

CHAPTER 86
HB 1122-FN – FINAL VERSION

12Feb2014... 0438h
25Mar2014... 1052h
04/24/14 1401s

2014 SESSION

14-2160
10/03

HOUSE BILL ***1122-FN***

AN ACT relative to the filing with a registry of deeds of a fraudulent document purporting to create a lien or claim against real property.

SPONSORS: Rep. P. Schmidt, Straf 19; Rep. Walz, Merr 23; Sen. Carson, Dist 14

COMMITTEE: Legislative Administration

AMENDED ANALYSIS

This bill establishes requirements for registers of deeds or other public official presented with a fraudulent filing of a document purporting to create a lien on or assert a claim or interest on real property. The bill establishes criminal penalties for persons who file fraudulent documents or instruments with the registry of deeds.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Fourteen

AN ACT relative to the filing with a registry of deeds of a fraudulent document purporting to create a lien or claim against real property.

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

1 86:1 New Subdivision; Fraudulent Filings. Amend RSA 478 by inserting after section 41 the
2 following new subdivision:

Fraudulent Filings

4 478:42 Fraudulent Filings.

5 I. A person may not knowingly present for filing or cause to be presented for filing in a
6 registry or other public office, any type of document that fraudulently purports to be a judgment or
7 other document to memorialize or evidence an act, order, directive, or process of creating a lien
8 without having been authorized under state law, the Constitution, or the laws of the United States.

9 II. For purposes of this section, a document or instrument that purports to create a lien on,
10 assert a claim against, or assert an interest in, real or personal property, is presumed to be
11 fraudulent if it:

12 (a) Is not certified or ordered by a court or a judicial entity expressly created or
13 established under the Constitution or the laws of this state or of the United States; or

14 (b) Is not a document or instrument provided for by the Constitution or the laws of this
15 state or the United States.

16 III. Nothing contained herein shall affect the validity of a mechanic's or statutory lien
17 created pursuant to state or federal law.

18 IV. If a register of deeds or other public official believes in good faith that a document filed
19 with the registry of deeds or other public office purports to create a lien that is fraudulent, the
20 register or other public official shall index the document only under the signer of the document in the
21 grantor index and shall identify the document as a notice in the document type. No other names
22 appearing on the document shall be indexed.

23 (a) The register or other public official shall send a copy of such document to the county
24 attorney for the county where the document was filed or to the New Hampshire attorney general's
25 office for review and possible prosecution.

26 (b) The county attorney or attorney general receiving a copy of a document under
27 subparagraph (a) shall send a notice of the action taken under this paragraph to the person

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1 presenting or causing such filing by regular mail at his or her last known address no later than the
2 next business day after such action.

3 (c) Any such document or instrument on file with the registry of deeds or other public
4 office presumed to be fraudulent or deemed fraudulent as described in this section shall be
5 considered invalid, void, and having no force or effect on any named person or persons named within
6 the document or instrument.

7 (d) Any register of deeds or other public official acting in good faith pursuant to this
8 chapter shall be immune from civil and criminal liability.

9 V. Any person who knowingly files a document or instrument to fraudulently create a lien on
10 real or personal property shall be guilty of a class B felony.

11 86:2 Effective Date. This act shall take effect upon its passage.

12

13 Approved: June 11, 2014

14 Effective Date: June 11, 2014