



888030

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2019	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Stargel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

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



888030

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

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

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



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

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

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

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

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

52
53 The customer or person, upon a judgment in her or his favor in
54 an action brought under this subsection, may be entitled to
55 damages plus court costs and reasonable attorney ~~attorney's~~ fees
56 sustained by her or him by reason of such wrongful detention or
57 retention. Upon a judgment in favor of the motor vehicle repair
58 shop, the shop may be entitled to reasonable attorney ~~attorney's~~
59 fees.

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

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



888030

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

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

76 559.920 Unlawful acts and practices.—It shall be a
77 violation of this act for any motor vehicle repair shop or
78 employee thereof to do any of the following:

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

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

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

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

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

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

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

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



888030

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

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

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

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

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

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

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

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

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



888030

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

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

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

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

135 713.585 Enforcement of lien by sale of motor vehicle.—A
136 person claiming a lien under s. 713.58 for performing labor or
137 services on a motor vehicle may enforce such lien by sale of the
138 vehicle in accordance with the following procedures:

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

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



888030

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

159 (b) Be sent by certified mail, return receipt requested,
160 with the vehicle identification number of the motor vehicle
161 subject to the lien clearly printed in the delivery address box
162 or section of the return receipt card; on the outside of the
163 envelope sent to the registered owner, the customer, and all
164 other persons claiming an interest therein or lien thereon; and
165 on the electronic image of the return receipt card available on
166 the United States Postal Service website.

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

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

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

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

180 (g) Contain the motor vehicle repair shop's registration
181 number, owner's name, and physical address and the entity name,
182 as registered with the Division of Corporations, of the business
183 where the repair work or storage occurred, which must also
184 appear on the outside of the envelope sent to the registered



888030

185 owner, the customer, and all other persons claiming an interest
186 in or lien on the vehicle.

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

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

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

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

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

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

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



888030

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

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

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

226 (q) Contain the address at which the vehicle is physically
227 located.

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



888030

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

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

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

259 (c) A check of the vehicle for any type of tag, tag record,
260 temporary tag, or regular tag.†

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

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

267 (3) A vehicle may not be sold earlier than 60 days after
268 completion of the repair work. If the date of the sale was not
269 included in the notice of lien required in subsection (1),
270 notice of the sale must be sent by certified mail, return
271 receipt requested, at least ~~not less than~~ 15 days before the



888030

272 date of sale, to the customer as indicated on the order for
273 repair, and to all other persons claiming an interest in or lien
274 on the motor vehicle, as disclosed by the records of the
275 Department of Highway Safety and Motor Vehicles or of a
276 corresponding agency of any other state in which the vehicle
277 appears to have been registered after completion of a check of
278 the National Motor Vehicle Title Information System or an
279 equivalent commercially available system. Such notice must:

280 (a) Be sent by certified mail, return receipt requested,
281 with the vehicle identification number of the motor vehicle
282 subject to the sale clearly identified and printed in the
283 delivery address box or section of the return receipt card and
284 on the outside of the envelope sent to the registered owner, the
285 customer, and all other persons claiming an interest therein or
286 lien thereon and clearly visible on the electronic image of the
287 return receipt card available on the United States Postal
288 Service website.

289 (b) Contain the motor vehicle repair shop's registration
290 number, owner's name, and physical address and the entity name,
291 as registered with the Division of Corporations, of the business
292 where the repair work or storage occurred, which must also
293 appear on the outside of the envelope containing the notice of
294 sale in the return address section of 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 the sale
299 is to take place held. A certificate of compliance with the
300 notification provisions of this section, which includes the



888030

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

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

326 (b) The Department of Highway Safety and Motor Vehicles may
327 not approve an application for transfer of title if the
328 application fails to include a copy of the notice of lien
329 required by subsection (1) and the notice of sale required by



888030

330 subsection (3) and a copy of all return receipts for mailing of
331 the notices. The vehicle identification number on the return
332 receipts must match the vehicle identification number of the
333 vehicle that is the subject of the transfer of title and must be
334 clearly visible on the electronic image of the return receipt
335 card available on the United States Postal Service website.

