

2021 Regular Session

HOUSE BILL NO. 385

BY REPRESENTATIVE BEAULLIEU

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 abandoned movable property; enforcement of privilege by owner of
13 immovable property; definitions

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

16 (1) "Abandoned manufactured home" means a manufactured home that has
17 a current fair market value not exceeding five thousand dollars that is not
18 encumbered by a mortgage, lien, privilege, or security interest, that is placed upon
19 immovable property of another subject to a lease agreement, when the lessee has
20 notified the owner of the immovable property that the lessee no longer intends to
21 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) "Abandoned movable property" means contents, personal items, or other
7 movable property as defined by Civil Code Article 475 of the lessee left in the
8 abandoned manufactured home.

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

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

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

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

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

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

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

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

26 (3) Prior to any sale or other disposition of the abandoned manufactured
27 home or abandoned movable property to enforce the privilege granted by this
28 Section, the lessee may pay the amount necessary to satisfy the privilege, including
29 all reasonable expenses incurred under this Section, and thereby redeem the movable

1 property. Upon receipt of such payment, the owner shall have no liability to any
2 person with respect to such movable property.

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

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

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

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

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

27 A.

28 * * *

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

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 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 PRESIDENT OF THE SENATE

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____