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AN ACT

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

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

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

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

A. Whenever any person, after due notice, has failed to do work or has failed to pay any amount assessed against the person on any acequia or ditch, the mayordomo or superintendent of the acequia or ditch may bring a civil action for collection of the amount assessed. The magistrate courts and the district courts have concurrent jurisdiction in these actions and the actions may be brought in either forum at the election of the ditch officials. If the ditch officials engage the services of an attorney to assist in the collection of the assessments, the court shall charge the offending party with a reasonable amount for attorney fees incurred in the collection, if the ditch officials prevail in the action.

B. Any person who continues to take or use water from the acequia or ditch without paying the assessments and

1 attorney fees as set by a judgment under this section shall
2 pay a civil penalty for the benefit of the ditch or acequia
3 of not more than two hundred dollars (\$200). The penalty may
4 be recovered in an action by the ditch officials before the
5 court in the county where the acequia or ditch is located.

6 C. A money judgment rendered in a magistrate court
7 or district court under this section shall be a lien on the
8 judgment debtor's property to which the water rights that
9 incurred the fees or assessments are appurtenant. The lien
10 shall be effective from the date of filing a certified copy of
11 the judgment, if obtained from a magistrate court, or a
12 transcript of the judgment, if obtained from a district court,
13 in the office of the county clerk of the county in which the
14 property is located; provided that a judgment shall not be
15 filed with the county clerk pursuant to this subsection before
16 the last day to appeal the judgment has expired and until all
17 appeals taken are exhausted. The acequia or community ditch
18 officials shall provide written notice to the property owner
19 that a lien has been placed on the property. When the
20 judgment has been fully satisfied, the acequia or community
21 ditch officials shall file a release of lien in the office of
22 the county clerk of the county in which the property is
23 located within fifteen days. The cost of filing the release
24 of lien shall be assessed against the judgment debtor and
25 shall be collected before the release of lien is required to

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be filed."

