

House BILL NO. *108*

INTRODUCED BY *Kindell Gwynn*

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 32-1222, R.C.M. 1947, TO AUTHORIZE OFFICERS OTHER THAN THE STATE FIRE MARSHALL TO CAUSE ALTERATION, REPAIR AND DEMOLITION OF DILAPIDATED BUILDINGS; MAKING THE COST OF SUCH ALTERATION, REPAIR, OR DEMOLITION A LIEN AGAINST THE REAL ESTATE IN PREFERENCE TO PRIOR INCUMBRANCES; AND REQUIRING PAYMENT OF THE PROCEEDS OF SALE ON FORECLOSURE OF THE LIEN TO BE PAID TO THE GOVERNMENTAL BODY WHICH ORDERED SUCH ALTERATION, REPAIR OR DEMOLITION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 32-1222, R.C.M. 1947, is amended to read as follows:

"32-1222. Proceedings on failure to comply with order. If the owner or other party in interest shall fail to comply with the order of condemnation of a building or structure, as herein provided, or within the time fixed by the court, in case a trial is had therein, then the state fire marshall or any other officer authorized in section 82-1218, shall proceed to cause such building or structure to be altered, repaired or demolished in accordance with the directions contained in such order; and where a building or structure

is demolished in accordance with such order ~~as the state~~ fire marshall or any other officer authorized in section 32-1218, may sell or dispose of the salvaged materials therefrom at public auction upon five days posted notice. This person shall keep an accurate account of the expenses incurred in carrying out the order and shall credit thereon the proceeds of such salvage sale, if any, and shall report his action thereon with a statement of said expenses or the balance thereof, the expense incurred by him and the amount, if any, received from such salvage sale, to the court for approval and allowance; and thereupon the court shall examine, correct if necessary and allow said expense account; and said amount so allowed shall constitute a lien against the real estate on which said building or structure is or was situated, and shall be considered in preference to any prior encumbrance, mortgage, or lien which shall include, but not be limited to, all tax liens, and if the amount thereof is not paid by the owner or other party in interest within ~~six~~ three (3) months after the account has been examined and approved by the court ~~as aforesaid~~ the real estate upon which said building or structure is or was situated shall be sold under proper order of court by the sheriff of the county in which the same is situated in the manner provided by law for the sale of real estate upon execution, and the proceeds of said sale shall be paid into

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1 ~~the--state--treasury--and--created--to--the--fund--of--the--state~~
2 ~~fire-marshal,~~ the treasury of the governmental unit which
3 incurred the expenses. If the amount received as salvage or
4 on sale shall exceed the expense incurred by ~~the--state--fire~~
5 ~~marshal~~ the governmental unit the court shall direct the
6 payment of the surplus to ~~the--owner~~ those parties with
7 encumbrances, mortgages or liens on the real estate, in
8 order of their priority, and any surplus thereafter to the
9 owner, or the payment of the same into court for ~~his~~ their
10 use and benefit."

-End-

Approved by Committee
on Judiciary

1 House BILL NO. 108
2 INTRODUCED BY Kindell Guynn

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4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
5 82-1222, R.C.M. 1947, TO AUTHORIZE OFFICERS OTHER THAN THE
6 STATE FIRE MARSHALL TO CAUSE ALTERATION, REPAIR AND
7 DEMOLITION OF DILAPIDATED BUILDINGS; MAKING THE COST OF SUCH
8 ALTERATION, REPAIR, OR DEMOLITION A LIEN AGAINST THE REAL
9 ESTATE IN PREFERENCE TO PRIOR INCUMBRANCES; AND REQUIRING
10 PAYMENT OF THE PROCEEDS OF SALE ON FORECLOSURE OF THE LIEN
11 TO BE PAID TO THE GOVERNMENTAL BODY WHICH ORDERED SUCH
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13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 32-1222, R.C.M. 1947, is amended to
16 read as follows:

