

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 643

Introduced by Brewer, 43.

Read first time January 18, 2023

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to abandoned mobile homes; to amend sections
- 2 60-1901 and 76-14,109, Reissue Revised Statutes of Nebraska, and
- 3 section 60-149, Revised Statutes Cumulative Supplement, 2022; to
- 4 adopt the Abandoned Mobile Home Act; to change provisions relating
- 5 to certificates of title, abandoned vehicles, and the Mobile Home
- 6 Landlord and Tenant Act; to harmonize provisions; and to repeal the
- 7 original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 9 of this act shall be known and may be
2 cited as the Abandoned Mobile Home Act.

3 Sec. 2. The Legislature finds that:

4 (1) Abandoned mobile homes are a problem for political subdivisions
5 in Nebraska; and

6 (2) Political subdivisions do not have the time, staff, or resources
7 necessary to remove abandoned mobile homes from private property.

8 Sec. 3. For purposes of the Abandoned Mobile Home Act:

9 (1) Abandoned mobile home means a mobile home left in place on
10 private property for more than thirty days after a writ of possession has
11 been issued relating to the mobile home;

12 (2) Board means a board of county commissioners or board of
13 supervisors of the county where the abandoned mobile home is located;

14 (3) County treasurer means the county treasurer of the county where
15 the abandoned mobile home is located;

16 (4) Landlord has the same meaning as in section 76-1462;

17 (5) Mobile home means a movable or portable dwelling constructed to
18 be towed on its own chassis, connected to utilities, and designed with or
19 without a permanent foundation for year-round living. It may consist of
20 one or more units that can be telescoped when towed and expanded later
21 for additional capacity, or of two or more units, separately towable but
22 designed to be joined into one integral unit, and shall include a
23 manufactured home as defined in section 71-4603. Mobile home does not
24 include a mobile home or manufactured home for which an affidavit of
25 affixture has been recorded pursuant to section 60-169;

26 (6) Tenant means an owner of a mobile home who leases, rents,
27 leased, or rented space in a mobile home park, but shall not include a
28 person who leases, rents, leased, or rented a mobile home; and

29 (7) Writ of possession means a writ of possession issued by a court
30 pursuant to sections 25-21,219 to 25-21,235.

31 Sec. 4. (1) Upon issuance of a writ of possession relating to the

1 abandoned mobile home, a landlord may provide written notice by certified
2 mail to a tenant of an abandoned mobile home and to each lienholder of
3 record for the abandoned mobile home of intent to sell the abandoned
4 mobile home thirty days after the postmark date of such notice. The
5 written notice to the tenant shall be addressed to the tenant's last-
6 known address.

7 (2) After complying with subsection (1) of this section, a landlord
8 shall provide written notice to the county treasurer of the landlord's
9 intent to sell the abandoned mobile home. The county treasurer shall
10 provide written notice of the delinquent taxes owed on the abandoned
11 mobile home.

12 (3) After receiving the written notice from the county treasurer of
13 the delinquent taxes owed on the abandoned mobile home, the landlord
14 shall provide notice of the sale to be published once each week for two
15 consecutive weeks in a local newspaper published or of general
16 circulation in the county where the abandoned mobile home is located, the
17 last publication of which shall be not less than seven days prior to the
18 date of the sale. The publication shall provide a general description of
19 any delinquent taxes owed on the abandoned mobile home and the date,
20 time, and location of the sale.

21 (4) The landlord shall conduct a sale for the abandoned mobile home
22 on the date and at the time and location published in the local
23 newspaper, unless:

24 (a) The tenant has removed the abandoned mobile home from the
25 landlord's real property;

26 (b) A lienholder of record has caused the abandoned mobile home to
27 be removed from the landlord's real property; or

28 (c) The county treasurer has issued a distress warrant related to
29 the abandoned mobile home and provided written notice to the landlord
30 prior to the sale of the abandoned mobile home.

31 Sec. 5. After completing the sale of an abandoned mobile home, the

1 landlord shall distribute the proceeds from the sale in the following
2 order of priority:

3 (1) First, to the landlord equal to reasonable costs incurred in
4 selling the abandoned mobile home;

5 (2) Second, to the county treasurer for taxes in the amount provided
6 in the written notice delivered to the landlord from the county
7 treasurer;

8 (3) Third, to the landlord in the amount of a lien for up to two
9 months of unpaid lot rent owed to the landlord at the price previously
10 agreed to by the landlord and tenant;

11 (4) Fourth, to each lienholder of record in order of priority in the
12 amount certified by each lienholder; and

13 (5) Fifth, to the landlord in the amount of any remaining proceeds
14 from the sale.

