



NEW MEXICO ASSOCIATION OF REALTORS® — 2026 INFORMATION SHEET — COMMERCIAL REAL ESTATE BROKER LIEN ACT



This form is NOT a disclosure and does NOT provide property-specific information. The general information contained herein is not an exhaustive analysis of the subject matter. Brokers are not experts in the subject matter. If you have additional questions or concerns, you are encouraged to conduct further research and to contact a subject-matter expert.

SUMMARY

The Commercial Real Estate Broker Lien Act (“Act”) allows a New Mexico qualifying broker (as defined by the New Mexico Real Estate Broker’s Act) to file a lien upon commercial real estate or any interest in commercial real estate (NOT RESIDENTIAL REAL ESTATE) in the amount that the qualifying broker is due for licensed services provided in connection with the leasing (NOT THE SALE) of the commercial real estate, if the qualifying broker:

1. Has a written agreement signed by the owner of the commercial real estate or the owner's authorized agent that identifies the commercial real estate and sets forth the fee or commission due and the date or dates or the circumstances under which the fee or commission is due; and
2. Records a notice of lien upon the commercial real estate in accordance with the Act.

The lien is only valid against the commercial real estate identified in the written agreement and only for the amount of the fee or commission as stated in the written agreement.

DEFINITION OF COMMERCIAL REAL ESTATE

For purposes of the Act, commercial real estate is defined as any real estate OTHER THAN the following: real estate containing one or more single-family residential units, including apartments, condominiums, town houses or homes in a subdivision, when sold, leased or otherwise conveyed on a unit-by-unit basis; or real estate on which no buildings or structures are located that is zoned for single-family residential use.

FILING OF NOTICE OF LIEN

The qualifying broker must record a notice of lien (“Notice of Lien”) (NMAR Form 1650 Claim and Notice of Lien) within ninety (90) days following the date on which payment is due in the county clerk's office of the county in which the commercial real estate, as identified in the written agreement with the owner, is located. If compensation is to be paid in installments, the qualifying broker may elect to file a single Notice of Lien within ninety (90) days following the date the first installment is due for all installments due under the written agreement or to file a Notice of Lien for future installments within ninety (90) days following the dates the future installments are due.

In the event a qualifying broker is due additional commission as a result of future actions related to a lease, including the exercise of an option to expand the leased commercial real estate or to renew or extend a lease on the commercial real estate, the qualifying broker must record a Notice of Lien no earlier than the occurrence of the act or event for which the broker's additional commission is earned and not later than ninety (90) days after the occurrence of the act or event for which the qualifying broker's additional commission is earned.

Within ten (10) days of recording the Notice of Lien, the qualifying broker must mail a copy of the Notice of Lien by certified mail, return receipt requested, to the last known address of the owner of the commercial real estate or the owner's authorized agent.

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**INITIALS SIGNIFY THAT THE BUYER(S) AND/OR SELLER(S) HAS RECEIVED AND REVIEWED THIS
INFORMATION SHEET.**



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REQUIRED CONTENTS OF NOTICE

The Notice of Lien must contain the following: 1) the name, address and license number (as registered with the New Mexico Real Estate Commission) of the qualifying broker; 2) the amount for which the lien is claimed; 3) a legal description of the commercial real estate or a description sufficient to identify the commercial real estate; and 4) the name and last known address of the owner of the commercial real estate.

COMMENCEMENT OF ACTION

The qualifying broker has two (2) years from the date of the recording of the Notice of Lien to bring suit to enforce the lien. Suit must be brought in the district court in the county where the commercial real estate is located. If the qualifying broker fails to commence proceedings within two (2) years of filing the notice, the lien will be automatically extinguished.

RECORDING SATISFACTION OF LIEN

If a qualifying broker's lien has been recorded in accordance with the Act, and the indebtedness has been paid in full or the lien has been extinguished or is otherwise not enforceable pursuant to the law, the qualifying broker must record a written release or satisfaction of the lien (NMAR Form 1675 Release of Lien) in the county clerk's office of the county in which the commercial real estate is located and mail a copy of the recorded release or satisfaction of lien by certified mail, return receipt requested, to the last known address of the owner of the commercial real estate or the owner's authorized agent.

PETITION TO CANCEL LIEN AND POSTING OF SECURITY

The owner of any commercial real estate upon which a lien has been filed pursuant to the Act may petition the district court for the county in which the commercial real estate is located for an order canceling the lien. Upon the filing of the petition, the district court judge shall examine the qualifying broker's recorded demands and determine an amount sufficient to satisfy the recorded demands and any other damages, court costs or attorney fees that may be recovered by the broker ("Security"). The owner of the commercial real estate must then deposit the Security with the district court. Upon deposit of the Security, the qualifying broker's lien will attach to the Security and the judge will issue an order canceling the lien ("Order") and will notify the county clerk with whom the lien was filed to mark the lien as canceled.

ATTORNEY FEES

The prevailing party in an action brought under the Act is entitled to an award of attorney fees, expenses of litigation and prejudgment interest. When more than one party is responsible for costs, fees and prejudgment interest, the costs, fees and prejudgment interest shall be equitably apportioned by the court or tribunal among those responsible parties.

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