

# MECHANICS' LIENS

and their impact on a title insured sale transaction.

California **Mechanics' Lien** law provides special protection to contractors, subcontractors, laborers and suppliers who furnish labor or materials to repair, remodel or build a home. If any of these people or companies are not paid for the services or materials they have provided, a home may be subject to a mechanics' lien and eventual sale in a legal proceeding to enforce the lien.

**The Mechanics' Lien** is a right that California gives to workers and suppliers to record a lien to insure payment. This lien can even be recorded where the property owner has paid the contractor in full and the contractor then fails to pay the subcontractors, suppliers, or laborers. When a mechanics lien is recorded the **PRIORITY** of the lien relates back to the date the work commenced.

A recorded lien on a property must be addressed prior to a sale closing as any work began or mechanics lien recorded have **PRIORITY** ahead of a buyers new lenders interest. When this happens it is called a **LOSS OF PRIORITY**. It is the seller who bears the ultimate responsibility for making payment for services rendered.

In practice, a homeowner faced with a valid mechanics' lien may be compelled to pay the lien claimant and then pursue conventional legal remedies against the contractor or subcontractor who initially failed to pay the lien claimant but who himself was paid by the homeowner.

A positive outcome and smooth closing are much more likely when an agent asks the homeowner about their project and consults with the title company so a structured plan can be put into place **EARLY**.

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