15 Sec. 6. If an abandoned mobile home does not sell at a sale
16 conducted pursuant to section 4 of this act, the landlord shall:

17 (1) Obtain title to the abandoned mobile home pursuant to section 8
18 of this act and dispose of the abandoned mobile home without payment or
19 obligation to pay:

20 (a) Except as provided in section 9 of this act, any taxes,
21 delinquent or otherwise, on the abandoned mobile home. Such taxes remain
22 the responsibility of the tenant; and

23 (b) Any lien that exists on the abandoned mobile home; or

24 (2) Obtain title to the abandoned mobile home and pay:

25 (a) All taxes owed on the abandoned mobile home; and

26 (b) Satisfy all liens of record that exist on the abandoned mobile
27 home.

28 Sec. 7. A tenant who owns an abandoned mobile home that is
29 unencumbered, except for taxes owed, may voluntarily transfer title of
30 the abandoned mobile home to the landlord for the sole purpose of
31 disposing of the abandoned mobile home. The tenant shall properly endorse

1 the certificate of title to the abandoned mobile home and complete an
2 affidavit stating that the abandoned mobile home was transferred to the
3 landlord solely for purposes of disposing of the abandoned mobile home
4 and that no consideration was exchanged.

5 Sec. 8. (1)(a) A landlord who intends to dispose of an abandoned
6 mobile home pursuant to section 6 of this act shall provide to the county
7 treasurer written notice of the intended disposal of the abandoned mobile
8 home.

9 (b) A landlord who intends to dispose of an abandoned mobile home
10 pursuant to section 7 of this act shall provide to the county treasurer
11 (i) written notice of the intended disposal of the abandoned mobile home
12 and (ii) the properly endorsed title for such abandoned mobile home.

13 (2) Upon receipt of the written notice and, if applicable, the
14 properly endorsed title, the county treasurer shall issue to the landlord
15 a certificate of title for purposes of disposal of the abandoned mobile
16 home and a permit to move the abandoned mobile home for disposal
17 purposes. The landlord shall not be charged for the issuance of the
18 certificate of title for purposes of disposal or for the permit to move
19 the abandoned mobile home. The certificate of title for purposes of
20 disposal and the permit to move the abandoned mobile home are valid until
21 the deadline for disposal. The deadline for disposal is ninety days from
22 the date of issuance. The deadline for disposal may be extended for an
23 additional sixty days by the county treasurer if the landlord can show
24 good cause for an extension.

25 (3) Prior to the deadline for disposal and after disposing of the
26 abandoned mobile home, the landlord shall deliver to the county treasurer
27 the certificate of title for purposes of disposal, the permit to move the
28 abandoned mobile home, and an affidavit notifying the county treasurer of
29 the disposal of the abandoned mobile home.

30 Sec. 9. (1) Upon receiving from the landlord the certificate of
31 title for purposes of disposal, the permit to move the abandoned mobile

1 home, and an affidavit notifying the county treasurer of the disposal of
2 the abandoned mobile home, the county treasurer shall deliver the
3 affidavit to the board.

4 (2) If a landlord has disposed of an abandoned mobile home prior to
5 the deadline for disposal, the board may abate all taxes owed on the
6 abandoned mobile home.

7 (3) If a landlord has not disposed of an abandoned mobile home prior
8 to the deadline for disposal:

9 (a) The board shall not abate any taxes owed on the abandoned mobile
10 home; and

11 (b) The landlord is liable for all taxes owed on the abandoned
12 mobile home.

13 Sec. 10. Section 60-149, Revised Statutes Cumulative Supplement,
14 2022, is amended to read:

15 60-149 (1)(a) If a certificate of title has previously been issued
16 for a vehicle in this state, the application for a new certificate of
17 title shall be accompanied by the certificate of title duly assigned
18 except as otherwise provided in the Motor Vehicle Certificate of Title
19 Act.

