

West's Annotated California Codes
Civil Code (Refs & Annos)
Division 2. Property (Refs & Annos)
Part 4. Acquisition of Property
Title 3. Accession
Chapter 1. Accession to Real Property (Refs & Annos)

West's Ann.Cal.Civ.Code § 1013.5

§ 1013.5. Fixtures; removal

Currentness

(a) **Right of removal; payment of damages.** When any person, acting in good faith and erroneously believing because of a mistake either of law or fact that he has a right to do so, affixes improvements to the land of another, such person, or his successor in interest, shall have the right to remove such improvements upon payment, as their interests shall appear, to the owner of the land, and any other person having any interest therein who acquired such interest for value after the commencement of the work of improvement and in reliance thereon, of all their damages proximately resulting from the affixing and removal of such improvements.

(b) **Parties; lis pendens; costs and attorney's fee.** In any action brought to enforce such right the owner of the land and encumbrancers of record shall be named as defendants, a notice of pendency of action shall be recorded before trial, and the owner of the land shall recover his costs of suit and a reasonable attorney's fee to be fixed by the court.

(c) **Interlocutory judgment.** If it appears to the court that the total amount of damages cannot readily be ascertained prior to the removal of the improvements, or that it is otherwise in the interests of justice, the court may order an interlocutory judgment authorizing the removal of the improvements upon condition precedent that the plaintiff pay into court the estimated total damages, as found by the court or as stipulated.

(d) **Consent of lienholder.** If the court finds that the holder of any lien upon the property acquired his lien in good faith and for value after the commencement of the work of improvement and in reliance thereon, or that as a result of the making or affixing of the improvements there is any lien against the property under [Article XX, Section 15, of the Constitution of this State](#), judgment authorizing removal, final or interlocutory, shall not be given unless the holder of each such lien shall have consented to the removal of the improvements. Such consent shall be in writing and shall be filed with the court.

(e) **Nature of right created.** The right created by this section is a right to remove improvements from land which may be exercised at the option of one who, acting in good faith and erroneously believing because of a mistake either of law or fact that he has a right to do so, affixes such improvements to the land of another. This section shall not be construed to affect or qualify the law as it existed prior to the 1953 amendment of this section with regard to the circumstances under which a court of equity will refuse to compel removal of an encroachment.

Credits

(Added by Stats.1953, c. 1175, p. 2674, § 2. Amended by Stats.1955, c. 73, p. 514, § 1.)

[Notes of Decisions \(3\)](#)

West's Ann. Cal. Civ. Code § 1013.5, CA CIVIL § 1013.5

Current with urgency legislation through Ch. 187 of 2014 Reg.Sess., Res. Ch. 1 of 2013-2014 2nd Ex.Sess., and all propositions on the 6/3/2014 ballot.

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