

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION _____ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER _____

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative Fischer offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 559.917, Florida Statutes, is amended
 7 to 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
 11 lien against a motor vehicle may obtain the release of the her
 12 er-his motor vehicle from any lien claimed under part II of
 13 chapter 713 by a motor vehicle repair shop for repair work
 14 performed under a written repair estimate by filing with the
 15 clerk of the court in the circuit in which the disputed
 16 transaction occurred a cash or surety bond, payable to the

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17 person claiming the lien and conditioned for the payment of any
18 judgment which may be entered on the lien. The bond shall be in
19 the amount stated on the invoice required by s. 559.911, plus
20 accrued storage charges, if any, less any amount paid to the
21 motor vehicle repair shop as indicated on the invoice. The
22 customer or person shall not be required to institute judicial
23 proceedings in order to post the bond in the registry of the
24 court and shall not, ~~nor shall the customer~~ be required to use a
25 particular form for posting the bond, ~~unless the clerk~~ provides
26 ~~shall provide~~ such form to the customer or person for filing.
27 Upon the posting of such bond, the clerk of the court shall
28 automatically issue a certificate notifying the lienor of the
29 posting of the bond and directing the lienor to release the
30 ~~customer's~~ motor vehicle.

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

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

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

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

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

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

53 (d) The motor vehicle repair shop or employee authorized
54 to release the motor vehicle failed to release the motor
55 vehicle.

56

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

64 (3) A ~~Any~~ motor vehicle repair shop that ~~which~~, or an ~~any~~
65 employee or agent thereof who is authorized to release the motor
66 vehicle who, upon receiving a copy of a certificate giving

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67 notice of the posting of the bond in the required amount and
68 directing release of the motor vehicle, fails to release or
69 return the property to the customer or person pursuant to this
70 section commits ~~is guilty of~~ a misdemeanor of the second degree,
71 punishable as provided in s. 775.082 or s. 775.083.

72 (4) A ~~Any~~ customer or person who stops payment on a credit
73 card charge or a check drawn in favor of a motor vehicle repair
74 shop on account of an invoice or who fails to post a cash or
75 surety bond pursuant to this section shall be prohibited from
76 any recourse under this section with respect to the motor
77 vehicle repair shop.

78 Section 2. Subsection (18) is added to section 559.920,
79 Florida Statutes, to read:

80 559.920 Unlawful acts and practices.—It shall be a
81 violation of this act for any motor vehicle repair shop or
82 employee thereof to:

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

84 Section 3. Subsections (1) through (4), (9), and (13) of
85 section 713.585, Florida Statutes, are amended, and subsections
86 (14) and (15) are added to that section, to read:

87 713.585 Enforcement of lien by sale of motor vehicle.—A
88 person claiming a lien under s. 713.58 for performing labor or
89 services on a motor vehicle may enforce such lien by sale of the
90 vehicle in accordance with the following procedures:

91 (1) The lienor or the lienor's agent must give notice of

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92 the lien, by certified mail, return receipt requested, ~~within 7~~
93 ~~business days, excluding Saturday and Sunday, from the beginning~~
94 ~~date of the assessment of storage charges on said motor vehicle,~~
95 to the registered owner of the vehicle, to the customer as
96 indicated on the order for repair, and to all other persons
97 claiming an interest therein ~~in~~ or lien thereon, as disclosed by
98 the records of the Department of Highway Safety and Motor
99 Vehicles or as disclosed by the records of any corresponding
100 agency of any other state in which the vehicle is identified
101 through a records check of the National Motor Vehicle Title
102 Information System or an equivalent commercially available
103 system as being the current state where the vehicle is titled.

104 Such notice must ~~contain~~:

105 (a) Be sent to the registered owner, the customer, and all
106 other persons claiming an interest therein or lien thereon
107 within seven business days, excluding Saturday and Sunday, after
108 the date that storage charges begin to accrue on the vehicle.
109 However, in no event shall the notice of lien be sent less than
110 30 days before the sale of the motor vehicle.

