

1 HOUSE BILL 379

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Christine Chandler

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10 AN ACT

11 RELATING TO WATER; ALLOWING ACEQUIAS AND COMMUNITY DITCHES TO
12 OBTAIN A LIEN ON PROPERTY PURSUANT TO MAGISTRATE AND DISTRICT
13 COURT JUDGMENTS.

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 73-2-26 NMSA 1978 (being Laws 1963,
17 Chapter 29, Section 1, as amended) is amended to read:

18 "73-2-26. ACTIONS FOR COLLECTION OF ASSESSMENTS--LIEN--

19 A. Whenever any person, after due notice, has
20 failed to do [~~his~~] work or has failed to pay any amount
21 assessed against [~~him~~] the person on any acequia or ditch, the
22 mayordomo or superintendent of the acequia or ditch may bring a
23 civil action for collection of the amount assessed. The
24 magistrate courts and the district courts have concurrent
25 jurisdiction in these actions and the actions may be brought in

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1 either forum at the election of the ditch officials. If the
2 ditch officials engage the services of an attorney to assist in
3 the collection of the assessments, the court shall charge the
4 offending party with a reasonable amount for attorney fees
5 incurred in the collection, if the ditch officials prevail in
6 the action.

7 B. Any person who continues to take or use water
8 from the acequia or ditch without paying the assessments and
9 attorney fees as set by a judgment under this section shall pay
10 a civil penalty for the benefit of the ditch or acequia of not
11 more than two hundred dollars (\$200). The penalty may be
12 recovered in an action by the ditch officials before the court
13 in the county where the acequia or ditch is located.

14 C. A money judgment rendered in a magistrate court
15 or district court under this section shall be a lien on the
16 judgment debtor's property to which the water rights that
17 incurred the fees or assessments are appurtenant. The lien
18 shall be effective from the date of filing a certified copy of
19 the judgment, if obtained from a magistrate court, or a
20 transcript of the judgment, if obtained from a district court,
21 in the office of the county clerk of the county in which the
22 property is located; provided that a judgment shall not be
23 filed with the county clerk pursuant to this subsection before
24 the last day to appeal the judgment has expired. The acequia
25 or community ditch officials shall provide written notice to

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1 the property owner that a lien has been placed on the property.
2 When the judgment has been fully satisfied, it is the duty of
3 the acequia or community ditch officials to file a release of
4 lien in the office of the county clerk of the county in which
5 the property is located. The cost of filing the release of
6 lien shall be assessed against the judgment debtor and shall be
7 collected before the release of lien is required to be filed.
8 All liens pursuant to this section shall be first and prior
9 liens on the property subject only to the lien of federal,
10 state or county taxes."