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LEGISLATIVE ACTION

Senate

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House

The Committee on Judiciary (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~~
motor vehicle from any lien claimed under part II of chapter 713



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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 by the clerk.

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



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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
69 card charge or a check drawn in favor of a motor vehicle repair



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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
98 exercise of reasonable care should be known, to be untrue,



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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
127 procedures or specifications and allowable tolerances for the



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128 particular model and year. ~~or~~

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
156 date on which storage charges begin to accrue on the vehicle.



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

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

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

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

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

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

185 (h) Contain the name of the person or entity that



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186 authorized the labor or services on the vehicle.

187 (i) Contain an itemized statement of the amount claimed to
188 be owed to the lienor, including the date the vehicle was
189 dropped off for repairs; the date the repairs were completed;
190 the date the customer was notified of the completion of the
191 repairs; the amount due for repairs, adjustments, or
192 modifications to the vehicle; any administrative fees; and any
193 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
214 due and owing to the lienor will be deposited with the clerk of



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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 a copy of an electronic title or a paper title as
225 evidence of his or her interest in and right to inspect the
226 vehicle.

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

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



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

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

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

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

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

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

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



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

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

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

294 (4) The lienor, at least 15 days before the proposed or
295 scheduled date of sale of the vehicle, shall publish the notice
296 required by this section once in a newspaper circulated in the
297 county where the vehicle repair work was completed and where the
298 sale is to take place ~~held~~. A certificate of compliance with the
299 notification provisions of this section, which includes the
300 vehicle identification number, verified by the lienor, together
301 with a copy of the notice of lien required by subsection (1) and



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

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

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

330 (13) A failure to make good faith efforts as defined in



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

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

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

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

358 (16) A motor vehicle repair shop, garage, automotive
359 service facility, or storage operator must use a third-party



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

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

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

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

376 3. Electronically generates the notices required of a motor
377 vehicle repair shop and a towing-storage operator by this
378 section through the website.

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

382 5. Electronically returns tracking information or other
383 proof of mailing and delivery of the notices to the motor
384 vehicle repair shop and towing-storage operator.

385 6. Electronically reports to the department, via an
386 electronic data exchange process using a web interface, the
387 following information related to the repair and storage notices:

388 a. The vehicle identification number.



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- 389 b. The license plate number.
- 390 c. The name and address of the repair shop or lienor.
- 391 d. The physical location of the vehicle.
- 392 e. The date on which the vehicle was dropped off for
393 repairs.
- 394 f. The date on which the repairs were completed.
- 395 g. The amount due for repairs and the storage amount per
396 day.
- 397 h. The dates on which the notice was mailed and delivered.
- 398 i. The date on which the owner was notified that the
399 repairs were completed.
- 400 j. Other information required by the department.
- 401 (b) A third-party service must apply to and be approved by
402 the department in order to provide notices under this section.
403 The department shall prescribe the format for the application.
404 The department may approve the applicant as qualified to perform
405 the services provided in paragraph (a) if the applicant:
- 406 1. Provides the department with a \$1 million bond.
- 407 2. Submits an acceptable internal control and data security
408 audit (Level 2) or its equivalent performed by a licensed
409 certified public accountant.
- 410 3. Successfully demonstrates the ability to electronically
411 provide required data to the department via an electronic data
412 exchange process using a web interface.
- 413 (c) The department may deny, suspend, or revoke approval of
414 a third-party service if the department determines that the
415 third-party service has committed an act of fraud or
416 misrepresentation related to a notice required by this section.
- 417 (d) A third-party service must maintain all records related



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418 to providing notices under this section for 5 years and allow
419 the department to inspect and copy such records upon request.
420 The records may be maintained in an electronic format.

