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DIVISION 4. GENERAL PROVISIONS [3274 - 9566] (Heading of Division 4 amended by Stats. 1988, Ch. 160, Sec. 16.)

PART 6. WORKS OF IMPROVEMENT [8000 - 9566] (Part 6 added by Stats. 2010, Ch. 697, Sec. 20.)

TITLE 2. PRIVATE WORKS OF IMPROVEMENT [8160 - 8848] (Title 2 added by Stats. 2010, Ch. 697, Sec. 20.)

CHAPTER 5. Stop Payment Notice [8500 - 8560] (Chapter 5 added by Stats. 2010, Ch. 697, Sec. 20.)

ARTICLE 3. Stop Payment Notice to Construction Lender [8530 - 8538] (Article 3 added by Stats. 2010, Ch. 697, Sec. 20.)

8530. A person that has a lien right under Chapter 4 (commencing with Section 8400) may give a construction lender a stop payment notice.

(Added by Stats. 2010, Ch. 697, Sec. 20. (SB 189) Effective January 1, 2011. Operative July 1, 2012, by Sec. 105 of Ch. 697 and by Section 8052.)

8532. A claimant may give a construction lender a stop payment notice accompanied by a bond in an amount equal to 125 percent of the amount of the claim. The bond shall be conditioned that if the defendant recovers judgment in an action to enforce payment of the claim stated in the stop payment notice or to enforce a claim of lien recorded by the claimant, the claimant will pay all costs that are awarded the owner, direct contractor, or construction lender, and all damages to the owner, direct contractor, or construction lender that result from the stop payment notice or recordation of the claim of lien, not exceeding the amount of the bond.

(Added by Stats. 2010, Ch. 697, Sec. 20. (SB 189) Effective January 1, 2011. Operative July 1, 2012, by Sec. 105 of Ch. 697 and by Section 8052.)

8534. (a) A construction lender that objects to the sufficiency of sureties on the bond given with a bonded stop payment notice shall give notice to the claimant of the objection, within 20 days after the bonded stop payment notice is given. The notice shall comply with the requirements of Chapter 2 (commencing with Section 8100) of Title 1.

(b) The claimant may within 10 days after notice of the objection is given substitute for the initial bond a bond executed by an admitted surety insurer. If the claimant does not substitute a bond executed by an admitted surety insurer, the construction lender may disregard the bonded stop payment notice and release all funds withheld in response to that notice.

(Added by Stats. 2010, Ch. 697, Sec. 20. (SB 189) Effective January 1, 2011. Operative July 1, 2012, by Sec. 105 of Ch. 697 and by Section 8052.)

8536. (a) Except as provided in subdivision (b), on receipt of a stop payment notice a construction lender shall withhold from the borrower or other person to whom the lender or the owner is obligated to make payments or advancement out of the construction fund sufficient funds to pay the claim stated in the notice.

(b) The construction lender may, at its option, elect not to withhold funds in any of the following circumstances:

(1) The stop payment notice is unbonded.

(2) The stop payment notice is given by a claimant other than a direct contractor, and a payment bond is recorded before the lender is given any stop payment notice.

(Added by Stats. 2010, Ch. 697, Sec. 20. (SB 189) Effective January 1, 2011. Operative July 1, 2012, by Sec. 105 of Ch. 697 and by Section 8052.)

8538. (a) The claimant may make a written request for notice of an election by the construction lender under Section 8536 not to withhold funds. The request shall be made at the time the claimant gives the construction lender the stop payment notice and shall be accompanied by a preaddressed, stamped envelope.

(b) If the construction lender elects not to withhold funds under Section 8536, the lender shall, within 30 days after making the election, give notice of that fact to a claimant who has requested notice of the election under subdivision (a). The notice shall comply with the requirements of Chapter 2 (commencing with Section 8100) of Title 1. If the basis of the election is the recordation of a payment bond under Section 8600, the construction lender shall include a copy of the bond with the notice.

(c) A construction lender is not liable for failure to include a copy of the bond with the notice under this section if all of the following conditions are satisfied:

- (1) The failure was not intentional and resulted from a bona fide error.
- (2) The lender maintains reasonable procedures to avoid an error of that type.
- (3) The lender corrected the error not later than 20 days after the date the lender discovered the violation.

(Added by Stats. 2010, Ch. 697, Sec. 20. (SB 189) Effective January 1, 2011. Operative July 1, 2012, by Sec. 105 of Ch. 697 and by Section 8052.)