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

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

352 (15) (a) A lienor or the lienor's agent may charge an
353 administrative fee to the registered owner, the insurance
354 company insuring the vehicle, or a person of record claiming a
355 lien against the vehicle to obtain release of the vehicle. Such
356 administrative fee may not exceed \$250. For purposes of this
357 paragraph, the term "administrative fee" means a lien fee or any
358 fee imposed by the lienor or the lienor's agent for



888030

359 administrative costs added to the amount due for storage,
360 repairs, adjustments, or modifications to the vehicle.

361 (b) A lienor or the lienor's agent may not charge fees or
362 costs, other than those authorized in this section, that exceed
363 \$250.

364 (16) A motor vehicle or vessel repair shop; garage;
365 automotive service, storage, or parking place; or towing-storage
366 operator must use a third-party service approved by the
367 Department of Highway Safety and Motor Vehicles to transmit all
368 notices required by this section. If there are no third-party
369 services approved by the department, a lienor may mail the
370 notices and must provide evidence of compliance with this
371 section upon submission of an application for certificate of
372 title or certificate of destruction.

373 (a) For purposes of this subsection, the term "third-party
374 service" means a qualified business entity that, upon a request
375 submitted through a website by a motor vehicle or vessel repair
376 shop, towing-storage operator, garage, or automotive service,
377 storage, or parking place:

378 1. Accesses the National Motor Vehicle Title Information
379 System records to obtain the last state of record of the
380 vehicle.

381 2. Accesses the owner, lienholder, and insurer information,
382 as applicable, for a vehicle or vessel from the Department of
383 Highway Safety and Motor Vehicles.

384 3. Electronically generates the notice required of the
385 motor vehicle or vessel repair shop, towing-storage operator,
386 garage, or automotive service, storage, or parking place by this
387 section through the website.



888030

388 4. Prints and sends the notice required under this section
389 to any owner, lienholder, and insurer of record by certified
390 mail.

391 5. Electronically returns tracking information or other
392 proof of mailing and delivery of the notices to the motor
393 vehicle or vessel repair shop, towing-storage operator, garage,
394 or automotive service, storage, or parking place.

395 6. Electronically reports to the Department of Highway
396 Safety and Motor Vehicles via an electronic data exchange
397 process using a web interface the following information related
398 to the towing-storage notice, as applicable:

399 a. The vehicle identification number or vessel hull
400 identification number;

401 b. The license plate number;

402 c. The name and address of the towing-storage operator or
403 lienor;

404 d. The physical location of the vehicle;

405 e. The date of the tow;

406 f. The amount of storage fees owed at the time of the
407 notice; and

408 g. The date the notices were mailed and delivered.

409 (b) A third-party service must apply to the department and
410 be approved by the department in order to provide notices under
411 this section. The department shall prescribe the format for such
412 applications. The department may approve a third-party service
413 applicant as qualified to provide the services described in
414 paragraph (a) based upon the following:

415 1. Providing the department a \$1 million bond;

416 2. Submitting an acceptable Internal Control and Data



417 Security Audit (Level 2) or equivalent from a licensed certified
418 public accountant; and

419 3. Successfully demonstrating the ability to electronically
420 provide required data to the department via an electronic data
421 exchange process using a web interface.

422 (c) The department may deny, suspend, or revoke approval of
423 a third-party service if the department determines that the
424 third-party service has committed an act of fraud or
425 misrepresentation related to a notice required by this section.

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

430 (e) A third-party service must annually provide the
431 department with evidence that it maintains a \$1 million bond and
432 must submit an Internal Control and Data Security Audit (Level
433 2) or equivalent from a licensed certified public accountant
434 annually to continue its approved status each year.

