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Legislature Enacts Major Changes to Laws Governing The Construction Industry In California

On July 1, 2012, several major changes in the laws governing statutory remedies (mechanic's liens, payment bond claims and stop notice claims) take effect for

owners, contractors and suppliers in California. These changes will affect how everyone in the construction industry in the state conducts business on a day-to-day basis and include everything from the form and service of preliminary notices to the content of statutory form releases of rights, such as Conditional Releases Upon Progress Payment. **If your forms and procedures do not conform to the new laws, you may very well lose your ability to enforce these remedies or hamper your ability to defend against them.**

Changes include the following:

Preliminary Notices:

- Expansion of acceptable methods of service to include Express Mail and Overnight Delivery
- Change in the text of the required "Notice to the Owner"
- Proof of delivery must be attached to your file copy of the Preliminary Notice

Stop Notices:

- Now called, "Stop Payment Notice"
- Math exercise required by old law deleted, but form must show total contract amount and total amount due

Progress and Final Payment Releases:

- Statutorily required language has been completely changed
- **Old provision still applies stating that if releases do not match language required by statute, they are ineffective**

Mechanic's Liens:

- Changes to form requiring specific notice to owner and affidavit of service originally effective January 1, 2011 still apply
- **If lien forms do not contain required changes, they are ineffective**

In addition to required changes in forms, many other changes have been made to laws governing the construction industry. These changes include:

- Change in definition of "completion" on private projects (acceptance by owner no longer equals completion)

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Lindborg & Mazor LLP has noted that some commercial suppliers of so-called "standard forms" publish documents which contain errors or which do not otherwise meet all of the new statutory requirements. You are urged to contact Lindborg & Mazor LLP today to make certain that your forms and procedures are ready for business on July 1, 2012!

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In addition to losing your rights, failure to comply with the new changes may also subject contractors to administrative fines or other disciplinary actions imposed by the Contractors State License Board.

Lindborg & Mazor LLP

NEWSLETTER

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New Laws Affecting the Construction Industry

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- The deadline for recording Notices of Completion has been extended to 15 days from actual completion
- A new provision in the Prompt Payment Act regarding private projects provides for written notices challenging the existence of a good faith dispute as a basis for withholding payment—**and provides a trap for the unwary owner or general contractor withholding payment**
- Effective January 1, 2012, allows a Limited Liability Company to be licensed as a contractor, provided that company posts a bond in the amount of $100,000

In addition to the changes outlined above, there are many other changes to the laws governing construction work in California applicable to specific situations (such as mechanics' liens on condominium projects).

The laws concerning the assertion of, and defense against, statutory remedies of contractors and suppliers continue to provide construction industry participants with many powerful tools to enhance their positions when it comes to collecting payments.

Continuing to do "business as usual," however, will potentially land many industry professionals in trouble as they discover that either the rights or defenses they thought they had do not exist because they relied upon a printed form which fails to comply with the many changes to the laws effective July 1, 2012.

You are urged to contact Lindborg & Mazor LLP to review your forms and procedures today!

About Lindborg & Mazor LLP...

LEGALINK

L&M is a full service law firm dedicated to one basic principle: delivering high quality legal representation to a diverse client base in a creative and cost-effective manner. Through the firm's commitment to excellence, L&M has established a law practice equal to the most world-renowned firms.

The attorneys at L&M are experts at resolving our clients' issues in construction, contracts, commercial transactions and disputes, international business, real estate and commercial leases through litigation, arbitration, mediation and good old-fashioned negotiation. With its LA-area office and its Legalink connections to top lawyers throughout the world, L&M is well-positioned to handle from the most complex international construction disputes to the simplest local commercial transactions. CA's most diverse public entities and the world's largest private enterprises place their trust in L&M to handle all their legal needs.