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Robert B. Bottomley

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# Mechanics' Lien Notice Requirements

By ROBERT B. BOTTOMLEY\*

HOW WILL the proposed changes to the mechanics' lien law affect the rights of the lien claimant and the responsibilities of the owner? They are the two persons most directly concerned. One performs the work or furnishes the material to improve the property; the other ultimately pays the bills.<sup>1</sup> In analyzing sections 1193.1<sup>2</sup> and 1196.1<sup>3</sup> of the California Code of Civil Procedure, the State Bar Committee to Study 1958 Conference Resolution No. 70 attempted to improve the dialogue between claimant and owner by suggesting amendments designed to let each one know what the other is doing.<sup>4</sup> In our complex society, where even the most modest building structure requires skills and materials unknown to our forefathers, the problem of improving communications confronted by the State Bar Committee was not easy to solve. Where the typical lien claimant may service several jobs in one day, and the typical owner may be a corporation owning many parcels of land on which improvements are being simultaneously constructed, the problem may well be insoluble. Yet any proposal that may improve the communications between the two parties without imposing on them undue burdens is worthy of serious study. This article concerns itself with the problems of the lien claimant in preparing and filing his claim of lien. The proposed amendments appear in an appendix to this article. Included is a recommended

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\* B.A., 1949, Yale University; LL.B., 1952, University of Virginia; member, California Bar.

<sup>1</sup> See *Diamond Match Co. v. Sanitary Fruit Co.*, 70 Cal. App. 695, 701, 234 Pac. 322, 325 (1925).

<sup>2</sup> CAL. CODE CIV. PROC. § 1193.1 appears in Appendix.

<sup>3</sup> "No mistake or errors in the statement of the demand, or of the amount of credits and offsets allowed, or of the balance asserted to be due to claimant, or in the description of the property against which the claim is filed, shall invalidate the lien, unless the court finds that such mistake or error in the statement of the demand, credits and offsets, or of the balance due, was made with the intent to defraud, or the court shall find that an innocent third party, without notice, direct or constructive, has since the claim was filed, become the bona fide owner of the property liened upon, and that the notice of claim was so deficient that it did not put the party upon further inquiry in any manner." CAL. CODE CIV. PROC. § 1196.1.

<sup>4</sup> CAL. CODE CIV. PROC. § 1193 recognizes the importance of communication between the owner and those not under direct contract with the owner. The constitutionality of the "pre-lien" notice requirement was upheld in *Borchers Bros. v. Buckeye Incubator Co.*, 59 Cal. 2d 234, 28 Cal. Rptr. 697 (1963).

amendment to section 1185.1 which is the keystone around which the proposed amendments to section 1193.1 are built.

### *Time For Filing Lien Claims*

Section 1193.1 sets forth time limits within which a claim of lien may be filed. The section is deceptively simple. The earliest time for filing by an original contractor is when he has completed his contract. Every other person entitled to a lien may file his claim when he has finished working on the job<sup>5</sup> or, if he has furnished materials, fifteen days after he has notified the owner under section 1193. The maximum period varies. If a valid notice of completion is filed, the original contractor has sixty days, the others thirty days, from the date the notice is recorded to file their liens.<sup>6</sup> If no valid notice is filed, all persons have ninety days from the date of completion to file their claims.<sup>7</sup> If there is no completion, actual or constructive, and there is a cessation of labor, the lien period can run as long as 150 days from the day work ceased, subject to being shortened by the owner who files a notice of cessation of labor.<sup>8</sup>

If a claimant files his claim prematurely, it is invalid.<sup>9</sup> This limitation can be particularly troublesome to a general contractor whose contract calls for the construction of two or more residential units. Notwithstanding the provisions of section 1195.1, it appears that he is not permitted to file a claim for his work on the first unit because he has not completed his entire contract.<sup>10</sup>

More prevalent than the premature claim is the late claim. If a claimant does not file within the statutory period following completion he cannot enforce his lien. Completion may be actual or constructive. In the cases involving actual completion the courts are inclined to protect the claimant if his late filing is due to his performing services after the improvement is allegedly completed.<sup>11</sup> But if the extra work can be classified as minor repair work, the court will protect

<sup>5</sup> CAL. CODE CIV. PROC. § 1193.1(a).

<sup>6</sup> CAL. CODE CIV. PROC. § 1193.1(c).

<sup>7</sup> *Ibid.*

<sup>8</sup> CAL. CODE CIV. PROC. § 1193.1(g).

<sup>9</sup> *McCreary v. Toronto Midway Oil Co.*, 38 Cal. App. 17, 175 Pac. 87 (1918); *cf. Ingersoll v. Chaplin*, 127 Cal. App. 290, 15 P.2d 790 (1932).

