

Bill as
Introduced

SB 371 - AS INTRODUCED

2012 SESSION

12-2979
05/01

SENATE BILL

371

AN ACT

allowing a lien for labor and materials for professional design work.

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

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. The bill also extends the period of time a lien may be filed from 120 days to 180 days after work is completed.

Explanation:

Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struckthrough~~].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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 work.

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

1 1 Liens for Labor and Materials; Buildings; Professional Design Work. Amend RSA 447:2 to
2 read as follows:

3 447:2 Buildings, etc.

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

11 II. *In this section, "professional design work" means a work product of a licensed*
12 *architect, landscape architect, engineer, or surveyor that is directly related to the*
13 *improvement of real property.*

14 2 Subcontractor Liens. Amend RSA 447:5 to read as follows:

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

22 3 Duration of Lien. Amend RSA 447:9 to read as follows:

23 447:9 Duration. The lien created by RSA 447:2-7, inclusive, shall continue for [~~120~~] *180* days
24 after the services are performed, or the materials, supplies or other things are furnished, unless
25 payment therefor is previously made, and shall take precedence of all prior claims except liens on
26 account of taxes.

27 4 Effective Date. This act shall take effect January 1, 2013.

SB 371 – AS AMENDED BY THE SENATE

03/07/12 0811s

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

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

3 447:1 Vessels. If a person shall, [~~by himself or~~] ***as an individual or with*** others, perform
4 labor, ***provide professional design services as defined in RSA 447:2***, or furnish materials
5 toward building, repairing, fitting or furnishing a vessel within this state, payment for which is due,
6 he ***or she*** shall have a lien 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~~] ***as an individual or with*** others, perform labor,
9 ***provide professional design services***, or furnish materials to the amount of \$15 or more for
10 erecting or repairing a house or other building or appurtenances, or for building any dam, canal,
11 sluiceway, well or bridge, or for consumption or use in the prosecution of such work, other than for a
12 municipality, by virtue of a contract with the owner thereof, he ***or she*** shall have a lien on any
13 material so furnished and on said structure, and on any right of the owner to the lot of land on which
14 it stands.

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

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

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

28 447:6 Notice. Such notice may be given after the labor is performed, ***the professional design***
29 ***services are provided***, or the material is furnished, and said lien shall be valid to the extent of the
30 amount then due or that may thereafter become due to the contractor, agent or subcontractor of the

1 owner. The account required under RSA 447:8 may also be given at the time said notice is given.

2 447:7 Railroads. If a person shall, [~~by himself or~~] **as an individual or with** others, perform
3 labor, **provide professional design services**, or furnish materials to the amount of \$15 or more, in
4 the grading, masonry, bridging or track-laying of a railroad, under a contract with an agent,
5 contractor or subcontractor of the proprietors thereof, [~~he~~] **the person** shall have a lien upon the
6 railroad and the land upon which it is constructed; provided, that he **or she** gave notice in writing to
7 such proprietors, or to the person having charge of the railroad, that he **or she** should claim such
8 lien before performing the labor, **providing the services**, or furnishing the materials for which it is
9 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 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 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 5 Effective Date. This act shall take effect January 1, 2013.

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.

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Explanation: Matter added to current law appears in ***bold italics***.
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CHAPTER 158
SB 371 - FINAL VERSION

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

12-2979
05/01

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

CHAPTER 158
SB 371 – FINAL VERSION

- Page 2 -

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

Amendments



Amendment to SB 371

1 Amend the title of the bill by replacing it with the following:

2

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

4

5 Amend the bill by replacing all after the enacting clause with the following:

6

7 1 Liens for Professional Design Services; Vessels and Buildings. Amend RSA 447:1 and 447:2 to
8 read as follows:

9 447:1 Vessels. If a person shall, ~~[by himself or]~~ *as an individual or with* others, perform
10 labor, *provide professional design services as defined in RSA 447:2*, or furnish materials
11 toward building, repairing, fitting or furnishing a vessel within this state, payment for which is due,
12 he *or she* shall have a lien therefor on the vessel for the space of 4 days after it is completed.

13 447:2 Buildings, etc.

