

CHAPTER 158
SB 371 – FINAL VERSION

03/07/12 0811s
9May2012... 1645h

2012 SESSION

12-2979
05/01

SENATE BILL **371**

AN ACT allowing a lien for labor and materials for professional design services.

SPONSORS: Sen. Luther, Dist 12; Sen. Barnes, Jr., Dist 17; Sen. Boutin, Dist 16; Sen. Bragdon,
Dist 11; Sen. Groen, Dist 6; Sen. Lambert, Dist 13; Rep. J. Belanger, Hills 5;
Rep. Seidel, Hills 20; Rep. Flanagan, Hills 5

COMMITTEE: Commerce

AMENDED ANALYSIS

This bill adds design professionals to the tradesmen who are currently able to file and perfect a mechanic's lien for nonpayment of work related to a construction project.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 allowing a lien for labor and materials for professional design services.

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

1 158:1 Liens for Professional Design Services; Vessels and Buildings. Amend RSA 447:1 and
2 447:2 to read as follows:

3 447:1 Vessels. If a person shall [~~by himself or others,~~] perform labor, **provide professional**
4 **design services as defined in RSA 447:2**, or furnish materials toward building, repairing, fitting
5 or furnishing a vessel within this state, payment for which is due, he **or she** shall have a lien
6 therefor on the vessel for the space of 4 days after it is completed.

7 447:2 Buildings, etc.

8 **I.** If any person shall [~~by himself or others,~~] perform labor, **provide professional design**
9 **services**, or furnish materials to the amount of \$15 or more for erecting or repairing a house or other
10 building or appurtenances, or for building any dam, canal, sluiceway, well or bridge, or for
11 consumption or use in the prosecution of such work, other than for a municipality, by virtue of a
12 contract with the owner thereof, he **or she** shall have a lien on any material so furnished and on said
13 structure, and on any right of the owner to the lot of land on which it stands.

14 **II. In this section, “professional design services” means any services provided by a**
15 **licensed architect, licensed landscape architect, licensed engineer, permitted septic**
16 **designer, certified wetland scientist, certified soil scientist, or licensed land surveyor that**
17 **is directly related to the improvement of real property.**

18 158:2 Subcontractor Liens; Notice of Liens; Railroads; Account; Reference to Professional Design
19 Services Added. Amend RSA 447:5 - 447:8 to read as follows:

20 447:5 Subcontractors. If a person shall [~~by himself or others~~] perform labor, **provide**
21 **professional design services as defined in RSA 447:2**, or furnish materials to the amount of \$15
22 or more for any of the purposes specified in RSA 447:2, 447:3 and 447:4 and in RSA 453, by virtue of
23 a contract with an agent, contractor or subcontractor of the owner, [~~he~~] **the person** shall have the
24 same lien as provided in said sections, provided, that he **or she** gives notice in writing to the owner
25 or to the person having charge of the property that he **or she** shall claim such lien before performing
26 the labor or furnishing the material for which it is claimed.

27 447:6 Notice. Such notice may be given after the labor is performed, **the professional design**
28 **services are provided**, or the material is furnished, and said lien shall be valid to the extent of the

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1 amount then due or that may thereafter become due to the contractor, agent or subcontractor of the
2 owner. The account required under RSA 447:8 may also be given at the time said notice is given.

3 447:7 Railroads. If a person shall [~~by himself or others,~~] perform labor, **provide professional**
4 **design services**, or furnish materials to the amount of \$15 or more, in the grading, masonry,
5 bridging or track-laying of a railroad, under a contract with an agent, contractor or subcontractor of
6 the proprietors thereof, [~~he~~] **the person** shall have a lien upon the railroad and the land upon which
7 it is constructed; provided, that he **or she** gave notice in writing to such proprietors, or to the person
8 having charge of the railroad, that he **or she** should claim such lien before performing the labor,
9 **providing the services**, or furnishing the materials for which it is claimed.

10 447:8 Account. Any person giving notice as provided in RSA 447:5-7 shall, as often as once in
11 30 days, furnish to the owner, or person having charge of the property on which the lien is claimed,
12 an account in writing of the labor performed, **professional design services provided**, or materials
13 furnished during the 30 days; and the owner or person in charge shall retain a sufficient sum of
14 money to pay such claim, and shall not be liable to the agent, contractor or subcontractor therefor,
15 unless the agent, contractor or subcontractor shall first pay it.

16 158:3 Precedence Over Lien Claims. Amend RSA 447:11 to read as follows:

17 447:11 Precedence. Such attachment shall have precedence over all lien claims for labor,
18 **professional design services**, materials, or other things done or furnished after the attachment
19 was made, except the same were done or furnished in the performance of a contract existing when
20 the attachment was made, or were necessary for the preservation of the property attached.

21 158:4 State Work. Amend RSA 447:15 to read as follows:

22 447:15 State Work. The liens given by RSA 447:5-14, inclusive, shall attach to any money due
23 or to become due from the state or from any political subdivision thereof by virtue of any contract for
24 any public work or construction, alteration, or repair, in the performance of which contract the lienor
25 participated by performing labor, **providing professional design services**, or furnishing materials
26 or supplies. Such liens shall not attach, however, unless filed within 90 days after the completion
27 and acceptance of the project by the contracting party, whether such contracting party is the state or
28 any political subdivision of the state.

29 158:5 Reference Change; Liens for Lumber, Etc. Amend RSA 447:4 to read as follows:

30 447:4 Lumber, etc. If a person shall, [~~by himself or others, or~~] by teams or machinery, perform
31 labor or furnish supplies to the amount of \$15 or more toward rafting, driving, cutting, hauling,
32 sawing or drawing wood, bark, lumber or logs, or toward cooking or hauling supplies in aid of such
33 labor, by virtue of a contract with the owner of the wood, bark, lumber or logs, he **or she** shall have a
34 lien thereon for such labor or supplies.

35 158:6 Effective Date. This act shall take effect January 1, 2013.

36 Approved: June 7, 2012

Effective Date: January 1, 2013