

2021 Regular Session

HOUSE BILL NO. 385

BY REPRESENTATIVE BEAULLIEU

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HOUSING/MANUFACTURED: Provides for the removal of abandoned manufactured housing units

1 AN ACT

2 To enact R.S. 9:3259.3 and Code of Civil Procedure Article 4912(A)(3), relative to
3 privileges on certain movable property; to provide for a privilege on certain
4 abandoned movable property; to provide for possession and sale of abandoned
5 movable property; to provide procedures for enforcement of the privilege; to provide
6 for notice; to provide for court approval; to provide for redemption by the lessee; to
7 provide for recognition of the judgment of ownership; to provide for definitions; and
8 to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 9:3259.3 is hereby enacted to read as follows:

11 §3259.3. Privilege for unpaid lease payments; abandoned manufactured homes and
12 movable property; enforcement of privilege by owner of immovable
13 property; definitions

14 A. As used in this Section, the following terms shall have the following
15 meanings:

16 (1) "Abandoned movable property" means movable property, including a
17 manufactured home not exceeding five thousand dollars in value, placed upon
18 immovable property of another subject to a lease agreement, when the lessee has
19 notified the owner of the immovable property that the lessee no longer intends to
20 remain in the manufactured home and intends to abandon the remaining movable

1 property, or when a reasonable person would conclude from all appearances that the
2 lessee no longer intends to occupy the manufactured home or claim ownership to any
3 of the remaining movable property.

4 (2) "Manufactured home" means a mobile home or residential mobile home
5 as defined by R.S. 9:1149.2.

6 (3) "Movable property" means movable property as defined by Civil Code
7 Article 475, and a manufactured home, regardless of whether the manufactured home
8 is considered an immovable pursuant to R.S. 9:1149.4 or if it has become attached
9 to an immovable to become a component part of that immovable.

10 B. The owner of immovable property shall have a privilege on any
11 abandoned movable property, including a manufactured home not exceeding five
12 thousand dollars in value, placed upon the immovable property pursuant to a lease
13 agreement.

14 C. In the event of default by the lessee and abandonment of the movable
15 property, and after compliance with the provisions of R.S. 9:3259.1, if applicable,
16 the owner of the immovable property may enforce judicially all of his rights under
17 the lease agreement, and to enforce his privilege for the debt due him, as follows:

18 (1) The owner of the immovable property shall be authorized to remove any
19 lock on the manufactured home located on the immovable property in order to
20 compile a brief and general description of the movable property, including the serial
21 number and vehicle identification number of the manufactured home, if available,
22 upon which a privilege is claimed and shall be entitled to place his own lock upon
23 such manufactured home until his privilege is satisfied.

24 (2) The lessee shall be notified of the owner's intention to enforce his
25 privilege.

26 (3) The notice shall be delivered in person to the lessee or sent by certified
27 mail to the last known address of the lessee. A copy of the notice shall also be sent
28 by certified mail to any known holder of any security interest in the manufactured
29 home, including a mortgagor or secured party having the right to take possession of
30 the manufactured home pursuant to R.S. 9:5363.1.

1 (4) The notice shall include:

2 (a) A copy of any written lease agreement between the owner and defaulting
3 lessee, or, if the lease agreement is verbal, a summary of its terms and conditions.

4 (b) An itemized statement of the owner's claim, showing the sum due at the
5 time of the notice and the date when the sum became due.

6 (c) The name of the owner of the manufactured home, if known, and a brief
7 and general description of the movable property, including the serial and vehicle
8 identification numbers of the manufactured home, if known, upon which a privilege
9 is claimed. The description shall be reasonably adequate to permit the person
10 notified to identify it, except that any container, including but not limited to a trunk,
11 valise, or box that is locked, fastened, sealed, or tied in a manner which deters
12 immediate access to its contents may be described as such without describing its
13 contents.

14 (d) Notification that the lessee has been or shall be denied access to the
15 movable property, if such denial is permitted under the terms of the lease agreement,
16 with the name, street address, and telephone number of the owner or his designated
17 agent whom the lessee may contact to respond to the notice.

18 (e) A demand for payment within a specified time not less than fifteen days
19 after the date of mailing or delivery of the notice.

20 (f) A statement that the manufactured home, its contents, and any other
21 movable property abandoned on the immovable property are subject to the owner's
22 privilege, and that, unless the claim is paid within the time stated in the notice, the
23 movable property is to be advertised for sale or other disposition and to be sold or
24 otherwise disposed of to satisfy the owner's privilege for lease payments due and
25 other charges at a specified time and place.