111 (b) Be sent by certified mail, return receipt requested,
112 with the vehicle identification number of the motor vehicle
113 subject to the lien clearly identified and printed in the
114 delivery address box or section of the return receipt card and
115 on the outside of the envelope sent to the registered owner, the
116 customer, and all other persons claiming an interest therein or

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117 lien thereon and clearly visible on the electronic image of the
118 return receipt card available on the United States Postal
119 Service website.

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

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

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

128 (f)~~(d)~~ Contain notice that the lienor claims a lien on the
129 vehicle for labor and services performed and storage charges, if
130 any, and the cash sum which, if paid to the lienor, would be
131 sufficient to redeem the vehicle from the lien claimed by the
132 lienor.

133 (g) Contain the motor vehicle repair shop's registration
134 number, owner's name, and physical address and the entity name,
135 as registered with the Division of Corporations, of the business
136 where the repair work or storage occurred, which must also
137 appear on the outside of the envelope containing the notice of
138 lien in the return address section of the envelope.

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

141 (i) Contain an itemized statement of the amount claimed to

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142 be owed to the lienor, including the date the vehicle was
143 dropped off for repairs; the date the repairs were completed;
144 the amount for repairs, adjustments, or modifications to the
145 vehicle; any administrative fee; and any daily storage charges.

146 (j)(e) Contain notice that the lien claimed by the lienor
147 is subject to enforcement pursuant to this section and that the
148 vehicle may be sold to satisfy the lien.

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

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

160 (m)(h) Contain notice that the owner of the vehicle has a
161 right to recover possession of the vehicle without instituting
162 judicial proceedings by posting bond in accordance with s.
163 559.917.

164 (n)(i) Contain notice that any proceeds from the sale of
165 the vehicle remaining after payment of the amount claimed to be
166 due and owing to the lienor will be deposited with the clerk of

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167 the circuit court for disposition upon court order pursuant to
168 subsection (8).

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

172 (p) Contain a statement that the lienor will make the
173 vehicle available for inspection during regular business hours
174 within three business days after receiving a written request to
175 inspect the vehicle from a notice recipient, who may present
176 either an electronic or a paper title as evidence of their
177 interest in and right to inspect the vehicle.

178 (q) Contain the address where the vehicle is physically
179 located.

180 (2) If attempts to locate the owner or lienholder are
181 unsuccessful after a check of the records of the Department of
182 Highway Safety and Motor Vehicles and any state disclosed by the
183 check of the National Motor Vehicle Title Information System or
184 an equivalent commercially available system, the lienor must
185 notify the local law enforcement agency in writing by certified
186 mail or acknowledged hand delivery that the lienor has been
187 unable to locate the owner or lienholder, that a physical search
188 of the vehicle has disclosed no ownership information, and that
189 a good faith effort, including records checks of the Department
190 of Highway Safety and Motor Vehicles database and the National
191 Motor Vehicle Title Information System or an equivalent

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192 commercially available system, has been made. A description of
193 the motor vehicle which includes the year, make, and
194 identification number must be given on the notice. This
195 notification must take place within seven 7 business days,
196 excluding Saturday and Sunday, after ~~from~~ the ~~beginning~~ date ~~of~~
197 that storage charges begin to accrue on the vehicle ~~the~~
198 ~~assessment of storage charges on said motor vehicle~~. For
199 purposes of this subsection ~~paragraph~~, the term "good faith
200 effort" means that the following checks have been performed by
201 the company to establish the prior state of registration and
202 title:

203 (a) A check of the Department of Highway Safety and Motor
204 Vehicles database for the owner and any lienholder. ~~†~~

205 (b) A check of the federally mandated electronic National
206 Motor Vehicle Title Information System or an equivalent
207 commercially available system to determine the state of
208 registration when there is not a current title or registration
209 record for the vehicle on file with the Department of Highway
210 Safety and Motor Vehicles. ~~†~~

211 (c) A check of the vehicle for any type of tag, tag
212 record, temporary tag, or regular tag. ~~†~~

213 (d) A check of the vehicle for an inspection sticker or
214 other stickers and decals that could indicate the state of
215 possible registration. ~~† and~~

216 (e) A check of the interior of the vehicle for any papers

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217 that could be in the glove box, trunk, or other areas for the
218 state of registration.