<sup>10</sup> A proposed amendment to section 1195.1 expressly giving the contractor this right appears in the Appendix.

<sup>11</sup> *E.g.*, *Hammond Lumber Co. v. Barth Inv. Co.*, 202 Cal. 601, 262 Pac. 29 (1927); *Munger & Munger v. McBratney*, 131 Cal. App. 2d Supp. 866, 280 P.2d 232 (1955); *Nevada County Lumber Co. v. Janiss*, 25 Cal. App. 2d 579, 78 P.2d 200 (1938).

the owner even though the concept of "trivial imperfections" has been removed from the statute.<sup>12</sup>

Constructive completion is defined in section 1193.1(d). One of the equivalents of completion is "the acceptance by the owner, or his agent, of the work of improvement."<sup>13</sup> This language invites the so-called "secret acceptance" discussed in *Hammond Lumber Co. v. Barth Inv. Corp.*<sup>14</sup> If an owner actually accepts an unfinished work, does the time period for filing claims begin to run upon acceptance or after a period of cessation of labor? The *Hammond Lumber Co.* case indicates that there can be no secret acceptance of an uncompleted building, defining secret as meaning an acceptance not communicated to the claimant. Rather than rely on a judicial determination of whether an acceptance has been secret as to a particular claimant, it would be better to insist that any acceptance of a work of improvement which has not been actually completed must be followed by a specified period of cessation of labor and that the expiration of such period shall constitute the completion date. Such a requirement would carry some charge of notice to the interested persons that the work has been accepted by the owner as completed.<sup>15</sup>

Excluded from the definition of constructive completion are works of improvement subject to acceptance by public or governmental authority. The date of completion of such works is the date of such acceptance.<sup>16</sup> In *Southwest Paving Co. v. Stone Hills*<sup>17</sup> the subcontractor filed its claim of lien about a year after it performed work and furnished materials. Apparently there had been a general stoppage of work, and the owner, contending that section 1193.1(e) provides an

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<sup>12</sup> *Hundley v. Marinkovich*, 53 Cal. App. 2d 288, 127 P.2d 600 (1942). *But cf.* *Lewis v. Hopper*, 140 Cal. App. 2d 365, 295 P.2d 93 (1956).

<sup>13</sup> CAL. CODE CIV. PROC. § 1193.1(d)(2).

<sup>14</sup> 202 Cal. 601, 606, 262 Pac. 29, 31 (1927).

<sup>15</sup> See Proposed CAL. CODE CIV. PROC. § 1193.1(d), Appendix. The mere cessation of labor, unaccompanied by occupancy or acceptance by the owner, should not be termed the equivalent of completion and should, therefore, be eliminated from subdivision (d) of section 1193.1 as superfluous in view of the language in subdivision (g). Under the proposed amendment a notice of completion may be given in the following situations: (1) where there has been actual completion; and (2) where the work of improvement has not been actually completed but the owner either uses or accepts the work of improvement *and* there has been a cessation of labor thereon for a continuous period of thirty days. Where the work of improvement has not been actually completed and the owner does *not* either use or accept the work of improvement and there has been only a cessation of labor for a continuous period of sixty days, a notice of completion cannot be given under the above amendment, but a notice of cessation may be given pursuant to section 1193.1(g).

<sup>16</sup> CAL. CODE CIV. PROC. § 1193.1(e).

<sup>17</sup> 206 Cal. App. 2d 548, 24 Cal. Rptr. 48 (1962).

alternative, rather than an exclusive, time limit within which to file claims, argued that the plaintiff's claim was barred because it was filed more than 150 days after cessation of labor.<sup>18</sup> The court held that since the work of improvement had not been accepted by the city of Los Angeles, the time for filing claims had not yet begun to run. The court bolstered its opinion by stating that the plaintiff had actually completed its part of the work of improvement and cited *Mott v. Wright*<sup>19</sup> to the effect that there can be no equivalent of completion where there is actual completion. The completion of a subcontractor's contract, of course, is not necessarily completion of the work of improvement as a whole. From the respondent's pleadings quoted in the decision it can be inferred that the work of improvement had been *actually* completed. Even so, this event would not start the time running until the work had been formally accepted by the city.<sup>20</sup> For the purposes of this article the significance of the *Southwest Paving Co.* case lies in the certainty of the completion date on this type of improvement. Can this certainty be brought to the type of work involving no acceptance by a public body? Perhaps the owner in a situation involving constructive completion by acceptance should be required to record a notice of such acceptance before the time period for filing claims would begin to run.