26 (5) Actual receipt of the notice made pursuant to this Section shall not be
27 required. Within fourteen days after mailing of the notice, an advertisement of the
28 sale or other disposition of movable property subject to the privilege shall be
29 published on at least one occasion in a newspaper of general circulation where the
30 manufactured home is located. The advertisement shall include:

1 (a) The name of the owner of the manufactured home, if known, and a brief
2 and general description of the movable property, including the serial and vehicle
3 identification numbers of the manufactured home, if known, reasonably adequate to
4 permit its identification as provided by Subparagraph (4)(c) of this Subsection.

5 (b) The address of the immovable property upon which the manufactured
6 home is located and the name of the lessee.

7 (c) The time, place, and manner of the sale or other disposition.

8 (6) The sale or other disposition of the movable property shall take place not
9 sooner than thirty days following publication as required by this Section.

10 D.(1) Upon completion of the procedures required by Subsection C of this
11 Section, the owner of the immovable property may file suit for possession or
12 ownership of the movable property pursuant to Code of Civil Procedure Article
13 4912.

14 (2) The owner of the immovable property shall attach to the petition
15 evidence of the lease agreement, copies of the notice and advertisement required by
16 Subsection C of this section, and evidence that the movable property is valued at less
17 than five thousand dollars. If the serial or vehicle identification numbers are not
18 known, the owner of the immovable property shall provide certification of a physical
19 inspection of the movable property for the purpose of vehicle identification number
20 verification by a law enforcement officer trained and certified by the Department of
21 Public Safety and Corrections to inspect motor vehicles as provided in Chapter 4 of
22 Title 32 of the Louisiana Revised Statutes of 1950. The certification shall certify
23 that the serial or vehicle identification numbers are not known.

24 (3) Upon finding that the owner of the immovable property has satisfied the
25 requirements of this Section, the court shall authorize the sale of the movable
26 property by the petitioner.

27 E.(1) Upon obtaining approval from the court, the owner of the immovable
28 property may proceed to sell the movable property. Any sale or other disposition of
29 the movable property shall conform to the terms of the notification as provided by
30 this Section.

1 (2) Any sale or other disposition of the movable property shall be held at the
2 address of the immovable property where the manufactured home is located, as
3 indicated in the notice required by this Section. The owner shall sell the movable
4 property to the highest bidder, if any. If there are no bidders, the owner may
5 purchase the movable property for a price at least sufficient to satisfy his claim for
6 lease payments due and all other charges, or he may donate the movable property to
7 charity.

8 (3) Prior to any sale or other disposition of movable property to enforce the
9 privilege granted by this Section, the lessee may pay the amount necessary to satisfy
10 the privilege, including all reasonable expenses incurred under this Section, and
11 thereby redeem the movable property. Upon receipt of such payment, the owner
12 shall have no liability to any person with respect to such movable property.

13 (4) A purchaser in good faith of movable property sold by an owner to
14 enforce the privilege granted by this Section takes the property free of any claims or
15 rights of persons against whom the privilege was valid, despite noncompliance by
16 the owner with the requirements of this Section.

17 (5) In the event of a sale held pursuant to the provisions of this Section, the
18 owner may satisfy his privilege from the proceeds of the sale, but shall hold the
19 balance, if any, as a credit in the name of the lessee whose property was sold. The
20 lessee may claim the balance of the proceeds within two years of the date of sale,
21 without any interest thereon, and if unclaimed within the two-year period, the credit
22 shall become the property of the owner, without further recourse by the lessee. If the
23 sale or other disposition of movable property made pursuant to the provisions of this
24 Section does not satisfy the owner's claim for lease payments due and other charges,
25 the owner may proceed by ordinary proceedings to collect the balance owed.

26 (6) After conclusion of the sale, the act of sale of the manufactured home
27 may be filed with the court, and a judgment recognizing the sale shall be rendered
28 by the court and recognized by the Department of Public Safety and Corrections
29 pursuant to Code of Civil Procedure Article 4912.

1 Section 2. Code of Civil Procedure Article 4912(A)(3) is hereby enacted to read as
2 follows:

3 Art. 4912. Possession or ownership of movable property; eviction proceedings;
4 justice of the peace courts

5 A.

6 * * *

7 (3) The provisions of this Paragraph shall also be applicable to suits for
8 possession and ownership of a manufactured home, as defined by R.S. 9:1149.2, not
9 exceeding five thousand dollars in value, regardless of whether the manufactured
10 home is considered an immovable pursuant to R.S. 9:1149.4, or if it has become
11 attached to an immovable to become a component part of that immovable.