219 (3) A vehicle may not be sold earlier than 60 days after
220 completion of the repair work. If the date of the sale was not
221 included in the notice of lien required in subsection (1),
222 notice of the sale must be sent by certified mail, return
223 receipt requested, at least ~~not less than~~ 15 days before the
224 date of sale, to the customer as indicated on the order for
225 repair, and to all other persons claiming an interest in or lien
226 on the motor vehicle, as disclosed by the records of the
227 Department of Highway Safety and Motor Vehicles or of a
228 corresponding agency of any other state in which the vehicle
229 appears to have been registered after completion of a check of
230 the National Motor Vehicle Title Information System or an
231 equivalent commercially available system. Such notice must:

232 (a) Be sent by certified mail, return receipt requested,
233 with the vehicle identification number of the motor vehicle
234 subject to the sale clearly identified and printed in the
235 delivery address box or section of the return receipt card and
236 on the outside of the envelope sent to the registered owner, the
237 customer, and all other persons claiming an interest therein or
238 lien thereon and clearly visible on the electronic image of the
239 return receipt card available on the United States Postal
240 Service website.

241 (b) Contain the motor vehicle repair shop's registration

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242 number, owner's name, and physical address and the entity name,
243 as registered with the Division of Corporations, of the business
244 where the repair work or storage occurred, which must also
245 appear on the outside of the envelope containing the notice of
246 sale in the return address section of the envelope.

247 (4) The lienor, at least 15 days before the proposed or
248 scheduled date of sale of the vehicle, shall publish the notice
249 required by this section once in a newspaper circulated in the
250 county where the vehicle repair work was completed and the sale
251 is to take place held. A certificate of compliance with the
252 notification provisions of this section, which includes the
253 vehicle identification number, verified by the lienor, together
254 with a copy of the notice of lien required by subsection (1) and
255 the notice of sale required by subsection (3), and a copy of all
256 return receipts receipt for mailing of the notices notice
257 required by this section, which must include proof of
258 publication, and checks of the Department of Highway Safety and
259 Motor Vehicles and the National Motor Vehicle Title Information
260 System or an equivalent commercially available system, must be
261 duly and expeditiously filed with the clerk of the circuit court
262 in the county where the vehicle is held. The lienor, at the time
263 of filing the certificate of compliance, must pay to the clerk
264 of that court a service charge of \$10 for indexing and recording
265 the certificate.

266 (9) (a) A copy of the certificate of compliance, which must

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267 include the vehicle identification number, and the report of
268 sale, certified by the clerk of the court, a copy of the notice
269 of lien required by subsection (1) and the notice of sale
270 required by subsection (3), and a copy of all return receipts
271 for mailing of the notices required by this section, which must
272 include the vehicle identification number, and proof of the
273 required check of the National Motor Vehicle Title Information
274 System or an equivalent commercially available system shall
275 constitute satisfactory proof for application to the Department
276 of Highway Safety and Motor Vehicles for transfer of title,
277 together with any other proof required by any rules and
278 regulations of the department.

279 (b) The Department of Highway Safety and Motor Vehicles
280 may not approve an application for transfer of title if it fails
281 to include a copy of the notice of lien required by subsection
282 (1), the notice of sale required by subsection (3), and a copy
283 of all return receipts for mailing of the notices. The vehicle
284 identification number on the return receipts must match the
285 vehicle identification number of the vehicle that is the subject
286 of the transfer of title and must be clearly visible on the
287 electronic image of the return receipt card available on the
288 United States Postal Service website.

289 (13) A failure to make good faith efforts as defined in
290 subsection (2) precludes the imposition of any storage charges
291 against the vehicle. If a lienor fails to provide notice to any

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292 person claiming a lien on a vehicle under subsection (1) within
293 seven 7 business days after the date assessment of storage of
294 the vehicle charges has begun, then the lienor may not charge
295 the person is precluded from charging for more than seven 7 days
296 of storage, but failure to provide timely notice does not affect
297 charges made for repairs, adjustments, or modifications to the
298 vehicle or the priority of liens on the vehicle.

