

CHAPTER 178  
SB 231 – FINAL VERSION

03/07/12 0978s  
16May2012... 1563h

2012 SESSION

12-2878  
06/09

SENATE BILL        **231**

AN ACT            relative to municipal liens.

SPONSORS:        Sen. Bradley, Dist 3

COMMITTEE:      Public and Municipal Affairs

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AMENDED ANALYSIS

This bill requires a written contract between a property owner and a municipally owned electric, gas, water, or wastewater utility for the performance of work beyond the utility's final shutoff point located on customer property, in order for a lien to be placed on the property by the municipality.

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Explanation:      Matter added to current law appears in ***bold italics***.  
                         Matter removed from current law appears [~~in brackets and struck through~~].  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twelve*

AN ACT                   relative to municipal liens.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           178:1 Liens and Collection of Charges. Amend RSA 38:22 to read as follows:

2           38:22 Liens and Collection of Charges.

3           I. ***Except as provided in paragraph III***, all charges for services furnished to patrons by a  
4 municipally owned electric, gas, ***water***, or [~~water works~~] ***wastewater utility*** shall create a lien  
5 upon the real estate where such services are furnished.

6           II. ***Except as provided in paragraph III***, a municipality may use any of the following  
7 collection procedures for charges and the use of one collection procedure for one service shall not  
8 preclude the use of a different collection procedure for another service:

9           (a) A municipality may commit bills for charges to the tax collector with a warrant  
10 signed by the appropriate municipal officials requiring the tax collector to collect them. The tax  
11 collector shall have the same rights and remedies, including a lien on the real estate, and be subject  
12 to the same liabilities in relation thereto as in the collection of taxes as provided in RSA 80;  
13 provided, however, that the real estate lien shall continue for 18 months from the date of the last  
14 unpaid bill.

15           (b) The official or board responsible for administering the municipal utility may collect  
16 charges for services by direct billing on any periodic basis it may choose. All charges which are  
17 delinquent may be committed to the tax collector with a warrant signed by the appropriate  
18 municipal officials requiring the tax collector to collect them. The tax collector shall have the same  
19 rights and remedies, including a lien on the real estate, and be subject to the same liabilities in  
20 relation thereto as in the collection of taxes as provided in RSA 80; provided, however, that the real  
21 estate lien shall continue for 18 months from the date of the last unpaid bill.

22           (c) If the official or board responsible for administering the municipal utility has not  
23 committed the charges to the collector of taxes, the municipality shall have a lien upon the real  
24 estate where the services were furnished and the lien shall continue for 18 months from the date of  
25 the last unpaid bill, unless the municipality records in the registry of deeds for the county in which  
26 the land is situated a notice of lien, in which case the lien shall continue for 6 years from the date of  
27 the last unpaid bill. The lien may be enforced in a suit by the municipality against the owner of the  
28 real estate. In such a suit, the municipality shall have the right to a judgment for per year charges,

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1 interest at the rate of 12 percent from the date of the last unpaid bill to the date of judgment, and  
2 costs. The records in the municipal department which furnished the services shall be sufficient  
3 notice to maintain suit upon the lien against subsequent purchasers or attaching creditors of the real  
4 estate.

5 (d) When the services were furnished to some person or legal entity other than the  
6 owner of the real estate, the liens provided for in this paragraph shall be effective against the owner  
7 of the real estate only for charges of which the owner of the real estate was notified by the  
8 municipality within 120 days of the date the charges became delinquent; provided, however, that a  
9 municipality may meet these notice requirements by mailing to the owner of the real estate copies of  
10 the bills for services at the same time bills are furnished to the person or legal entity which received  
11 the services.

12 ***III. No municipally owned electric, gas, water, or wastewater utility shall perform***  
13 ***non-emergency work with a total cost in excess of \$250 per project on facilities on customer***  
14 ***property beyond the utility's final shutoff point or the point at which the property owner is***  
15 ***responsible for construction or maintenance, or both, unless a written contract has been***  
16 ***executed and signed between the owner or an authorized representative of the property and***  
17 ***an authorized representative of the utility. The contract shall include the terms of the***  
18 ***work to be performed, the name and address of the property owner, the location of the work***  
19 ***to be performed, the estimated price of the work, the time of completion, and any other***  
20 ***agreed upon stipulations relating to the project. No lien shall be placed on the property***  
21 ***for such work in the absence of such a contract.***

22 178:2 Effective Date. This act shall take effect 60 days after its passage.

23 Approved: June 11, 2012

24 Effective Date: August 10, 2012