20 (b) Except for manufactured homes or mobile homes as provided in
21 subsection (2) of this section, if a certificate of title has not
22 previously been issued for the vehicle in this state or if a certificate
23 of title is unavailable, the application shall be accompanied by:

24 (i) A manufacturer's or importer's certificate except as otherwise
25 provided in subdivision (viii) of this subdivision;

26 (ii) A duly certified copy of the manufacturer's or importer's
27 certificate;

28 (iii) An affidavit by the owner affirming ownership in the case of
29 an all-terrain vehicle, a utility-type vehicle, or a minibike;

30 (iv) A certificate of title from another state;

31 (v) A court order issued by a court of record, a manufacturer's

1 certificate of origin, or an assigned registration certificate, if the
2 law of the state from which the vehicle was brought into this state does
3 not have a certificate of title law;

4 (vi) Evidence of ownership as provided for in section 30-24,125,
5 sections 52-601.01 to 52-605, sections 60-1901 to 60-1911, or sections
6 60-2401 to 60-2411;

7 (vii) Documentation prescribed in section 60-142.01, 60-142.02,
8 60-142.04, 60-142.05, 60-142.09, or 60-142.11 or documentation of
9 compliance with section 76-1607;

10 (viii) A manufacturer's or importer's certificate and an affidavit
11 by the owner affirming ownership in the case of a minitruck; or

12 (ix) In the case of a motor vehicle, a trailer, an all-terrain
13 vehicle, a utility-type vehicle, or a minibike, an affidavit by the
14 holder of a motor vehicle auction dealer's license as described in
15 subdivision (11) of section 60-1406 affirming that the certificate of
16 title is unavailable and that the vehicle (A) is a salvage vehicle
17 through payment of a total loss settlement, (B) is a salvage vehicle
18 purchased by the auction dealer, or (C) has been donated to an
19 organization operating under section 501(c)(3) of the Internal Revenue
20 Code as defined in section 49-801.01.

21 (c) If the application for a certificate of title in this state is
22 accompanied by a valid certificate of title issued by another state which
23 meets that state's requirements for transfer of ownership, then the
24 application may be accepted by this state.

25 (d) If a certificate of title has not previously been issued for the
26 vehicle in this state and the applicant is unable to provide such
27 documentation, the applicant may apply for a bonded certificate of title
28 as prescribed in section 60-167.

29 (2)(a) If the application for a certificate of title for a
30 manufactured home or a mobile home is being made in accordance with
31 subdivision (4)(b) of section 60-137 or if the certificate of title for a

1 manufactured home or a mobile home is unavailable, the application shall
2 be accompanied by proof of ownership in the form of:

3 (i) A duly assigned manufacturer's or importer's certificate;

4 (ii) A certificate of title from another state;

5 (iii) A court order issued by a court of record;

6 (iv) Evidence of ownership as provided for in section 30-24,125,
7 sections 52-601.01 to 52-605, sections 60-1901 to 60-1911, or sections
8 60-2401 to 60-2411 or the Abandoned Mobile Home Act, or documentation of
9 compliance with section 76-1607; or

10 (v) Assessment records for the manufactured home or mobile home from
11 the county assessor and an affidavit by the owner affirming ownership.

12 (b) If the applicant cannot produce proof of ownership described in
13 subdivision (a) of this subsection, he or she may submit to the
14 department such evidence as he or she may have, and the department may
15 thereupon, if it finds the evidence sufficient, issue the certificate of
16 title or authorize the county treasurer to issue a certificate of title,
17 as the case may be.

18 (3) For purposes of this section, certificate of title includes a
19 salvage certificate, a salvage branded certificate of title, or any other
20 document of ownership issued by another state or jurisdiction for a
21 salvage vehicle. Only a salvage branded certificate of title shall be
22 issued to any vehicle conveyed upon a salvage certificate, a salvage
23 branded certificate of title, or any other document of ownership issued
24 by another state or jurisdiction for a salvage vehicle. A previously
25 salvage branded certificate of title may be issued if, prior to
26 application, the applicant's vehicle has been repaired and inspected as
27 provided in section 60-146.

28 (4) The county treasurer shall retain the evidence of title
29 presented by the applicant and on which the certificate of title is
30 issued.

31 (5)(a) If an affidavit is submitted under subdivision (1)(b)(ix) of

1 this section, the holder of a motor vehicle auction dealer's license
2 shall certify that (i) it has made at least two written attempts and has
3 been unable to obtain the properly endorsed certificate of title to the
4 property noted in the affidavit from the owner and (ii) thirty days have
5 expired after the mailing of a written notice regarding the intended
6 disposition of the property noted in the affidavit by certified mail,
7 return receipt requested, to the last-known address of the owner and to
8 any lien or security interest holder of record of the property noted in
9 the affidavit.

10 (b) The notice under subdivision (5)(a)(ii) of this section shall
11 contain a description of the property noted in the affidavit and a
12 statement that title to the property noted in the affidavit shall vest in
13 the holder of the motor vehicle auction dealer's license thirty days
14 after the date such notice was mailed.