### *Form of Lien Notice*

Section 1193.1(j) sets forth the brief contents required in the claim of lien.<sup>21</sup> Strict observance of these provisions has not been required.<sup>22</sup> But section 1193.1(k) does provide for a forfeiture of the claimant's lien if he willfully includes in his claim work not performed on, or materials not furnished for, the property described in the claim.<sup>23</sup> Section 1193.1(k) does not apply where the amount of the claim is excessive. A claimant could, for example, willfully overcharge for a job and would not thereby forfeit his lien under section 1193.1(k) if he actually did the work.<sup>24</sup> Section 1196.1, on the other hand,

<sup>18</sup> Page 553 of the California Appellate Reports states that the owners relied on subdivision (e). This must be a typographical error since obviously they were relying on subdivision (g).

<sup>19</sup> 43 Cal. App. 21, 184 Pac. 517 (1919).

<sup>20</sup> *McCaw v. Master Craft Homes*, 105 Cal. App. 2d 304, 233 P.2d 185 (1951).

<sup>21</sup> CAL. CODE CIV. PROC. § 1193.1(j) appears in Appendix.

<sup>22</sup> Comment, *Effect of Mistakes, Errors and Omissions in Contents of Claim of Mechanic's Lien*, 22 CALIF. L. REV. 193 (1934).

<sup>23</sup> CAL. CODE CIV. PROC. § 1193.1(k).

<sup>24</sup> See *B. & J. Constr. Co. v. Spacious Homes Inc.*, 204 Cal. App. 2d 216, 220-21, 22 Cal. Rptr. 41, 44 (1962).

could be the basis for invalidating such a lien if the court finds that the overcharge was made with intent to defraud.<sup>25</sup>

It can hardly be said that section 1196.1 is used primarily by owners to invalidate liens on their property. Originally enacted in 1907, it was designed, and has been consistently used, to protect the lien claimant as far as possible from his own carelessness or ignorance in filing the claim form. An analysis of the decisions discloses a concern on the part of the courts that the owner or his successors in interest be given an opportunity to learn from an examination of the public records that there is in fact a claim filed against his property. For example, if the claim contains a wrong name there is a fatal flaw.<sup>26</sup> But if the name of the owner is unknown to the claimant, the omission does not invalidate the claim.<sup>27</sup> The seeming incongruity of a wrong name versus no name is defensible if it is recognized that one not dealing directly with the owner might not know his name, especially on the day that the claim is filed.<sup>28</sup> If the claimant is not required to know who the owner is, he certainly should know the name of the person by whom he was employed or to whom he furnished materials, and it has been held that failure to include this information destroys the lien.<sup>29</sup>

Defects in setting forth the amount of the demand or the kind of materials furnished are generally excused by application of section 1196.1.<sup>30</sup> Defective descriptions, however, can invalidate the claim. Here again the judicial emphasis is on the lack of notice to the owner that it is his property which is liened. So long as the description satisfies the statutory requirement that it be sufficient for identification purposes, the court will protect the claimant. Where a claim correctly gave the name of the owner, but referred to the property as "Unit 3 and Unit 4, Terra Linda," the court found that the only units 3 and 4 in the community generally known as Terra Linda which were owned by the owner named in the claim were "Terra Linda Valley Units 3 and 4." The court further found that even if there had been a mistake in the description it was not made with intent to defraud and no innocent purchaser had become the owner since the claim was

<sup>25</sup> CAL. CODE CIV. PROC. § 1196.1.

<sup>26</sup> *Corbett v. Chambers*, 109 Cal. 178, 41 Pac. 873 (1895); *Diamond Match Co. v. Sanitary Fruit Co.*, 70 Cal. App. 695, 234 Pac. 322 (1925).

<sup>27</sup> CAL. CODE CIV. PROC. § 1193.1(j)(2).

<sup>28</sup> *Corbett v. Chambers*, 109 Cal. 178, 41 Pac. 873 (1895).

<sup>29</sup> *Shafer v. Los Serranos Co.*, 128 Cal. App. 357, 17 P.2d 1036 (1932).

