

Regular Session, 2012

SENATE BILL NO. 265

BY SENATOR MORRELL

PUBLIC SFTY/CORRECT DEPT. Authorizes the state fire marshal to condemn dilapidated and dangerous buildings and structures. (8/1/12)

AN ACT

To enact R.S. 40:1563(L) and Subpart E of Part III of Chapter 7 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1651 and 1652, relative to condemnation of buildings and structures; to authorize the state fire marshal to condemn certain buildings and structures in parishes and municipalities; to provide for service of notice; to provide for costs and fees attributed to such notice; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1563(L) and Subpart E of Part III of Chapter 7 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1651 and 1652, are hereby enacted to read as follows:

§1563. Powers and duties generally; use of deputies; responsibilities of local governing authorities with fire prevention bureaus; open structures and process structures; fees

* * *

L. The state fire marshal is authorized to condemn any building or structure within a parish or municipality, when such building or structure is in

1 a dilapidated and dangerous condition that endangers the public welfare,
2 pursuant to the procedures set forth in Subpart E of this Part.

3 * * *

4 SUBPART E. DANGEROUS STRUCTURES IN PARISHES
5 AND MUNICIPALITIES; AUTHORITY OF STATE FIRE MARSHAL

6 §1651. Condemnation of buildings or structures by the state fire marshal

7 The state fire marshal may condemn any building or structure within a
8 parish or municipality, when such building or structure is in a dilapidated and
9 dangerous condition that endangers the public welfare.

10 §1652. Notice to owner

11 A.(1) Before the state fire marshal may condemn any building or
12 structure, there shall be a written report recommending the condemnation of
13 the building or structure signed by the state fire marshal or other person
14 authorized to act in such matters for the office of the state fire marshal. Once
15 the report is signed, the state fire marshal shall thereupon serve notice on the
16 owner of the building or structure. Such notice shall include a copy of the
17 written report and a requirement for the owner to publish an announcement
18 listing:

19 (a) Why such building or structure is blighted.

20 (b) The date when such building will be repaired and no longer
21 considered dangerous to the public, as provided for in R.S. 40:1575(C).

22 (2)(a) The notice may be served by mailing it via the United States Postal
23 Service, by certified mail, return receipt requested, to the owner at the owner's
24 last known address or by first class mail.

25 (b) Service by certified mail shall be considered personal service if the
26 certified return receipt or the return form is signed by the addressee. Service
27 by certified mail shall be considered domiciliary service if the certified return
28 receipt or the return form is signed by anyone other than the addressee.

29 (c) If the certified mail is returned for failure to obtain a signature on

1 the return receipt form or returned due to refusal of delivery, service may be
2 accomplished by first class mail, with a certificate of mailing. Service by first
3 class mail in accordance with this Subparagraph shall be considered personal
4 service and is effective when mailed.

5 (d) When notice is served by first class mail, with a certificate of mailing,
6 notice shall be considered received on the seventh day after mailing.

7 (3) The notice may also be served by the state fire marshal or any of his
8 deputies, and the state fire marshal or his deputy shall make return of the
9 service as in ordinary cases.

10 B. If the owner is absent from the state or unrepresented therein, then
11 the notice shall be served upon the occupant of the condemned building or
12 structure, if any, and also upon an attorney at law appointed by the state fire
13 marshal where the building or structure is located to represent the absentee
14 owner. Domiciliary service may be made as in ordinary cases. Appointment of
15 such an attorney shall be in the same manner and in accordance with the
16 provisions of the Code of Civil Procedure for unrepresented defendants.

17 C. In case of grave public emergency where the condition of the building
18 or structure is such as to cause possible immediate loss or damage to person or
19 property, the state fire marshal may condemn the building or structure after
20 twenty-four hours notice served upon the owner, or his agent, or the occupant
21 and attorney at law appointed to represent the absentee owner. Any such notice
22 may be attached to an external door or entrance of the premises and shall have
23 the same effect as delivery to or personal service on the owner, occupant, or
24 attorney at law appointed to represent the absentee owner.

25 D.(1) The announcement required in Paragraph A(1) of this Section
26 shall be published, without cost to the parish or municipality, in the official
27 journal of the parish or municipality where the property is located on two
28 separate days within sixty days of receipt of the notice and written report by the
29 state fire marshal. Failure to publish such announcement shall subject the

owner to a fifty dollar per day penalty, not to exceed five thousand dollars per property.

(2) Any penalties collected shall be remitted by the parish or municipality to the Louisiana Blighted Property Reclamation Revolving Loan Fund as provided for in R.S. 33:4770.

The original instrument was prepared by Michelle Ducharme. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cathy R. Wells.

DIGEST

Morrell (SB 265)

Proposed law authorizes the state fire marshal to condemn any building or structure when such building or structure is in a dilapidated and dangerous condition that endangers the public welfare.

Proposed law requires the state fire marshal to prepare a written report recommending the condemnation of the building or structure and to serve notice to the owner of such property, along with the written report and a requirement for the owner to publish an announcement listing why such building or structure is blighted and the date when such building will be repaired and no longer considered dangerous to the public. Proposed law provides the procedure for serving notice to the owner.

Proposed law requires such announcement to be published, without cost to the parish or municipality, in the official journal of the parish or municipality where the property is located on two separate days within 60 days of receipt of the notice and written report by the state fire marshal.

Proposed law subjects the owner to a \$50 per day penalty, not to exceed \$5000 per property for failure to publish the required announcement.

Present law creates the Louisiana Blighted Property Reclamation Revolving Loan Fund and allows any parish or municipality to obtain funding from the fund for the purposes of maintenance, repair, removal, or demolition of dangerous structures pursuant to the law governing the removal of dangerous structures in the parishes and municipalities.

Proposed law requires that any penalties collected be remitted by the parish or municipality to the Louisiana Blighted Property Reclamation Revolving Loan Fund as provided for in present law.

Effective August 1, 2012.

(Adds R.S. 40:1563(L), 1651, and 1652)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Removes provisions of proposed law relative to the authority of the state fire marshal to demolish, remove, or repair any dilapidated and dangerous

building or structure.

2. Removes provisions of proposed law relative to certain notice to owners, hearings, and notices filed with the recorder of mortgages on the demolition or removal of any dilapidated and dangerous building or structure.
3. Removes provisions of proposed law relative to liens and privileges for costs of demolitions and removal of buildings.
4. Adds provisions requiring an owner to publish an announcement on such blighted property.
5. Adds civil penalties for failure of owners of such blighted property to publish the required announcement and for the disposition of any fines collected.