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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 6. Payment Bond [8600 - 8614] (*Chapter 6 added by Stats. 2010, Ch. 697, Sec. 20.)*

8600. (a) This section applies if, before the commencement of work, the owner in good faith files a direct contract with the county recorder, and records a payment bond of the direct contractor in an amount not less than 50 percent of the price stated in the direct contract.

(b) If the conditions of subdivision (a) are satisfied, the court shall, where equitable to do so, restrict lien enforcement under this title to the aggregate amount due from the owner to the direct contractor and shall enter judgment against the direct contractor and surety on the bond for any deficiency that remains between the amount due to the direct contractor and the whole amount due to claimants.

(*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.*)

8602. Section 8600 does not preclude an owner from requiring a performance bond, payment bond, or other security as protection against a direct contractor's failure to perform the direct contract or to make full payment for all work provided pursuant to the contract.

(*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.*)

8604. (a) If a lending institution requires that a payment bond be given as a condition of lending money to finance a work of improvement, and accepts in writing as sufficient a bond given in fulfillment of the requirement, the lending institution may not thereafter object to the borrower as to the validity of the bond or refuse to make the loan based on an objection to the bond if the bond is given by an admitted surety insurer.

(b) For purposes of this section, a "lending institution" includes a commercial bank, savings and loan institution, credit union, or other organization or person engaged in the business of financing loans.

(*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.*)

8606. (a) A payment bond under this title shall be conditioned for the payment in full of the claims of all claimants and shall by its terms inure to the benefit of all claimants so as to give a claimant a right of action to enforce the liability on the bond. The bond shall be given by an admitted surety insurer.

(b) An owner, direct contractor, or subcontractor may be the principal on the bond.

(c) A claimant may enforce the liability on the bond in an action to enforce a lien under this part or in a separate action on 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.*)

8608. (a) This title does not give a claimant a right to recover on a direct contractor's payment bond given under this chapter unless the claimant provided work to the direct contractor either directly or through one or more subcontractors, pursuant to a direct contract.

(b) Nothing in this section affects the stop payment notice right of, and relative priorities among, design professionals and holders of secured interests in the real property.

(*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.*)

8609. Any provision in a payment bond attempting by contract to shorten the period prescribed in Section 337 of the Code of Civil Procedure for the commencement of an action on the bond shall not be valid under either of the following circumstances:

(a) If the provision attempts to limit the time for commencement of an action on the bond to a shorter period than six months from the completion of any work of improvement.

(b) As applied to any action brought by a claimant, unless the bond is recorded before the work of improvement is commenced.

(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.)

8610. Notwithstanding Section 8609, if a payment bond under this title is recorded before completion of a work of improvement, an action to enforce the liability on the bond may not be commenced later than six months after completion of the work of improvement.

(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.)

8612. (a) In order to enforce a claim against a payment bond under this title, a claimant shall give the preliminary notice provided in Chapter 2 (commencing with Section 8200).

(b) If preliminary notice was not given as provided in Chapter 2 (commencing with Section 8200), a claimant may enforce a claim by giving written notice to the surety and the bond principal within 15 days after recordation of a notice of completion. If no notice of completion has been recorded, the time for giving written notice to the surety and the bond principal is extended to 75 days after completion of the work of improvement.

(c) Commencing July 1, 2012, and except as provided in subdivision (b), if the preliminary notice was required to be given by a person who has no direct contractual relationship with the contractor, and who has not given notice as provided in Chapter 2 (commencing with Section 8200), that person may enforce a claim by giving written notice to the surety and the bond principal, as provided in Section 8614, within 15 days after recordation of a notice of completion. If no notice of completion has been recorded, the time for giving written notice to the surety and the bond principal is extended to 75 days after completion of the work of improvement.

(d) Subdivision (c) shall not apply in either of the following circumstances:

(1) All progress payments, except for those disputed in good faith, have been made to a subcontractor who has a direct contractual relationship with the general contractor to whom the claimant has provided materials or services.

(2) The subcontractor who has a direct contractual relationship with the general contractor to whom the claimant has provided materials or services has been terminated from the project pursuant to the contract, and all progress payments, except those disputed in good faith, have been made as of the termination date.

(e) Pursuant to Section 8200, this section shall not apply to a laborer, as defined under Section 8024.

(f) This section shall become operative on July 1, 2012.

(Amended (as to be added by Stats. 2010, Ch. 697) by Stats. 2011, Ch. 700, Sec. 3. (SB 293) Effective January 1, 2012. Operative July 1, 2012, pursuant to Stats. 2010, Ch. 697, Sec. 105, and this section's own provisions.)

8614. Notice to the principal and surety under Section 8612 shall comply with the requirements of Chapter 2 (commencing with Section 8100) of Title 1.

(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.)