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

21 II. In this section, "*professional design services*" means any services provided by a
22 *licensed architect, licensed landscape architect, licensed engineer, permitted septic*
23 *designer, certified wetland scientist, certified soil scientist, or licensed land surveyor that*
24 *is directly related to the improvement of real property.*

25 2 Subcontractor Liens; Notice of Liens; Railroads; Account; Reference to Professional Design
26 Services Added. Amend RSA 447:5 - 447:8 to read as follows:

27 447:5 Subcontractors. If a person shall ~~[by himself or]~~ *as an individual or with* others
28 perform labor, *provide professional design services as defined in RSA 447:2*, or furnish
29 materials to the amount of \$15 or more for any of the purposes specified in RSA 447:2, 447:3 and
30 447:4 and in RSA 453, by virtue of a contract with an agent, contractor or subcontractor of the
31 owner, ~~[he]~~ *the person* shall have the same lien as provided in said sections, provided, that he *or*
32 *she* gives notice in writing to the owner or to the person having charge of the property that he *or she*



1 shall claim such lien before performing the labor or furnishing the material for which it is claimed.

2 447:6 Notice. Such notice may be given after the labor is performed, *the professional design*
3 *services are provided*, or the material is furnished, and said lien shall be valid to the extent of the
4 amount then due or that may thereafter become due to the contractor, agent or subcontractor of the
5 owner. The account required under RSA 447:8 may also be given at the time said notice is given.

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

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

20 3 Precedence Over Lien Claims. Amend RSA 447:11 to read as follows:

21 447:11 Precedence. Such attachment shall have precedence over all lien claims for labor,
22 *professional design services*, materials, or other things done or furnished after the attachment
23 was made, except the same were done or furnished in the performance of a contract existing when
24 the attachment was made, or were necessary for the preservation of the property attached.

25 4 State Work. Amend RSA 447:15 to read as follows:

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

33 5 Effective Date. This act shall take effect January 1, 2013.



2012-0635s

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.



Amendment to SB 371

1 Amend the title of the bill by replacing it with the following:

2

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

4

5 Amend the bill by replacing all after the enacting clause with the following:

6

7 1 Liens for Professional Design Services; Vessels and Buildings. Amend RSA 447:1 and 447:2 to
8 read as follows:

9 447:1 Vessels. If a person shall, ~~[by himself or]~~ **as an individual or with** others, perform
10 labor, **provide professional design services as defined in RSA 447:2**, or furnish materials
11 toward building, repairing, fitting or furnishing a vessel within this state, payment for which is due,
12 he **or she** shall have a lien therefor on the vessel for the space of 4 days after it is completed.

13 447:2 Buildings, etc.

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

21 II. In this section, "**professional design services**" means any services provided by a
22 **licensed architect, licensed landscape architect, licensed engineer, permitted septic**
23 **designer, certified wetland scientist, certified soil scientist, or licensed land surveyor that**
24 **is directly related to the improvement of real property.**

25 2 Subcontractor Liens; Notice of Liens; Railroads; Account; Reference to Professional Design
26 Services Added. Amend RSA 447:5 - 447:8 to read as follows:

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30 447:4 and in RSA 453, by virtue of a contract with an agent, contractor or subcontractor of the
31 owner, ~~[he]~~ **the person** shall have the same lien as provided in said sections, provided, that he **or**
32 **she** gives notice in writing to the owner or to the person having charge of the property that he **or she**



1 shall claim such lien before performing the labor or furnishing the material for which it is claimed.

2 447:6 Notice. Such notice may be given after the labor is performed, **the professional design**
3 **services are provided**, or the material is furnished, and said lien shall be valid to the extent of the
4 amount then due or that may thereafter become due to the contractor, agent or subcontractor of the
5 owner. The account required under RSA 447:8 may also be given at the time said notice is given.

