

2022 Regular Session

SENATE BILL NO. 491

BY SENATOR FESI

ABANDONED PROPERTY. Provides for the disposition of abandoned movable property.  
(8/1/22)

1 AN ACT

2 To amend and reenact the introductory paragraph of R.S. 9:5363.1(B)(1), R.S. 32:471(1),

3 R.S. 32:476(A)(3), and R.S. 33:4876(B), relative to abandoned movable property;

4 to provide relative to abandoned mobile homes and motor vehicles; to provide with

5 respect to the right to take possession of abandoned movable property; to provide for

6 the removal and disposition of abandoned moveable property; to provide relative to

7 sale by municipalities; to provide for procedure; to provide relative to funds received

8 from the sale of an abandoned motor vehicle; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. The introductory paragraph of R.S. 9:5363.1(B)(1) is hereby amended and  
11 reenacted to read as follows:

12 §5363.1. Abandoned mobile homes; secured parties

13 \* \* \*

14 B. (1) ~~In addition to those remedies provided in R.S. 9:5363,~~ The holder

15 of a chattel mortgage enforceable against third parties pursuant to Chapter 4 of Title

16 32 of the Louisiana Revised Statutes of 1950 or pursuant to this Part or the secured

17 party under a perfected security interest subject to Chapter 9 of Louisiana

1 Commercial Laws, shall have the right to take possession of the mobile home on  
2 default if all of the following criteria are met:

3 \* \* \*

4 Section 2. R.S. 32:471(1) and 476(A)(3) are hereby amended and reenacted to read  
5 as follows:

6 §471. Definitions

7 The following words and phrases, when used in this Chapter, shall have the  
8 meanings herein assigned unless the context clearly indicates otherwise:

9 (1) "Abandoned motor vehicle" means a motor vehicle that is inoperable and  
10 is left unattended on public property for more than twenty-four hours, or is  
11 inoperable and left unattended on the shoulder or right-of-way of an interstate or a  
12 four-lane highway for more than twenty-four hours, or a motor vehicle that has  
13 remained illegally on public property for a period of more than twenty-four hours,  
14 or a motor vehicle that has remained on private property without the consent of the  
15 owner or person in control of the property for more than ~~three~~ **two** days.

16 \* \* \*

17 §476. Abandoned motor vehicles; sale by municipalities and parochial authorities;  
18 procedure

19 A. Whenever any motor vehicle belonging to a known or unknown person  
20 has been seized or is otherwise held by any municipality or any parochial authority  
21 for illegal parking, stationing, or abandoning of such motor vehicle on the public  
22 streets, ways, roads, and highways within the state, and the same has not been  
23 claimed for a period of three months or more, then the motor vehicle shall be  
24 considered as having been abandoned to the municipality or parochial authority and  
25 the municipality or parochial authority may dispose of such motor vehicle and  
26 collect the costs and charges of removing and storing said vehicle in the following  
27 manner:

28 \* \* \*

29 (3) All funds received from the sale of a motor vehicle under the provisions

1 hereof shall be set aside and placed in a separate account established therefor by the  
 2 municipality or parochial authority. If, within ~~one year~~ **six months** following the  
 3 date of the sale, the owner or lienholders of any of said vehicles shall present  
 4 sufficient proof to the municipality or parochial authority of his ownership or lien,  
 5 the said owner or lienholder shall be entitled to the amount received for his  
 6 individual vehicle less his pro rata share of the costs and expenses of the sale, as well  
 7 as all charges and costs due and owing for removal and storage of said vehicle. Any  
 8 funds not claimed within ~~one year~~ **six months** following the date of sale shall be  
 9 deposited to the general fund of the municipality or parish.

10 \* \* \*

11 Section 3. R.S. 33:4876(B) is hereby amended and reenacted to read as follows:

12 §4876. Abandoned automobiles, major appliances and other junk; disposition of

13 \* \* \*

14 B. The term "junk, wrecked or used automobiles or motor vehicles" as used  
 15 herein shall mean any motor vehicle which is totally inoperable, left unattended on  
 16 any portion of any occupied lot, neutral ground, street or sidewalk, and is so  
 17 damaged or dismantled as to be a total loss. The term "total loss" shall mean that the  
 18 cost to repair a damaged or dismantled motor vehicle exceeds the junk value of said  
 19 vehicle, as determined by any recognized national appraisal book. The ordinance  
 20 shall provide for the removal and disposition of such junk motor vehicles after notice  
 21 of not less than ~~ten~~ **seven** days either placed on the vehicle itself or given to the  
 22 owner, if known. Any vehicle which remains on the public ways or private property  
 23 described above after notice given as provided in the ordinance shall be considered  
 24 as public property and disposed of by the municipality or parish as the governing  
 25 authority may designate. In the case of other abandoned property set forth in  
 26 Subsection A, the notice shall be given to the owner of the lot or parcel of ground  
 27 upon which the junk material is located, and the cost of removing said material shall  
 28 constitute a special lien collectible in the same manner as special assessments are  
 29 collectible by law.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Lebra Bias.

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DIGEST

SB 491 Original 2022 Regular Session Fesi

Present law provides that the holder of a chattel mortgage enforceable against third parties pursuant to present law or the secured party under a perfected security interest subject to present law, shall have the right to those remedies provided in present law (R.S. 9:5363).

Proposed law deletes present law.

Present law defines "Abandoned motor vehicle" as a motor vehicle that is inoperable and is left unattended on public property for more than 24 hours, or is inoperable and left unattended on the shoulder or right-of-way of an interstate or a four-lane highway for more than 24 hours, or a motor vehicle that has remained illegally on public property for a period of more than 24 hours, or a motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than three days.

Proposed law retains present law but changed the time period a motor vehicle has remained on private property without consent in present law definition of "abandoned motor vehicle" from more than three days to more than two days.

Present law provides that if, within one year following the date of the sale, the owner or lienholders of the vehicle present sufficient proof to the municipality or parochial authority of his ownership or lien, the owner or lienholder shall be entitled to the amount received for his individual vehicle less his pro rata share of the costs and expenses of the sale, as well as all charges and costs due and owing for removal and storage of said vehicle, and that any funds not claimed within one year following the date of sale shall be deposited to the general fund of the municipality or parish.

Proposed law retains present law but changes the time periods from one year to six months following the sale date for the owner to present proof of ownership to vehicle. Further changes the time period of unclaimed funds from one year to six months following the date of sale shall be deposited to the general fund of the municipality or parish.

Present law provides that the term "total loss" shall mean that the cost to repair a damaged or dismantled motor vehicle exceeds the junk value of said vehicle, as determined by any recognized national appraisal book, and that the ordinance shall provide for the removal and disposition of such junk motor vehicles after notice of not less than 10 days either placed on the vehicle itself or given to the owner, if known.

Proposed law retains present law but changes the notice requirement in present law meaning of "total loss" from 10 days to 7 days.

Effective August 1, 2022.

(Amends R.S. 9:5363.1(B)(1)(intro para), R.S. 32:471(1) and 476(A)(3), and R.S. 33:4876(B))