<sup>30</sup> *B. & J. Constr. Co. v. Spacious Homes, Inc.*, 204 Cal. App. 2d 216, 22 Cal. Rptr. 41 (1962); *Johnson v. Smith*, 97 Cal. App. 752, 276 Pac. 146 (1929). *But see Shafer v. Los Serranos Co.*, *supra* note 29.

filed. Therefore, it concluded that the description was sufficient for identification.<sup>31</sup>

Other decisions take the same enlightened view. Including superfluous property in the description is not necessarily fatal;<sup>32</sup> neither is an obvious clerical mistake in the description (Lot 2 in Block 2677 instead of Lot 2 in Block 3677) where there is no showing that an innocent third party, without notice, has become the owner since the claim was filed or that the notice of claim was so deficient that it did not put the third party upon further inquiry in any manner.<sup>33</sup> An erroneous street address accompanied by a legal description sufficient to prevent anyone from being misled will be upheld.<sup>34</sup> In those cases where the description is so bad as not to impart notice to anyone, the courts say it is tantamount to no description at all.<sup>35</sup> In *Credit Bureau v. Williams*,<sup>36</sup> for example, the claim referred to "2152 California Street" and included a lot and block number but no subdivision reference. The court found that there was no such number as 2152 on California Street and threw out the claim. No mention was made in this case of section 1196.1, but it is difficult to see how this section could properly be invoked under the circumstances since the description was unambiguously erroneous. In such cases the benefits of section 1196.1 cannot be extended to excuse the claimant.<sup>37</sup>

### *Sufficiency of Notice Between Claimant And Owner*

The decisions dealing with defective claims of lien seem generally to be in accord with the objectives of section 1193.1(j) and section 1196.1. In the absence of a showing of intent to defraud (extremely difficult to prove) the courts have almost uniformly upheld the claim unless the defect is one which would not charge the owner or, more importantly, a new owner with constructive notice of the claims.<sup>38</sup>

<sup>31</sup> *Borello v. Eichler Homes, Inc.*, 221 Cal. App. 2d 487, 34 Cal. Rptr. 648 (1963).

<sup>32</sup> *B. & J. Constr. Co. v. Spacious Homes, Inc.*, 204 Cal. App. 2d 216, 22 Cal. Rptr. 41 (1962).

<sup>33</sup> *American Transit Mix Co. v. Weber*, 106 Cal. App. 2d 74, 234 P.2d 732 (1951).

<sup>34</sup> *Bothum v. Kreis*, 101 Cal. App. 683, 282 Pac. 414 (1929).

<sup>35</sup> *Credit Bureau v. Williams*, 153 Cal. App. 2d 834, 315 P.2d 355 (1957); cf. *Bishop v. Hayward Lumber & Inv. Co.*, 19 Cal. App. 2d 234, 65 P.2d 125 (1937).

<sup>36</sup> 153 Cal. App. 2d 834, 315 P.2d 355 (1957).

<sup>37</sup> *E.g.*, *Borello v. Eichler Homes, Inc.*, 221 Cal. App. 2d 487, 496, 34 Cal. Rptr. 648, 654 (1963).

<sup>38</sup> *E.g.*, *Ingersoll v. Chaplin*, 127 Cal. App. 290, 15 P.2d 790 (1932).

Is mere constructive notice sufficient? Formerly the claimant was required to serve the owner personally with a copy of his claim.<sup>39</sup> This requirement was eliminated in 1868, probably because it placed too great a burden on the lien claimant.<sup>40</sup> The enactment of the pre-lien notice statute in 1959 illustrated the legislature's recognition of the importance of the owner receiving notice that his property was about to be liened.<sup>41</sup> It is no less desirable that the owner receive notice that his property has been liened. The proposed amendments to sections 1185.1 and 1193.1 first place the burden of requesting such notice on the owner.<sup>42</sup> Then the lien claimant has merely to check the public records before filing his claim, and if he finds such a request on file he shall include in his claim the name and address of the owner and a description of the property which the owner himself has supplied.<sup>43</sup> If the owner has neglected to take advantage of the extended protection offered him under the proposed amendments, the burden of the claimant as to the contents of his claim is no greater than it is now.

The matters required to be contained in the notice of completion<sup>44</sup> and the notice of cessation of labor<sup>45</sup> appear to be adequate. Here again the question remains as to whether this type of constructive notice, this time from the owner to the claimant, is sufficient. Subcontractors and materialmen are especially concerned with the short span that now exists between the time when a pre-lien notice must be mailed under section 1193 and when a claim must be filed under section 1193.1(b) following the recording of a notice of completion. It has been suggested that the owner should be required to notify the general contractor when he has filed his notice of completion and the contractor in turn should be required to notify all subcontractors and materialmen.<sup>46</sup> An alternative suggestion, and perhaps a more workable solution, would require that the owner post a copy of his notice of completion or notice of cessation on the property involved.<sup>47</sup>

<sup>39</sup> Cal. Stat. 1855, ch. 130, § 3, at 157. This statute also required the inclusion in the claim of "a correct description of the property to be charged" with the mechanics' lien.