299 (14) At any time before the proposed or scheduled date of
300 sale of a vehicle, the owner, the customer, or a person claiming
301 an interest therein or a lien thereon may request to inspect the
302 vehicle. The lienor must make the vehicle available for
303 inspection during regular business hours within three business
304 days after receiving a written request to inspect the vehicle.

305 (15) (a) A lienor or the lienor's agent may charge an
306 administrative fee to the registered owner, the insurance
307 company insuring the vehicle, or a person of record claiming a
308 lien against the vehicle to obtain release of the vehicle. Such
309 administrative fee may not exceed \$250. A lienor may not charge
310 a fee other than those specifically authorized in this section.
311 For purposes of this paragraph, the term "administrative fee"
312 means a lien fee or any fee imposed by the lienor or the
313 lienor's agent for administrative costs added to the amount due
314 for storage, repairs, adjustments, or modifications to the
315 vehicle,

316 (b) A lienor or the lienor's agent may not charge fees or

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317 costs, other than those authorized in this section, exceeding
318 \$250.

319 (16) A lienor must use a third-party mailing service
320 certified by the Department of Highway Safety and Motor Vehicles
321 to transmit all notices required by this section.

322 (a) For purposes of this subsection, the term "third-party
323 mailing service" means a business entity qualified under
324 paragraph (b) that, upon a request submitted through a website
325 by a lienor:

326 1. Accesses the National Motor Vehicle Title Information
327 System records to obtain the last state of record of the
328 vehicle;

329 2. Accesses the owner, lienholder, and insurer
330 information, as applicable, for a vehicle from the Department of
331 Highway Safety and Motor Vehicles;

332 3. Electronically generates the notices required under
333 this section;

334 4. Prints and sends the notices required under this
335 section to each owner, lienholder, and insurer of record by
336 certified mail; and

337 5. Electronically returns tracking information or other
338 proof of mailing and delivery of the notices to the lienor.

339 (b) A third-party mailing service must apply to the
340 Department of Highway Safety and Motor Vehicles for
341 certification, in the format prescribed by the department, in

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342 order to provide notices under this section. The department may
343 certify an applicant if it:

344 1. Provides the department with evidence that it has been
345 issued a current and valid \$1,000,000 bond by a surety insurer
346 authorized to do business in this state; and

347 2. Submits a positive audit of the applicant's internal
348 controls performed within the last year by an independent
349 certified public accountant licensed under chapter 473.

350 (c) The department may deny or revoke certification of a
351 third-party mailing service if the department determines that
352 the third-party mailing service has committed an act of fraud or
353 misrepresentation related to a notice required by this section.

354 (d) A third-party mailing service must maintain all
355 records related to providing notices under this section for five
356 years. The records may be maintained in an electronic format.

357 (e) Certification under this section is valid for one
358 year. A third-party mailing service that does not maintain the
359 minimum qualifications for certification may not have its
360 certification renewed.

361 (17) A lienor must release to the owner, lienholder, or
362 agent thereof all of the personal property found in but not
363 affixed to the vehicle. Upon payment of the charges owed, the
364 lienor must release the vehicle to the paying owner, lienholder,
365 or agent.

366 (18) A lienor must accept either an electronic or paper

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367 title as evidence of a person's interest in a vehicle.

