

MECHANICS' LIENS

"The objective of the mechanic's lien law is to secure payment to a mechanic for his labor and materials. The California Constitution provides that all classes of mechanics, material-men, artisans, and laborers shall have a lien on the property on which they have bestowed labor or furnished material for the value of that labor or material.

This constitutional mandate has been made effective by the legislature through the procedures provided in the California Civil Code. Thus, the law has created a preferred position for persons who perform labor or supply materials for the improvement of real property. Very few identifiable groups have such constitutional protection for their specific benefit.

Because of this constitutional protection, any contract provision which purports to waive the right of a mechanic to enforce a mechanic's lien or stop notice prior to the performance and payment for the work or materials is against public policy, void, and unenforceable.

The public policy that justifies mechanic's lien law is the fairness and equity resulting from the improvement of one person's property by the labor and materials of another." 8 California Real Estate 2d 121, et seq. (Miller and Starr, 1990)

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