<sup>40</sup> Cal. Stat. 1868, ch. 448, § 5, at 589.

<sup>41</sup> CAL. CODE CIV. PROC. § 1193.

<sup>42</sup> Proposed CAL. CODE CIV. PROC. § 1185.1, Appendix.

<sup>43</sup> Proposed CAL. CODE CIV. PROC. § 1193.1(j), Appendix.

<sup>44</sup> CAL. CODE CIV. PROC. § 1193.1(f).

<sup>45</sup> CAL. CODE CIV. PROC. § 1193.1(h).

<sup>46</sup> Letter From Tile Contractors Association of Northern California, Inc. to State Bar Committee to Study 1958 Conference Resolution No. 70, Feb. 26, 1962.

<sup>47</sup> Proposed CAL. CODE CIV. PROC. § 1193.1(l), Appendix.

## Conclusion

There was a time when the parties involved in the construction of a work of improvement could reasonably be expected to know the critical dates of completion and expiration of lien rights. If the 1868 elimination of the personal service requirement of a lien claim upon an owner could be said to be responsive to the difficulties inherent in such a requirement in an expanding and more fluid society, the legislature should be equally alert today to the methods available to owner and claimant afforded by modern title company practice. The proposed amendments to section 1193.1 of the Code of Civil Procedure recognize this fact. A lien claimant can very easily have a search made of the property index of a title company, receive a copy of any request for a copy of claim of lien filed by an owner, and comply with such request. He could accomplish the same result by running the indices in the county recorder's office. In addition, he can keep his eye on the premises and if he notices a lack of activity there, he can look for a posted notice of completion. All of the proposed amendments are designed to take advantage, wherever possible, of methods by which owner, contractor, laborer, and supplier can advise one another of their respective positions before, after, and during the performance of a work of improvement.

## APPENDIX

### Present Code

CALIFORNIA CODE OF CIVIL PROCEDURE  
§ 1185.1.

(a) The liens provided for by this chapter shall be direct liens and shall not in the case of any claimants other than the contractor be limited, as to amount, by any contract price agreed upon between the contractor and the owner except as hereinafter provided. Such liens shall not in any case exceed in amount the reasonable value of the labor done or the material furnished, or both, for which the lien is claimed, not the price agreed upon for the same between the claimant and the person by whom he was employed. Such liens shall not, in any case where the claimant was employed by a contractor or subcontractor, extend to any labor or materials not embraced within or covered by the original contract between the contractor

### Amended Code

CALIFORNIA CODE OF CIVIL PROCEDURE  
§ 1185.1.

(a) No change.

## Present Code

and the owner, or any modification thereof made by or with the consent of such owner, and of which such contract or modification thereof the claimant shall have had actual notice before the performance of such labor or the furnishing of such materials.

(b) The filing of an original contract for a work of improvement or of a modification of such original contract in the office of the county recorder of the county where the property is situated, before the commencement of the work, shall be equivalent to the giving of actual notice of the provisions thereof by the owner to all persons performing work or furnishing materials thereunder.

(c) In case said original contract shall, before the work is commenced, be so filed, together with a bond of the contractor with good and sufficient sureties in an amount not less than fifty (50) percent of the contract price named in said contract, which bond shall, in addition to any conditions for the performance of the contract, be also conditioned for the payment in full of the claims of all persons performing labor upon or furnishing materials to be used in, or furnishing appliances, teams, or power contributing to, such work, and shall also by its terms be made to inure to the benefit of any and all persons who perform labor upon or furnish materials to be used in or furnish appliances, teams, or power contributing to, the work described in said contract as to give such persons a right of action to recover upon said bond in any suit brought to foreclose the liens provided for in this chapter or in a separate suit brought on said bond, then the court must, where it would be equitable so to do, restrict the recovery under such liens to an aggregate amount equal to the amount found to be due from the owner to the contractor and render judgment against the contractor and his sureties on said bond for any deficiency or difference there may remain between said amount so found to be due to the contractor and the whole amount found to be due to the claimants for such labor or materials or both.

## Amended Code

(b) The filing for record of a notice of work of improvement as provided in subdivision (c) hereof before the commencement of the work, shall be equivalent to the giving of actual notice of the provisions of the original contract for the work of improvement by the owner to all persons performing work or furnishing materials thereunder.

