

**HOUSE . . . . . No. 1769**

---

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the Year Two Thousand Nine**  
\_\_\_\_\_

An Act Amending The Mechanic's Lien Law..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 1 of chapter 254 of the General Laws, as appearing in the 2006  
2 Official Edition, is hereby amended by striking out section 1 and replacing with :-

3 As used in this chapter the following words shall, unless the context clearly requires  
4 otherwise, have the following meaning:—

5 Definitions

6 (a) The term “design professional” refers to licensed architects, registered professional  
7 engineers, registered land surveyors, and licensed site professionals.

8 (b) The term “professional services” refers to those services performed by licensed  
9 architects, registered professional engineers, registered land surveyors and licensed site  
10 professionals and includes design, planning, construction administration and surveying services.

11 A person to whom a debt is due for personal labor or professional services performed in  
12 the design, planning, construction administration, surveying, erection, alteration, repair or

13 removal of a building or structure upon land or improvement or alteration to real property, by  
14 virtue of an agreement with, or by consent of, the owner of such building or structure, or of a  
15 person having authority from or rightfully acting for such owner in procuring or furnishing such  
16 professional services or labor, shall, under the provisions of this chapter, other than section four,  
17 have a lien upon such building or structure and upon such interest in such real property, land,  
18 building, structure, or improvement owned by the party authorizing or consenting to said work or  
19 professional services, for not more than thirty days' work or services actually performed for the  
20 ninety days next prior to his filing a statement as provided in section eight.

21 A person or his assignee, agent, authorized representative or third party beneficiary, to  
22 whom amounts are due or for whose benefit amounts are computed and due for, or on the basis  
23 of, the personal labor or professional services of such person, may file a lien to secure the  
24 payment of such unpaid amounts including interest and agreed penalties for failure to pay the  
25 same.

26 SECTION 2. Section 2 of said chapter 254, is hereby amended by striking out section 2  
27 and replacing with :- Section 2. A person entering into a written contract with the owner of any  
28 interest in real property, or with any person acting for, on behalf of, or with the consent of such  
29 owner for the whole or part of the design, planning, construction administration, surveying,  
30 erection, alteration, repair or removal of a building, structure, or other improvement to real  
31 property, or for furnishing material or rental equipment, appliances, or tools therefor, shall have  
32 a lien upon such real property, land, building, structure or improvement owned by the party with  
33 whom or on behalf of whom the contract was entered into, as appears of record on the date when  
34 notice of said contract is filed or recorded in the registry of deeds for the county or district where  
35 such land lies, to secure the payment of all labor, including construction management and

36 general contractor services, professional services and material or rental equipment, appliances, or  
37 tools which shall be furnished by virtue of said contract. Said notice may be filed or recorded in  
38 the registry of deeds in the county or registry district where the land lies by any person entitled  
39 under this section to enforce a lien, and shall be in substantially the following form:

40 Notice is hereby given that by virtue of a written contract dated \_\_\_\_, between \_\_\_\_, owner,  
41 and \_\_\_\_, contractor, or \_\_\_\_, design professional, said contractor or design professional is to  
42 furnish or has furnished labor and material or professional services or rental equipment,  
43 appliances or tools for the design, planning, construction administration, surveying, erection,  
44 alteration, repair or removal of a building, structure, or other improvement on a lot of land or  
45 other interest in real property described as follows:

46 (INSERT DESCRIPTION)

47 Such person may file or record the notice of contract at any time after execution of the  
48 written contract whether or not the date for performance stated in such written contract has  
49 passed and whether or not the work or services under such written contract has been performed,  
50 but not later than the earliest of: (i) sixty days after filing or recording of the notice of substantial  
51 completion under section two A; or (ii) ninety days after filing or recording of the notice of  
52 termination under section two B; or (iii) ninety days after such person or any person by, through  
53 or under him last performed services or performed labor or furnished labor or materials or both  
54 labor and

55 SECTION 3. Section 2B of said chapter 254, as so appearing, is hereby amended by  
56 inserting after the word “contractor”, in line 9, the following words:- or as design professional  
57 for the design, planning, construction, administration or surveying services.

58 SECTION 4. Said Section 2B of said chapter 254, as so appearing, is hereby amended by  
59 inserting after the word “contractor” in line 16, the following words:- or design professional.

60 SECTION 5. Section 4 of said chapter 254, as so appearing , is hereby amended by  
61 inserting the following:-

62 Section 4A. Design professionals who provide professional services under a written  
63 contract with an Owner may file or record in the registry of deeds for the county or district where  
64 such land lies a notice of his contract substantially in the following form:

65 Notice is hereby given that by virtue of a written contract dated \_\_\_\_, between \_\_\_\_  
66 design professional and \_\_\_\_ said \_\_\_\_ has provided design, planning, construction administration  
67 or surveying services relating to a building, structure or other improvement of real property by  
68 \_\_\_\_, design professional for \_\_\_\_, owner, on a lot of land or other interest in real property  
69 described as follows:

70 (Insert description)

71 As of the date of this notice, an account of said contract is as follows:

- 72 1. contract price \_\_\_\_\_
- 73 2. payments received \_\_\_\_\_
- 74 3. amount owed \_\_\_\_\_

75 The regular mailing address of the party recording or filing this notice is as follows: \_\_\_\_

76 Such person may file or record the notice of contract at any time after execution of the  
77 written contract whether or not the date for performance stated in such written contract has

78 passed and whether or not the services under such contract have been provided, but not later than  
79 the earliest of: (i) sixty days after filing or recording the notice of substantial completion under  
80 section two A; or (ii) ninety days after filing or recording of the notice of termination under  
81 section two B; or (iii) ninety days after the last day a person entitled to enforce a lien under  
82 section two or anyone claiming by through or under him performed or furnished labor or  
83 materials or both labor and materials to the project or furnished rental equipment, appliances or  
84 tools.

85           Such notice may also be filed by a person or his assignee, agent, authorized  
86 representative or third party beneficiary to whom amounts are due or for whose benefit amounts  
87 are computed and due for or on the basis of the services of that person providing services under a  
88 written contract and the person filing such notice shall not be required to itemize the amount of  
89 the contract, the amount of outstanding claims or the amount paid in such notice.

90           Upon filing or recording a notice, as hereinbefore provided, the design professional shall  
91 have a lien upon such real property, land, building, structure or improvement owned by the party  
92 who entered into the original contract as appears of record at the time of such filing, to secure the  
93 payment of all professional services provided for the building or structure or other improvement,  
94 regardless of the amount stated in the notice of contract. If the person claiming a lien under this  
95 section has no direct contractual relationship with the owner, but is a licensed architect or  
96 registered professional engineer acting as a sub-consultant, the sub-consultant shall, after filing  
97 or recording a notice, and giving actual notice to the owner of such filing, have a lien upon such  
98 real property, land, building, structure or improvement owned by the party who entered into the  
99 original contract with the licensed architect or registered professional engineer.

100 SECTION 6. Section 5 of said chapter 254, as so appearing, is hereby amended by  
101 inserting in line 1 the following words:- design, planning, construction administration, or  
102 surveying services.

103 SECTION 7. Section 7 of said chapter 254, as so appearing, is hereby amended by  
104 striking in lines 2 and 3 the following words:- ‘is in the’ and replacing with the following  
105 words:- or professional services provided is in design, planning, construction administration or  
106 surveying services.

107 SECTION 8. Section 8 of said chapter 254, as so appearing, is hereby amended by  
108 inserting in line 2 after the word “subcontractor” the following words:-design professional.