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HOUSE BILL 349

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Antonio "Moe" Maestas

AN ACT

RELATING TO LOCAL GOVERNMENTS; PROVIDING A PROCESS FOR THE  
REMOVAL BY COUNTIES OF STRUCTURES OR DEBRIS THAT CONSTITUTE A  
MENACE TO THE PUBLIC COMFORT, HEALTH, PEACE OR SAFETY;  
PROVIDING A LIEN IN FAVOR OF THE COUNTY AND A PROCESS FOR  
FORECLOSING ON THE LIEN.

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

SECTION 1. Section 3-18-5 NMSA 1978 (being Laws 1965,  
Chapter 300, Section 14-17-4, as amended) is amended to read:

"3-18-5. DANGEROUS BUILDINGS OR DEBRIS--REMOVAL--NOTICE--  
RIGHT OF MUNICIPALITY OR COUNTY TO REMOVE--LIEN.--

A. Whenever any building or structure is ruined,  
damaged [~~and~~] or dilapidated or any premise is covered with  
ruins, rubbish, wreckage or debris, the governing body of a  
municipality or the board of county commissioners may, by

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1 resolution, find that the ruined, damaged [~~and~~] or dilapidated  
2 building, structure or premise is a menace to the public  
3 comfort, health, peace or safety and require the removal from  
4 the municipality or county of the building, structure, ruins,  
5 rubbish, wreckage or debris.

6 B. A copy of the resolution shall be served on the  
7 owner, occupant or agent in charge of the building, structure  
8 or premise. If the owner, as shown by the real estate records  
9 of the county clerk, occupant or agent in charge of the  
10 building, structure or premise cannot be served within the  
11 municipality or county, a copy of the resolution shall be  
12 posted on the building, structure or premise and a copy of the  
13 resolution shall be published one time.

14 C. Within ten days of the receipt of a copy of the  
15 resolution or of the posting and publishing of a copy of the  
16 resolution, the owner, occupant or agent in charge of the  
17 building, structure or premise shall commence removing the  
18 building, structure, ruin, rubbish, wreckage or debris or file  
19 a written objection with the municipal clerk or the county  
20 clerk asking for a hearing before the governing body of the  
21 municipality or the board of county commissioners.

22 D. If a written objection is filed as required in  
23 this section, the governing body or board of county  
24 commissioners shall:

25 (1) fix a date for a hearing on its resolution

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1 and the objection;

2 (2) consider all evidence for and against the  
3 removal resolution at the hearing; and

4 (3) determine if its resolution should be  
5 enforced or rescinded.

6 E. Any person aggrieved by the determination of the  
7 governing body or board of county commissioners may appeal to  
8 the district court by:

9 (1) giving notice of appeal to the governing  
10 body or board of county commissioners within five days after  
11 the determination made by the governing body or board of county  
12 commissioners; and

13 (2) filing a petition in the district court  
14 within twenty days after the determination made by the  
15 governing body or board of county commissioners. The district  
16 court shall hear the matter de novo and enter judgment in  
17 accordance with its findings.

18 F. If the owner, occupant or agent in charge of the  
19 building, structure or premise fails to commence removing the  
20 building, structure, ruins, rubbish, wreckage or debris:

21 (1) within ten days of being served a copy of  
22 the resolution or of the posting and publishing of the  
23 resolution; or

24 (2) within five days of the determination by  
25 the governing body or board of county commissioners that the

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1 resolution shall be enforced; or

2 (3) after the district court enters judgment  
3 sustaining the determination of the governing body or board of  
4 county commissioners, the municipality or county may remove the  
5 building, structure, ruins, rubbish, wreckage or debris at the  
6 cost and expense of the owner. The reasonable cost of the  
7 removal shall constitute a lien against the building,  
8 structure, ruin, rubbish, wreckage or debris so removed and  
9 against the lot or parcel of land from which it was removed.  
10 The lien in favor of the municipality or the county shall be  
11 foreclosed in the manner provided in Sections [~~14-35-1 through~~  
12 ~~14-35-6 NMSA 1953~~] 3-36-1 through 3-36-6 NMSA 1978.

13 G. The municipality or county may pay for the costs  
14 of removal of any condemned building, structure, wreckage,  
15 rubbish or debris by granting to the person removing such  
16 materials the legal title to all salvageable materials in lieu  
17 of all other compensation.

18 H. Any person or firm removing any condemned  
19 building, structure, wreckage, rubbish or debris shall leave  
20 the premises from which the material has been removed in a  
21 clean, level and safe condition, suitable for further occupancy  
22 or construction and with all excavations filled."