(c) The notice of a work of improvement provided for in this section shall be filed in the office of the county recorder of the county in which the property is situated, shall be signed and verified by the owner or his agent and shall set forth the following: (1) the name and address of the owner; (2) the nature of the interest or estate of such owner; (3) a description of the property sufficient for identification, which description shall contain the street address of such property if any such street address shall have been given to such property by any competent public or governmental authority; (4) the name and address of the original contractor for the work of improvement, or if the work of improvement is made in whole or in part pursuant to two or more original contracts, each covering a particular portion of the work of improvement, the name and address of each such original contractor and the portion of the work of improvement to be performed by each of them; (5) the name and address of any lender furnishing funds from which the cost of the work of improvement is to be defrayed wholly or in part; (6) the names and addresses of the sureties on any bond of an original contractor given and recorded as provided in this section; (7) the address of some suitable place of business within the county wherein the work of improvement is to be made where the terms of the contract or contracts shall be available for inspection by interested persons which place of business may be that of the original contractor or of the archi-

## Present Code

(d) It is the intent and purpose of this section to limit the owner's liability, in all cases, to the measure of the contract price where he shall have filed or caused to be filed in good faith with his original contract a valid bond with good and sufficient sureties in the amount and upon the conditions as herein provided. It shall be lawful for the owner to protect himself against any failure of the contractor to perform his contract and make full payment for all work done and materials furnished thereunder by exacting such bond or other security as he may deem necessary.

## Amended Code

tect, if any, or of the lender, if any; (8) a general statement of the kind of work to be done or material to be furnished pursuant to such contract.

(d) In case said notice of a work of improvement is so filed for record and the bond of the original contractor is recorded in the office of the county recorder before the work is commenced and that said bond shall have good and sufficient sureties in an amount not less than fifty per cent (50%) of the contract price set forth in said notice, which bond shall, in addition to any conditions for the performance of the contract, be also conditioned for the payment in full of the claims of all persons performing labor upon or furnishing materials to be used in, or furnishing appliances, teams, or power contributing to, such work, and shall also by its terms be made to inure to the benefit of any and all persons who perform labor upon or furnish materials to be used in or furnish appliances, teams, or power contributing to, the work described in said contract as to give such persons a right of action to recover upon said bond in any suit brought to foreclose the liens provided for in this chapter or in a separate suit brought on said bond, then the court must, where it would be equitable so to do, restrict the recovery under such liens to an aggregate amount equal to the amount found to be due from the owner to the contractor and render judgment against the contractor and his sureties on said bond for any deficiency or difference there may remain between said amount so found to be due to the contractor and the whole amount found to be due to claimants for such labor or materials or both.

(e) It is the intent and purpose of this section to limit the owner's liability in all cases, to the measure of the contract price where he shall have recorded in good faith the notice provided for in this section and a valid bond with good and sufficient sureties in the amount and upon the conditions as herein provided. It shall be lawful for the owner to protect himself against any failure of the contractor to perform his contract and make full payment for all work done and materials furnished thereunder by exacting such

## Present Code

CALIFORNIA CODE OF CIVIL PROCEDURE  
§ 1193.1.

(a) Every original contractor claiming the benefit of this chapter, after the completion of his contract and within the periods of time as provided in this section, and every person, other than an original contractor, claiming the benefit of this chapter, after he has ceased to perform labor or furnish material, or both, for any work of improvement and before the expiration of the periods of time as provided in this section, may file for record with the county recorder of the county in which the property is situated a claim of lien as provided in subdivision (j) of this section.

(b) Where the work of improvement is not made pursuant to one original contract for the work of improvement but is made in whole or in part pursuant to two or more original contracts each covering a particular portion of the work of improvement, the owner may within 10 days after completion of any such contract for a particular portion of the work of improvement file for record a notice of completion thereof as provided in subdivision (f) of this section. If such notice be so filed, then the original contractor under the contract covered by such notice must within 60 days after the date of filing for record such

## Amended Code

bond or other security as he may deem necessary. The filing for record of a notice of a work of improvement prior or subsequent to the commencement of the work shall entitle the owner to a copy of any claim of lien not theretofore filed, as provided in section 1193.1 of this chapter.

CALIFORNIA CODE OF CIVIL PROCEDURE  
§ 1193.1.

(a) Every original contractor claiming the benefit of this chapter, after the completion of his contract and within the periods of time as provided in this section, and every person, other than an original contractor, claiming the benefit of this chapter, after he has ceased to perform labor or furnish material, or both, for any work of improvement and before the expiration of the periods of time as provided in this section, may file for record with the county recorder of the county in which the property is situated a claim of lien as provided in subdivision (j) of this section, and shall within ten days following the recordation of such claim of lien deposit or cause to be deposited in the mail an envelope, certified or registered and with postage prepaid, containing a copy of such claim of lien addressed to each owner who has filed for record a notice of the work of improvement as provided in section 1185.1 of this chapter, directed to the address designated in said notice, and in like manner and within said ten day period, shall also mail copies to such original contractor and to each surety at their respective addresses set forth in said notice.

