

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

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

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

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

(1) "Abandoned manufactured home" means a manufactured home that has a current fair market value not exceeding five thousand dollars that is not encumbered by a mortgage, lien, privilege, or security interest, that is placed upon immovable property of another subject to a lease agreement, when the lessee has notified the owner of the immovable property that the lessee no longer intends to

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

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

7 (3) Abandoned movable property" means contents, personal items, or other
8 movable property as defined by Civil Code Article 475 of the lessee left in the
9 abandoned manufactured home.

10 B.(1) The owner of immovable property to secure the payment of rent and
11 other obligations arising under the lease shall have a privilege on any abandoned
12 manufactured home that is not encumbered by a mortgage, lien, privilege, or security
13 interest, and on any abandoned movable property that is placed upon the immovable
14 property pursuant to a lease agreement.

15 (2) Notwithstanding any other provision to the contrary, the provisions of
16 this Section shall not apply to any manufactured home or abandoned manufactured
17 home that is encumbered by a mortgage, lien, or security interest.

18 C. In the event of default by the lessee and abandonment of the
19 manufactured home and after compliance with the provisions of R.S. 9:3259.1, if
20 applicable, the owner of the immovable property may enforce judicially all of his
21 rights under the lease agreement, and to enforce his privilege for the debt due him,
22 as follows:

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

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

3 (3) The notice shall be delivered in person to the lessee or sent by certified
4 mail to the last known address of the lessee.

5 (4) The notice shall include:

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

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

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

18 (d) Notification that the lessee has been or shall be denied access to the
19 abandoned manufactured home and abandoned movable property, if such denial is
20 permitted under the terms of the lease agreement, with the name, street address, and
21 telephone number of the owner or his designated agent whom the lessee may contact
22 to respond to the notice.

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

25 (f) A statement that the abandoned manufactured home, its contents, and any
26 other abandoned movable property on the immovable property are subject to the
27 owner's privilege, and that, unless the claim is paid within the time stated in the
28 notice, the abandoned manufactured home and abandoned movable property are to
29 be advertised for sale or other disposition and to be sold or otherwise disposed of to

1 satisfy the owner's privilege for lease payments due and other charges at a specified
2 time and place.

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

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

13 (b) The address of the immovable property upon which the abandoned
14 manufactured home is located and the name of the lessee.

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

16 (6) The sale or other disposition of the abandoned manufactured home and
17 abandoned movable property shall take place not sooner than thirty days following
18 publication as required by this Section.

19 D.(1) Upon completion of the procedures required by Subsection C of this
20 Section, the owner of the immovable property may file suit for possession or
21 ownership of the abandoned manufactured home and abandoned movable property
22 pursuant to Code of Civil Procedure Article 4912.

23 (2) The owner of the immovable property shall attach to the petition
24 evidence of the lease agreement, copies of the notice and advertisement required by
25 Subsection C of this Section, and evidence that the abandoned manufactured home
26 is valued at less than five thousand dollars. If the serial or vehicle identification
27 numbers are not known, the owner of the immovable property shall provide
28 certification of a physical inspection of the abandoned manufactured home for the
29 purpose of vehicle identification number verification by a law enforcement officer
30 trained and certified by the Department of Public Safety and Corrections to inspect

1 motor vehicles as provided in Chapter 4 of Title 32 of the Louisiana Revised Statutes
2 of 1950. The certification shall certify that the serial or vehicle identification
3 numbers are not known. The owner of the immovable property shall certify in his
4 petition, or attach an affidavit of the owner of the immovable property attesting, that
5 there is no mortgage, lien, privilege, or security interest encumbering the abandoned
6 manufactured home based on a search of the parish mortgage records and records of
7 the Department of Public Safety and Corrections, office of motor vehicles.

8 (3) Upon finding that the owner of the immovable property has satisfied the
9 requirements of this Section, the court shall authorize the sale of the abandoned
10 manufactured home and abandoned movable property by the petitioner.

11 E.(1) Upon obtaining approval from the court, the owner of the immovable
12 property may proceed to sell the abandoned manufactured home and abandoned
13 movable property. Any sale or other disposition of the abandoned manufactured
14 home and abandoned movable property shall conform to the terms of the notification
15 as provided by this Section.