15 (c) The mailing of notice and the expiration of thirty days under
16 subdivision (5)(a)(ii) of this section shall extinguish any lien or
17 security interest of a lienholder or security interest holder in the
18 property noted in the affidavit, unless the lienholder or security
19 interest holder has claimed such property within such thirty-day period.
20 The holder of a motor vehicle auction dealer's license shall transfer
21 possession of the property noted in the affidavit to the lienholder or
22 security interest holder claiming such property.

23 Sec. 11. Section 60-1901, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 60-1901 (1) A motor vehicle is an abandoned vehicle:

26 (a) If left unattended, with no license plates or valid In Transit
27 stickers issued pursuant to the Motor Vehicle Registration Act affixed
28 thereto, for more than six hours on any public property;

29 (b) If left unattended for more than twenty-four hours on any public
30 property, except a portion thereof on which parking is legally permitted;

31 (c) If left unattended for more than forty-eight hours, after the

1 parking of such vehicle has become illegal, if left on a portion of any
2 public property on which parking is legally permitted;

3 (d) If left unattended for more than seven days on private property
4 if left initially without permission of the owner, or after permission of
5 the owner is terminated;

6 (e) If left for more than thirty days in the custody of a law
7 enforcement agency after the agency has sent a letter to the last-
8 registered owner and lienholder under section 60-1903.01; or

9 (f) If removed from private property by a municipality pursuant to a
10 municipal ordinance.

11 (2) An all-terrain vehicle, a utility-type vehicle, or a minibike is
12 an abandoned vehicle:

13 (a) If left unattended for more than twenty-four hours on any public
14 property, except a portion thereof on which parking is legally permitted;

15 (b) If left unattended for more than forty-eight hours, after the
16 parking of such vehicle has become illegal, if left on a portion of any
17 public property on which parking is legally permitted;

18 (c) If left unattended for more than seven days on private property
19 if left initially without permission of the owner, or after permission of
20 the owner is terminated;

21 (d) If left for more than thirty days in the custody of a law
22 enforcement agency after the agency has sent a letter to the last-
23 registered owner and lienholder under section 60-1903.01; or

24 (e) If removed from private property by a municipality pursuant to a
25 municipal ordinance.

26 (3) A mobile home that is abandoned on private property shall not be
27 an abandoned motor vehicle for purposes of sections 60-1901 to 60-1911 is
28 ~~an abandoned vehicle if left in place on private property for more than~~
29 ~~thirty days after a local governmental unit, pursuant to an ordinance or~~
30 ~~resolution, has sent a certified letter to each of the last-registered~~
31 ~~owners and posted a notice on the mobile home, stating that the mobile~~

1 ~~home is subject to sale or auction or vesting of title as set forth in~~
2 ~~section 60-1903.~~

3 (4) For purposes of this section:

4 (a) Mobile home means a movable or portable dwelling constructed to
5 be towed on its own chassis, connected to utilities, and designed with or
6 without a permanent foundation for year-round living. It may consist of
7 one or more units that can be telescoped when towed and expanded later
8 for additional capacity, or of two or more units, separately towable but
9 designed to be joined into one integral unit, and shall include a
10 manufactured home as defined in section 71-4603. Mobile home does not
11 include a mobile home or manufactured home for which an affidavit of
12 affixture has been recorded pursuant to section 60-169;

13 (b) Public property means any public right-of-way, street, highway,
14 alley, or park or other state, county, or municipally owned property; and

15 (c) Private property means any privately owned property which is not
16 included within the definition of public property.

17 (5) No motor vehicle subject to forfeiture under section 28-431
18 shall be an abandoned vehicle under this section.

19 Sec. 12. Section 76-14,109, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 76-14,109 (1) If a tenant abandons a mobile home on a mobile home
22 space, the mobile home may not be removed from the mobile home space by
23 the tenant or his or her agent without a signed written authorization
24 from the landlord granting clearance for removal, showing all money due
25 and owing paid in full, or an agreement reached with the legal owner and
26 the landlord. A mobile home shall be considered to be abandoned if the
27 tenant has defaulted in rent and has, by absence of at least thirty days
28 or by words or actions, reasonably indicated an intention not to continue
29 the tenancy.

30 (2) Nothing in this section shall prohibit a landlord from:

31 (a) Removing ~~removing~~ an abandoned mobile home from the mobile space

1 and placing it in storage at the owner's expense; or

2 (b) Proceeding under the Abandoned Mobile Home Act; or

3 (c) Utilizing ~~from utilizing~~ any other legal remedy.

4 Sec. 13. Original sections 60-1901 and 76-14,109, Reissue Revised
5 Statutes of Nebraska, and section 60-149, Revised Statutes Cumulative
6 Supplement, 2022, are repealed.