(b) Where a work of improvement consisting of the construction, alteration, addition to or repair in whole or in part of two or more separate buildings, or consisting of the demolition or removal of two or more separate buildings, is not made pursuant to one original contract for the work of improvement but is made in whole or in part pursuant to two or more original contracts, each covering one or more separate buildings, the owner may within ten days after the completion of any such contract for a particular building file for record a notice of completion thereof as provided in subdivision (f) of

### Present Code

notice, and all other persons claiming the benefit of this chapter for work done or materials furnished under such contract, must within 30 days after the date of filing for record such notice, file for record his claim of lien. If such notice be not so filed, then the period for filing claims of lien shall be as provided in subdivision (c) of this section.

(c) The owner shall within 10 days after the completion of the work of improvement file for record a notice of completion as provided in subdivision (f) of this section. If such notice be so filed, then, except as to any persons who were required to file a claim of lien as provided in subdivision (b) of this section, every original contractor must within 60 days after the date of filing for record such notice, and every person, other than an original contractor, claiming the benefit of this chapter must within 30 days after the date of filing for record such notice, file for record his claim of lien. If such notice be not so filed, then, except as to any persons who were required to file for record claims of lien as provided in subdivision (b) of this section, all persons claiming the benefit of this chapter shall have 90 days after the completion of such work of improvement within which to file their claims of lien.

(d) In all cases, except as provided in subdivision (e) of this section, any of the following shall be deemed equivalent to a completion: (1) the occupation or use of a work of improvement by the owner, or his agent, accompanied by a cessation from labor thereon; (2) the acceptance by the owner, or his agent of the work of improvement; or (3) after the commencement of a work of improvement, a cessation of labor thereon for a continuous period of 30 days or more if the owner files for record a notice of cessation as provided for in subdivision (h) of this section, except that the time for and manner of filing claims of lien where there has been such a cessation of labor shall be as provided in subdivisions (g) and (h) of this section.

(e) If a work of improvement is of the character referred to in section 1184.1 of this code and is subject to acceptance

### Amended Code

this section. If such notice be so filed . . . file for record his claim of lien and give notice as provided in subdivision (a) of this section. If such notice be not so filed, then the period for filing claims of lien shall be as provided in subdivision (c) of this section.

(c) The owner shall . . . file for record his claim of lien and give notice as provided in subdivision (a) of this section. If such notice . . . their claims of lien.

(d) In all cases, except as provided in subdivision (e) of this section, any of the following shall be deemed equivalent to a completion: (1) the occupation or use of a work of improvement by the owner, or his agent, accompanied by cessation of labor thereon for a continuous period of thirty (30) days; (2) the acceptance by the owner, or his agent, of the work of improvement followed by cessation of labor thereon for a continuous period of thirty (30) days.

(e) No change.

## Present Code

by any public or governmental authority, the completion of such work of improvement shall be deemed to be the date of such acceptance.

(f) The notice of completion provided for in this section shall be filed in the office of the county recorder of the county in which the property is situated, shall be signed and verified by the owner or his agent and shall set forth the following: (1) the date of completion of such work of improvement or of such particular portion of the work of improvement; provided, that the recital of an erroneous date of completion shall not affect the validity of the notice if the true date of completion is within 10 days preceding the date of filing for record such notice; (2) the name and address of such owner; (3) the nature of the interest or estate of such owner; (4) a description of the property sufficient for identification, which description shall contain the street address of such property if any such street address shall have been given to such property by any competent public or governmental authority; provided, that if a sufficient legal description of the property is given the validity of the notice shall not be affected by the fact that the street address recited is erroneous or that such street address is omitted; (5) the name of the original contractor, if any, for the work of improvement, or if the notice is given only of completion of a contract for a particular portion of such work of improvement as provided in subdivision (b) of this section, then the name of the original contractor under such contract, and a general statement of the kind of work done or materials furnished pursuant to such contract.

(g) If, after the commencement of a work of improvement, there shall be a cessation of labor thereon for a continuous period of 60 days, then all persons claiming the benefit of this chapter shall within 90 days from the expiration of such 60-day period file for record their claims of lien; provided, that if, after there shall be a cessation of labor thereon for a continuous period of 30 days or more, the owner files for record a notice of cessation as provided in subdivision (h) of

## Amended Code

(f) No change.

(g) No change.