6 447:7 Railroads. If a person shall, [~~by himself or~~] **as an individual or with** others, perform
7 labor, **provide professional design services**, or furnish materials to the amount of \$15 or more, in
8 the grading, masonry, bridging or track-laying of a railroad, under a contract with an agent,
9 contractor or subcontractor of the proprietors thereof, [~~he~~] **the person** shall have a lien upon the
10 railroad and the land upon which it is constructed; provided, that he **or she** gave notice in writing to
11 such proprietors, or to the person having charge of the railroad, that he **or she** should claim such
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14 447:8 Account. Any person giving notice as provided in RSA 447:5-7 shall, as often as once in
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16 an account in writing of the labor performed, **professional design services provided**, or materials
17 furnished during the 30 days; and the owner or person in charge shall retain a sufficient sum of
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20 3 Precedence Over Lien Claims. Amend RSA 447:11 to read as follows:

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25 4 State Work. Amend RSA 447:15 to read as follows:

26 447:15 State Work. The liens given by RSA 447:5-14, inclusive, shall attach to any money due
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29 participated by performing labor, **providing professional design services**, or furnishing materials
30 or supplies. Such liens shall not attach, however, unless filed within 90 days after the completion
31 and acceptance of the project by the contracting party, whether such contracting party is the state or
32 any political subdivision of the state.

33 5 Effective Date. This act shall take effect January 1, 2013.



2012-0811s

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.

Rep. Schlachman, Rock. 13

Rep. Manuse, Rock. 5

Rep. McGuinness, Hills. 20

April 13, 2012

2012-1645h

05/10

Amendment to SB 371

Amend RSA 447:1 and 447:2 as inserted by section 1 of the bill by replacing them with the following:

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

447:2 Buildings, etc.

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

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

Amend RSA 447:5 as inserted by section 2 of the bill by replacing it with the following:

447:5 Subcontractors. If a person shall [~~by himself or others~~] perform labor, **provide professional design services as defined in RSA 447:2**, or furnish materials to the amount of \$15 or more for any of the purposes specified in RSA 447:2, 447:3 and 447:4 and in RSA 453, by virtue of a contract with an agent, contractor or subcontractor of the owner, [~~he~~] **the person** shall have the same lien as provided in said sections, provided,

that he *or she* gives notice in writing to the owner or to the person having charge of the property that he *or she* shall claim such lien before performing the labor or furnishing the material for which it is claimed.

Amend RSA 447:7 as inserted by section 2 of the bill by replacing it with the following:

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

Amend the bill by inserting after section 4 the following and renumbering the original section 5 to read as 6:

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

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

Committee Minutes

**SENATE CALENDAR NOTICE
COMMERCE**

Senator Russell Prescott Chairman
 Senator Raymond White V Chairman
 Senator Tom De Blois
 Senator Matthew Houde
 Senator Andy Sanborn

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: January 11, 2012

HEARINGS

Tuesday

1/17/2012

COMMERCE

LOB 102

9:00 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

9:00 AM	SB355	clarifying the exemption for attorneys from licensing requirements for mortgage brokers or bankers.
9:10 AM	SB371	allowing a lien for labor and materials for professional design work.
9:30 AM	SB205	revising the New Hampshire business corporations act, RSA 293-A.
9:50 AM	SB203-FN-A	relative to limited liability companies.

Sponsors:

SB355

Sen. Matthew Houde

Sen. Gary Lambert

Rep. David Hess

Rep. Marie Sapienza

SB371

Sen. Jim Luther

Sen. John Barnes, Jr.

Sen. David Boutin

Sen. Peter Bragdon

Sen. Fenton Groen

Sen. Gary Lambert

Rep. James Belanger

Rep. Carl Seidel

Rep. Jack Flanagan

SB205

Sen. Jim Luther

SB203-FN-A

Sen. Jeb Bradley

Rep. John Hunt

Rep. David Bettencourt

Rep. Gene Chandler

Rep. Pamela Tucker

Rep. Kenneth Weyler

Sen. John Barnes, Jr.

Sen. Gary Lambert

Sen. David Boutin

Sen. Jim Rausch

Sen. Tom De Blois

Sen. Jim Luther

Commerce Committee Hearing Report

To: Member of the Senate

From: Patrick Murphy, *Legislative Aide*

Re: Hearing Report on SENATE BILL 371 allowing a lien for labor and materials for professional design work.