435 (f) A third-party service must maintain a publicly
436 available website that allows an owner, registrant, lienholder,
437 insurance company, or any agent thereof to search for notices
438 sent pursuant to this section. The search results must return
439 the same information provided to the department, excluding any
440 personal identifying information.

441 (17) A lienor must release to the owner, lienholder, or
442 agent thereof all of the personal property found in but not
443 affixed to the vehicle. Upon payment of the charges owed, the
444 lienor must release the vehicle to the paying owner, lienholder,
445 or agent thereof.



888030

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

448 Section 4. Subsection (4), paragraphs (a) and (b) of
449 subsection (5), and subsections (6) and (9) of section 713.78,
450 Florida Statutes, are amended, and subsections (14) through (17)
451 are added to that section, to read:

452 713.78 Liens for recovering, towing, or storing vehicles
453 and vessels.—

454 (4) (a) A ~~Any~~ person regularly engaged in the business of
455 recovering, towing, or storing vehicles or vessels who comes
456 into possession of a vehicle or vessel pursuant to subsection
457 (2), and who claims a lien for recovery, towing, or storage
458 services, shall give notice, by certified mail, return receipt
459 requested, to the registered owner, the insurance company
460 insuring the vehicle notwithstanding ~~the provisions of s.~~
461 627.736, and ~~to~~ all persons claiming a lien thereon, as
462 disclosed by the records in the Department of Highway Safety and
463 Motor Vehicles or as disclosed by the records of any
464 corresponding agency in any other state in which the vehicle is
465 identified through a records check of the National Motor Vehicle
466 Title Information System or an equivalent commercially available
467 system as being titled or registered.

468 (b) Whenever a ~~any~~ law enforcement agency authorizes the
469 removal of a vehicle or vessel or whenever a ~~any~~ towing service,
470 garage, repair shop, or automotive service, storage, or parking
471 place notifies the law enforcement agency of possession of a
472 vehicle or vessel pursuant to s. 715.07(2)(a)2., the law
473 enforcement agency of the jurisdiction where the vehicle or
474 vessel is stored shall contact the Department of Highway Safety



888030

475 and Motor Vehicles, or the appropriate agency of the state of
476 registration, if known, within 24 hours through the medium of
477 electronic communications, giving the full description of the
478 vehicle or vessel. Upon receipt of the full description of the
479 vehicle or vessel, the department shall search its files to
480 determine the owner's name, the insurance company insuring the
481 vehicle or vessel, and whether any person has filed a lien upon
482 the vehicle or vessel as provided in s. 319.27(2) and (3) and
483 notify the applicable law enforcement agency within 72 hours.
484 The person in charge of the towing service, garage, repair shop,
485 or automotive service, storage, or parking place shall obtain
486 such information from the applicable law enforcement agency
487 within 5 days after the date of storage and shall give notice
488 pursuant to paragraph (a). The department may release the
489 insurance company information to the requestor notwithstanding
490 ~~the provisions of s. 627.736.~~

491 (c) The notice of lien must be sent by certified mail,
492 return receipt requested, to the registered owner, the insurance
493 company insuring the vehicle notwithstanding s. 627.736, and all
494 other persons claiming a lien thereon shall be sent within 7
495 business days, excluding Saturday and Sunday, after the date of
496 storage of the vehicle or vessel. However, in no event shall the
497 notice of lien be sent less than 15 days before the sale of ~~to~~
498 ~~the registered owner, the insurance company insuring the vehicle~~
499 ~~notwithstanding the provisions of s. 627.736, and all persons of~~
500 ~~record claiming a lien against~~ the vehicle or vessel. The notice
501 must state:

502 1. If the claim of lien is for a vehicle, the vehicle
503 identification number of the vehicle subject to the lien clearly



888030

504 printed in the delivery address box or section of the return
505 receipt card; on the outside of the envelope sent to the
506 registered owner and all other persons claiming an interest
507 therein or lien thereon; and on the electronic image of the
508 return receipt card available on the United States Postal
509 Service website.