## Present Code

this section, every original contractor must within 60 days after date of filing for record such notice, file for record his claim of lien. Nothing contained in this subdivision shall, however, extend the time for the filing for record of a claim of lien required to be filed for record by reason of the filing for record prior to cessation of a notice of completion as provided in subdivision (b).

(h) The notice of cessation provided for in subdivision (g) of this section shall be filed for record in the office of the county recorder of the county in which the property is situated, shall be signed and verified by the owner or his agent and shall set forth the following: (1) the date on or about when the cessation from labor commenced; (2) a statement that such cessation continued until the giving of such notice of cessation; (3) the name and address of the owner; (4) the nature of the interest or estate of such owner; (5) a description of the property sufficient for identification, which description shall contain the street address of such property if any such street address shall have been given to such property by any competent public or governmental authority; provided, that if a sufficient legal description of the property is given the validity of the notice shall not be affected by the fact that the street address recited is erroneous or that such street address is omitted; (6) the name of the original contractor, if any, for the work of improvement as a whole.

(i) The word "owner" as used in subdivisions (f) and (h) of this section is hereby defined to mean the owner who caused the building, improvement, or structure, to be constructed, altered, or repaired (or his successor in interest at the date a notice of completion or cessation from labor is filed for record) whether the interest or estate of such owner be in fee, as vendee under a contract of purchase, as lessee, or other interest or estate less than the fee; and where such interest or estate is held by two or more persons as joint tenants or tenants in common, any one or more of the cotenants may be deemed to be the "owner" within the meaning of this section; provided, that any notice of completion or cessation from la-

## Amended Code

(h) No change.

(i) No change.

## Present Code

bor signed by less than all of such co-owners shall recite the names and addresses of all of such co-owners.

(j) A claim of lien filed for record by any person claiming the benefit of this chapter shall be signed and verified by the claimant or by some person on his behalf and shall contain the following: (1) a statement of his demand after deducting all just credits and offsets; (2) the name of the owner or reputed owner, if known; (3) a general statement of the kind of work done or materials furnished by him, or both; (4) the name of the person by whom he was employed or to whom he furnished the materials; (5) a description of the property sought to be charged with the lien sufficient for identification.

(k) Any person who shall wilfully include in his claim of lien filed for record pursuant to this chapter work not performed upon, or materials, appliances or power not furnished for, the property described in such claim, shall thereby forfeit his lien.

## Amended Code

(j) A claim of lien filed for record by any person claiming the benefit of this chapter shall be signed and verified by the claimant or by some person on his behalf and shall contain the following: (1) a statement of his demand after deducting all just credits and off-sets; (2) the name and address of the owner contained in the notice of a work of improvement filed for record pursuant to section 1185.1 of this chapter, and if such notice be not so filed, the name of the owner or reputed owner, if known; (3) a general statement of the kind of work done or materials furnished by him, or both; (4) the name of the person by whom he was employed or to whom he furnished the materials; (5) a description of the property sought to be charged with the lien which is contained in the notice of a work of improvement filed for record pursuant to section 1185.1 of this chapter, and if such notice be not so filed, a description of the property sufficient for identification.

(k) No change.

(1) Whenever a notice of completion or a notice of cessation is filed for record, the owner shall within five (5) days following the recordation of such notice post a copy of such notice with the recording date shown thereon in some conspicuous place on the property.

CALIFORNIA CODE OF CIVIL PROCEDURE  
§ 1195.1.

If a work of improvement consists in the construction of two or more separate residential units, each such unit shall be considered a separate "work of improvement" or "improvement," and the time for filing claims of lien against each such residential unit as provided in this chapter shall commence to run upon the completion of each such residential unit. A separate residential unit is defined as consist-

CALIFORNIA CODE OF CIVIL PROCEDURE  
§ 1195.1.

If a work of improvement . . . of each such residential unit. An original contractor whose contract is for the construction of two or more residential units shall not be required to complete all the residential units covered by his contract before being entitled to file his claim of lien against each completed residential unit. A separate residential unit is defined . . . to all the benefits of Section 1194.1 of this code.

**Present Code**

ing of one residential structure together with any garages or other outbuildings appurtenant thereto. The provisions of this qualification shall not impair any rights conferred under the provisions of Sections 1192.1, 1194.1, and 1184.1 of this code. Materials delivered to or upon any portion of said entire work of improvement and ultimately used or consumed in one of such separate residential units shall, for all the purposes of this chapter, be deemed to have been furnished to be used or consumed in the separate residential unit in which the same shall have been actually used or consumed; provided, however, that if the lien claimant is unable to segregate the amounts used on or consumed in such separate units he shall be entitled to all the benefits of Section 1194.1 of this code.

**Amended Code**