

TITLE XII

PUBLIC SAFETY AND WELFARE

CHAPTER 155-B

HAZARDOUS AND DILAPIDATED BUILDINGS

Section 155-B:1

155-B:1 Definitions. –

For the purposes of this chapter, the following terms have the following meanings:

- I. "Building" includes any structure or part of a structure.
- II. "Hazardous building" means any building which, because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment, constitutes a fire hazard or a hazard to public safety or health.
- III. "Governing body" means the city council or the selectmen of a town.

Source. 1967, 334:1, eff. Sept. 1, 1967.

Section 155-B:2

155-B:2 Repair or Removal of Hazardous Building. – The governing body of any city or town may order the owner of any hazardous building within the municipality to correct the hazardous condition of such building or to raze or remove the same.

Source. 1967, 334:1, eff. Sept. 1, 1967.

Section 155-B:3

155-B:3 Order; Contents. – The order shall state, in writing, the grounds therefor, specifying the necessary repairs, if any, and providing a reasonable time for compliance. It shall also state that a motion for summary enforcement of the order will be made to the court of the district or municipality in which the hazardous building is situated unless corrective action is taken, or unless an answer is filed within the time specified in RSA 155-B:6 and that any costs, attorney's fees, and expenses incurred by the municipality in bringing the property into compliance may be enforced as a lien against the subject property and any other property owned by the same owner in the state pursuant to RSA 155-B:9, II.

Source. 1967, 334:1. 2008, 293:1, eff. June 27, 2008.

Section 155-B:4

155-B:4 Order; Service. – The order shall be served upon the owner of record, or his agent if an agent is in charge of the building, and upon the occupying tenant, if there is one, and upon all lien holders of record, in the manner provided for service of a summons in a civil action. If the owner cannot be found, the order shall be served upon him by posting it at the main entrance to the building and by 4 weeks' publication in a published newspaper of the municipality if there is one, otherwise in a newspaper of general circulation in the state.

Source. 1967, 334:1, eff. Sept. 1, 1967.

Section 155-B:5

155-B:5 Order; Filing. – A copy of the order with proof of service shall be filed with the clerk of the court of the district or municipality in which the hazardous building is located not less than 5 days prior to the filing of a motion pursuant to RSA 155-B:7 to enforce the order. The appropriate district or municipal court shall have jurisdiction under this chapter notwithstanding any contrary provisions in RSA 502-A:14 or in any other section of RSA. At the time of filing such order the governing body shall file for record with the register of deeds a notice of the pendency of the proceeding, describing with the reasonable certainty the lands affected and the nature of the order. If the proceeding be abandoned the governing body shall within 10 days thereafter file with the register of deeds a notice to that effect.

Source. 1967, 334:1, eff. Sept. 1, 1967.

Section 155-B:6

155-B:6 Answer. – Within 20 days from the date of service, any person upon whom the order is served may serve an answer in the manner provided for the service of an answer in a civil action, specifically denying such facts in the order as are in dispute.

Source. 1967, 334:1, eff. Sept. 1, 1967.

Section 155-B:7

155-B:7 Default Cases. – If no answer is served, the governing body may move the court for the enforcement of the order. If such a motion is made the court may, upon the presentation of such evidence as it may require, affirm or modify the order and enter judgment accordingly, fixing a time after which the governing body may proceed with the enforcement of the order. The clerk of the court shall cause a copy of the judgment to be mailed forthwith to persons upon whom the original order was served.

Source. 1967, 334:1, eff. Sept. 1, 1967.

Section 155-B:8

155-B:8 Contested Cases. – If an answer is filed and served as provided in RSA 155-B:6, further proceedings in the action shall be governed by the rules of civil procedure for the district or municipal courts, except that the action has priority over all pending civil actions and shall be tried forthwith. If the order is sustained following the trial, the court shall enter judgment and shall fix a time after which the building shall be destroyed or repaired, as the case may be, in compliance with the order as originally filed or modified by the court. If the order is not sustained, it shall be annulled and set aside. The clerk of the court shall cause a copy of the judgment to be mailed forthwith to the persons upon whom the original order was served.

Source. 1967, 334:1, eff. Sept. 1, 1967.

Section 155-B:9

155-B:9 Enforcement of Judgment. –

I. If a judgment is not complied with in the time prescribed, the governing body may cause the building to be repaired, razed, or removed as set forth in the judgment. The cost of such repairs, razing, or removal shall be a lien against the real estate on which the building is located and may be levied and collected in the same manner as provided in RSA 80 for tax liens. When the building is razed or removed by the municipality, the governing body may sell the salvage and valuable materials at public auction upon 3 days' posted notice.

II. If the value of the subject real estate is deemed by the municipality to have insufficient value, based on the current tax assessment, to cover the cost of repairs, razing, or removal, the governing body may place a lien for the balance of the cost on any other real property in the state that is owned by the same owner, which additional lien may be levied and collected in the same manner as provided in RSA 80 for tax liens; provided that RSA

80:59 giving such liens priority over all other liens shall not apply. The municipal lien shall be subordinate to any lien of record on such real property.

Source. 1967, 334:1. 2008, 293:2, eff. June 27, 2008.