Hearing Date: Tuesday, January 17, 2012

Members of the Committee Present:

Senator Prescott, Senator White, Senator Sanborn, Senator De Blois, Senator Houde

Members of the Committee Absent:

None

Sponsor(s):

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

What the bill does:

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. The bill also extends the period of time a lien may be filed from 120 days to 180 days after work is completed.

Supporters of the bill:

Senator Luther, Dist 12; Senator Boutin, Dist 16; Senator Groen, Dist 6; Rep. Flanagan, Hills 5; Rep. Belanger, Hills 5; Paul Morin, Engineers, Surveyors, Architects, & Septic Designers; Alex Koutroubas, American Council of Engineering Companies of NH; Bob Cormier, Cuoco & Cormier Engineering; Anthony Basso, Keach & Nordstrom Associates; Tricia Grahame, The Abacus Group; John Dennehy, Donovan Hatery LLP; Jackie Roy, AJRoy Excavation/GSDI

Those in opposition to the bill:

None

Summary of testimony received:

Senator Luther, Dist 12

- This legislation was introduced on behalf of a constituent to address a challenge in this industry.
- Mentioned that an amendment is needed to address septic designers. Will prepare an amendment and get it to the Committee.

Paul Morin, Engineers, Surveyors, Architects, & Septic Designers

- An update is needed to this statute. This statute dates back to the mid 1800's. The work done by these professionals adds value to a project. This bill doesn't change anything for land owners.
- In response to questions from the Committee, Mr. Morin responded that there has been very little case law on this issue.

Senator White disclosed that Anthony Basso is a client of his but he will participate in the process on SB 371

Senator Prescott disclosed that he is a licensed engineer but he will participate in the process on SB 371

Bob Cormier, Cuoco & Cormier Engineering

- The work he has been doing adds value to the projects he is associated with. A large amount of work goes into these projects and the last thing we want to do is slow down the process by holding back our plans until we receive payment for our services. If we had to go to court every time we didn't get payment on time it wouldn't be worthwhile.

Anthony Basso, Keach & Nordstrom Associates

- We actually don't have the option of stopping work to wait for payment because if we did the project would miss its timeline and could lapse and we could be taken to court. Our firm has been sued for this exact issue and the current market has only exasperated this problem.

Attorney John Dennehy, Donovan Haterly LLP

- There is no existing law that unequivocally protects these professionals. There has been one Supreme Court case but it didn't directly address this issue. Maine, Connecticut and Massachusetts have similar statutes to the one being proposed today.
- We have seen a draft of the amendment and we would like some time to revise it and work with the sponsor on a new draft that would address design builders. A total of 31 other states have similar statutes.

Closed

Funding:

None

Action:

Pending

Speakers

Senate Commerce Committee: Sign-In Sheet

Date: January 17, 2012

Time: 9:10 a.m.

Public Hearing on SB 371

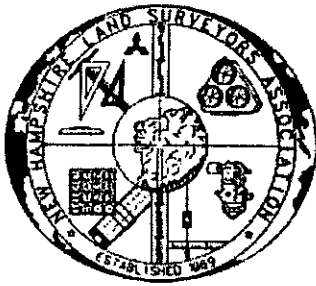
SB 371

Allowing a lien for labor and materials for professional design work

Name	Representing	Support	Oppose	Speaking?	Yes	No
✓ Senator David Burtin	District # 16	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
✓ PAUL MORIN	ENGINEERS, SURVEYORS, ARCHITECTS, SEPTIC DESIGNERS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
✓ Alex Koutroubas	American Council of Engineering Companies of New Hampshire	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
✓ Bob Cormier	Cuoco & Cormier Engineering	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
✓ Anthony Basso	KERCH NORDEMAN ASSOCIATES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
✓ John Dennehy	Donovan Hately LLP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
✓ Charles Roy	AT Roy Excavation / CSDI	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Rep. Jim Kuhse	Dist. 12	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
Rep. Dick Flanagan	District 5	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
REP JIM BELANGER	HILLS DIST 5	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>

GRANITE STATE SEPTIC DESIGNERS

Testimony



NEW HAMPSHIRE LAND SURVEYORS ASSOCIATION

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Raymond, New Hampshire 03077-0689

TELEPHONE: 800-698-5447 - 603-895-4822 - FAX: 603-462-0343

web site address: www.nhlsa.org

email address: info@nhlsa.org

January 17, 2012

New Hampshire State Senate
Commerce Committee, Rm 102 LOB
107 North Main Street
Concord, NH 03301

Re: SB 371 Letter of Support.

