personal property shall be limited
7 to property subject to a security interest under the Commercial
8 Code pursuant to the filing of a financing statement with the
9 Secretary of State.

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

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

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

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

1 (b) The lien described in Section 3000 shall not attach for labor
2 performed under a valid collective bargaining agreement if the
3 agreement expressly provides for a regular hourly pay of not less
4 than 30 percent more than the state minimum wage rate, addresses
5 the issue of security for the payment of wages, and expressly
6 waives requirements of this chapter in clear and unambiguous
7 terms. If part of the labor was performed under a collective
8 bargaining agreement as so described the lien shall be limited to
9 the amount of the claim based on labor that was not performed
10 under the agreement. Within 30 days of being provided with proof
11 of such a collective bargaining agreement, the employee shall file
12 a release of any lien recorded or a notice reducing the lien to the
13 amount permitted by this chapter.

14 (c) If an employee, after receiving proper notice under this
15 section, acts unreasonably and in bad faith in recording or filing
16 a notice of lien or in refusing to file a release or reduction of the
17 lien, the employer shall be entitled to recover attorney's fees and
18 costs in an action to remove or reduce the lien, and the court in its
19 discretion may also issue a fine, not to exceed one thousand dollars
20 (\$1,000).

21 3001.5. (a) At least five days prior to recording a notice of
22 lien with a county recorder pursuant to Section 3003 or filing a
23 notice of lien with the Secretary of State pursuant to Section 3004,
24 the employee shall provide the owner or reputed owner of the
25 property against which the lien is to be recorded preliminary written
26 notice of the intent to record a notice of lien.

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

28 (1) All of the information required by subdivision (b) of Section
29 3003, to the extent known to the person giving the notice.

30 (2) The following statement in boldface type:

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

1 required by law to be served by the undersigned as a statement of
2 your legal rights.

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
6 substantially inform the person given notice of the information
7 required by this section and other information required in the
8 notice.

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

13 3002. (a) The lien described in Section 3000 shall be
14 permanently extinguished unless a notice of lien in accordance
15 with Section 3003 or 3004 is recorded or filed, and served upon
16 the employer, within 180 days of the date that the employee ceased
17 working for the employer. *The lien described in Section 3000 shall*
18 *also be permanently extinguished as to property that is transferred*
19 *or sold by the employer, unless a notice of lien was recorded or*
20 *filed before the transfer or sale in accordance with Section 3003*
21 *or 3004.*

22 (b) The employee shall commence an action to enforce the lien
23 and prove the amount owed within ~~180~~ 90 days of the date of filing
24 or recording of the notice of lien. If the employee does not
25 commence an action to enforce the lien within that time, the lien
26 shall be permanently extinguished and is unenforceable, unless
27 the employee and the owner of the property subject to the lien
28 agree to extend the time for enforcing the lien in writing and record
29 or file notice of the fact and terms of the extension prior to the
30 expiration of the time for commencing an action to enforce the
31 lien. If the employee does not commence an action to enforce the
32 lien within the extended time period, the lien shall be permanently
33 extinguished and is unenforceable.

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

1 unreasonably and in bad faith in refusing to file a release of lien,
2 the employer or affected party shall be entitled to recover its
3 attorney's fees and costs incurred in the action, and the court in
4 its discretion may also issue a fine not to exceed one thousand
5 dollars (\$1,000).

6 3003. (a) With regard to a lien on real property under Section
7 3000, the employee shall record a notice of lien with the county
8 recorder in the county where the real property is located.

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

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

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

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

21 (4) The employee's mailing address.

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

26 (d) The lien attaches to all real property owned by the employer
27 at the time of the filing of the notice of lien, or that is subsequently
28 acquired by the employer, that is located in any county in which
29 the notice of lien is recorded, regardless of whether the property
30 is identified in the notice of lien.