510 2. The name, physical address, and telephone number of the
511 lienor, and the entity name, as registered with the Division of
512 Corporations, of the business where the towing and storage
513 occurred, which must also appear on the outside of the envelope
514 sent to the registered owner and all other persons claiming an
515 interest in or lien on the vehicle or vessel.

516 3. ~~It shall state~~ The fact of possession of the vehicle or
517 vessel.

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

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

521 6. That charges have accrued and include an itemized
522 statement of the amount thereof.

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

526 8. That any vehicle or vessel ~~that~~ ~~which~~ remains unclaimed,
527 or for which the charges for recovery, towing, or storage
528 services remain unpaid, may be sold free of all prior liens
529 ~~after~~ 35 days after the vehicle or vessel is stored by the
530 lienor if the vehicle or vessel is more than 3 years of age or
531 ~~after~~ 50 days after the vehicle or vessel is stored by the
532 lienor if the vehicle or vessel is 3 years of age or less.



888030

533 9. The address at which the vehicle or vessel is physically
534 located.

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

539 (e)-~~(d)~~ If attempts to locate the name and address of the
540 owner or lienholder prove unsuccessful, the towing-storage
541 operator shall, after 7 business ~~working~~ days, excluding
542 Saturday and Sunday, after ~~of~~ the initial tow or storage, notify
543 the public agency of jurisdiction where the vehicle or vessel is
544 stored in writing by certified mail or acknowledged hand
545 delivery that the towing-storage company has been unable to
546 locate the name and address of the owner or lienholder and a
547 physical search of the vehicle or vessel has disclosed no
548 ownership information and a good faith effort has been made,
549 including records checks of the Department of Highway Safety and
550 Motor Vehicles database and the National Motor Vehicle Title
551 Information System or an equivalent commercially available
552 system. For purposes of this paragraph and subsection (9), the
553 term "good faith effort" means that the following checks have
554 been performed by the company to establish the prior state of
555 registration and for title:

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

558 2. A check of the electronic National Motor Vehicle Title
559 Information System or an equivalent commercially available
560 system to determine the state of registration when there is not
561 a current registration record for the vehicle or vessel on file



888030

562 with the department of ~~Highway Safety and Motor Vehicles~~.

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

565 4. A check of the law enforcement report for a tag number
566 or other information identifying the vehicle or vessel, if the
567 vehicle or vessel was towed at the request of a law enforcement
568 officer.

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

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

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

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

582 9. A check of the vehicle for a vehicle identification
583 number.

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

585 11. A check of the vessel hull for a hull identification
586 number which should be carved, burned, stamped, embossed, or
587 otherwise permanently affixed to the outboard side of the
588 transom or, if there is no transom, to the outmost seaboard side
589 at the end of the hull that bears the rudder or other steering
590 mechanism.



888030

591 (5) (a) The owner of a vehicle or vessel removed pursuant to
592 ~~the provisions of~~ subsection (2), or any person claiming a lien,
593 other than the towing-storage operator, within 10 days after the
594 time she or he has knowledge of the location of the vehicle or
595 vessel, may file a complaint in the county court of the county
596 in which the vehicle or vessel is stored to determine whether ~~if~~
597 her or his property was wrongfully taken or withheld ~~from her or~~
598 ~~him~~.

599 (b) At any time before the sale of the vehicle or vessel
600 ~~Upon filing of a complaint~~, an owner or lienholder may have her
601 or his vehicle or vessel released upon posting with the court a
602 cash or surety bond or other adequate security equal to the
603 amount of the charges for towing or storage and lot rental
604 amount to ensure the payment of such charges in the event she or
605 he does not prevail. Upon the posting of the bond and the
606 payment of the applicable fee set forth in s. 28.24, the clerk
607 of the court shall issue a certificate notifying the lienor of
608 the posting of the bond and directing the lienor to release the
609 vehicle or vessel. At the time of such release, after reasonable
610 inspection, she or he shall give a receipt to the towing-storage
611 company reciting any claims she or he has for loss or damage to
612 the vehicle or vessel or the contents thereof.

