
DIGEST

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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.