368 Section 4. Subsection (4), paragraphs (a) and (b) of
369 subsection (5), and subsections (6) and (9) of section 713.78,
370 Florida Statutes, are amended, and subsections (14) and (15) are
371 added to that section, to read:

372 713.78 Liens for recovering, towing, or storing vehicles
373 and vessels.—

374 (4) (a) A ~~Any~~ person regularly engaged in the business of
375 recovering, towing, or storing vehicles or vessels who comes
376 into possession of a vehicle or vessel pursuant to subsection
377 (2), and who claims a lien for recovery, towing, or storage
378 services, shall give notice, by certified mail, return receipt
379 requested, to the registered owner, the insurance company
380 insuring the vehicle notwithstanding ~~the provisions of s.~~
381 627.736, and ~~to~~ all persons claiming a lien thereon, as
382 disclosed by the records in the Department of Highway Safety and
383 Motor Vehicles or as disclosed by the records of any
384 corresponding agency in any other state in which the vehicle is
385 identified through a records check of the National Motor Vehicle
386 Title Information System or an equivalent commercially available
387 system as being titled or registered.

388 (b) Whenever a ~~any~~ law enforcement agency authorizes the
389 removal of a vehicle or vessel or whenever a ~~any~~ towing service,
390 garage, repair shop, or automotive service, storage, or parking
391 place notifies the law enforcement agency of possession of a

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392 vehicle or vessel pursuant to s. 715.07(2)(a)2., the law
393 enforcement agency of the jurisdiction where the vehicle or
394 vessel is stored shall contact the Department of Highway Safety
395 and Motor Vehicles, or the appropriate agency of the state of
396 registration, if known, within 24 hours through the medium of
397 electronic communications, giving the full description of the
398 vehicle or vessel. Upon receipt of the full description of the
399 vehicle or vessel, the department shall search its files to
400 determine the owner's name, the insurance company insuring the
401 vehicle or vessel, and whether any person has filed a lien upon
402 the vehicle or vessel as provided in s. 319.27(2) and (3) and
403 notify the applicable law enforcement agency within 72 hours.
404 The person in charge of the towing service, garage, repair shop,
405 or automotive service, storage, or parking place shall obtain
406 such information from the applicable law enforcement agency
407 within 5 days after the date of storage and shall give notice
408 pursuant to paragraph (a). The department may release the
409 insurance company information to the requestor notwithstanding
410 ~~the provisions of s. 627.736.~~

411 (c) The notice of lien must be sent by certified mail,
412 return receipt requested, to the registered owner, the insurance
413 company insuring the vehicle notwithstanding s. 627.736, and all
414 other persons claiming a lien thereon shall be sent within seven
415 7 business days, excluding Saturday and Sunday, after the date
416 of storage of the vehicle or vessel. However, in no event shall

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417 the notice of lien be sent less than 15 days before the sale of
418 to the registered owner, the insurance company insuring the
419 vehicle notwithstanding the provisions of s. 627.736, and all
420 persons of record claiming a lien against the vehicle or vessel.

421 The notice must state:

422 1. If the claim of lien is for a vehicle, the vehicle
423 identification number of the vehicle subject to the lien clearly
424 printed in the delivery address box or section of the return
425 receipt card; on the outside of the envelope received by the
426 registered owner and all other persons claiming an interest
427 therein or lien thereon; and on the electronic image of the
428 return receipt card available on the United States Postal
429 Service website.

430 2. The name, physical address, and telephone number of the
431 lienor, and the entity name, as registered with the Division of
432 Corporations, of the business where the towing and storage
433 occurred, which must also appear on the outside of the envelope
434 received by the registered owner and all other persons claiming
435 an interest in or lien on the vehicle.

436 3. ~~It shall state~~ The fact of possession of the vehicle or
437 vessel.

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

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

441 6. ~~That~~ charges have accrued and include an itemized

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442 statement of the amount thereof.

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

446 8. ~~and~~ That any vehicle or vessel that ~~which~~ remains
447 unclaimed, or for which the charges for recovery, towing, or
448 storage services remain unpaid, may be sold free of all prior
449 liens ~~after~~ 35 days after the vehicle or vessel is stored by the
450 lienor if the vehicle or vessel is more than three ~~3~~ years of
451 age or ~~after~~ 50 days after the vehicle or vessel is stored by
452 the lienor if the vehicle or vessel is three ~~3~~ years of age or
453 less.

454 9. The address where the vehicle or vessel is physically
455 located.