31 3004. (a) With regard to a lien on personal property under
32 Section 3000, the employee shall file a notice of lien with the
33 Secretary of State. Except as otherwise provided in this chapter,
34 the manner, form, and place of filing shall be as described in
35 Chapter 5 (commencing with Section 9501) of Division 9 of the
36 Commercial Code. The notice of the lien shall be placed in the
37 same file as financing statements pursuant to Section 9522 of the
38 Commercial Code.

1 (b) The notice shall be executed under penalty of perjury, as
2 defined in Section 118 of the Penal Code, and shall state the
3 following:

4 (1) A statement of the employee's demand for payment of the
5 wages and other compensation, penalties, and interest. The
6 statement shall specify the amount owed to the employee, and if
7 the amount is estimated, shall provide an explanation for the basis
8 of the estimate.

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

11 (3) The name of the person by whom the employee was
12 employed.

13 (4) The employee's mailing address.

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

18 (d) The lien attaches to all personal property *that is* owned by
19 the employer *at the time of the filing of the notice of lien*, or *that*
20 *is* subsequently acquired by the ~~employer~~ employer; that can be
21 made subject to a security interest under the Commercial Code.

22 3005. (a) In order to enforce a lien under Section 3000, the
23 employee shall demonstrate in a civil action, or in a proceeding
24 under Section 98 of the Labor Code, that he or she is owed wages
25 or other compensation and any related penalties and interest, or
26 the employer's liability shall be established pursuant to a citation
27 issued under Section 1197.2 of the Labor Code and the process
28 for contesting such a citation.

29 (b) If the employee chooses to pursue the wage claim in an
30 administrative proceeding before the Labor Commissioner pursuant
31 to Section 98 of the Labor Code, the Labor Commissioner may
32 establish the amount of lien if a lien has been recorded. If no lien
33 has been recorded at the time the administrative claim is filed, the
34 Labor Commissioner may provide the notice and record the lien
35 on behalf of the employee.

36 (c) If the Labor Commissioner issues a citation under Section
37 1197.2 of the Labor Code for the failure to pay wages to an
38 employee, the Labor Commissioner may provide preliminary notice
39 and record a lien on behalf of the employee.

1 (d) If a notice of lien is recorded or filed pursuant to Section
2 3003 or 3004 and an action to recover unpaid wages has been filed
3 by the employee, that action shall also be deemed an action to
4 enforce the lien and foreclose upon any property subject to the
5 recorded lien. In the judgment resulting from an action, the court
6 may order the sale at a sheriff's auction or the transfer to the
7 plaintiff of title or possession of any property subject to the lien.
8 Whether or not the court makes an order as part of the judgment,
9 any property subject to the lien may be foreclosed upon at any
10 point after a judgment for unpaid wages is issued.

11 (e) The employee is entitled to court costs and reasonable
12 attorney's fees for filing a successful action to enforce a lien
13 pursuant to this section.

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

1 (g) Any number of claims to enforce employee liens against the
2 same employer may be joined in a single proceeding, but the court
3 may order separate trials or hearings. If the proceeds of the sale
4 of the property subject to a lien are insufficient to pay all the
5 claimants, whether or not claims have been joined together, the
6 court shall order the claimants to be paid in proportion to the
7 amount due each claimant.

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

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

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

16 3005.5. (a) An employer may use the procedure established
17 pursuant to this section to release the notice of lien if the employer
18 contends any of the following:

19 (1) That a notice of lien established pursuant to Section 3000
20 is not effective.

21 (2) That the lien has been extinguished because the
22 circumstances provided by Section 3000 are not present.

23 (3) All wages due the employee have been paid.

24 (4) The employer has obtained a surety bond pursuant to
25 subdivision (a) of Section 3001.

26 (5) The exception provided by subdivision (b) of Section 3001
27 applies.

28 (6) The employee has failed to provide the notice required by
29 Section 3001.5.

30 (7) The employee or Labor Commissioner has failed to
31 commence an action to enforce the lien within the specified time.

