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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2019	.	
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	.	
	.	

The Committee on Judiciary (Stargel) recommended the following:

1 **Senate Substitute for Amendment (944116) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Section 559.917, Florida Statutes, is amended to
7 read:

8 559.917 Bond to release possessory lien claimed by motor
9 vehicle repair shop.—

10 (1) (a) A Any customer or a person of record claiming a lien
11 against a motor vehicle may obtain the release of the ~~her or his~~



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12 motor vehicle from any lien claimed under part II of chapter 713
13 by a motor vehicle repair shop for repair work performed under a
14 written repair estimate by filing with the clerk of the court in
15 the circuit in which the disputed transaction occurred a cash or
16 surety bond, payable to the person claiming the lien and
17 conditioned for the payment of any judgment which may be entered
18 on the lien. The bond shall be in the amount stated on the
19 invoice required by s. 559.911, plus accrued storage charges, if
20 any, less any amount paid to the motor vehicle repair shop as
21 indicated on the invoice. The customer or person shall not be
22 required to institute judicial proceedings in order to post the
23 bond in the registry of the court and shall not,~~nor shall the~~
24 ~~customer~~ be required to use a particular form for posting the
25 bond, ~~unless the clerk provides~~ shall provide such form to the
26 customer or person for filing. Upon the posting of such bond,
27 the clerk of the court shall automatically issue a certificate
28 notifying the lienor of the posting of the bond and directing
29 the lienor to release the ~~customer's~~ motor vehicle.

30 (b) The lienor shall have 60 days to file suit to recover
31 the bond. The prevailing party in that action may be entitled to
32 damages plus court costs and reasonable attorney ~~attorney's~~
33 fees. If the lienor fails to file suit within 60 days after the
34 posting of such bond, the bond shall be discharged by the clerk.

35 (2) The failure of a lienor to release or return to the
36 customer or person the motor vehicle upon which any lien is
37 claimed, upon receiving a copy of a certificate giving notice of
38 the posting of the bond and directing release of the motor
39 vehicle, shall subject the lienor to judicial proceedings which
40 may be brought by the customer or person to compel compliance



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41 with the certificate. Whenever a customer or person brings an
42 action to compel compliance with the certificate, the customer
43 or person need only establish that:

44 (a) Bond in the amount of the invoice, plus accrued storage
45 charges, if any, less any amount paid to the motor vehicle
46 repair shop as indicated on the invoice, was posted;

47 (b) A certificate was issued pursuant to this section;

48 (c) The motor vehicle repair shop, or any employee or agent
49 thereof who is authorized to release the motor vehicle, received
50 a copy of a certificate issued pursuant to this section; and

51 (d) The motor vehicle repair shop or employee authorized to
52 release the motor vehicle failed to release the motor vehicle.

53
54 The customer or person, upon a judgment in her or his favor in
55 an action brought under this subsection, may be entitled to
56 damages plus court costs and reasonable attorney ~~attorney's~~ fees
57 sustained by her or him by reason of such wrongful detention or
58 retention. Upon a judgment in favor of the motor vehicle repair
59 shop, the shop may be entitled to reasonable attorney ~~attorney's~~
60 fees.

61 (3) A ~~Any~~ motor vehicle repair shop that ~~which~~, or an ~~any~~
62 employee or agent thereof who is authorized to release the motor
63 vehicle who, upon receiving a copy of a certificate giving
64 notice of the posting of the bond in the required amount and
65 directing release of the motor vehicle, fails to release or
66 return the property to the customer or person pursuant to this
67 section commits ~~is guilty of~~ a misdemeanor of the second degree,
68 punishable as provided in s. 775.082 or s. 775.083.

69 (4) A ~~Any~~ customer or person who stops payment on a credit



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70 card charge or a check drawn in favor of a motor vehicle repair
71 shop on account of an invoice or who fails to post a cash or
72 surety bond pursuant to this section shall be prohibited from
73 any recourse under this section with respect to the motor
74 vehicle repair shop.

75 Section 2. Section 559.920, Florida Statutes, is amended to
76 read:

77 559.920 Unlawful acts and practices.—It shall be a
78 violation of this act for any motor vehicle repair shop or
79 employee thereof to do any of the following:

80 (1) Engage or attempt to engage in repair work for
81 compensation of any type without first being registered with or
82 having submitted an affidavit of exemption to the department.†

83 (2) Make or charge for repairs which have not been
84 expressly or impliedly authorized by the customer.†

85 (3) Misrepresent that repairs have been made to a motor
86 vehicle.†

87 (4) Misrepresent that certain parts and repairs are
88 necessary to repair a vehicle.†

89 (5) Misrepresent that the vehicle being inspected or
90 diagnosed is in a dangerous condition or that the customer's
91 continued use of the vehicle may be harmful or cause great
92 damage to the vehicle.†

93 (6) Fraudulently alter any customer contract, estimate,
94 invoice, or other document.†

95 (7) Fraudulently misuse any customer's credit card.†

96 (8) Make or authorize in any manner or by any means
97 whatever any written or oral statement which is untrue,
98 deceptive or misleading, and which is known, or which by the



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99 exercise of reasonable care should be known, to be untrue,
100 deceptive or misleading.†

101 (9) Make false promises of a character likely to influence,
102 persuade, or induce a customer to authorize the repair, service,
103 or maintenance of a motor vehicle.†