12 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 385 Original

2021 Regular Session

Beaulieu

Abstract: Provides for a privilege on certain movable property located on immovable property of another and provides for enforcement of the privilege.

Proposed law defines "abandoned movable property", "manufactured home", and "movable property".

Proposed law provides that the owner of immovable property shall have a privilege on any abandoned movable property, including a manufactured home not exceeding \$5,000 in value, placed upon the immovable property pursuant to a lease agreement.

Proposed law provides that in the event of default by the lessee and abandonment of the movable property, the owner of the immovable property may enforce judicially all of his rights under the lease agreement.

Proposed law authorizes the owner to enforce his privilege for the debt due him, by following certain procedures including removing and replacing any lock on the manufactured home and compiling a brief description of the movable property, including the serial and vehicle identification numbers of the manufactured home.

Proposed law provides for the content and delivery of notice in person by certified mail to the lessee of the owner's intention to enforce his privilege, and requires that a copy of the notice shall also be sent by certified mail to any known holder of any security interest in the manufactured home.

Proposed law provides that actual receipt of the notice shall not be required, and that within 14 days after mailing of the notice, an advertisement of the sale of movable property shall be published on at least one occasion in a newspaper of general circulation where the manufactured home is located, and further provides for the content of the advertisement.

Proposed law provides that upon completion of the procedures established by proposed law, the owner of the immovable property may file suit for possession or ownership of the movable property pursuant to C.C.P. Art. 4912.

Proposed law requires that the owner of the immovable property shall attach to the petition evidence of the lease agreement, copies of the notice and advertisement, and evidence that the movable property is valued at less than \$5000. If the serial or vehicle identification numbers are not known, the owner of the immovable property shall attach evidence of a physical inspection of the vehicle by a Peace Officer Standards and Training (P.O.S.T.) certified law enforcement officer. Upon finding that the owner of the immovable property has satisfied the requirements of proposed law, the court shall authorize the sale of the movable property by the petitioner.

Proposed law provides that any sale or other disposition of the movable property shall be held at the address of the immovable property where the manufactured home is located, and that the owner shall sell the movable property to the highest bidder, if any.

Proposed law provides that if there are no bidders, the owner may purchase the movable property for a price at least sufficient to satisfy his claim for lease payments due and all other charges, or he may donate the movable property to charity.

Proposed law authorizes the lessee, prior to any sale or other disposition of movable property, to pay the amount necessary to satisfy the privilege, including all reasonable expenses incurred in order to redeem the movable property, and that upon receipt of such payment, the owner shall have no liability to any person with respect to such movable property.

Proposed law provides that a purchaser in good faith of movable property sold by an owner to enforce the privilege takes the property free of any claims or rights of persons against whom the privilege was valid, despite noncompliance by the owner with the requirements of proposed law.

Proposed law provides that the owner may satisfy his privilege from the proceeds of the sale, but requires the owner to hold the balance, if any, as a credit in the name of the lessee whose property was sold. Further provides that the lessee may claim the balance of the proceeds within two years of the date of sale and if unclaimed within the two-year period, the credit shall become the property of the owner.

Proposed law provides that if the proceeds of the sale are insufficient to satisfy the owner's claim for lease payments due and other charges, the owner may proceed by ordinary proceedings to collect the balance owed.

Proposed law provides that after conclusion of the sale, the act of sale of the manufactured home may be filed with the court, and a judgment recognizing the sale shall be rendered by the court and recognized by the Dept. of Public Safety and Corrections pursuant to C.C.P. Art. 4912.

Present law provides that a justice of the peace court shall, within its territorial jurisdiction, have jurisdiction, concurrent with the parish or district court, over suits for the possession or ownership of movable property not exceeding \$5,000 in value and over suits by landowners or lessors for the eviction of occupants or tenants of leased residential premises, regardless of the amount of monthly or yearly rent or the rent for the unexpired term of the lease.

Present law provides that a judgment of ownership of a vehicle ordered by a justice of the peace court shall be recognized by the office of motor vehicles of the Dept. of Public Safety and Corrections in accordance with the provisions of Chapter 4 of Title 32 of the Louisiana Revised Statutes of 1950.

Proposed law provides that the provisions of present law shall also be applicable to suits for possession and ownership of a manufactured home not exceeding \$5,000 in value, regardless of whether the manufactured home is otherwise considered an immovable or if it has become attached to an immovable to become a component part of that immovable.

(Adds R.S. 9:3259.3 and C.C.P. Art. 4912(A)(3))