

Regular Session, 2012

HOUSE BILL NO. 596

BY REPRESENTATIVE ST. GERMAIN AND SENATOR WARD

BOATS/SHIPS/VESSELS: Creates the Towed and Stored Vessel Act

1 AN ACT

2 To amend and reenact R.S. 9:4784(D) and to enact Part XVII of Chapter 1 of Title 9 of the  
3 Louisiana Revised Statutes of 1950, to be comprised of R.S. 9:4791 through 4798,  
4 relative to towed and stored vessels; to provide for sales of certain boats; to provide  
5 for definitions; to provide for a privilege on towed and stored vessels; to provide for  
6 notice and advertisement; to provide for the disposition of proceeds; to provide for  
7 the authority to promulgate rules and regulations; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 9:4784(D) is hereby amended and reenacted and Part XVII of  
10 Chapter 1 of Title 9 of the Louisiana Revised Statutes of 1950, comprised of R.S. 9:4791  
11 through 4798, is hereby enacted to read as follows:

12 §4784. Enforcement of privilege

13 \* \* \*

14 D. Purchasers. A purchaser of property sold at a commercially reasonable  
15 sale pursuant to this Part takes the property free and clear of any rights of persons  
16 against whom the privilege was valid and all other lienholders of record. The  
17 purchase of a boat sold pursuant to this Part shall require a notarized bill of sale  
18 signed by both parties with two witnesses, shall clearly identify the marina as the  
19 seller, and shall state that the boat was sold pursuant to the Marina and Boatyard



1 privilege on a documented vessel subject to a preferred ship mortgage or other  
2 preferred maritime privilege pursuant to 46 U.S.C. Chapter 131.

3 §4794. Vessel owner information

4 The licensed storage facility must provide the department or its authorized  
5 agent the vessel's registration numbers, hull identification number (HIN), motor  
6 serial number, and any other identifying factors requested by the department. The  
7 department or its authorized agent shall provide to a licensed storage facility holding  
8 a towed vessel the name and address of the last registered owner of the vessel and  
9 lienholders as listed in the official records of agency.

10 §4795. Notice of privilege and default

11 A. The towed vessel owner and any lienholders must be notified of the  
12 privilege created by this Part before enforcement of the privilege by the licensed  
13 storage facility. Notification of the privilege created by this Part shall be satisfied  
14 by the following:

15 (1) For owners and lienholders identified by the department pursuant to R.S.  
16 9:4794, written notification of the privilege sent by the licensed storage facility,  
17 certificate of mailing.

18 (2) After compliance with R.S. 9:4794 and for which no records exist in the  
19 official records of the department, publishing notification of the privilege in the  
20 official newspaper of the parish in which the towed vessel was towed on two  
21 separate occasions.

22 B. Notification shall include the following:

23 (1) As applicable, registration numbers, a general description of the towed  
24 vessel, including the make, length, type of vessel, whether inboard or outboard  
25 motors, and make and horse power, registration numbers, motor serial number, and  
26 hull identification number (HIN).

27 (2) The date and location where the vessel was found, the present location,  
28 charges due on the date of the notice, and name, street address, and telephone

1        number of the licensed storage facility, which the owner may contact to respond to  
2        the notice.

3                (3) A statement the vessel is subject to the privilege held by the licensed  
4        storage facility and that the vessel owner is in default.

5                (4) A statement that unless the claim is paid within the time stated the  
6        property will be sold at a commercially reasonable public sale, and the location and  
7        date of the sale, which shall not be earlier than thirty days after the date notice is  
8        mailed to the owner or thirty days after the last date of notification as provided in  
9        this Section. As used in this Part, "commercially reasonably" has the same meaning  
10       as in the Commercial Laws, R.S. 10:1-101 through 9-710.

11        §4796. Advertisement: Enforcement of Privilege

12                After the expiration of the thirty-day period set forth in R.S. 9:4795(B)(4),  
13        the licensed storage facility shall publish an advertisement of the sale once a week  
14        for two consecutive weeks in the official newspaper of the parish where the sale is  
15        to be held. The date of the sale must be more than fifteen days after the date of the  
16        first advertisement of the sale is published. The advertisement shall include the  
17        following:

18                (1) The name of the last registered owner of the vessel, if known.

19                (2) The date and location where the vessel was found.

20                (3) As applicable, the registration numbers, a general description of the  
21        towed vessel, including the make, length, type of vessel, whether inboard or outboard  
22        motors, and make and horse power, outboard motor serial number, and hull  
23        identification number (HIN).

24        §4798. Sale and purchasers

25                A. A sale under this Part shall be held at the location of the licensed storage  
26        facility or at the nearest suitable location.