104 (10) Substitute used, rebuilt, salvaged, or straightened
105 parts for new replacement parts without notice to the motor
106 vehicle owner and to her or his insurer if the cost of repair is
107 to be paid pursuant to an insurance policy and the identity of
108 the insurer or its claims adjuster is disclosed to the motor
109 vehicle repair shop.†

110 (11) Cause or allow a customer to sign any work order that
111 does not state the repairs requested by the customer or the
112 automobile's odometer reading at the time of repair.†

113 (12) Fail or refuse to give to a customer a copy of any
114 document requiring the customer's signature upon completion or
115 cancellation of the repair work.†

116 (13) Willfully depart from or disregard accepted practices
117 and professional standards.†

118 (14) Have repair work subcontracted without the knowledge
119 or consent of the customer unless the motor vehicle repair shop
120 or employee thereof demonstrates that the customer could not
121 reasonably have been notified.†

122 (15) Conduct the business of motor vehicle repair in a
123 location other than that stated on the registration
124 certificate.†

125 (16) Rebuild or restore a rebuilt vehicle without the
126 knowledge of the owner in such a manner that it does not conform
127 to the original vehicle manufacturer's established repair



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128 procedures or specifications and allowable tolerances for the
129 particular model and year. ~~7-08~~

130 (17) Perform any other act that is a violation of this part
131 or that constitutes fraud or misrepresentation.

132 (18) Violate any provision of s. 713.585.

133 Section 3. Subsections (1) through (4), (9), and (13) of
134 section 713.585, Florida Statutes, are amended, and subsections
135 (14) through (18) are added to that section, to read:

136 713.585 Enforcement of lien by sale of motor vehicle.—A
137 person claiming a lien under s. 713.58 for performing labor or
138 services on a motor vehicle may enforce such lien by sale of the
139 vehicle in accordance with the following procedures:

140 (1) The lienor or the lienor's agent must give notice of
141 the lien, by certified mail, ~~return receipt requested, within 7~~
142 ~~business days, excluding Saturday and Sunday, from the beginning~~
143 ~~date of the assessment of storage charges on said motor vehicle,~~
144 to the registered owner of the vehicle, to the customer as
145 indicated on the order for repair, and to all other persons
146 claiming an interest therein ~~in~~ or lien thereon, as disclosed by
147 the records of the Department of Highway Safety and Motor
148 Vehicles or as disclosed by the records of any corresponding
149 agency of any other state in which the vehicle is identified
150 through a records check of the National Motor Vehicle Title
151 Information System or an equivalent commercially available
152 system as being the current state where the vehicle is titled.
153 Such notice must ~~contain~~:

154 (a) Be sent to the registered owner, the customer, and all
155 other persons claiming an interest therein or lien thereon
156 within 7 business days, excluding Saturday and Sunday, after the



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157 date on which storage charges begin to accrue on the vehicle.
158 However, in no event shall the notice of lien be sent less than
159 30 days before the sale of the motor vehicle.

160 (b) Be sent by certified mail with the last eight digits of
161 the vehicle identification number of the motor vehicle subject
162 to the lien clearly printed in the delivery address box and on
163 the outside of the envelope sent to the registered owner, the
164 customer, and all other persons claiming an interest therein or
165 lien thereon.

166 (c) ~~(a)~~ Contain a description of the vehicle, including, at
167 minimum, its year, make, vehicle identification number, and ~~the~~
168 vehicle's location.

169 (d) ~~(b)~~ Contain the name and address of the owner of the
170 vehicle, the customer as indicated on the order for repair, and
171 any person claiming an interest therein ~~in~~ or lien thereon.

172 (e) ~~(c)~~ Contain the name, address, and telephone number of
173 the lienor.

174 (f) ~~(d)~~ Contain notice that the lienor claims a lien on the
175 vehicle for labor and services performed and storage charges, if
176 any, and the cash sum which, if paid to the lienor, would be
177 sufficient to redeem the vehicle from the lien claimed by the
178 lienor.

179 (g) Contain the motor vehicle repair shop's registration
180 number, owner's name, and physical address and the entity name,
181 as registered with the Department of Agriculture and Consumer
182 Services, of the business where the repair work or storage
183 occurred, which must also appear on the outside of the envelope
184 sent to the registered owner, the customer, and all other
185 persons claiming an interest in or lien on the vehicle.



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186 (h) Contain the name of the person or entity that
187 authorized the labor or services on the vehicle.

188 (i) Contain an itemized statement of the amount claimed to
189 be owed to the lienor, including the date the vehicle was
190 dropped off for repairs; the date the repairs were completed;
191 the date the customer was notified of the completion of the
192 repairs; the amount due for repairs, adjustments, or
193 modifications to the vehicle; any administrative fees; and any
194 daily storage charges.

195 (j)~~(e)~~ Contain notice that the lien claimed by the lienor
196 is subject to enforcement pursuant to this section and that the
197 vehicle may be sold to satisfy the lien.

198 (k)~~(f)~~ Contain ~~if known,~~ the date, time, and location of
199 any proposed or scheduled sale of the vehicle. A vehicle may not
200 be sold earlier than 60 days after completion of the repair
201 work.

