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Heads Up!
Critical New California Mechanic's Lien Law Form and Rules
Go Into Effect on January 1, 2011
by Carlo Paciulli, Esq.

The mechanic's lien form you have used for years is about to change. Starting January 1, 2011, if you fail to use the new form and follow the new rules, you risk losing your mechanic's lien.

Section 3084 of the Civil Code changes and adds legislation to the current mechanic's lien form. What has changed? First, the definition of "mechanic's lien" has been broadened to include a "Notice of Mechanic's Lien." The Notice of Mechanic's Lien is a new section on the lien form. It contains mandatory language in boldface type that advises the property owner of the legal effect of the lien and warns the owner that the property may be lost through foreclosure to pay for the unpaid improvements. Because the notice's text and style requirements are mandatory, you *cannot* change them. If you change the language, a court could find your lien to be void.

Second, when you serve your mechanic's lien and Notice of Mechanic's Lien, you must complete and sign a "proof of service affidavit." The affidavit, which is a mandatory part of the new lien form, proves that you complied with the law by serving the lien on the owner or reputed owner of the property. Next, unless you serve the mechanic's lien and Notice of Mechanic's Lien on the owner or reputed owner by registered, certified, or first-class mail, your mechanic's lien will be unenforceable.¹

Starting January 1, 2011, when you file a lawsuit to foreclose your lien, you must within 20 days record a notice. That notice alerts all potential purchasers of the property that a foreclosure action has been filed against the property. You must record this notice in the office of the county recorder where the property is located. Generally, you should record notice immediately after filing suit.

¹ Even though registered mail and first-class mail are acceptable, you should always serve your mechanic's lien and Notice of Mechanic's Lien by certified mail, return receipt requested. It is the only practical means to prove you served the mechanic's lien.

Download the new form of **Mechanic's Lien and Notice of Mechanic's Lien, including the Proof of Service Affidavit** by clicking on the link below:

http://www.huntortmann.com/files/1960_New%20Mechanic's%20Lien%20Form%20Effective%201.1.2011%20Including%20Proof%20of%20Service%20Affidavit.pdf

Also, for more information regarding the new mechanic's lien law and other supporting materials, please do not hesitate to visit our **Mechanic's Lien Resource Page** by clicking on the link below:

<http://www.huntortmann.com/ProtectedContent.aspx?id=517>

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