

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 352  
Finance Committee Substitute Adopted 4/19/01

Short Title: Extend Lien for Public Health Nuisance.

(Public)

Sponsors:

Referred to:

March 6, 2001

A BILL TO BE ENTITLED

AN ACT TO EXTEND TO ADDITIONAL REAL PROPERTY THE LIEN THAT ATTACHES IF A PERSON FAILS TO REMEDY A PUBLIC HEALTH NUISANCE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 160A-193 reads as rewritten:

"§ 160A-193. **Abatement of public health nuisances.**

A city shall have authority to summarily remove, abate, or remedy everything in the city limits, or within one mile thereof, that is dangerous or prejudicial to the public health or public safety. The expense of the action shall be paid by the person in default, and, if not paid, shall be a lien upon the land or premises where the trouble arose, and shall be collected as unpaid taxes. default. If the expense is not paid, it is a lien on the land or premises where the nuisance occurred. It is also a lien on any other real property owned by the person within the city limits or within one mile thereof, except for the person's primary residence. The expense shall be collected as unpaid taxes."

**SECTION 2.** G.S. 160A-432 reads as rewritten:

"§ 160A-432. **Civil and equitable enforcement.**

(a) Civil Enforcement. – Whenever any violation is denominated a misdemeanor under the provisions of this Part, the city, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.

(b) Equitable Enforcement. – In the case of a nonresidential building or structure declared unsafe under G.S. 160A-426(b), a city may, in lieu of taking action under subsection (a), cause the building or structure to be removed or demolished. The amounts incurred by the city in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. incurred and upon any other real property owned by the owner of the building or structure and located within the city limits or within one mile thereof, except for the owner's primary residence. The

1 lien shall be filed, have the same priority, and be collected in the same manner as liens  
2 for special assessments provided in Article 10 of this Chapter. If the building or  
3 structure is removed or demolished by the city, the city shall sell the usable materials of  
4 the building and any personal property, fixtures, or appurtenances found in or attached  
5 to the building. The city shall credit the proceeds of the sale against the cost of the  
6 removal or demolition. Any balance remaining from the sale shall be deposited with the  
7 clerk of superior court of the county where the property is located and shall be disbursed  
8 by the court to the person found to be entitled thereto by final order or decree of the  
9 court.

10 (c) Nothing in this section shall be construed to impair or limit the power of the  
11 city to define and declare nuisances and to cause their removal or abatement by  
12 summary proceedings, or otherwise."

13 **SECTION 3.** G.S. 160A-443(6) reads as rewritten:

14 **"§ 160A-443. Ordinance authorized as to repair, closing, and demolition; order of**  
15 **public officer.**

16 Upon the adoption of an ordinance finding that dwelling conditions of the character  
17 described in G.S. 160A-441 exist within a city, the governing body of the city is hereby  
18 authorized to adopt and enforce ordinances relating to dwellings within the city's  
19 territorial jurisdiction that are unfit for human habitation. These ordinances shall include  
20 the following provisions:

21 ...

22 (6) That the amount of the cost of repairs, alterations or improvements, or  
23 vacating and closing, or removal or demolition by the public officer  
24 shall be a lien against the real property upon which the cost was  
25 incurred, which lien shall be filed, have the same priority, and be  
26 collected as the lien for special assessment provided in Article 10 of  
27 this Chapter. If the real property upon which the cost was incurred is  
28 located in an incorporated city, then the amount of the cost is also a  
29 lien on any other real property of the owner located within the city  
30 limits or within one mile thereof except for the owner's primary  
31 residence. If the dwelling is removed or demolished by the public  
32 officer, he shall sell the materials of the dwelling, and any personal  
33 property, fixtures or appurtenances found in or attached to the  
34 dwelling, and shall credit the proceeds of the sale against the cost of  
35 the removal or demolition and any balance remaining shall be  
36 deposited in the superior court by the public officer, shall be secured in  
37 a manner directed by the court, and shall be disbursed by the court to  
38 the persons found to be entitled thereto by final order or decree of the  
39 court. Nothing in this section shall be construed to impair or limit in  
40 any way the power of the city to define and declare nuisances and to  
41 cause their removal or abatement by summary proceedings, or  
42 otherwise.

43 ...."

1           **SECTION 4.** This act is effective when it becomes law.