202 (l)~~(g)~~ Contain notice that the owner of the vehicle or any
203 person claiming an interest therein ~~in~~ or lien thereon has a
204 right to a hearing at any time before the scheduled date of sale
205 by filing a demand for hearing with the clerk of the circuit
206 court in the county in which the vehicle is held and mailing
207 copies of the demand for hearing to all other owners and lienors
208 as reflected on the notice.

209 (m)~~(h)~~ Contain notice that the owner of the vehicle has a
210 right to recover possession of the vehicle without instituting
211 judicial proceedings by posting bond in accordance with s.
212 559.917.

213 (n)~~(i)~~ Contain notice that any proceeds from the sale of
214 the vehicle remaining after payment of the amount claimed to be



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215 due and owing to the lienor will be deposited with the clerk of
216 the circuit court for disposition upon court order pursuant to
217 subsection (8).

218 (o)~~(j)~~ Contain notice that a lienholder, if any, has the
219 right, as specified in subsection (5), to demand a hearing or to
220 post a bond.

221 (p) Contain a statement that the lienor will make the
222 vehicle available for inspection during regular business hours
223 within 3 business days after receiving a written request to
224 inspect the vehicle from a notice recipient, who may present
225 either a copy of an electronic title or a paper title as
226 evidence of his or her interest in and right to inspect the
227 vehicle.

228 (q) Contain the address at which the vehicle is physically
229 located.

230 (2) If attempts to locate the owner or lienholder are
231 unsuccessful after a check of the records of the Department of
232 Highway Safety and Motor Vehicles and any state disclosed by the
233 check of the National Motor Vehicle Title Information System or
234 an equivalent commercially available system, the lienor must
235 notify the local law enforcement agency in writing by certified
236 mail or acknowledged hand delivery that the lienor has been
237 unable to locate the owner or lienholder, that a physical search
238 of the vehicle has disclosed no ownership information, and that
239 a good faith effort, including records checks of the Department
240 of Highway Safety and Motor Vehicles database and the National
241 Motor Vehicle Title Information System or an equivalent
242 commercially available system, has been made. A description of
243 the motor vehicle which includes the year, make, and



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244 identification number must be given on the notice. This
245 notification must take place within 7 business days, excluding
246 Saturday and Sunday, after from the beginning date on which of
247 ~~the assessment of~~ storage charges begin to accrue on the said
248 ~~motor~~ vehicle. For purposes of this subsection paragraph, the
249 term "good faith effort" means that the following checks have
250 been performed by the company to establish the prior state of
251 registration and title:

252 (a) A check of the department's ~~Department of Highway~~
253 ~~Safety and Motor Vehicles~~ database for the owner and any
254 lienholder. ~~;~~

255 (b) A check of the federally mandated electronic National
256 Motor Vehicle Title Information System or an equivalent
257 commercially available system to determine the state of
258 registration when there is not a current title or registration
259 record for the vehicle on file with the department. ~~of Highway~~
260 ~~Safety and Motor Vehicles;~~

261 (c) A check of the vehicle for any type of tag, tag record,
262 temporary tag, or regular tag. ~~;~~

263 (d) A check of the vehicle for an inspection sticker or
264 other stickers and decals that could indicate the state of
265 possible registration. ~~;~~ ~~and~~

266 (e) A check of the interior of the vehicle for any papers
267 that could be in the glove box, trunk, or other areas for the
268 state of registration.

269 (3) A vehicle may not be sold earlier than 60 days after
270 completion of the repair work. If the date of the sale was not
271 included in the notice of lien required in subsection (1),
272 notice of the sale must be sent by certified mail at least ~~;~~



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273 ~~return receipt requested, not less than~~ 15 days before the date
274 of sale, to the customer as indicated on the order for repair,
275 and to all other persons claiming an interest in or lien on the
276 motor vehicle, as disclosed by the records of the Department of
277 Highway Safety and Motor Vehicles or of a corresponding agency
278 of any other state in which the vehicle appears to have been
279 registered after completion of a check of the National Motor
280 Vehicle Title Information System or an equivalent commercially
281 available system. Such notice must:

282 (a) Be sent by certified mail with the last eight digits of
283 the vehicle identification number of the motor vehicle subject
284 to the sale clearly identified and printed in the delivery
285 address box and on the outside of the envelope sent to the
286 registered owner, the customer, and all other persons claiming
287 an interest therein or lien thereon.

288 (b) Contain the motor vehicle repair shop's registration
289 number, owner's name, and physical address and the entity name,
290 as registered with the Department of Agriculture and Consumer
291 Services, of the business where the repair work or storage
292 occurred, which must also appear on the outside of the envelope
293 containing the notice of sale in the return address section of
294 the envelope.

295 (4) The lienor, at least 15 days before the proposed or
296 scheduled date of sale of the vehicle, shall publish the notice
297 required by this section once in a newspaper circulated in the
298 county where the vehicle repair work was completed and where the
299 sale is to take place held. A certificate of compliance with the
300 notification provisions of this section, which includes the
301 vehicle identification number, verified by the lienor, together



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302 with a copy of the notice of lien required by subsection (1) and
303 the notice of sale required by subsection (3), which must
304 include and return receipt for mailing of the notice required by
305 ~~this section,~~ proof of publication, and checks of the Department
306 of Highway Safety and Motor Vehicles and the National Motor
307 Vehicle Title Information System or an equivalent commercially
308 available system, must be duly and expeditiously filed with the
309 clerk of the circuit court in the county where the vehicle is
310 held. The lienor, at the time of filing the certificate of
311 compliance, must pay to the clerk of that court a service charge
312 of \$10 for indexing and recording the certificate.