613 (6) A ~~Any~~ vehicle or vessel that ~~which~~ is stored pursuant
614 to subsection (2) and ~~which~~ remains unclaimed, or for which
615 reasonable charges for recovery, towing, or storing remain
616 unpaid, and any contents not released pursuant to subsection
617 (10), may be sold by the owner or operator of the storage space
618 for such towing or storage charge ~~after~~ 35 days after ~~from the~~
619 ~~time~~ the vehicle or vessel is stored by the lienor ~~therein~~ if



888030

620 the vehicle or vessel is more than 3 years of age or ~~after~~ 50
621 days after ~~following the time~~ the vehicle or vessel is stored by
622 the lienor ~~therein~~ if the vehicle or vessel is 3 years of age or
623 less. The sale shall be at public sale for cash. If the date of
624 the sale was not included in the notice required in subsection
625 (4), notice of the sale shall be given to the person in whose
626 name the vehicle or vessel is registered and to all persons
627 claiming a lien on the vehicle or vessel as shown on the records
628 of the Department of Highway Safety and Motor Vehicles or of any
629 corresponding agency in any other state in which the vehicle is
630 identified through a records check of the National Motor Vehicle
631 Title Information System or an equivalent commercially available
632 system as being titled. Notice of the sale must ~~shall~~ be sent by
633 certified mail, return receipt requested. If the claim of lien
634 is for a vehicle, the notice must have clearly identified and
635 printed the vehicle identification number of the motor vehicle
636 subject to the lien in the delivery address box or section of
637 the return receipt card; on the outside of the envelope sent to
638 the registered owner and all other persons claiming an interest
639 therein or lien thereon; and on the electronic image of the
640 return receipt card available on the United States Postal
641 Service website. The notice must be sent to the owner of the
642 vehicle or vessel and the person having the recorded lien on the
643 vehicle or vessel at the address shown on the records of the
644 registering agency at least ~~and shall be mailed not less than~~ 15
645 days before the sale of the vehicle or vessel ~~date of the sale~~.
646 The notice must state the name, physical address, and telephone
647 number of the lienor, and the vehicle identification number if
648 the claim of lien is for a vehicle, all of which must also



888030

649 appear on the outside of the envelope containing the notice of
650 sale in the return address section of the envelope. After
651 diligent search and inquiry, if the name and address of the
652 registered owner or the owner of the recorded lien cannot be
653 ascertained, the requirements of notice by mail may be dispensed
654 with. In addition to the notice by mail, public notice of the
655 time and place of sale shall be made by publishing a notice
656 thereof one time, at least 10 days before ~~prior to~~ the date of
657 the sale, in a newspaper of general circulation in the county in
658 which the sale is to be held. The proceeds of the sale, after
659 payment of reasonable towing and storage charges, and costs of
660 the sale, in that order of priority, shall be deposited with the
661 clerk of the circuit court for the county if the owner or
662 lienholder is absent, and the clerk shall hold such proceeds
663 subject to the claim of the owner or lienholder legally entitled
664 thereto. The clerk shall be entitled to receive 5 percent of
665 such proceeds for the care and disbursement thereof. The
666 certificate of title issued under this law shall be discharged
667 of all liens unless otherwise provided by court order. The owner
668 or lienholder may file a complaint after the vehicle or vessel
669 has been sold in the county court of the county in which it is
670 stored. Upon determining the respective rights of the parties,
671 the court may award damages, attorney ~~attorney's~~ fees, and costs
672 in favor of the prevailing party.

673 (9) Failure to make good faith ~~best~~ efforts to comply with
674 the notice requirements of this section precludes ~~shall preclude~~
675 the imposition of any storage charges against the ~~such~~ vehicle
676 or vessel. If a lienor fails to provide notice to a person
677 claiming a lien on a vehicle or vessel in accordance with



888030

678 subsection (4), the lienor may not charge the person for more
679 than 7 days of storage, but such failure does not affect charges
680 made for towing the vehicle or vessel or the priority of liens
681 on the vehicle or vessel.

