

By the Committee on Transportation and Representative  
Russell

1                                   A bill to be entitled  
2           An act relating to motor vehicle titles;  
3           providing a short title; amending s. 319.22,  
4           F.S.; providing a limitation on an action  
5           challenging the validity of a certificate of  
6           title issued pursuant to chapter 319, F.S.;  
7           amending s. 319.23, F.S.; providing a  
8           limitation on the issuance of certain titles;  
9           amending s. 319.27, F.S.; including reference  
10          to ownership interest with respect to liens on  
11          motor vehicles or mobile homes; providing  
12          special requirements with respect to ownership  
13          interests which are different from that shown  
14          on an application for certificate of title;  
15          creating s. 319.275, F.S.; providing for  
16          interpleader actions for law enforcement  
17          alleging possession of a stolen motor vehicle  
18          by a good faith purchaser or person duly issued  
19          a certificate of title; amending s. 319.32,  
20          F.S.; clarifying fees for recording of liens  
21          and ownership interests; amending s. 319.323,  
22          F.S.; revising language with respect to  
23          expedited service on title transfers; providing  
24          an effective date.

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26 Be It Enacted by the Legislature of the State of Florida:

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28           Section 1. This act may be cited as the "Beverly  
29 Gagliardi Act."

30           Section 2. Subsection (1) of section 319.22, Florida  
31 Statutes, is amended to read:

1           319.22 Transfer of title.--  
2           (1) Except as provided in ss. 319.21 and 319.28, a  
3 person acquiring a motor vehicle or mobile home from the owner  
4 thereof, whether or not the owner is a licensed dealer, shall  
5 not acquire marketable title to the motor vehicle or mobile  
6 home until he or she has had issued to him or her a  
7 certificate of title to the motor vehicle or mobile home; nor  
8 shall any waiver or estoppel operate in favor of such person  
9 against a person having possession of such certificate of  
10 title or an assignment of such certificate for such motor  
11 vehicle or mobile home for a valuable consideration. Except  
12 as otherwise provided herein, no court shall recognize the  
13 right, title, claim, or interest of any person in or to any  
14 motor vehicle or mobile home sold, disposed of, mortgaged, or  
15 encumbered, unless evidenced by a certificate of title duly  
16 issued to that person, in accordance with the provisions of  
17 this chapter. Any action challenging the validity of a  
18 certificate of title issued under this chapter to a  
19 titleholder who obtained the title certificate as a good faith  
20 purchase shall be brought within 1 year of the date of  
21 issuance shown on the face of the certificate or such action  
22 shall be barred.

23           Section 3. Subsection (11) is added to section 319.23,  
24 Florida Statutes, to read:

25           319.23 Application for, and issuance of, certificate  
26 of title.--

27           (11) An application for certificate of title based upon  
28 a title certificate issued by another state or country shall  
29 not result in issuance of title until 30 days after the filing  
30 of the application.

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1           Section 4. Subsection (4) of section 319.27, Florida  
2 Statutes, is amended to read:

3           319.27 Notice of lien on motor vehicles or mobile  
4 homes; notation on certificate; recording of lien.--

5           (4)(a) Notwithstanding the provisions of subsection  
6 (2), any person holding a lien for purchase money or as  
7 security for a debt in the form of a security agreement,  
8 retain title contract, conditional bill of sale, chattel  
9 mortgage, or other similar instrument or any ownership  
10 interest covering a motor vehicle or mobile home previously  
11 titled or registered outside this state upon which no Florida  
12 certificate of title has been issued may use the facilities of  
13 the department for the recording of such lien or ownership  
14 interest as constructive notice of such lien or ownership  
15 interest to creditors and purchasers of such motor vehicle or  
16 mobile home in this state provided such lienholder or claimant  
17 files a sworn notice of such lien or ownership interest in the  
18 department, showing the following information:

- 19           1. The date of the lien or ownership interest;
- 20           2. The name and address of the registered owner;
- 21           3. A description of the motor vehicle or mobile home,  
22 showing the make, type, and vehicle identification number; and
- 23           4. The name and address of the lienholder or claimant  
24 asserting the ownership interest.

25  
26 Upon the filing of such notice of lien or ownership interest  
27 and the payment of the fee provided in s. 319.32, the lien or  
28 ownership interest shall be recorded in the department and  
29 shall be valid for a period of 4 years from the date of  
30 filing.