313 (9) (a) A copy of the certificate of compliance, which must
314 include the vehicle identification number, and the report of
315 sale, certified by the clerk of the court, a copy of the notice
316 of lien required by subsection (1) and the notice of sale
317 required by subsection (3), and proof of the required check of
318 the National Motor Vehicle Title Information System or an
319 equivalent commercially available system shall constitute
320 satisfactory proof for application to the Department of Highway
321 Safety and Motor Vehicles for transfer of title, together with
322 any other proof required by any rules and regulations of the
323 department.

324 (b) The Department of Highway Safety and Motor Vehicles may
325 not approve an application for transfer of title if the
326 application fails to include a copy of the notice of lien
327 required by subsection (1) and the notice of sale required by
328 subsection (3). The vehicle identification number on the notice
329 of lien must match the vehicle identification number of the
330 vehicle that is the subject of the transfer of title.



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331 (13) A failure to make good faith efforts as defined in
332 subsection (2) precludes the imposition of any storage charges
333 against the vehicle. If a lienor fails to provide notice to any
334 person claiming a lien on a vehicle under subsection (1) within
335 7 business days after the date assessment of storage of the
336 vehicle charges has begun, then the lienor may not charge the
337 person is precluded from charging for more than 7 days of
338 storage, but such failure to provide timely notice does not
339 affect charges made for repairs, adjustments, or modifications
340 to the vehicle or the priority of liens on the vehicle.

341 (14) At any time before the proposed or scheduled date of
342 sale of a vehicle, the owner, the customer, or a person claiming
343 an interest therein or lien thereon may request to inspect the
344 vehicle. The lienor must make the vehicle available for
345 inspection during regular business hours within 3 business days
346 after receiving a written request to inspect the vehicle.

347 (15) (a) A lienor or the lienor's agent may charge an
348 administrative fee to the registered owner, the insurance
349 company insuring the vehicle, or a person of record claiming a
350 lien against the vehicle to obtain release of the vehicle. Such
351 administrative fee may not exceed \$250. For purposes of this
352 paragraph, the term "administrative fee" means a lien fee or any
353 fee imposed by the lienor or the lienor's agent for
354 administrative costs added to the amount due for storage,
355 repairs, adjustments, or modifications to the vehicle.

356 (b) A lienor or the lienor's agent may not charge fees or
357 costs, other than those authorized in this section, that exceed
358 \$250.

359 (16) A motor vehicle repair shop, garage, automotive



360 service facility, or storage operator must use a third-party
361 service approved by the Department of Highway Safety and Motor
362 Vehicles to transmit all notices required by this section. If
363 there is no third-party service approved by the department, the
364 motor vehicle repair shop, garage, automotive service facility,
365 or storage operator may mail the notices and provide evidence of
366 compliance with this section upon submission of an application
367 for certificate of title or certificate of destruction.

368 (a) For purposes of this subsection, the term "third-party
369 service" means a qualified business entity that, upon a request
370 submitted through a website by a motor vehicle repair shop,
371 garage, automotive service facility, or storage operator:

372 1. Accesses the National Motor Vehicle Title Information
373 System records to obtain the last state of record of the
374 vehicle.

375 2. Accesses the owner, lienholder, and insurer information,
376 as applicable, for a vehicle from the department.

377 3. Electronically generates the notices required of a motor
378 vehicle repair shop, a garage, an automotive service facility,
379 and a storage operator by this section through the website.

380 4. Prints and sends the notices required under this section
381 to each owner, lienholder, and insurer of record by certified
382 mail.

383 5. Electronically returns tracking information or other
384 proof of mailing and delivery of the notices to the motor
385 vehicle repair shop, the garage, the automotive service
386 facility, and the storage operator.

387 6. Electronically reports to the department, via an
388 electronic data exchange process using a web interface, the



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389 following information related to the repair and storage notices:

390 a. The vehicle identification number.

391 b. The license plate number.

392 c. The name and address of the repair shop or lienor.

393 d. The physical location of the vehicle.

394 e. The date on which the vehicle was dropped off for
395 repairs.

396 f. The date on which the repairs were completed.

397 g. The amount due for repairs and the storage amount per
398 day.

399 h. The dates on which the notice was mailed and delivered.

400 i. The date on which the owner was notified that the
401 repairs were completed.

402 j. Other information required by the department.

403 (b) A third-party service must apply to and be approved by
404 the department in order to provide notices under this section.

405 The department shall prescribe the format for the application.

406 The department may approve the applicant as qualified to perform
407 the services provided in paragraph (a) if the applicant:

408 1. Provides the department with a \$1 million bond.

409 2. Submits an acceptable internal control and data security
410 audit (Level 2) or its equivalent performed by a licensed
411 certified public accountant.

412 3. Successfully demonstrates the ability to electronically
413 provide required data to the department via an electronic data
414 exchange process using a web interface.

415 (c) The department may deny, suspend, or revoke approval of
416 a third-party service if the department determines that the
417 third-party service has committed an act of fraud or



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418 misrepresentation related to a notice required by this section.