32 (8) The action has been resolved against the employee.

33 (b) The procedure to release the notice of lien shall be as
34 follows:

35 (1) The employer shall provide notice to the employee that the
36 employer believes that the lien should be released and the basis
37 for that belief, and request that the employee record or file a release
38 of the notice of lien. The notice shall be made by certified mail
39 with return receipt requested, evidenced by a certificate of mailing,

1 postage prepaid, addressed to the employee at the employee's
2 residence or place of business.

3 (2) If the employee fails to respond within 30 days of the date
4 of mailing of the notice provided by paragraph (1), the employer
5 may give notice to the Labor Commissioner that the employee did
6 not respond, and request that the Labor Commissioner file or record
7 a release of the notice of lien. The notice shall include a copy of
8 the notice of lien and a certification, made under penalty of perjury,
9 that the employer followed the procedures provided by this section
10 and that the employee did not respond.

11 (3) Upon receiving a request pursuant to paragraph (2), the
12 Labor Commissioner shall notify the employee that unless the
13 employee serves an objection on the Labor Commissioner within
14 30 days, the Labor Commissioner shall release the notice of lien.
15 The notice shall be made by certified mail with return receipt
16 requested, evidenced by a certificate of mailing, postage prepaid,
17 addressed to the employee at the employee's residence or place
18 of business. If the employee does not serve a timely objection, the
19 Labor Commissioner shall record or file a release of the notice of
20 lien.

21 (c) The procedure established pursuant to this section to release
22 the notice of lien is an additional means of releasing a notice of
23 lien.

24 ~~3006.— A lien established pursuant to Section 3000 takes~~
25 ~~precedence over all other claims, debts, judgments, decrees, liens,~~
26 ~~encumbrances, or mortgages, originating after the date that the~~
27 ~~notice of lien is filed or recorded, except as to the following:~~

28 ~~(a) A tax lien or other government lien.~~

29 ~~(b) A purchase money mortgage.~~

30 ~~(c) A security interest in personal property retained by the seller~~
31 ~~of that personal property in a sales transaction.~~

32 ~~(d) Other liens that also arise from the performance of labor,~~
33 ~~including, but not limited to, mechanic's liens arising under Section~~
34 ~~8400.~~

35 3010. (a) An employee shall have a lien on the real property
36 at which the employee performed work, for the amount of any
37 wages and other compensation, penalties, and interest owed to the
38 employee for performing work at that property, under any of the
39 following circumstances:

1 (1) The property owner and the employee’s employer are related
2 parties. If the property owner is a natural person, this lien shall
3 apply to the property owner’s principal residence only to the extent
4 that the employee provided labor to the benefit of that household
5 or residence.

6 (2) The employee was employed by a contractor or subcontractor
7 performing services for the property owner or its agent, or for a
8 related party to the property owner, or for the related party’s agent,
9 regardless of whether a written contract exists. This subdivision
10 shall not apply if the services were provided to a household or
11 residence.

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

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

30 (c) The amount of the lien under this section shall include unpaid
31 wages and other compensation required by California law, penalties
32 available under the Labor Code, interest at the same rate as for
33 prejudgment interest in this state, and the costs of filing and service
34 of the lien. The amount of compensation that may be claimed as
35 lien under this section includes all wages agreed to be paid to the
36 employee, but no less than the amount required by law, including
37 direct wages and compensation required to be paid to other persons
38 or entities, that would qualify as “employer payments” described
39 in Section 1773.1 of the Labor Code.

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

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

15 (f) This section shall not apply to the extent that the employee
16 would be entitled to a mechanic's lien on the same property under
17 Section 8400.