456 (d) The notice of lien may not be sent to the registered
457 owner, the insurance company insuring the vehicle or vessel, and
458 all other persons claiming a lien thereon less than 15 days
459 before the sale of the vehicle or vessel.

460 (e) ~~(d)~~ If attempts to locate the name and address of the
461 owner or lienholder prove unsuccessful, the towing-storage
462 operator shall, ~~after~~ seven ~~7~~ business ~~working~~ days, excluding
463 Saturday and Sunday, ~~after~~ ~~of~~ the initial tow or storage, notify
464 the public agency of jurisdiction where the vehicle or vessel is
465 stored in writing by certified mail or acknowledged hand
466 delivery that the towing-storage company has been unable to

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467 locate the name and address of the owner or lienholder and a
468 physical search of the vehicle or vessel has disclosed no
469 ownership information and a good faith effort has been made,
470 including records checks of the Department of Highway Safety and
471 Motor Vehicles database and the National Motor Vehicle Title
472 Information System or an equivalent commercially available
473 system. For purposes of this paragraph and subsection (9), the
474 term "good faith effort" means that the following checks have
475 been performed by the company to establish the prior state of
476 registration and for title:

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

480 2. A check of the electronic National Motor Vehicle Title
481 Information System or an equivalent commercially available
482 system to determine the state of registration when there is not
483 a current registration record for the vehicle or vessel on file
484 with the department ~~Department of Highway Safety and Motor~~
485 ~~Vehicles~~.

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

488 4. A check of the law enforcement report for a tag number
489 or other information identifying the vehicle or vessel, if the
490 vehicle or vessel was towed at the request of a law enforcement
491 officer.

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492 5. A check of the trip sheet or tow ticket of the tow
493 truck operator to see if a tag was on the vehicle or vessel at
494 the beginning of the tow, if a private tow.

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

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

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

505 9. A check of the vehicle for a vehicle identification
506 number.

507 10. A check of the vessel for a vessel registration
508 number.

509 11. A check of the vessel hull for a hull identification
510 number which should be carved, burned, stamped, embossed, or
511 otherwise permanently affixed to the outboard side of the
512 transom or, if there is no transom, to the outmost seaboard side
513 at the end of the hull that bears the rudder or other steering
514 mechanism.

515 (5) (a) The owner of a vehicle or vessel removed pursuant
516 to ~~the provisions of~~ subsection (2), or any person claiming a

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517 lien, other than the towing-storage operator, within 10 days
518 after the time she or he has knowledge of the location of the
519 vehicle or vessel, may file a complaint in the county court of
520 the county in which the vehicle or vessel is stored to determine
521 whether ~~if~~ her or his property was wrongfully taken or withheld
522 ~~from her or him.~~

523 (b) At any time before the sale of the vehicle or vessel
524 ~~Upon filing of a complaint,~~ an owner or lienholder may have her
525 or his vehicle or vessel released upon posting with the court a
526 cash or surety bond or other adequate security equal to the
527 amount of the charges for towing or storage and lot rental
528 amount to ensure the payment of such charges in the event she or
529 he does not prevail. Upon the posting of the bond and the
530 payment of the applicable fee set forth in s. 28.24, the clerk
531 of the court shall issue a certificate notifying the lienor of
532 the posting of the bond and directing the lienor to release the
533 vehicle or vessel. At the time of such release, after reasonable
534 inspection, she or he shall give a receipt to the towing-storage
535 company reciting any claims she or he has for loss or damage to
536 the vehicle or vessel or the contents thereof.