419 (d) A third-party service must maintain all records related
420 to providing notices under this section for 5 years and allow
421 the department to inspect and copy such records upon request.
422 The records may be maintained in an electronic format.

423 (e) A third-party service must annually provide the
424 department with evidence that it maintains a \$1 million bond and
425 must annually submit an internal control and data security audit
426 (Level 2) or its equivalent performed by a licensed certified
427 public accountant to continue its approved status each year.

428 (f) A third-party service must maintain a publicly
429 available website that allows owners, registrants, lienholders,
430 insurance companies, or their agents to search for notices sent
431 pursuant to this section. The search results must exclude
432 personal identifying information but provide the same
433 information provided to the department.

434 (17) A lienor must release to the owner, lienholder, or
435 agent thereof all of the personal property found in but not
436 affixed to the vehicle. Upon payment of the charges owed, the
437 lienor must release the vehicle to the paying owner, lienholder,
438 or agent thereof.

439 (18) A lienor must accept either a copy of an electronic
440 title or a paper title as evidence of a person's interest in a
441 vehicle.

442 Section 4. Subsection (4), paragraphs (a) and (b) of
443 subsection (5), and subsections (6) and (9) of section 713.78,
444 Florida Statutes, are amended, and subsections (14) through (17)
445 are added to that section, to read:

446 713.78 Liens for recovering, towing, or storing vehicles



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447 and vessels.-

448 (4) (a) A ~~Any~~ person regularly engaged in the business of
449 recovering, towing, or storing vehicles or vessels who comes
450 into possession of a vehicle or vessel pursuant to subsection
451 (2), and who claims a lien for recovery, towing, or storage
452 services, shall give notice, by certified mail, to the
453 registered owner, the insurance company insuring the vehicle
454 notwithstanding ~~the provisions of~~ s. 627.736, and ~~to~~ all persons
455 claiming a lien thereon, as disclosed by the records in the
456 Department of Highway Safety and Motor Vehicles or as disclosed
457 by the records of any corresponding agency in any other state in
458 which the vehicle is identified through a records check of the
459 National Motor Vehicle Title Information System or an equivalent
460 commercially available system as being titled or registered.

461 (b) Whenever a ~~any~~ law enforcement agency authorizes the
462 removal of a vehicle or vessel or whenever a ~~any~~ towing service,
463 garage, repair shop, or automotive service, storage, or parking
464 place notifies the law enforcement agency of possession of a
465 vehicle or vessel pursuant to s. 715.07(2) (a)2., the law
466 enforcement agency of the jurisdiction where the vehicle or
467 vessel is stored shall contact the Department of Highway Safety
468 and Motor Vehicles, or the appropriate agency of the state of
469 registration, if known, within 24 hours through the medium of
470 electronic communications, giving the full description of the
471 vehicle or vessel. Upon receipt of the full description of the
472 vehicle or vessel, the department shall search its files to
473 determine the owner's name, the insurance company insuring the
474 vehicle or vessel, and whether any person has filed a lien upon
475 the vehicle or vessel as provided in s. 319.27(2) and (3) and



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476 notify the applicable law enforcement agency within 72 hours.
477 The person in charge of the towing service, garage, repair shop,
478 or automotive service, storage, or parking place shall obtain
479 such information from the applicable law enforcement agency
480 within 5 days after the date of storage and shall give notice
481 pursuant to paragraph (a). The department may release the
482 insurance company information to the requestor notwithstanding
483 ~~the provisions of s. 627.736.~~

484 (c) The notice of lien must be sent by certified mail to
485 the registered owner, the insurance company insuring the vehicle
486 notwithstanding s. 627.736, and all other persons claiming a
487 lien thereon shall be sent within 7 business days, excluding
488 Saturday and Sunday, after the date of storage of the vehicle or
489 vessel. However, in no event shall the notice of lien be sent
490 less than 30 days before the sale of to the registered owner,
491 the insurance company insuring the vehicle notwithstanding the
492 provisions of s. 627.736, and all persons of record claiming a
493 lien against the vehicle or vessel. The notice must state:

494 1. If the claim of lien is for a vehicle, the last eight
495 digits of the vehicle identification number of the vehicle
496 subject to the lien, or, if the claim of lien is for a vessel,
497 the hull identification number of the vessel subject to the
498 lien, clearly printed in the delivery address box and on the
499 outside of the envelope sent to the registered owner and all
500 other persons claiming an interest therein or lien thereon.

501 2. The name, physical address, and telephone number of the
502 lienor, and the entity name, as registered with the Division of
503 Corporations, of the business where the towing and storage
504 occurred, which must also appear on the outside of the envelope



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505 sent to the registered owner and all other persons claiming an
506 interest in or lien on the vehicle or vessel.

507 3. ~~It shall state~~ The fact of possession of the vehicle or
508 vessel.

509 4. The name of the person or entity that authorized the
510 lienor to take possession of the vehicle or vessel.

511 5. That a lien as provided in subsection (2) is claimed.

512 6. That charges have accrued and include an itemized
513 statement of the amount thereof.

514 7. That the lien is subject to enforcement under pursuant
515 to law, and that the owner or lienholder, if any, has the right
516 to a hearing as set forth in subsection (5). ~~and~~

517 8. That any vehicle or vessel that ~~which~~ remains unclaimed,
518 or for which the charges for recovery, towing, or storage
519 services remain unpaid, may be sold free of all prior liens
520 after 35 days after the vehicle or vessel is stored by the
521 lienor if the vehicle or vessel is more than 3 years of age or
522 after 50 days after the vehicle or vessel is stored by the
523 lienor if the vehicle or vessel is 3 years of age or less.

