

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Infrastructure and Security

BILL: SB 974

INTRODUCER: Senator Perry

SUBJECT: Damaged, Dismantled, Derelict, or Salvage Motor Vehicles

DATE: March 13, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 974 makes changes to the business of storing and selling or reselling damaged or dismantled vehicles. It allows certain independent entities in that businesses to:

- Provide notices by certified mail or another commercial delivery service that provides proof of delivery;
- Use a vehicle owner's address from both the insurance company and the titling jurisdiction identified through the National Motor Vehicle Title Information System, or an equivalent commercially available system, for sending a notice;
- Provide proof of all lien satisfactions or proof of a release on all liens on a vehicle when applying for a certificate of destruction or salvage certificate of title;
- Provide an affidavit indicating a notice had been sent to all lien holders, in the event a lien satisfaction or a release of all liens on a vehicle cannot be obtained;
- Requires proof of notice delivery to the lienholder at the address on the certificate of title and, if the address is different than the one on file with the Department of State for the lienholder's registered agent, proof of notice delivery to that address; and
- Process title transactions, derelict motor vehicle certificates, and certificates of destruction for derelict and salvaged vehicles if the entity is an electronic filing system agent.

The bill does not appear to have a significant fiscal impact to state and local government.

The bill takes effect July 1, 2019.

II. Present Situation:

Notice of Possession

Section 319.30, F.S., provides that an insurance company may notify an independent entity¹ that obtains possession of a damaged or dismantled motor vehicle (vehicle) to release the vehicle to the owner. To do that, they must provide the independent entity with a release statement on a form prescribed by the DHSMV authorizing the independent entity to release the vehicle to the owner. The form shall, at a minimum, contain the following:

- The policy and claim number;
- The name and address of the insured;
- The vehicle identification number; and
- The signature of an authorized representative of the insurance company.

The independent entity in possession of the vehicle must send a notice to the owner that the vehicle is available for pick up when it receives a release statement from the insurance company, and the notice must be sent by certified mail to the owner at the owner's address reflected in the DHSMV's records. It must inform the owner that they have 30 days after receipt of the notice to pick up the vehicle from the independent entity. If the vehicle is not claimed within 30 days after the owner receives the notice, the independent entity may apply for a certificate of destruction or a certificate of title.

The independent entity must make a notification in the National Motor Vehicle Title Information System before releasing any damaged or dismantled motor vehicle to the owner or before applying for a certificate of destruction or salvage certificate of title.

Upon applying for a certificate of destruction or salvage certificate of title, the independent entity must provide a copy of the release statement from the insurance company to the independent entity, proof of providing the 30 day notice to the owner, proof of notification to the National Motor Vehicle Title Information System, and payment of any applicable fees.

Electronic Filing System (EFS)

In 2009, legislation was passed which established state jurisdiction over a the EFS program,² which is a software application that interacts with the Florida Real-time Vehicle Information System (FRVIS) to securely process title and registration transactions, customer inquiries, and updates in real-time. Certified Service Providers (CSP) build their own interface systems that link up with the EFS to provide transaction services to EFS agents (primarily motor vehicle dealers). The EFS agents provide title and registration processing services to customers when their products are purchased. The EFS will also generate the appropriate DHSMV documents, including the vehicle registration, title application form and in some cases even the title

¹ See s. 319.30(1)(g), F.S. ("Independent entity" means a business or entity that may temporarily store damaged or dismantled motor vehicles pursuant to an agreement with an insurance company and is engaged in the sale or resale of damaged or dismantled motor vehicles. The term does not include a wrecker operator, a towing company, or a repair facility.)

² Ch. 2009-206, s. 3, Laws of Fla.

certificate (printed from Tallahassee).³ At the end of the EFS transaction, the customer's vehicle is titled and registered without having to visit a Tax Collector or DHSMV office.

The Tax Collector is responsible for reviewing and approving EFS title and registration transactions processed by participating EFS agents in their county. Access to the EFS by dealers and other organizations is provided through a CSP. There are currently five CSPs participating in the EFS:

- CVR
- Title Technologies, LLC
- AutoData Direct, Inc.
- Decision Dynamics, Inc.
- DLRdmv⁴

These CSPs have over 2,400 EFS agents providing title and registration services throughout the state.⁵ However, EFS is an optional service for EFS agents. All 67 counties have the capability to offer EFS connections to agents, however, all agents do not participate.

Electronic Filing System Rule Requirements

Florida Administrative Code Rule 15C-16.007, Electronic Filing Systems, prescribes and defines the DHSMV Electronic Filing System and the participation requirements, certification of service providers, system requirements and enforcement authority for noncompliance.

Tax Collectors must:

- Appoint an EFS agent to their county after the DHSMV notifies the Tax Collector that the entity is authorized;
- Review supporting documentation from EFS transactions processed in the county; and
- Receive funds collected electronically from EFS transactions from the CSP and remit funds to the State.

EFS agents must sell products that can be titled and registered, provide title and registration services on behalf of customers, enter into a contract with a CSP, apply to the DHSMV to become an authorized EFS Agent,⁶ have a satisfactory background check with no felony convictions in the last 7 years, have no state-initiated disciplinary actions within the last 2 years, and may only operate in the county for which they are authorized.

The DHSMV has the authority to enforce compliance of the EFS agents and non-compliance can result in revocation of an EFS agent's ability to use the electronic filing system. Non-compliance includes, but is not limited to, unauthorized access of data by users, failing to execute electronic

³ The Department of Highway Safety and Motor Vehicles, Electronic Filing System (EFS), <https://www.flhsmv.gov/motor-vehicles-tags-titles/electronic-lien-titles/electronic-filing-system-efs/> (last visited on Mar. 9, 2019).

