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 2 INTRODUCED BY House BILL NO. 642
Barnett, Hignite, Shumite
 3 Metcalfe
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
 5 16-2911 AND 16-2914, R.C.M. 1947, PERTAINING TO DUTIES AND
 6 LIABILITY FOR NEGLECT BY COUNTY CLERKS AND RECORDERS BY
 7 ADDING THE PROVISION THAT CLERKS MAY REFUSE TO RECORD
 8 ILLEGIBLE DOCUMENTS AND LOWERING THE AMOUNT OF DAMAGES FOR
 9 WHICH A CLERK IS LIABLE."

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 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. A county
 11 clerk is not required to receive for recording any
 12 instrument, paper, or notice that is, in his opinion and the
 13 opinion of a registered abstractor doing business in the
 14 county, illegible, unrecproducible, or unreadable. The
 15 county clerk shall state the specific reasons for refusing
 16 to receive any such instrument, paper, or notice. A county
 17 clerk's refusal to receive any instrument does not affect
 18 the validity of the instrument, paper, or notice."

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

21 "16-2914. Liable for neglect of certain duties. If any
 22 county clerk, as ex officio recorder, to whom an instrument,
 23 proved or acknowledged according to law, or any paper or
 24 notice which may be by law recorded, is delivered for
 25 record:

- 1 1. Neglects or refuses to record, other than on stated
2 grounds of lack of legibility or readability, such
3 instrument, paper, or notice, within reasonable time after
4 receiving the same; or
- 5 2. Records any instruments, papers, or notices
6 untruly, or in any other manner than as hereinbefore
7 directed; or
- 8 3. Neglects or refuses to keep in his office such
9 indexes as are required by this article, or to make the
10 proper entries therein; or
- 11 4. Neglects or refuses to make the searches and to
12 give the certificates required by this chapter; or if such
13 searches or certificates are incomplete or defective, when
14 such incompleteness or defect is due to his direct
15 responsibility particularly affecting the property in
16 respect to which it is requested; or
- 17 5. Alters, changes, or obliterates any records
18 deposited in his office, or inserts any new matter therein,
19 he is liable to the party aggrieved for ~~three-times-the~~
20 ~~amount-of~~ the damages which may be occasioned thereby, and
21 is punishable as provided in this code."

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