Dear Committee Members,

The New Hampshire Land Surveyors Association is pleased to strongly support SB 371, allowing a lien for labor and materials for professional design work. This clarification will allow Licenced Land Surveyors to have more flexibility in how we pursue delinquent receivables, and in turn benefit small businesses within our association.

We understand that this bill will cover not only our work product which is performed for contemplated development (such as subdivision, condominium, etc.), but also our work product which depicts a properties existing conditions (such as a boundary, topographic or as-built / certifications, etc.).

Although we were unable to attend today's hearing, we would be available to review and respond to potential amendments should there be a need. Feel free to contact me if you have any questions or comments.

Very truly yours,
The New Hampshire Land Surveyors Association

Kenneth C. Clinton, LLS/PLS
Government Affairs Director

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603-895-4822

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: February 15, 2012

THE COMMITTEE ON Commerce

to which was referred Senate Bill 371

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

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 4-0

AMENDMENT # 0811s

Senator Tom De Blois
For the Committee

Patrick Murphy 271-3067

New Hampshire General Court - Bill Status System

Docket of SB371

Docket Abbreviations

Bill Title: (New Title) allowing a lien for labor and materials for professional design services.*Official Docket of SB371:*

Date	Body	Description
1/1/2012	S	Introduced 1/4/2012 and Referred to Commerce; SJ 1 , Pg.14
1/12/2012	S	Hearing: 1/17/12, Room 102, LOB, 9:10 a.m.; SC3
2/16/2012	S	Committee Report: Ought to Pass with Amendment # 2012-0811s , NT, 3/7/12; SC9
3/7/2012	S	Committee Amendment 0811s, NT, AA, VV; SJ 6 , Pg.153
3/7/2012	S	Ought to Pass with Amendment 0811s, NT, MA, VV; OT3rdg; SJ 6 , Pg.154
3/8/2012	H	Introduced and Referred to Commerce and Consumer Affairs; HJ 23 , PG.1448
3/27/2012	H	Public Hearing: 4/10/2012 11:00 AM LOB 302 ==Banking/Business Div==
4/17/2012	H	Full Committee Work Session: 4/24/2012 2:45 PM LOB 302
4/17/2012	H	Full Committee Work Session: 5/1/2012 10:30 AM LOB 302 ==Executive Session To Follow==
5/2/2012	H	Committee Report: Ought to Pass with Amendment #1645h for May 9 (Vote 14-0; CC); HC 36 , PG.2008
5/2/2012	H	Proposed Committee Amendment # 2012-1645h ; HC 36 , PG.2027-2028
5/9/2012	H	Amendment #1645h Adopted, VV; HJ 40 , PG.2232
5/9/2012	H	Ought to Pass with Amendment #1645h: MA VV; HJ 40 , PG.2232
5/16/2012	S	Sen. Prescott Concurs with House Amendment 1645h, MA, VV;
5/23/2012	S	Enrolled
5/30/2012	H	Enrolled [Recessed from 5/17/2012 Session]
6/7/2012	S	Signed by the Governor on 06/07/2012; Chapter 0158; Effective 01/01/2013

NH House

NH Senate

Other Referrals

COMMITTEE REPORT FILE INVENTORY

SB 371 ORIGINAL REFERRAL _____ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- HANDOUTS FROM THE PUBLIC HEARING
- PREPARED TESTIMONY AND OTHER SUBMISSIONS
- SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 0635s - AMENDMENT # 0811s
____ - AMENDMENT # _____ ____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED ____ AS AMENDED BY THE HOUSE
 FINAL VERSION AS AMENDED BY THE SENATE

- OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): amendment 164Cb

DATE DELIVERED TO SENATE CLERK 6-26-12

Patrick Murphy
BY COMMITTEE AIDE