⁴ *Id.*

⁵ Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, EFS Background - 765, (March 7, 2019).

⁶ Form available at <https://www.flhsmv.gov/pdf/forms/82083.pdf> (last visited Mar. 9, 2019).

funds transfer, charging title and registration fees in excess of those allowed by law and failing to correct errors or clear pending transactions as required by the DHSMV.

Salvage Dealers and Metal Recyclers

Secondary Metals Recyclers⁷ (metal recyclers) must be licensed by the Department of Revenue⁸ and Salvage Motor Vehicle Dealers⁹ (salvage dealers) must be licensed by the DHSMV.¹⁰ Currently salvage dealers and metal recyclers initiating a Certificate of Destruction, Salvage Title, and Derelict Vehicle Certificate transactions must manually, in person or by mail, process the request at the Tax Collector office or License Plate Agency as directed by the DHSMV, and pay any applicable fees for the transaction.¹¹ Application documents are reviewed by the Tax Collector or License Plate Agency and then processed or rejected. If the documents are approved, the Tax Collector or License Plate Agency processes the transaction, uploads the documents to FRVIS, and prints the Certificate of Destruction, Salvage Title, or Derelict Vehicle Certificate. If the documents are rejected, the salvage dealers and metal recyclers must correct any errors in the documentation or application and start the process again.

III. Effect of Proposed Changes:

SB 974 allows an independent entity in possession of a motor vehicle to provide a notice, by certified mail or another commercially available delivery service that provides proof of delivery, to the owner and any lien holders, informing them the motor vehicle is available for pickup. The notice must be sent after receipt of a release statement from the insurance company. The notice must inform the owner and any lien holders they have 30 days after delivery or attempted delivery of the notice to claim the motor vehicle. After the 30 day period has elapsed the independent entity may apply for a certificate of destruction or a certificate of title.

In addition, the independent entity is directed to deliver the notice to the owner's address provided by the DHSMV. If the DHSMV records do not contain the owner's address, then the independent entity must deliver the notice to the address in the release statement from the insurance company, as well as any address provided by the latest titling jurisdiction identified through the National Motor Vehicle Title Information System or an equivalent commercially available system. All records related to the 30 day notice sent to the owner, the results of any

⁷ See s. 538.18, F.S. ("Secondary metals recycler" means any person who: is engaged, from a fixed location, in the business of purchase transactions or gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or is in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value; or has facilities for performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value, other than by the exclusive use of hand tools, by methods including, without limitation, processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content thereof.

⁸ Section 538.25, F.S.

⁹ See s. 320.27, F.S. ("Salvage motor vehicle dealer" means any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts.)

¹⁰ *Id.*

¹¹ The Department of Highway Safety and Motor Vehicles, Division of Motorist Services, *Motor Vehicle Procedures Manual, Uninsured Motor Vehicles or Mobile Homes Declared Total Loss, Motor Vehicles Junked by Owners and Derelict Motor Vehicles* (December 18, 2014), available at <https://www3.flhsmv.gov/dmv/Proc/tl/tl-35.pdf> (last visited on Mar. 9, 2019).

searches of the National Motor Vehicle Title Information System or an equivalent commercially available system, and any notifications to the National Motor Vehicle Title Information System must be maintained for a minimum of 3 years by the independent entity.

The bill also adds a requirement that independent entities must provide proof of all lien satisfactions or proof of a release on all liens on a vehicle when applying for a certificate of destruction or salvage certificate of title. It also provides that if the independent entity is unable to obtain a lien satisfaction or a release of all liens on the motor vehicle, the independent entity may provide an affidavit stating that notice was sent to all lienholders that the motor vehicle was available for pickup, 30 days have passed since the notice was delivered or attempted to be delivered, attempts have been made to obtain a release from all lienholders, and all such attempts have been to no avail. The notice to lienholders and attempts to obtain a release from lienholders may be by written request delivered in person or by certified mail or another commercially available delivery service that provides proof of delivery to the lienholder at the lienholder's address as provided on the certificate of title. If the lienholder's address on the certificate of title is different than the one on file with the Department of State (DOS) for a financial institution's registered agent for service of process, notice, levy, or demand¹², then the independent entity must also send the notice by certified mail or a service that provides proof of delivery to the address on file with the DOS.

The bill provides that an authorized electronic filing system agent may also electronically process title transactions, derelict motor vehicle certificates, and certificates of destruction for derelict and salvaged motor vehicles. It also provides the DHSMV with rule making authority to administer these activities, including, but not limited to, rules establishing participation requirements, certification of service providers, electronic filing system requirements, disclosures, and enforcement authority for noncompliance.

The bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹² See s. 655.0201(2), F.S., which provide requirements for service of process, notice, levy, or demand on financial institutions.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Salvage dealers and metal recyclers may see a decrease in both processing time and cost for a Certificate of Destruction, Salvage Title, and Derelict Vehicle Certificate transactions.

C. Government Sector Impact:

Tax Collectors and License Plate Agency offices may see an indeterminate decrease in fees collected for processing a Certificate of Destruction, Salvage Title, and Derelict Vehicle Certificate transaction, and both may also see an indeterminate decrease in workload.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 319.30 and 320.03 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Infrastructure and Security on March 12, 2019:

- The CS allows for the use of a commercially available system, in addition to the National Motor Vehicle Title Information System, by an independent entity to obtain a vehicle owner's address.

- The CS adds a requirement that independent entities must provide proof of all lien satisfactions or proof of a release on all liens on a vehicle when applying for a certificate of destruction or salvage certificate of title.
- The CS also requires that if the lienholder's address is different than the one on file with the DOS for a financial institution's registered agent or service, then the notice must also be provided to the address on file with the DOS.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