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

21 3011. (a) The lien described in Section 3010 shall not attach
22 if the employer or property owner has obtained a surety bond or
23 insurance that provides for payment of the wages and other
24 compensation, penalties, and interest claimed by the employee and
25 is in an amount that is adequate to fully satisfy the employee's
26 claim. If the surety bond or insurance contract is inadequate to
27 cover the entire amount of the employee's claim, the lien shall be
28 limited to the amount of the claim that exceeds the bond or
29 insurance coverage. Within 30 days of being provided with proof
30 of a valid surety bond or insurance contract that applies to the
31 claim, the employee shall file a release of any lien recorded or a
32 notice reducing the lien to the amount that exceeds the bond or
33 insurance coverage.

34 (b) The lien described in Section 3010 shall not attach for labor
35 performed under a valid collective bargaining agreement if the
36 agreement expressly provides for a regular hourly pay of not less
37 than 30 percent more than the state minimum wage rate, addresses
38 the issue of security for the payment of wages, and expressly
39 waives requirements of this chapter in clear and unambiguous
40 terms. If part of the labor was performed under a collective

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

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

14 3012. (a) At least 20 days prior to recording a notice of lien
15 with a county recorder pursuant to Section 3014, the employee
16 shall provide the owner or reputed owner of the property against
17 which the lien is to be recorded preliminary written notice of the
18 intent to record a notice of lien.

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

20 (1) All of the information required by subdivision (b) of Section
21 3014.

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

26 (3) The following statement in boldface type:

27
28 **NOTICE TO PROPERTY OWNER**, if the person that has given
29 you this notice is not paid in full for work performed at real
30 property you own, a lien may be placed on your property after a
31 period of 20 days from the date this notice is served. Foreclosure
32 of the lien may lead to loss of all or part of your property. You
33 may wish to protect yourself against this by (1) ensuring that the
34 person that has given you this notice is paid in full for work
35 performed, or (2) any other method that is appropriate under the
36 circumstances. This notice is required by law to be served by the
37 undersigned as a statement of your legal rights. This notice is not
38 intended to reflect upon the financial condition of your related
39 party, contractor, subcontractor, tenant, or subtenant.

40

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

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

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

13 3013. (a) The lien described in Section 3010 shall be
14 permanently extinguished unless a notice of lien in accordance
15 with Section 3014 is recorded, and served upon the property owner,
16 within 180 days of the date that the employee ceased to perform
17 work at the property. *The lien described in Section 3010 shall also*
18 *be permanently extinguished as to property that is transferred or*
19 *sold by the property owner, unless a notice of lien was recorded*
20 *before the transfer or sale in accordance with Section 3014.*

21 (b) The employee shall commence an action to enforce the lien
22 and prove the amount owed within ~~180~~ 90 days of the date of filing
23 or recording of the notice of lien. If the employee does not
24 commence an action to enforce the lien within that time, the lien
25 shall be permanently extinguished and is unenforceable, unless
26 the employee and the owner of the property subject to the lien
27 agree to extend the time for enforcing the lien in writing and record
28 or file notice of the fact and terms of the extension prior to the
29 expiration of the time for commencing an action to enforce the
30 lien. If the employee does not commence an action to enforce the
31 lien within the extended time period, the lien shall be permanently
32 extinguished and is unenforceable.

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

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

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

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

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

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

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

19 (4) The employee's mailing address.

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

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

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

30 (d) The lien attaches only to *real property owned by the property*
31 *owner described in Section 3010 at the time of the recording of*
32 *the notice of lien. The lien attaches only to the property that is*
33 *specifically identified in the notice of lien.*

34 3015. (a) In order to enforce a lien under Section 3010, the
35 employee shall demonstrate in a civil action that he or she is owed
36 wages or other compensation and any related penalties and interest
37 and that the property is property subject to a lien under Section
38 3010.

39 (b) If a notice of lien is recorded or filed pursuant to Section
40 3014 and an action to recover unpaid wages has been filed by the

1 employee against the employer, and the property owner has been
2 joined as a party, that action shall also be deemed an action to
3 enforce the lien and foreclose upon any property subject to the
4 recorded lien. In the judgment resulting from an action, the court
5 may order the sale at a sheriff's auction or the transfer to the
6 plaintiff of title or possession of any property subject to the lien.
7 Whether or not the court makes an order as part of the judgment,
8 any property subject to the lien may be foreclosed upon at any
9 point after a judgment for unpaid wages is issued.