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

24 (3) Prior to any sale or other disposition of the abandoned manufactured
25 home or abandoned movable property to enforce the privilege granted by this
26 Section, the lessee may pay the amount necessary to satisfy the privilege, including
27 all reasonable expenses incurred under this Section, and thereby redeem the movable
28 property. Upon receipt of such payment, the owner shall have no liability to any
29 person with respect to such movable property.

1 (4) A purchaser in good faith of the abandoned manufactured home or
2 abandoned movable property sold by an owner to enforce the privilege granted by
3 this Section takes the property free of any claims or rights of persons against whom
4 the privilege was valid, despite noncompliance by the owner with the requirements
5 of this Section, but takes subject to any mortgages, liens, privileges, and security
6 interests that encumber the abandoned manufactured home at the time of the sale.

7 (5) In the event of a sale held pursuant to the provisions of this Section, the
8 owner may satisfy his privilege from the proceeds of the sale, but shall hold the
9 balance, if any, as a credit in the name of the lessee whose property was sold. The
10 lessee may claim the balance of the proceeds within two years of the date of sale,
11 without any interest thereon, and if unclaimed within the two-year period, the credit
12 shall become the property of the owner, without further recourse by the lessee. If the
13 sale or other disposition of the abandoned manufactured home and abandoned
14 movable property made pursuant to the provisions of this Section does not satisfy the
15 owner's claim for lease payments due and other charges, the owner may proceed by
16 ordinary proceedings to collect the balance owed.

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

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

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

25 A.

26 * * *

27 (3) The provisions of this Paragraph shall also be applicable to suits for
28 possession and ownership of a manufactured home, as defined by R.S. 9:1149.2, not
29 exceeding five thousand dollars in value.

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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 Engrossed

2021 Regular Session

Beaullieu

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

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

Proposed law provides that the owner of immovable property shall have a privilege on any abandoned movable property, including an abandoned manufactured home not exceeding \$5,000 and not encumbered by a mortgage, lien, privilege, or security interest, placed upon the immovable property pursuant to a lease agreement in order to secure payment of rent and other obligations arising under the lease.

Proposed law provides that in the event of default by the lessee and abandonment of the manufactured home, 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 abandoned manufactured home and compiling a brief description of the abandoned movable property, including the serial and vehicle identification numbers of the abandoned 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.

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 abandoned movable property shall be published on at least one occasion in a newspaper of general circulation where the abandoned 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 abandoned 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 abandoned 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. The owner of the immovable property shall attest that there is no mortgage, lien, privilege, or security interest encumbering the abandoned manufactured home based on a search of the parish mortgage records and records of the Dept. of Public Safety and Corrections, office of motor vehicles. Upon finding that the owner of the immovable property has satisfied the requirements of proposed law, the court shall authorize the sale of the abandoned movable property by the petitioner.

Proposed law provides that any sale or other disposition of the abandoned movable property shall be held at the address of the immovable property where the abandoned manufactured

home is located, and that the owner shall sell the abandoned movable property to the highest bidder, if any. The buyer takes the property subject to any mortgages, liens, privileges, and security interests that encumber the abandoned manufactured home.

Proposed law provides that if there are no bidders, the owner may purchase the abandoned 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 abandoned movable property to charity.

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

Proposed law provides that a purchaser in good faith of abandoned 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 La. R.S. of 1950.

Proposed law provides that the provisions of present law shall also be applicable to suits for possession and ownership of an abandoned manufactured home not exceeding \$5,000 in value.

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

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Define "abandoned manufactured home", "abandoned movable property", and "manufactured home".

2. Limit the privilege over abandoned manufactured homes to such homes not encumbered by a mortgage, lien, privilege, or security interest.
3. Remove the requirement that a copy of the notice be sent by certified mail to any known holder of any security interest in the abandoned manufactured home.
4. Require the owner of the immovable property to certify that the abandoned manufactured home has no mortgage, lien, privilege, or security interest encumbering it.
5. Add that in the event of a sale of the abandoned manufactured property, the buyer takes the property subject to any mortgages, liens, privileges, and security interests.
6. Change references from "manufactured home" and "movable property" to "abandoned manufactured home" and "abandoned movable property."
7. Make technical changes.