Section 155-B:9-a

155-B:9-a Municipal Lien on Owner's Interest in Property Insurance Proceeds. – If the value of the subject real estate is deemed by the municipality to have insufficient value, based on the current tax assessment, to cover the cost of repairs, razing, or removal, and the owner has no other real property within the state, a municipality may assert a lien on the owner's interest in any real property insurance proceeds that are payable as a result of the damage or destruction of that property owner's real property located in the municipality. The lien shall be for the estimated cost to repair, raze, or remove the damaged structure, whichever of those options is the least expensive, minus the value in the remaining real property based on the current tax assessments. The municipal lien shall be subordinate to any lien holder of record, and to any rights, title, or interest in such real property insurance proceeds in favor of any lender holding a mortgage on such real property and who was named as an additional insured or loss payee, by means of loss payable endorsement or otherwise, on any policy of insurance insuring such real property. The insurer's obligations under this section shall commence upon its receipt of a copy of the order under RSA 155-B:4, and a statement of the estimated lien amount allowed under this section, and shall apply only to insurance proceeds held by the insurer as of that date and due to be paid to the owner. The lien, the estimated cost of which shall be approved by the court, shall be for the purpose of reimbursing the municipality for all costs permitted to be recovered by it under RSA 155-B if the municipality elects to demolish the property. Any unexpended funds from the lien shall be returned to the property owner. The property owner shall, within 72 hours of the receipt of a written request by the municipality, provide the municipality with the names, addresses, agents, and policy numbers of all insurance companies which have provided the property owner with insurance on the property. The lien shall automatically expire if the owner rebuilds or demolishes the real property in the manner required by this chapter and the municipality shall provide a written release of the lien to the insurer and the property owner. The insurer shall distribute all proceeds due to the property owner that exceed the lien amount allowed under this section. The municipality shall release the lien in order to permit payment for repairs, razing, or removal of the building.

Source. 2008, 293:3, eff. June 27, 2008.

Section 155-B:10

155-B:10 Statement of Monies Received. – The municipality shall keep an accurate account of the expenses incurred in carrying out the order and of all other expenses theretofore incurred in connection with its enforcement, including specifically, but not exclusively, filing fees, service fees, publication fees, appraisers' fees, witness fees, including expert witness fees, and traveling expenses incurred by the municipality from the time the order was originally made, and shall credit thereon the amount, if any, received from the sale of the salvage, or building or structure, and shall report its action under the order, with a statement of monies received and expenses incurred to the court for approval and allowance. Thereupon the court shall examine, correct, if necessary, and allow the expense account, and, if the amount received from the sale of the salvage, or of the building or structure, does not equal or exceed the amount of expenses as allowed, the court shall by its judgment certify the deficiency in the amount so allowed to the municipal clerk for collection. The owner or other party in interest shall pay the same, without penalty added thereon, and in default of payment by December 1, the clerk shall certify the amount of the expense to the collector for entry on the tax lists as a charge against the real estate on which the building is or was situated and the same shall be collected in the same manner as other taxes and the amount so collected shall be paid into the municipal treasury. If the amount received for the sale of the salvage or of the building or structure exceeds the expense incurred by the municipality as allowed by the court, and if there are no delinquent taxes, the court shall direct the payment of the surplus to the owner or the payment of the same into court, as provided in this chapter. If there are delinquent taxes against the property, the court shall direct the payment of the surplus to the municipal treasurer to be applied to such taxes.

Source. 1967, 334:1, eff. Sept. 1, 1967.

Section 155-B:11

155-B:11 Payment, Tender, Deposit in Court. – The net proceeds of a sale under RSA 155-B:9 or 12 shall be paid to persons designated in the judgment in the proportions as their interests shall appear therein. Acceptance of such payment shall be taken as a waiver of all objections to the payment and to the proceedings leading thereto on the part of the payee and of all persons for whom he is lawfully empowered to act. In case any party to whom a payment of damages is made be not a resident of the state, or his place of residence be unknown, or he be an infant or other person under legal disability, or, being legally capable, refuses to accept payment, or if for any reason it be doubtful to whom any payment should be paid, the municipality may pay the same to the clerk of court to be paid out under the direction of the court; and, unless an appeal be taken such deposit with the clerk shall be deemed a payment of the award.

Source. 1967, 334:1, eff. Sept. 1, 1967.

Section 155-B:12

155-B:12 Personal Property of Fixtures. – If any building ordered razed, removed, or made safe and sanitary by repairs contains personal property or fixtures which will unreasonably interfere with the razing, removal, or repair of such building, or if the razing or removal of the building makes necessary the removal of such personal property or fixtures, the original order of the governing body may direct the removal of such personal property or fixtures within a reasonable time. If the property or fixtures are not removed by the time specified, and the governing body subsequently desires to enforce a judgment under the provisions of this chapter, it may sell the same at public auction as provided in RSA 155-B:9 or if without appreciable value, the governing body may destroy the same.

Source. 1967, 334:1, eff. Sept. 1, 1967.

Section 155-B:13

155-B:13 Hazardous Excavations. – If in any city or town, an excavation for building purposes is left open for more than 6 months without proceeding with the erection of a building thereon, whether or not completed, or if any excavation or basement is not filled to grade or otherwise protected after a building is destroyed, demolished or removed, the governing body may order such excavation to be filled or protected or in the alternative that erection of a building begin forthwith if the excavation is for building purposes. The order shall be served upon the owner or his agent in the manner provided by RSA 155-B:4. If the owner of the land fails to comply with the order within 15 days after the order is served upon him, the governing body shall cause the excavation to be filled to grade or protected and the cost shall be charged against the real estate as provided in RSA 155-B:9.

Source. 1967, 334:1, eff. Sept. 1, 1967.

Section 155-B:14

155-B:14 Local Acts and Charter Provisions. – The provisions of this chapter are supplementary to other statutory and charter provisions and do not limit the authority of any city or town to enact and enforce ordinances on the same subject.

Source. 1967, 334:1, eff. Sept. 1, 1967.

Section 155-B:15

155-B:15 Appeal. – A party aggrieved by the judgment of a municipal or district court upon issue joined in such case may, within 15 days after the rendition of the judgment, appeal to the superior court therefrom and the superior court shall hear said appeal forthwith.

Source. 1967, 334:1, eff. Sept. 1, 1967.