

HOUSE BILL NO. 225

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES JOHNSTON BY REQUEST, Claman

Introduced: 4/11/17

Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to municipal liens."

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 09.45.169(2) is amended to read:

4 (2) "nonconsensual common law lien" means a lien on real or personal
5 property that

6 (A) is not provided for by a specific state or federal statute **or**
7 **municipal ordinance**;

8 (B) does not depend on the consent of the owner of the
9 property affected for its existence; and

10 (C) is not an equitable, constructive, or other lien imposed by a
11 court recognized under state or federal law;

12 * **Sec. 2.** AS 11.46.560(a) is amended to read:

13 (a) A person commits the crime of offering a false instrument for recording in
14 the second degree if

15 (1) under AS 40.17, the person presents a lien to the recorder for

1 registration, filing, or recording with reckless disregard that the lien is not

2 (A) provided for by a specific state or federal statute or
 3 municipal ordinance; or

4 (B) a lien imposed or authorized by a court recognized under
 5 state or federal law;

6 (2) under a law authorizing the receipt and filing of a document, the
 7 person presents a lien to a department or person having responsibility to accept a lien
 8 for filing with reckless disregard that the lien is not

9 (A) provided for by a specific state or federal statute or
 10 municipal ordinance; or

11 (B) a lien imposed or authorized by a court recognized under
 12 state or federal law; or

13 (3) the person presents to the recorder a notice of the pendency of an
 14 action affecting title to real property or the right to possession of real property with
 15 reckless disregard of the fact that the action specified does not concern the title to or
 16 right to possession of the real property referred to in the notice, or with reckless
 17 disregard of the fact that there is no pending action concerning the title to or right to
 18 possession of the real property referred to in the notice.

19 * **Sec. 3.** AS 29.35.010 is amended to read:

20 **Sec. 29.35.010. General powers.** All municipalities have the following
 21 general powers, subject to other provisions of law:

22 (1) to establish and prescribe a salary for an elected or appointed
 23 municipal official or employee;

24 (2) to combine two or more appointive or administrative offices;

25 (3) to establish and prescribe the functions of a municipal department,
 26 office, or agency;

27 (4) to require periodic and special reports from a municipal department
 28 to be submitted through the mayor;

29 (5) to investigate an affair of the municipality and make inquiries into
 30 the conduct of a municipal department;

31 (6) to levy a tax or special assessment, and impose a lien for its

1 enforcement;

2 (7) to enforce an ordinance and to prescribe a penalty for violation of
3 an ordinance;

4 (8) to acquire, manage, control, use, and dispose of real and personal
5 property, whether the property is situated inside or outside the municipal boundaries;
6 this power includes the power of a borough to expend, for any purpose authorized by
7 law, money received from the disposal of land in a service area established under
8 AS 29.35.450;

9 (9) to expend money for a community purpose, facility, or service for
10 the good of the municipality to the extent the municipality is otherwise authorized by
11 law to exercise the power necessary to accomplish the purpose or provide the facility
12 or service;

13 (10) to regulate the operation and use of a municipal right-of-way,
14 facility, or service;

15 (11) to borrow money and issue evidences of indebtedness;

16 (12) to acquire membership in an organization that promotes
17 legislation for the good of the municipality;

18 (13) to enter into an agreement, including an agreement for
19 cooperative or joint administration of any function or power with a municipality, the
20 state, or the United States;

21 (14) to sue and be sued;

22 (15) to provide facilities or services for the confinement and care of
23 prisoners and enter into agreements with the state, another municipality, or any person
24 relating to the confinement and care of prisoners;

25 (16) to receive grants from and contract with the Department of Public
26 Safety under AS 18.65.670;

27 **(17) to provide by ordinance for the creation, recording, and**
28 **notice of a lien on real or personal property to secure payment of past due utility**
29 **fees, costs incurred by the municipality in the abatement of an unsafe or**
30 **dangerous building, and other fees and charges provided for by ordinance;**
31 **except as otherwise provided by state law, when recorded, a municipal lien under**

1 **this paragraph has priority over all other liens except**

2 **(A) liens for property taxes, special assessments, and sales**
 3 **and use taxes;**

4 **(B) liens that were perfected before the recording of the lien**
 5 **under this paragraph;**

6 **(C) liens that, under state law, are prior, paramount, and**
 7 **superior to all other liens; and**

8 **(D) mechanics' and materialmen's liens for which claims of**
 9 **lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have**
 10 **been recorded before the recording of the lien under this paragraph.**

11 * **Sec. 4.** AS 34.35.950(d)(2) is amended to read:

12 (2) "nonconsensual common law lien" means a lien on real or personal
 13 property that

14 (A) is not provided for by a specific state or federal statute **or**
 15 **municipal ordinance;**

16 (B) does not depend on the consent of the owner of the
 17 property affected for its existence; and

18 (C) is not an equitable, constructive, or other lien imposed by a
 19 court recognized under state or federal law;