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

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

38 (e) Any number of claims to enforce employee liens against the
39 same property owner may be joined in a single proceeding, but
40 the court may order separate trials or hearings. If the proceeds of

1 the sale of the property subject to a lien are insufficient to pay all
2 the claimants, whether or not claims have been joined together,
3 the court shall order the claimants to be paid in proportion to the
4 amount due each claimant.

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

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

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

12 3015.5. (a) An employer or property owner may use the
13 procedure established pursuant to this section to release the notice
14 of lien if the employer or property owner contend any of the
15 following:

16 (1) That a notice of lien established pursuant to Section 3010
17 is not effective.

18 (2) The lien has been extinguished because the circumstances
19 provided by Section 3010 are not present.

20 (3) The amount claimed by the employee has been paid.

21 (4) The employer or property owner has obtained a surety bond
22 pursuant to subdivision (a) of Section 3011.

23 (5) The exception provided by subdivision (b) of Section 3011
24 applies.

25 (6) The employee has failed to provide the notice required by
26 Section 3012.

27 (7) The employee or Labor Commissioner has failed to
28 commence an action to enforce the lien within the specified time.

29 (8) The action has been resolved against the employee.

30 (b) The procedure to release the notice of lien shall be as
31 follows:

32 (1) The employer or property owner shall provide notice to the
33 employee that the employer or property owner believes that the
34 lien should be released and the basis for that belief, and request
35 that the employee record or file a release of the notice of lien. The
36 notice shall be made by certified mail with return receipt requested,
37 evidenced by a certificate of mailing, postage prepaid, addressed
38 to the employee at the employee's residence or place of business.

39 (2) If the employee fails to respond within 30 days of the date
40 of mailing of the notice provided by paragraph (1), the employer

1 or property owner may give notice to the Labor Commissioner
 2 that the employee did not respond, and request that the Labor
 3 Commissioner file or record a release of the notice of lien. The
 4 notice shall include a copy of the notice of lien and a certification,
 5 made under penalty of perjury, that the employer or property owner
 6 followed the procedures provided by this section and that the
 7 employee did not respond.

8 (3) Upon receiving a request pursuant to paragraph (2), the
 9 Labor Commissioner shall notify the employee that unless the
 10 employee serves an objection on the Labor Commissioner within
 11 30 days, the Labor Commissioner shall release the notice of lien.
 12 The notice shall be made by certified mail with return receipt
 13 requested, evidenced by a certificate of mailing, postage prepaid,
 14 addressed to the employee at the employee’s residence or place
 15 of business. If the employee does not serve a timely objection, the
 16 Labor Commissioner shall record or file a release of the notice of
 17 lien.

18 (c) The procedure established pursuant to this section to release
 19 the notice of lien is an additional means of releasing a notice of
 20 lien.

21 3016. If the judgment in an action is against the property of a
 22 property owner who is not the employer, the owner may deduct
 23 the amount of the judgment and costs from any amount owed to
 24 the employer. If the amount of the judgment and costs exceed the
 25 amount owed to the employer, the owner may recover from the
 26 owner, or the sureties on a bond given by the employer, if any, the
 27 remaining amount of the judgment and costs.

28 SEC. 3. No reimbursement is required by this act pursuant to
 29 Section 6 of Article XIII B of the California Constitution because
 30 the only costs that may be incurred by a local agency or school
 31 district will be incurred because this act creates a new crime or
 32 infraction, eliminates a crime or infraction, or changes the penalty
 33 for a crime or infraction, within the meaning of Section 17556 of
 34 the Government Code, or changes the definition of a crime within
 35 the meaning of Section 6 of Article XIII B of the California
 36 Constitution.