537 (6) A ~~Any~~ vehicle or vessel that ~~which~~ is stored under
538 ~~pursuant to~~ subsection (2) and ~~which~~ remains unclaimed, or for
539 which reasonable charges for recovery, towing, or storing remain
540 unpaid, and any contents not released pursuant to subsection
541 (10), may be sold by the owner or operator of the storage space

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542 for such towing or storage charge ~~after~~ 35 days after ~~from the~~
543 ~~time~~ the vehicle or vessel is stored by the lienor ~~therein~~ if
544 the vehicle or vessel is more than three 3 years of age or ~~after~~
545 50 days after ~~following the time~~ the vehicle or vessel is stored
546 by the lienor ~~therein~~ if the vehicle or vessel is three 3 years
547 of age or less. The sale shall be at public sale for cash. If
548 the date of the sale was not included in the notice required in
549 subsection (4), notice of the sale shall be given to the person
550 in whose name the vehicle or vessel is registered and to all
551 persons claiming a lien on the vehicle or vessel as shown on the
552 records of the Department of Highway Safety and Motor Vehicles
553 or of any corresponding agency in any other state in which the
554 vehicle is identified through a records check of the National
555 Motor Vehicle Title Information System or an equivalent
556 commercially available system as being titled. Notice of the
557 sale must ~~shall~~ be sent by certified mail, return receipt
558 requested. If the claim of lien is for a vehicle, the notice
559 must have clearly identified and printed the vehicle
560 identification number of the motor vehicle subject to the lien
561 in the delivery address box or section of the return receipt
562 card; on the outside of the envelope received by the registered
563 owner and all other persons claiming an interest therein or lien
564 thereon; and on the electronic image of the return receipt card
565 available on the United States Postal Service website. The
566 notice must be sent to the owner of the vehicle or vessel and

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567 the person having the recorded lien on the vehicle or vessel at
568 the address shown on the records of the registering agency at
569 least and shall be mailed not less than 15 days before the sale
570 of the vehicle or vessel date of the sale. The notice must state
571 the name, physical address, and telephone number of the lienor,
572 and the vehicle identification number if the claim of lien is
573 for a vehicle, all of which must also appear on the outside of
574 the envelope containing the notice of sale in the return address
575 section of the envelope. After diligent search and inquiry, if
576 the name and address of the registered owner or the owner of the
577 recorded lien cannot be ascertained, the requirements of notice
578 by mail may be dispensed with. In addition to the notice by
579 mail, public notice of the time and place of sale shall be made
580 by publishing a notice thereof one time, at least 10 days before
581 prior to the date of the sale, in a newspaper of general
582 circulation in the county in which the sale is to be held. The
583 proceeds of the sale, after payment of reasonable towing and
584 storage charges, and costs of the sale, in that order of
585 priority, shall be deposited with the clerk of the circuit court
586 for the county if the owner or lienholder is absent, and the
587 clerk shall hold such proceeds subject to the claim of the owner
588 or lienholder legally entitled thereto. The clerk shall be
589 entitled to receive 5 percent of such proceeds for the care and
590 disbursement thereof. The certificate of title issued under this
591 law shall be discharged of all liens unless otherwise provided

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592 by court order. The owner or lienholder may file a complaint
593 after the vehicle or vessel has been sold in the county court of
594 the county in which it is stored. Upon determining the
595 respective rights of the parties, the court may award damages,
596 attorney ~~attorney's~~ fees, and costs in favor of the prevailing
597 party.

598 (9) Failure to make good faith ~~best~~ efforts to comply with
599 the notice requirements of this section precludes ~~shall preclude~~
600 the imposition of any storage charges against the ~~such~~ vehicle
601 or vessel. If a lienor fails to provide notice to a person
602 claiming a lien on a vehicle or vessel in accordance with
603 subsection (4), the lienor may not charge the person for more
604 than seven days of storage, but such failure does not affect
605 charges made for towing the vehicle or vessel or the priority of
606 liens on the vehicle or vessel.

607 (14) (a) A copy of the notice of lien required by
608 subsection (4) and the notice of sale required by subsection
609 (6), and a copy of all return receipts for mailing of the
610 notices required by this section, which must include the vehicle
611 identification number, and proof of the required check of the
612 National Motor Vehicle Title Information System or an equivalent
613 commercially available system shall constitute satisfactory
614 proof for application to the Department of Highway Safety and
615 Motor Vehicles for transfer of title, together with any other
616 proof required by any rules and regulations of the department.

