

Summary of changes to CA Civil Code §§ 3084 and 3146 effective 01/01/11

Civil Code section 3084

- Mechanic's Lien with a proof of service affidavit **and** "Notice of Mechanic's Lien" must be served on the owner of the property before the Mechanic's Lien is recorded [§3084(c)(1)];
 - Service requirements on the owner are by registered mail, certified mail or first-class mail with a certificate of mailing. Civil Code §3084(c)(1)(A).

- If owner cannot be served, then the original contractor or the lender can be served instead of the owner [§3084(c)(1)(B)];
 - Service requirements on the original contractor or the lender are by registered mail, certified mail or first-class mail with a certificate of mailing. Civil Code §3084(c)(1)(B)(2).

- Failure to serve the Mechanic's Lien, including the Notice of Mechanic's Lien, shall cause the Mechanic's Lien to be unenforceable as a matter of law [§3084(d)];

- A Mechanic's Lien in proper form, verified and containing all of the information required by Section 3084 shall be accepted for recording by the County Recorder. The information required to be contained on the new Mechanic's Lien form: (1) Statement of demand after deducting all just credits and offset; (2) name or the property owner or reputed owner; (3) a general statement of the kind of labor, services, equipment or materials furnished; (4) name of the person by whom the claimant was employed or to whom the claimant furnished; (5) a description of the site sufficient for identification; (6) proof of service affidavit (see page three of the Crawford & Bangs form); and (7) Notice of Mechanic's Lien printed in at least 10-point boldface type (see page two of the Crawford & Bangs form). The County Recorder will charge additional recording fees for the extra two pages of the new form.

Civil Code section 3146

- If lawsuit filed to foreclose on the Mechanic's Lien, then after filing the Complaint:
 - A "Notice of the Pendency of the Proceedings" (or a "Notice of Pending Action" must be recorded on or before 20 days after the filing of the Foreclosure of Mechanic's Lien claim.

 - Only from the time of recordation of the Notice of Pending Action will a purchaser or encumbrancer of the affected property be deemed to have constructive notice of the pendency of the action, and in that event, only of the pendency of proceedings against parties designated by their real names.