524 9. The address at which the vehicle or vessel is physically
525 located.

526 (d) The notice of lien may not be sent to the registered
527 owner, the insurance company insuring the vehicle or vessel, and
528 all other persons claiming a lien thereon less than 30 days
529 before the sale of the vehicle or vessel.

530 (e) ~~(d)~~ If attempts to locate the name and address of the
531 owner or lienholder prove unsuccessful, the towing-storage
532 operator shall, after 7 business ~~working~~ days, excluding
533 Saturday and Sunday, after ~~of~~ the initial tow or storage, notify



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534 the public agency of jurisdiction where the vehicle or vessel is
535 stored in writing by certified mail or acknowledged hand
536 delivery that the towing-storage company has been unable to
537 locate the name and address of the owner or lienholder and a
538 physical search of the vehicle or vessel has disclosed no
539 ownership information and a good faith effort has been made,
540 including records checks of the Department of Highway Safety and
541 Motor Vehicles database and the National Motor Vehicle Title
542 Information System or an equivalent commercially available
543 system. For purposes of this paragraph and subsection (9), the
544 term "good faith effort" means that the following checks have
545 been performed by the company to establish the prior state of
546 registration and for title:

547 1. A check of the department's ~~Department of Highway Safety~~
548 ~~and Motor Vehicles~~ database for the owner and any lienholder.

549 2. A check of the electronic National Motor Vehicle Title
550 Information System or an equivalent commercially available
551 system to determine the state of registration when there is not
552 a current registration record for the vehicle or vessel on file
553 with the department ~~of Highway Safety and Motor Vehicles~~.

554 3. A check of the vehicle or vessel for any type of tag,
555 tag record, temporary tag, or regular tag.

556 4. A check of the law enforcement report for a tag number
557 or other information identifying the vehicle or vessel, if the
558 vehicle or vessel was towed at the request of a law enforcement
559 officer.

560 5. A check of the trip sheet or tow ticket of the tow truck
561 operator to determine whether ~~see if~~ a tag was on the vehicle or
562 vessel at the beginning of the tow, if a private tow.



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563 6. If there is no address of the owner on the impound
564 report, a check of the law enforcement report to determine
565 whether ~~see if~~ an out-of-state address is indicated from driver
566 license information.

567 7. A check of the vehicle or vessel for an inspection
568 sticker or other stickers and decals that may indicate a state
569 of possible registration.

570 8. A check of the interior of the vehicle or vessel for any
571 papers that may be in the glove box, trunk, or other areas for a
572 state of registration.

573 9. A check of the vehicle for a vehicle identification
574 number.

575 10. A check of the vessel for a vessel registration number.

576 11. A check of the vessel hull for a hull identification
577 number which should be carved, burned, stamped, embossed, or
578 otherwise permanently affixed to the outboard side of the
579 transom or, if there is no transom, to the outmost seaboard side
580 at the end of the hull that bears the rudder or other steering
581 mechanism.

582 (5) (a) The owner of a vehicle or vessel removed pursuant to
583 ~~the provisions of~~ subsection (2), or any person claiming a lien,
584 other than the towing-storage operator, within 10 days after the
585 time she or he has knowledge of the location of the vehicle or
586 vessel, may file a complaint in the county court of the county
587 in which the vehicle or vessel is stored to determine whether ~~if~~
588 her or his property was wrongfully taken or withheld ~~from her or~~
589 ~~him~~.

590 (b) At any time before the sale of the vehicle or vessel
591 ~~Upon filing of a complaint~~, an owner or lienholder may have her



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592 or his vehicle or vessel released upon posting with the court a
593 cash or surety bond or other adequate security equal to the
594 amount of the charges for towing or storage and lot rental
595 amount to ensure the payment of such charges in the event she or
596 he does not prevail. Upon the posting of the bond and the
597 payment of the applicable fee set forth in s. 28.24, the clerk
598 of the court shall issue a certificate notifying the lienor of
599 the posting of the bond and directing the lienor to release the
600 vehicle or vessel. At the time of such release, after reasonable
601 inspection, she or he shall give a receipt to the towing-storage
602 company reciting any claims she or he has for loss or damage to
603 the vehicle or vessel or the contents thereof.

604 (6) A ~~Any~~ vehicle or vessel that ~~which~~ is stored pursuant
605 to subsection (2) and ~~which~~ remains unclaimed, or for which
606 reasonable charges for recovery, towing, or storing remain
607 unpaid, and any contents not released pursuant to subsection
608 (10), may be sold by the owner or operator of the storage space
609 for such towing or storage charge ~~after~~ 35 days after ~~from the~~
610 ~~time~~ the vehicle or vessel is stored by the lienor ~~therein~~ if
611 the vehicle or vessel is more than 3 years of age or ~~after~~ 50
612 days after ~~following the time~~ the vehicle or vessel is stored by
613 the lienor ~~therein~~ if the vehicle or vessel is 3 years of age or
614 less. The sale shall be at public sale for cash. If the date of
615 the sale was not included in the notice required in subsection
616 (4), notice of the sale shall be given to the person in whose
617 name the vehicle or vessel is registered and to all persons
618 claiming a lien on the vehicle or vessel as shown on the records
619 of the Department of Highway Safety and Motor Vehicles or of any
620 corresponding agency in any other state in which the vehicle is



