### **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	* <b>Section 1.</b> 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, fining, or recording with reckless disregard that the field 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	* <b>Sec. 3.</b> 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;