



**SPONSOR:**

**BILL:** \_\_\_\_\_

**AMEND STATUTE/S REGARDING MUNICIPAL LIENS TO ALLOW  
COUNTIES THE SAME AUTHORITY AS MUNICIPALITIES**

NMSA 1978, § 4-37-1 (1975) provides that “[a]ll counties are granted the same powers as municipalities except for those powers that are inconsistent with statutory or constitutional limitations placed on counties.” While the municipal lien statutes, NMSA 1978, §§ 3-36-1 through 7, are not inconsistent with statutory or constitutional limitations placed on counties, the statutes contain language that could be construed to mean that only municipalities may utilize the procedures outlined therein. A few minor changes that specifically includes mention of county liens and the county clerk in addition to municipal clerks and municipal liens would provide clarity to the statute by unequivocally granting to counties the authority to expediently take action to clean nuisance property or demolish unsafe buildings, without resorting to filing a lawsuit in district court to obtain an injunction, and then record a notice of lien.

Current statute language regarding municipal liens:

**3-36-1. Municipal lien; filing with county clerk; contents of lien; interest on principal amount of utility [lien]**

A. The municipal clerk shall file in the office of the county clerk any notice of lien created by ordinance or under authority of law. The notice of lien shall include:

- (1) The number of the ordinance under which the lien is established;
- (2) The fact that a lien is established;
- (3) The general purpose of the lien;
- (4) The name of the owner of the property against which the lien is established as determined from the records of the county assessor;
- (5) A description of the property against which the lien is established;
- (6) The amount of the lien; and
- (7) If the lien is for more than one period of time, the date for which the lien is established.

B. A lien for charges or assessments which are provided for or fixed by any one ordinance or under authority of law may be included in the same notice of lien, and it shall not be necessary to file separate liens against the separate properties. The lien shall be attested in the name of the municipal clerk under the seal of the municipality.

C. The principal amount of any lien imposed for a municipal utility charge or assessment shall bear interest at the rate of twelve percent per year from the date of filing the notice of the lien unless otherwise provided by law.

**3-36-2. Effect of filing notice of lien**

Fifty-First Legislature, Second Session, 2014

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After the filing of the notice of the lien in the office of the county clerk, the municipality shall have a lien upon the property described in the notice of lien. The filing of the notice of the lien shall be notice to all the world of the existence of the lien and of the contents of the notice of lien. No such lien shall affect the title or rights to or in any real estate, of any purchaser, mortgagee in good faith or judgment lien creditor, without knowledge of the existence of such lien, unless the notice of the lien is filed in accordance with Section 3-36-1 NMSA 1978 in the office of the county clerk of the county in which the real estate affected thereby is situated. All municipal liens filed in conformity with Sections 3-36-1 through 3-36-6 NMSA 1978 shall be first and prior liens on the property subject only to the lien of general state and county taxes.

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