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

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

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

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

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

444 713.78 Liens for recovering, towing, or storing vehicles
445 and vessels.—

446 (4) (a) A ~~Any~~ person regularly engaged in the business of



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

459 (b) Whenever a ~~any~~ law enforcement agency authorizes the
460 removal of a vehicle or vessel or whenever a ~~any~~ towing service,
461 garage, repair shop, or automotive service, storage, or parking
462 place notifies the law enforcement agency of possession of a
463 vehicle or vessel pursuant to s. 715.07(2)(a)2., the law
464 enforcement agency of the jurisdiction where the vehicle or
465 vessel is stored shall contact the Department of Highway Safety
466 and Motor Vehicles, or the appropriate agency of the state of
467 registration, if known, within 24 hours through the medium of
468 electronic communications, giving the full description of the
469 vehicle or vessel. Upon receipt of the full description of the
470 vehicle or vessel, the department shall search its files to
471 determine the owner's name, the insurance company insuring the
472 vehicle or vessel, and whether any person has filed a lien upon
473 the vehicle or vessel as provided in s. 319.27(2) and (3) and
474 notify the applicable law enforcement agency within 72 hours.
475 The person in charge of the towing service, garage, repair shop,



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

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

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

499 2. The name, physical address, and telephone number of the
500 lienor, and the entity name, as registered with the Division of
501 Corporations, of the business where the towing and storage
502 occurred, which must also appear on the outside of the envelope
503 sent to the registered owner and all other persons claiming an
504 interest in or lien on the vehicle or vessel.



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505 3. ~~It shall state~~ The fact of possession of the vehicle or
506 vessel.

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

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

510 6. That charges have accrued and include an itemized
511 statement of the amount thereof.

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

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

522 9. The address at which the vehicle or vessel is physically
523 located.

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

528 (e) ~~(d)~~ If attempts to locate the name and address of the
529 owner or lienholder prove unsuccessful, the towing-storage
530 operator shall, after 7 business ~~working~~ days, excluding
531 Saturday and Sunday, after ~~of~~ the initial tow or storage, notify
532 the public agency of jurisdiction where the vehicle or vessel is
533 stored in writing by certified mail or acknowledged hand



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

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

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

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

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

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

561 6. If there is no address of the owner on the impound
562 report, a check of the law enforcement report to determine



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563 whether ~~see~~ if an out-of-state address is indicated from driver
564 license information.

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

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

571 9. A check of the vehicle for a vehicle identification
572 number.

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

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

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

588 (b) At any time before the sale of the vehicle or vessel
589 ~~Upon filing of a complaint~~, an owner or lienholder may have her
590 or his vehicle or vessel released upon posting with the court a
591 cash or surety bond or other adequate security equal to the



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

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



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



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

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

671 (14) (a) A copy of the notice of lien required by subsection
672 (4) and the notice of sale required by subsection (6), which
673 must include the vehicle identification number if the claim of
674 lien is for a vehicle or the hull identification number if the
675 claim of lien is for a vessel, and proof of the required check
676 of the National Motor Vehicle Title Information System or an
677 equivalent commercially available system shall constitute
678 satisfactory proof for application to the Department of Highway



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679 Safety and Motor Vehicles for transfer of title, together with
680 any other proof required by any rules and regulations of the
681 department.

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

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

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

702 (16) A towing-storage operator must use a third-party
703 service approved by the Department of Highway Safety and Motor
704 Vehicles to transmit all notices required by this section. If
705 there is no third-party service approved by the department, the
706 towing-storage operator may mail the notices and provide
707 evidence of compliance with this section upon submission of an



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708 application for certificate of title or certificate of
709 destruction.

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

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

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

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

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

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

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

729 a. The vehicle identification number or vessel hull
730 identification number.

731 b. The license plate number, if applicable.

732 c. The name and address of the towing-storage operator or
733 lienor.

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

735 e. The date on which the vehicle or vessel was towed.

736 f. The amount of storage fees owed at the time of the



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



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

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

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

776

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

778 And the title is amended as follows:

779 Delete everything before the enacting clause
780 and insert:

781 A bill to be entitled

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



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



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