

1 House BILL NO. 34
2 INTRODUCED BY Rendell

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
5 16-2911 AND 16-2914 PERTAINING TO DUTIES AND LIABILITY FOR
6 NEGLECT THEREOF OF THE COUNTY CLERKS AND RECORDERS BY ADDING
7 THE PROVISION THAT CLERKS MAY REFUSE TO RECORD ILLEGIBLE
8 DOCUMENTS, EXEMPTING THE CLERKS FROM LIABILITY IN SUCH
9 INSTANCES AND REDUCING THE PENALTY FOR NEGLECT OF DUTIES."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 Section 1. Section 16-2911, R.C.M. 1947, is amended to
13 read as follows:

14 "16-2911. Duty on receipt of instrument to be recorded
15 by the county clerk and recorder. When any instrument,
16 paper, or notice, authorized by law to be recorded, is
17 deposited in the office of the county clerk, as ex officio
18 recorder, for record, accompanied by the required fee, he
19 must endorse upon the same, the time it was received, noting
20 the year, month, day, hour and minute of its reception, and
21 the reception of the instrument must be immediately entered
22 in the county clerk and recorder's reception book, except as
23 hereinafter provided. The county clerk must record said
24 instrument without delay, together with the acknowledgment,
25 proofs, and certificates written upon or annexed to the

1 same, with the plats, surveys, schedule, and other papers
2 thereto annexed, in the order and as of the time when the
3 same was received for record, and must note at the foot of
4 the record the exact time of its reception. The county clerk
5 shall not receive for recording, any deed, mortgage or
6 assignment of mortgage unless the post-office address of the
7 grantee, mortgagee or assignee of the mortgagee, as the case
8 may be, is contained therein, provided that this requirement
9 shall not affect the validity of the record of any
10 instrument which has been or may be recorded. The county
11 clerk shall not receive, in his or her discretion, for
12 recording, any instrument, paper, or notice, authorized by
13 law to be recorded, which is in any material particular,
14 illegible, unreproducible or unreadable. Upon refusing to
15 receive any such instrument for lack of legibility or
16 readability, the county clerk shall state with particularity
17 the reasons for such refusal. The refusal to so receive any
18 such instrument shall not affect the validity of the record
19 of any instrument which has been or may be recorded."

20 Section 2. Section 16-2914, R.C.M. 1947, is amended to
21 read as follows:

22 "16-2914. Liable for neglect of certain duties. If any
23 county clerk, as ex officio recorder, to whom an instrument,
24 proved or acknowledged according to law, or any paper or
25 notice which may be by law recorded, is delivered for

1 record:

2 1. Neglects or refuses to record, other than on stated
3 grounds of lack of legibility or readability, such
4 instrument, paper, or notice, within reasonable time after
5 receiving the same; or

6 2. Records any instruments, papers, or notices
7 untruly, or in any other manner than as hereinbefore
8 directed; or

9 3. Neglects or refuses to keep in his office such
10 indexes as are required by this article, or to make the
11 proper entries therein; or

12 4. Neglects or refuses to make the searches and to
13 give the certificates required by this chapter; or if such
14 searches or certificates are incomplete or defective, when
15 such incompleteness or defect is due to his direct
16 responsibility particularly affecting the property in
17 respect to which it is requested; or

18 5. Alters, changes, or obliterates any records
19 deposited in his office, or inserts any new matter therein,
20 he is liable to the party aggrieved for ~~three-times-the~~
21 ~~amount-of~~ the damages which may be occasioned thereby, and
22 is punishable as provided in this code."

-End-

Approved by Comm.
on Local Government

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