

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.

History: 1953 Comp., § 14-35-1, enacted by Laws 1965, ch. 300; 1981, ch. 213, § 3.

ANNOTATIONS

Bracketed material. — The bracketed material was inserted by the compiler and is not part of the law.

Cross references. — For lien for cost of removal of dangerous buildings or debris, *see* [3-18-5](#) NMSA 1978.

For lien for improvement by municipality of sanitary facilities, *see* [3-18-22](#) NMSA 1978.

For charge for service by municipal utility as a lien, *see* [3-23-6](#) NMSA 1978.

For lien of assessment for refuse collection service, *see* [3-48-7](#) NMSA 1978.

For lien of assessment for sidewalk repair or construction, *see* [3-49-4](#) NMSA 1978.

For statute of limitation, *see* [37-1-4](#) NMSA 1978.

Substantial compliance with section permits recovery. — Recovery may be had under this section if there is substantial compliance with its requirements. *Town of Hot Springs v. Able*, [1941-NMSC-062](#), [46 N.M. 149](#), [123 P.2d 720](#).

Duty of city to foreclose lien for holders of certificates. — Limitations of statute did not prevent municipality from constituting itself as trustee or agent of certificate holders for purpose of making assessments, including the enforcement and collection thereof, when authorized by statute, subject to constitutional and statutory limitations on the exercise of this power. Conceding that city was authorized to foreclose liens for delinquent assessments, the same right and duty was imposed upon certificate holders. They had duty to mandamus city to perform or to institute foreclosure proceedings. *Purcell v. City of Carlsbad*, 126 F.2d 748 (10th Cir. 1942).

City has right to lien for unpaid utility bills. 1959 Op. Att'y Gen. No. [59-128](#).

There is no specific statute of limitations for payment of utility bills and therefore such an action would be governed by [37-1-4](#) NMSA 1978. 1959 Op. Att'y Gen. No. [59-128](#).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 70A Am. Jur. 2d Special or Local Assessments §§ 178 to 213.

Priority between tax or assessment lien and mortgage or other nontax lien held by state or municipality, 159 A.L.R. 832.

Respective rights and estates of persons claiming real property through sales by different taxing agencies to enforce taxes or special assessments as between which there is a parity of lien, 167 A.L.R. 1001.

Validity and effect of agreement by property owner to pay assessment, 167 A.L.R. 1030.

Superiority of special or local assessment lien over earlier private lien or mortgage, where statute creating such special lien is silent as to superiority, 75 A.L.R.2d 1121.

63 C.J.S. Municipal Corporations §§ 1446, 1564 to 1571.