17 "82-1222. Proceedings on failure to comply with order.
18 If the owner or other party in interest shall fail to comply
19 with the order of condemnation of a building or structure,
20 as herein provided, or within the time fixed by the court,
21 in case a trial is had therein, then the state fire marshall
22 or any other officer authorized in section 82-1218, shall
23 proceed to cause such building or structure to be altered,
24 repaired or demolished in accordance with the directions
25 contained in such order; and where a building or structure

1 is demolished in accordance with such order ~~ne~~ the state
2 fire marshall or any other officer authorized in section
3 82-1218, may sell or dispose of the salvaged materials
4 therefrom at public auction upon five days posted notice. He
5 This person shall keep an accurate account of the expenses
6 incurred in carrying out the order and shall credit thereon
7 the proceeds of such salvage sale, if any, and shall report
8 his action thereon with a statement of said expenses or the
9 balance thereof, the expense incurred by him and the amount,
10 if any, received from such salvage sale, to the court for
11 approval and allowance; and thereupon the court shall
12 examine, correct if necessary and allow said expense
13 account; and said amount so allowed shall constitute a lien
14 against the real estate on which said building or structure
15 is or was situated, and shall be considered in preference to
16 any prior encumbrance, mortgage, or lien which shall
17 include, but not be limited to, all tax liens, and if the
18 amount thereof is not paid by the owner or other party in
19 interest within ~~six~~ three (3) months after the account has
20 been examined and approved by the court ~~as-aforesaid~~ the
21 real estate upon which said building or structure is or was
22 situated shall be sold under proper order of court by the
23 sheriff of the county in which the same is situated in the
24 manner provided by law for the sale of real estate upon
25 execution, and the proceeds of said sale shall be paid into

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7 encumbrances, mortgages or liens on the real estate, in
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9 owner, or the payment of the same into court for ~~his~~ their
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-End-

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 18 If the owner or other party in interest shall fail to comply
 19 with the order of condemnation of a building or structure,
 20 as herein provided, or within the time fixed by the court,
 21 in case a trial is had therein, then the state fire marshal
 22 or any other officer authorized in section 82-1218, shall
 23 proceed to cause such building or structure to be altered,
 24 repaired or demolished in accordance with the directions
 25 contained in such order; and where a building or structure

1 is demolished in accordance with such order ~~he~~ the state
 2 fire marshal or any other officer authorized in section
 3 82-1218, may sell or dispose of the salvaged materials
 4 therefrom at public auction upon five days posted notice. ~~He~~
 5 This person shall keep an accurate account of the expenses
 6 incurred in carrying out the order and shall credit thereon
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 8 his action thereon with a statement of said expenses or the
 9 balance thereof, the expense incurred by him and the amount,
 10 if any, received from such salvage sale, to the court for
 11 approval and allowance; and thereupon the court shall
 12 examine, correct if necessary and allow said expense
 13 account; and said amount so allowed shall constitute a lien
 14 against the real estate on which said building or structure
 15 is or was situated, and shall be considered in preference to
 16 any prior encumbrance, mortgage, or lien which shall
 17 include, but not be limited to, all tax liens, and if the
 18 amount thereof is not paid by the owner or other party in
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-End-

March 24, 1975

SENATE COMMITTEE ON JUDICIARY
AMENDMENTS TO HOUSE BILL NO. 108

That House Bill No. 108, third reading, be amended as follows:

1. Amend title, lines 7 through 8 and line 9.
Following: "BUILDINGS;"
Strike: "MAKING THE COST OF SUCH ALTERATION, REPAIR, OR
DEMOLITION A LIEN AGAINST THE REAL ESTATE IN
PREFERENCE TO PRIOR INCUMBRANCES;"
2. Amend page 1, section 1, line 20.
Following: "provided,"
Strike: "or"
Insert: ","
3. Amend page 2, section 1, lines 15 through 16 and line 17.
Following: "situated"
Strike: "and shall be considered in preference to any
prior encumbrance, mortgage, or lien which shall
include, but not be limited to, all tax liens"

HOUSE BILL NO. 108

INTRODUCED BY KENDALL, GWYNN

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