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617 (b) The department may not approve an application for
618 transfer of title if the application fails to include a copy of
619 the notice of lien required by subsection (4), the notice of
620 sale required by subsection (6), and a copy of all return
621 receipts for mailing of the notices required by this section.
622 The vehicle identification number on the return receipts must
623 match the vehicle identification number of the vehicle that is
624 the subject of the transfer of title and must be clearly visible
625 on the electronic image of the return receipt card available on
626 the United States Postal Service website.

627 (15) (a) A lienor or the lienor's agent may charge an
628 administrative fee to the registered owner, the insurance
629 company insuring the vehicle or vessel, or a person claiming a
630 lien against the vehicle or vessel to obtain release of the
631 vehicle or vessel. Such administrative fee may not exceed \$250.
632 For purposes of this paragraph, the term "administrative fee"
633 means a lien fee or any fee imposed by the lienor or the
634 lienor's agent or designee for administrative costs added to the
635 amount due for towing and storing the vehicle.

636 (b) A lienor or the lienor's agent may not charge fees or
637 costs, other than those authorized in this section or ss.
638 125.0103 and 166.043, exceeding \$250.

639 (16) A lienor must use a third-party mailing service
640 certified by the Department of Highway Safety and Motor Vehicles
641 to transmit all notices required by this section.

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642 (a) For purposes of this section, the term "third-party
643 mailing service" means a business entity qualified under
644 paragraph (b) that, upon a request submitted through a website
645 by a lienor:

646 1. Accesses the National Motor Vehicle Title Information
647 System records to obtain the last state of record of the
648 vehicle;

649 2. Accesses the owner, lienholder, and insurer
650 information, as applicable, for a vehicle or vessel from the
651 Department of Highway Safety and Motor Vehicles;

652 3. Electronically generates the notices required under
653 this section;

654 4. Prints and sends the notices required under this
655 section to the owner(s), lienholder(s), and insurer(s) of record
656 by certified mail; and

657 5. Electronically returns tracking information or other
658 proof of mailing and delivery of the notices to the lienor.

659 (b) A third-party mailing service must apply to the
660 Department of Highway Safety and Motor Vehicles for
661 certification, in the format prescribed by the department, in
662 order to provide notices under this section. The department may
663 certify an applicant if it:

664 1. Provides the department with evidence that it has been
665 issued a current and valid \$1,000,000 bond by a surety insurer
666 authorized to do business in this state; and

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667 2. Submits a positive audit of the applicant's internal
668 controls performed within the last year by an independent
669 certified public accountant licensed under chapter 473.

670 (c) The department may deny or revoke the certification of
671 a third-party mailing service if the department determines that
672 the third-party mailing service has committed an act of fraud or
673 misrepresentation related to a notice required by this section.

674 (d) A third-party mailing service must maintain all
675 records related to providing notices under this section for five
676 years. The records may be maintained in an electronic format.

677 (e) Approval under this section is valid for one year. A
678 third-party mailing service that does not maintain the minimum
679 qualifications for certification may not have its certification
680 renewed.

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

683
684 Section 5. This act shall take effect January 1, 2020.

685
686 -----

687 **T I T L E A M E N D M E N T**

688 Remove lines 12-22 and insert:

689 notice of sale of a motor vehicle; requiring the lienor to use a
690 third-party mailing service to provide notices of lien and sale;
691 establishing qualifications for third-party mailing services;

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692 requiring the lienor to make the motor vehicle available for
693 inspection by notice recipients; revising requirements for
694 transfer of title; authorizing a lienor to charge an
695 administrative fee up to a certain amount; amending s. 713.78,
696 F.S.; revising requirements for notice of lien for recovering,
697 towing, or storing a vehicle or vessel; revising requirements
698 for notice of the sale of such vehicle or vessel; requiring the
699 lienor to use a third-party mailing service to provide notices
700 of lien and sale; establishing qualifications for third-party
701 mailing services; revising requirements for transfer of title;
702 authorizing a lienor to charge an administrative fee up to a
703 certain amount; requiring the lienor to make the motor vehicle
704 or vessel available for inspection by notice recipients;
705 providing