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621 identified through a records check of the National Motor Vehicle
622 Title Information System or an equivalent commercially available
623 system as being titled. Notice of the sale must ~~shall~~ be sent by
624 certified mail. The notice must have clearly identified and
625 printed, if the claim of lien is for a motor vehicle, the last
626 eight digits of the vehicle identification number of the motor
627 vehicle subject to the lien, or, if the claim of lien is for a
628 vessel, the hull identification number of the vessel subject to
629 the lien, in the delivery address box and on the outside of the
630 envelope sent to the registered owner and all other persons
631 claiming an interest therein or lien thereon. The notice must be
632 sent to the owner of the vehicle or vessel and the person having
633 the recorded lien on the vehicle or vessel at the address shown
634 on the records of the registering agency at least ~~and shall be~~
635 ~~mailed not less than~~ 15 days before the sale of the vehicle or
636 vessel date of the sale. The notice must state the name,
637 physical address, and telephone number of the lienor, and the
638 vehicle identification number if the claim of lien is for a
639 vehicle or the hull identification number if the claim of lien
640 is for a vessel, all of which must also appear in the return
641 address section on the outside of the envelope containing the
642 notice of sale. After diligent search and inquiry, if the name
643 and address of the registered owner or the owner of the recorded
644 lien cannot be ascertained, the requirements of notice by mail
645 may be dispensed with. In addition to the notice by mail, public
646 notice of the time and place of sale shall be made by publishing
647 a notice thereof one time, at least 10 days before ~~prior to~~
648 the date of the sale, in a newspaper of general circulation in the
649 county in which the sale is to be held. The proceeds of the



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650 sale, after payment of reasonable towing and storage charges,
651 and costs of the sale, in that order of priority, shall be
652 deposited with the clerk of the circuit court for the county if
653 the owner or lienholder is absent, and the clerk shall hold such
654 proceeds subject to the claim of the owner or lienholder legally
655 entitled thereto. The clerk shall be entitled to receive 5
656 percent of such proceeds for the care and disbursement thereof.
657 The certificate of title issued under this law shall be
658 discharged of all liens unless otherwise provided by court
659 order. The owner or lienholder may file a complaint after the
660 vehicle or vessel has been sold in the county court of the
661 county in which it is stored. Upon determining the respective
662 rights of the parties, the court may award damages, attorney
663 attorney's fees, and costs in favor of the prevailing party.

664 (9) Failure to make good faith ~~best~~ efforts to comply with
665 the notice requirements of this section precludes ~~shall preclude~~
666 the imposition of any storage charges against the ~~such~~ vehicle
667 or vessel. If a lienor fails to provide notice to a person
668 claiming a lien on a vehicle or vessel in accordance with
669 subsection (4), the lienor may not charge the person for more
670 than 7 days of storage, but such failure does not affect charges
671 made for towing the vehicle or vessel or the priority of liens
672 on the vehicle or vessel.

673 (14) (a) A copy of the notice of lien required by subsection
674 (4) and the notice of sale required by subsection (6), which
675 must include the vehicle identification number if the claim of
676 lien is for a vehicle or the hull identification number if the
677 claim of lien is for a vessel, and proof of the required check
678 of the National Motor Vehicle Title Information System or an



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679 equivalent commercially available system shall constitute
680 satisfactory proof for application to the Department of Highway
681 Safety and Motor Vehicles for transfer of title, together with
682 any other proof required by any rules and regulations of the
683 department.

684 (b) The Department of Highway Safety and Motor Vehicles may
685 not approve an application for transfer of title if the
686 application fails to include a copy of the notice of lien
687 required by subsection (4) and the notice of sale required by
688 subsection (6). The vehicle or hull identification number on the
689 notice of lien must match the vehicle or hull identification
690 number of the vehicle or vessel that is the subject of the
691 transfer of title.

692 (15) (a) A lienor or the lienor's agent may charge an
693 administrative fee to the registered owner, the insurance
694 company insuring the vehicle or vessel, or a person claiming a
695 lien against the vehicle or vessel to obtain release of the
696 vehicle or vessel. Such administrative fee may not exceed \$250.
697 For purposes of this paragraph, the term "administrative fee"
698 means a lien fee or any fee imposed by the lienor or the
699 lienor's agent for administrative costs added to the amount due
700 for towing and storing the vehicle or vessel.

701 (b) A lienor or the lienor's agent may not charge fees or
702 costs, other than those authorized in this section or ss.
703 125.0103 and 166.043, that exceed \$250.

704 (16) A towing-storage operator must use a third-party
705 service approved by the Department of Highway Safety and Motor
706 Vehicles to transmit all notices required by this section. If
707 there is no third-party service approved by the department, the



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708 towing-storage operator may mail the notices and provide
709 evidence of compliance with this section upon submission of an
710 application for certificate of title or certificate of
711 destruction.

712 (a) For purposes of this subsection, the term "third-party
713 service" means a qualified business entity that, upon a request
714 submitted through a website by a towing-storage operator:

715 1. Accesses the National Motor Vehicle Title Information
716 System records to obtain the last state of record of the
717 vehicle.