682 (14) (a) A copy of the notice of lien required by subsection
683 (4) and the notice of sale required by subsection (6), and a
684 copy of all return receipts for mailing of the notices required
685 by this section, which must include the vehicle identification
686 number, and proof of the required check of the National Motor
687 Vehicle Title Information System or an equivalent commercially
688 available system shall constitute satisfactory proof for
689 application to the Department of Highway Safety and Motor
690 Vehicles for transfer of title, together with any other proof
691 required by any rules and regulations of the department.

692 (b) The Department of Highway Safety and Motor Vehicles may
693 not approve an application for transfer of title if the
694 application fails to include a copy of the notice of lien
695 required by subsection (4) and the notice of sale required by
696 subsection (6) and a copy of all return receipts for mailing of
697 the notices required by this section. The vehicle identification
698 number on the return receipts must match the vehicle
699 identification number of the vehicle that is the subject of the
700 transfer of title and must be clearly visible on the electronic
701 image of the return receipt card available on the United States
702 Postal Service website.

703 (15) (a) A lienor or the lienor's agent may charge an
704 administrative fee to the registered owner, the insurance
705 company insuring the vehicle or vessel, or a person claiming a
706 lien against the vehicle or vessel to obtain release of the



888030

707 vehicle or vessel. Such administrative fee may not exceed \$250.
708 For purposes of this paragraph, the term "administrative fee"
709 means a lien fee or any fee imposed by the lienor or the
710 lienor's agent for administrative costs added to the amount due
711 for towing and storing the vehicle or vessel.

712 (b) A lienor or the lienor's agent may not charge fees or
713 costs, other than those authorized in this section or ss.
714 125.0103 and 166.043, that exceed \$250.

715 (16) A motor vehicle or vessel repair shop; garage;
716 automotive service, storage, or parking place; or towing-storage
717 operator must use a third-party service approved by the
718 Department of Highway Safety and Motor Vehicles to transmit all
719 notices required by this section. If there are no third-party
720 services approved by the department, a lienor may mail the
721 notices and must provide evidence of compliance with this
722 section upon submission of an application for certificate of
723 title or certificate of destruction.

724 (a) For purposes of this subsection, the term "third-party
725 service" means a qualified business entity that, upon a request
726 submitted through a website by a motor vehicle or vessel repair
727 shop, towing-storage operator, garage, or automotive service,
728 storage, or parking place:

729 1. Accesses the National Motor Vehicle Title Information
730 System records to obtain the last state of record of the
731 vehicle.

732 2. Accesses the owner, lienholder, and insurer information,
733 as applicable, for a vehicle or vessel from the Department of
734 Highway Safety and Motor Vehicles.

735 3. Electronically generates the notice required of the



888030

736 motor vehicle or vessel repair shop, towing-storage operator,
737 garage, or automotive service, storage, or parking place by this
738 section through the website.

739 4. Prints and sends the notice required under this section
740 to any owner, lienholder, and insurer of record by certified
741 mail.

742 5. Electronically returns tracking information or other
743 proof of mailing and delivery of the notices to the motor
744 vehicle or vessel repair shop, towing-storage operator, garage,
745 or automotive service, storage, or parking place.

746 6. Electronically reports to the Department of Highway
747 Safety and Motor Vehicles via an electronic data exchange
748 process using a web interface the following information related
749 to the repair and storage notice, as applicable:

750 a. The vehicle identification number or vessel hull
751 identification number;

752 b. The license plate number;

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

754 d. The physical location of the vehicle or vessel;

755 e. The date the vehicle or vessel was dropped off for
756 repairs;

757 f. The date the repairs were completed;

758 g. The amount owed for the repairs;

759 h. The date of the assessment of storage charges;

760 i. The amount of storage fees at the time of the notice;

761 and

762 j. The date the notices were mailed and delivered.

