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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/24/19

SPONSOR Tallman LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Municipal Lien Statute of Limitations SB 93

ANALYST Armstrong

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Municipal League (NMML)  
Department of Finance and Administration (DFA)

#### Responses Not Received From

Public Regulation Commission (PRC)  
New Mexico Counties

### SUMMARY

#### Synopsis of Bill

Senate Bill 93 (SB93) eliminates the four-year statute of limitations on municipal liens.

### FISCAL IMPLICATIONS

No fiscal impact to the state. It is possible that municipalities are losing out on revenue that could be earned from expired liens. However, given that the current four-year statute of limitation on liens, it is unlikely that an infinite amount of time would increase debtors' likelihood of paying, for example, an outstanding water or sewer bill. With the elimination of this statute of limitations, previously uncollected revenue from expired liens would likely only come from foreclosed properties for which banks pay outstanding debt.

## SIGNIFICANT ISSUES

A 2006 ruling by the New Mexico Court of Appeals in a case regarding unpaid water and sewer fees found that municipalities are subject to statutes of limitations and that municipal liens fall under the four-year statute of limitations on legal actions founded on accounts.

Municipalities may impose liens on private property, including for nonpayment of water and sewer bills and for the demolition of dangerous and dilapidated buildings. Once a lien is filed, the municipality must either wait until the building is sold or file a lawsuit to foreclose the lien in order to collect the money owed to it. According to NMML's analysis, the process usually takes well beyond four years and the cost of litigating a foreclosure suit exceeds the amount of the lien. Current law provides that the subsequent sale or foreclosure on the municipal lien must occur within four years in order for the municipality to collect the amount owed to it. SB93 enables municipalities to wait until the property is sold rather than to initiate legal proceedings in order to collect the debt.

DFA provided the following analysis:

Rather than removing the statute of limitation entirely, the Senate may consider extending the statute of limitations to be for a longer period beyond four years. For example, using the statute of limitations on contract or tax violations (which are six and seven years, respectively) may be a reasonable alternative.

Removing the statute of limitations from municipal liens could create problems for the sale of property in the long term. For example, if a property put up for sale this year had a lien issued in the year 2000 for a missed utility payment, prospective buyers would have to consider the cost of that lien (and its 12 percent interest rate) in addition to the price of the property.

JA/gb