718 2. Accesses the owner, lienholder, and insurer information,
719 as applicable, for a vehicle or vessel from the department.

720 3. Electronically generates the notices required of a
721 towing-storage operator by this section through the website.

722 4. Prints and sends the notices required under this section
723 to each owner, lienholder, and insurer of record by certified
724 mail.

725 5. Electronically returns tracking information or other
726 proof of mailing and delivery of the notices to the towing-
727 storage operator.

728 6. Electronically reports to the department, via an
729 electronic data exchange process using a web interface, the
730 following information related to the towing and storage notice:

731 a. The vehicle identification number or vessel hull
732 identification number.

733 b. The license plate number, if applicable.

734 c. The name and address of the towing-storage operator or
735 lienor.

736 d. The physical location of the vehicle or vessel.



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737 e. The date on which the vehicle or vessel was towed.
738 f. The amount of storage fees owed at the time of the
739 notice.
740 g. The date of assessment of storage charges.
741 h. The dates on which the notice was mailed and delivered.
742 i. Other information required by the department.
743 (b) A third-party service must apply to and be approved by
744 the department in order to provide notices under this section.
745 The department shall prescribe the format for the application.
746 The department may approve the applicant as qualified to perform
747 the services provided in paragraph (a) if the applicant:
748 1. Provides the department with a \$1 million bond.
749 2. Submits an acceptable internal control and data security
750 audit (Level 2) or its equivalent performed by a licensed
751 certified public accountant.
752 3. Successfully demonstrates the ability to electronically
753 provide required data to the department via an electronic data
754 exchange process using a web interface.
755 (c) The department may deny, suspend, or revoke approval of
756 a third-party service if the department determines that the
757 third-party service has committed an act of fraud or
758 misrepresentation related to a notice required by this section.
759 (d) A third-party service must maintain all records related
760 to providing notices under this section for 5 years and allow
761 the department to inspect and copy such records upon request.
762 The records may be maintained in an electronic format.
763 (e) A third-party service must annually provide the
764 department with evidence that it maintains a \$1 million bond and
765 must annually submit an internal control and data security audit



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766 (Level 2) or its equivalent performed by a licensed certified
767 public accountant to continue its approved status each year.

768 (f) A third-party service must maintain a publicly
769 available website that allows owners, registrants, lienholders,
770 insurance companies, or their agents to search for notices sent
771 pursuant to this section. The search results must exclude
772 personal identifying information but provide the same
773 information provided to the department.

774 (17) A lienor must accept either a copy of an electronic
775 title or a paper title as evidence of a person's interest in a
776 vehicle or vessel.

777 Section 5. This act shall take effect January 1, 2020.

778
779 ===== T I T L E A M E N D M E N T =====

780 And the title is amended as follows:

781 Delete everything before the enacting clause
782 and insert:

783 A bill to be entitled
784 An act relating to liens against motor vehicles and
785 vessels; amending s. 559.917, F.S.; authorizing a
786 person claiming a lien against a motor vehicle to
787 obtain the release of the vehicle from a lien claimed
788 by a motor vehicle repair shop under certain
789 circumstances; amending s. 559.920, F.S.; prohibiting
790 a motor vehicle repair shop from violating certain
791 provisions; amending s. 713.585, F.S.; revising notice
792 requirements for enforcing a lien by sale of a motor
793 vehicle; revising requirements for notice of lien and
794 notice of sale of a motor vehicle; requiring a lienor



795 to make the motor vehicle available for inspection by
796 notice recipients; revising requirements for transfer
797 of title; authorizing a lienor to charge an
798 administrative fee up to a certain amount; defining
799 the term "administrative fee"; requiring a motor
800 vehicle repair shop, garage, automotive service
801 facility, or storage operator to use a third-party
802 service to provide notices of lien and sale; providing
803 an exception; defining the term "third-party service";
804 requiring a third-party service to apply to and be
805 approved by the Department of Highway Safety and Motor
806 Vehicles; providing requirements; authorizing the
807 department to deny, suspend, or revoke approval under
808 certain circumstances; providing recordkeeping
809 requirements; providing requirements for retaining
810 approved status; requiring maintenance of a website
811 for access to certain information; requiring a lienor
812 to release certain personal property; requiring the
813 lienor to release the vehicle upon payment of charges;
814 requiring a lienor to accept a copy of an electronic
815 title or a paper title as evidence of a person's
816 interest in a vehicle; amending s. 713.78, F.S.;
817 revising requirements for notice of lien for
818 recovering, towing, or storing a vehicle or vessel;
819 revising requirements for notice of the sale of such
820 vehicle or vessel; revising requirements for transfer
821 of title; authorizing a lienor to charge an
822 administrative fee up to a certain amount; defining
823 the term "administrative fee"; requiring a towing-



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824 storage operator to use a third-party service to
825 provide notices of lien and sale; providing an
826 exception; defining the term "third-party service";
827 requiring a third-party service to apply to and be
828 approved by the department; providing requirements;
829 authorizing the department to deny, suspend, or revoke
830 approval under certain circumstances; providing
831 recordkeeping requirements; providing requirements for
832 retaining approved status; requiring maintenance of a
833 website for access to certain information; requiring a
834 lienor to accept a copy of an electronic title or a
835 paper title as evidence of a person's interest in a
836 vehicle or vessel; providing an effective date.