



MECHANIC'S LIENS

A **mechanic's lien** is a legal claim placed on a property by a contractor, subcontractor, laborer, or supplier who has provided materials or services for its improvement but has not been paid. This lien ensures that those who contribute to a construction project have a way to secure payment, as it effectively encumbers the property until the debt is settled. Mechanic's liens are unique in that they can take priority over other claims on the property, potentially leading to a forced sale if the debt remains unpaid.

In California, mechanic's liens are governed primarily by the **California Civil Code Sections 8000-9566**. To file a valid mechanic's lien, a claimant must comply with strict requirements, including providing a **preliminary 20-day notice** to the property owner, general contractor, and lender (if applicable). This notice alerts interested parties that the claimant may assert a lien if payment is not received. After completing the work or supplying materials, the claimant must file the lien within **90 days** of project completion. If the lien remains unpaid, the claimant has **90 days** from the lien recording date to file a foreclosure lawsuit, or the lien becomes void.

Mechanic's liens significantly affect **real estate transactions** because they can create **clouds on the title**, meaning the property's ownership is disputed or unclear due to unresolved financial claims. If a mechanic's lien is in place, it can prevent the property from being sold or refinanced unless the lien is satisfied or otherwise resolved. Buyers and lenders typically require a clear title before proceeding with a transaction, making it essential to address outstanding liens before closing.

For **title insurance companies**, mechanic's liens are a major concern. Standard **title insurance policies** typically exclude coverage for liens that arise after the policy is issued, such as undisclosed mechanic's liens from unpaid contractors. To protect against such risks, buyers often purchase an

ALTA Extended Coverage Policy, which provides greater protection, including coverage for certain unrecorded liens. However, title insurers conduct thorough due diligence before issuing policies to identify any potential mechanic's liens.

One common method of **resolving mechanic's liens** before a sale is through **lien releases**. Property owners can negotiate with contractors to sign a lien release once payment is made, ensuring the lien does not become a permanent encumbrance. Alternatively, if a dispute exists over the payment, property owners may choose to post a **mechanic's lien bond**, which allows the property sale to proceed while setting aside funds to cover potential claims.

Mechanic's liens can also impact **construction loans and refinancing**. Lenders hesitate to issue loans on properties burdened by liens because they create repayment risks. In cases where liens are discovered during a title search, lenders may require the owner to clear them before approving financing. This can delay transactions and increase costs for property owners.

In real estate transactions involving **new construction or renovations**, buyers and title companies may require a **mechanic's lien indemnity agreement** from the seller, ensuring that any future lien claims will be addressed by the seller, not the buyer. This is particularly important in California, where mechanic's lien laws favor contractors and laborers, giving them powerful legal tools to secure payment.

Overall, mechanic's liens play a crucial role in protecting the rights of contractors and suppliers in California, but they can also create challenges in real estate transactions. Property owners, buyers, and lenders must remain vigilant in ensuring that all potential liens are identified and resolved before completing a transaction to avoid delays, financial losses, or legal disputes.

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