763 (b) A third-party service must apply to the department and
764 be approved by the department in order to provide notices under



888030

765 this section. The department shall prescribe the format for such
766 applications. The department may approve a third-party service
767 applicant as qualified to provide the services described in
768 paragraph (a) based upon the following:

- 769 1. Providing the department a \$1 million bond;
770 2. Submitting an acceptable Internal Control and Data
771 Security Audit (Level 2) or equivalent from a licensed certified
772 public accountant; and
773 3. Successfully demonstrating the ability to electronically
774 provide required data to the department via an electronic data
775 exchange process using a web interface.

776 (c) The department may deny, suspend, or revoke approval of
777 a third-party service if the department determines that the
778 third-party service has committed an act of fraud or
779 misrepresentation related to a notice required by this section.

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

784 (e) A third-party service must annually provide the
785 department with evidence that it maintains a \$1 million bond and
786 must submit an Internal Control and Data Security Audit (Level
787 2) or equivalent from a currently licensed certified public
788 accountant annually to continue its approved status each year.

789 (f) A third-party service must maintain a publicly
790 available website that allows an owner, registrant, lienholder,
791 insurance company, or any agent thereof to search for notices
792 sent pursuant to this section. The search results must return
793 the same information provided to the department, excluding any



888030

794 personal identifying information.

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

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

798

799 ===== T I T L E A M E N D M E N T =====

800 And the title is amended as follows:

801 Delete everything before the enacting clause

802 and insert:

803

A bill to be entitled

804

An act relating to liens against motor vehicles and

805

vessels; amending s. 559.917, F.S.; authorizing a

806

person claiming a lien against a motor vehicle to

807

obtain the release of the vehicle from a lien claimed

808

by a motor vehicle repair shop under certain

809

circumstances; amending s. 559.920, F.S.; prohibiting

810

a motor vehicle repair shop from violating certain

811

provisions; amending s. 713.585, F.S.; revising notice

812

requirements for enforcing a lien by sale of a motor

813

vehicle; revising requirements for notice of lien and

814

notice of sale of a motor vehicle; requiring the

815

lienor to make the motor vehicle available for

816

inspection by notice recipients; revising requirements

817

for transfer of title; authorizing a lienor to charge

818

an administrative fee up to a certain amount; defining

819

the term "administrative fee"; requiring a lienor to

820

use a third-party service to provide notices of lien

821

and sale; providing an exception; defining the term

822

"third-party service"; establishing qualifications for



888030

823 approval of third-party services; authorizing the
824 Department of Highway Safety and Motor Vehicles to
825 deny, suspend, or revoke approval under certain
826 circumstances; providing certain recordkeeping
827 requirements; requiring a third-party service to
828 annually take certain actions to continue to be
829 approved; requiring a third-party service to maintain
830 a website that offers specified information; requiring
831 a lienor to release certain personal property;
832 requiring release of the vehicle upon payment of
833 charges; requiring a lienor to accept an electronic or
834 paper title as evidence of a person's interest in a
835 vehicle; amending s. 713.78, F.S.; revising
836 requirements for notice of lien for recovering,
837 towing, or storing a vehicle or vessel; revising
838 requirements for notice of the sale of such vehicle or
839 vessel; revising requirements for transfer of title;
840 authorizing a lienor to charge an administrative fee
841 up to a certain amount; defining the term
842 "administrative fee"; requiring a lienor to use a
843 third-party service to provide notices of lien and
844 sale; providing an exception; defining the term
845 "third-party service"; establishing qualifications for
846 approval of third-party services; authorizing the
847 department to deny, suspend, or revoke approval under
848 certain circumstances; providing certain recordkeeping
849 requirements; requiring a third-party service to
850 annually take certain actions to continue to be
851 approved; requiring a third-party service to maintain



888030

852 a website that offers specified information; requiring
853 a lienor to accept an electronic or paper title as
854 evidence of a person's interest in a vehicle or
855 vessel; providing an effective date.