27                B. The vessel shall be sold to the highest bidder and shall require a notarized  
28        bill of sale signed by both parties with two witnesses, shall clearly identify the  
29        licensed storage facility as the seller, and shall state the boat was sold pursuant to the

1 Towed and Stored Vessel Act. The licensed storage facility shall attach to the bill  
2 of sale the proof of notice and sale requirements, including proof of all publications.

3 C. The proceeds of the sale shall be applied in the following order:

4 (1) To the satisfaction of the privilege created by this Part.

5 (2) To the reasonable expenses of the sale including, to the extent not  
6 prohibited by law, reasonable attorney fees and legal expenses.

7 (3) To the satisfaction of all superior mortgages on the vessel held by holders  
8 of record to be paid in order of priority.

9 (4) To the satisfaction of all other mortgages and privileges on the vessel  
10 held by all lienholders of record to be paid in the order of priority.

11 (5) To the extent the proceeds of the sale exceed the sum of the foregoing,  
12 the surplus must be paid to the owner of the vessel; however, if the funds so credited  
13 are not claimed by the owner within six months from the date of the sale, the funds  
14 shall be deemed forfeited to the person making the sale, who may credit such funds  
15 to his own account free and clear of all claims.

16 (6) If proceeds of the sale are not sufficient to satisfy the vessel owner's  
17 outstanding obligations to the licensed storage facility or any lienholder of record,  
18 the vessel owner remains liable to the licensed storage facility for the deficiency.

19 D. A purchaser of the vessel sold at a commercially reasonable sale pursuant  
20 to this Part takes the vessel free and clear of any rights of persons against whom the  
21 privilege was valid and all other lienholders of record.

22 E. The vessel owner shall be entitled access to the licensed storage facility  
23 during normal business hours for the purpose of satisfying the privilege or viewing  
24 and verifying the condition of the vessel.

25 F. Except as otherwise provided, all notices required by this Part shall be  
26 sent by certificate of mailing. Notices sent to the licensed storage facility shall be  
27 sent to the business address or to the address of the designated representative.  
28 Notices to the vessel owner must be sent to the vessel owner's address as identified  
29 in the official records of the department. Notices to a lienholder of record must be

1           sent to the address of the lienholder as provided in the public record that serves to  
 2           perfect the lienholder's interest in the vessel.  
 3           §4798. Regulations  
 4           The department may promulgate rules and regulations to implement the  
 5           provisions of this Part.

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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)]

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St. Germain

HB No. 596

**Abstract:** Creates the Towed and Stored Vessel Act.

Proposed law provides for definitions.

Proposed law creates a privilege on a towed and stored vessel, including the motor, for towing and storage fees and for costs of selling the vessel in accordance with proposed law; however, a privilege is not created on a documented vessel subject to a preferred ship mortgage or other maritime privilege pursuant to federal law.

Proposed law requires the storage facility to provide the Dept. of Wildlife and Fisheries the vessel's registration, hull identification, and motor serial numbers and any other identifying information requested. The department shall provide the name and address of the last registered owner and lienholders to the storage facility.

Proposed law provides the storage facility must notify the owner and lienholders before the privilege can be enforced. If the owner and lienholder can be identified, the storage facility will send written notification by certified mail. If they cannot be identified, notification shall be published on two separate occasions in the official newspaper of the parish in which the vessel was towed.

Proposed law provides the contents of the notification shall include a description of the vessel, the date it was found, its present location, the vessel is subject to privilege, and subject to sale unless the claim is paid.

Proposed law provides that after holding the vessel for 30 days, the storage facility may sell the vessel 15 days after publishing a notice of the sale once a week for two weeks.

Proposed law requires the sale to be at or the nearest suitable location to the storage facility.

Proposed law requires the sale to the highest bidder and requires the bill of sale to be notarized, signed by both parties and two witnesses, identify the storage facility as the seller, and state the vessel was sold pursuant to the Towed and Stored Vessel Act.

Proposed law provides for the distribution of the proceeds in the following order:

- (1) To the satisfaction of the privilege.
- (2) To the reasonable expenses of the sale including, to the extent not prohibited by law, reasonable attorney fees and legal expenses.

- (3) To the satisfaction of all superior mortgages.
- (4) To the satisfaction of all other mortgages and privileges.

Proposed law provides that any surplus must be paid to the owner of the vessel. If the money is not claimed by the owner within six months from the date of the sale, the funds shall be deemed forfeited to the person making the sale free and clear of all claims.

Proposed law provides if proceeds are not sufficient to satisfy the vessel owner's outstanding obligations to the licensed storage facility or any lienholder of record, the vessel owner remains liable to the licensed storage facility for the deficiency.

Proposed law provides the purchaser of a boat sold pursuant to proposed law takes the vessel free and clear of any rights of persons against whom the privilege was valid and all other lienholders of record.

Proposed law authorizes the department to promulgate rule and regulations.

(Amends R.S. 9:4784(D); Adds R.S. 9:4791-4798)