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1       (b) In the case of ownership interest filed with the  
2 department which is different from that shown on an  
3 application for certificate of title, a certificate of title  
4 shall not be issued until 30 days after the claimant filing  
5 the ownership interest has been notified of the conflict by  
6 certified mail. If, within the 30-day period, the claimant  
7 files with the department a written statement under oath that  
8 the ownership interest on that particular vehicle is still  
9 outstanding, the department shall not issue the certificate  
10 for the period of 90 days from receipt of the statement. The  
11 claimant may file an action to enforce the ownership interest  
12 in a court of competent jurisdiction within the 90-day period.  
13 If the department is served with a copy of the court action  
14 within the 90-day period, the department shall not issue the  
15 certificate to anyone until after such conflict has been  
16 settled by a final ruling by the court. If, within the 30-day  
17 period, the claimant fails to file such written statement  
18 under oath with the department or, within the 90-day period,  
19 fails to file and serve the department with an action in a  
20 court of competent jurisdiction to enforce the ownership  
21 interest, the ownership interest shall be removed from the  
22 records of the department and shall thereafter be  
23 unenforceable, and the certificate of title may be issued in  
24 accordance with the pending application.

25       ~~(c)~~ (b) When a Florida certificate of title is first  
26 issued on a motor vehicle or mobile home previously titled or  
27 registered outside this state, the department shall note on  
28 the Florida certificate of title the following liens:

29           1. Any lien shown on the application for Florida  
30 certificate of title;

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1           2. Any lien filed in the department in accordance with  
2 paragraph (a); and

3           3. Any lien shown on the existing certificate of title  
4 issued by another state.

5           ~~(d)(c)~~ When a Florida certificate of title has been  
6 issued on a motor vehicle or mobile home previously titled or  
7 registered outside this state, liens valid in and registered  
8 under the law of the state wherein such liens were created are  
9 not valid in this state unless filed and noted upon the  
10 certificate of title under the provisions of this section.

11           Section 5. Section 319.275, Florida Statutes, is  
12 created to read:

13           319.275 Interpleader actions for law enforcement  
14 alleging possession of stolen motor vehicle by good faith  
15 purchaser.--

16           (1) Whenever a law enforcement officer has probable  
17 cause to believe that a Florida resident is in possession of a  
18 motor vehicle alleged by another to be stolen, and the officer  
19 has authority to take possession of the motor vehicle, but the  
20 officer has reason to believe that the resident in possession  
21 is a good faith purchaser of the motor vehicle or is a person  
22 who has been duly issued a certificate of title, the officer  
23 may not take physical possession of the motor vehicle until  
24 lawful ownership has been determined by a court, unless the  
25 competing claimants agree to another resolution. The officer  
26 may, in lieu of seizing the motor vehicle, assert constructive  
27 possession by bringing an action to compel all claimants to  
28 interplead in county court. The petition in such action shall  
29 set forth, under oath, the following facts:

30           (a) The identity of the motor vehicle, with reasonable  
31 specificity.

1           (b) The identity and address of the person in  
2 possession of the motor vehicle.

3           (c) The basis upon which the law enforcement officer  
4 claims authority to take possession of the motor vehicle.

5           (d) The fact and date of written notice delivered in  
6 person to the person in possession of the motor vehicle.

7           (e) The fact that the person in possession of the  
8 motor vehicle may be a good faith purchaser of the motor  
9 vehicle or a person who has been duly issued a certificate of  
10 title.

11           (f) The identity and address of any other claimant to  
12 the motor vehicle.

13           (g) The probable cause upon which the officer believes  
14 the motor vehicle to be stolen.

15           (2) A verified copy of the written notice delivered to  
16 the person in possession of the motor vehicle as provided in  
17 this section shall be attached to the petition.

18           (3) Prior to filing the petition, the officer shall  
19 ensure that written notice has been delivered to the person in  
20 possession of the motor vehicle. The written notice shall  
21 inform the person that the officer claims authority to take  
22 possession of the motor vehicle, and that an action to compel  
23 the person to interplead will be filed in county court unless  
24 the person first surrenders possession voluntarily to the  
25 officer. The notice shall inform the person of the address of  
26 the court and the business telephone number of the officer or  
27 a business agent of the law enforcement agency through whom  
28 additional information about the filing of the action may be  
29 later obtained.

30           (4) The case shall proceed as an interpleader action  
31 as may be provided by law and court rule.

1       (5) If the motor vehicle is subject to certification  
2 of title by the department, the law enforcement officer shall  
3 deliver a certified copy of the petition to the appropriate  
4 office to place a hold on transfer of the title to such motor  
5 vehicle.

6       (6) Title to such motor vehicle shall not be  
7 transferred, except among and between all parties named in the  
8 petition, or intervening in the action, unless and until a  
9 judgment adjudicating title is entered in the interpleader  
10 action.

11       (7) If the person in possession of the motor vehicle  
12 answers the petition and establishes his or her status as a  
13 good faith purchaser of the motor vehicle or a person who has  
14 been duly issued a certificate of title, an adverse claimant  
15 to the motor vehicle shall default upon such claim and lose  
16 all right and title in and to the motor vehicle unless, within  
17 30 days after service of process in the action upon a  
18 claimant, the claimant files an answer establishing his or her  
19 right and title in and to the motor vehicle. Upon default of  
20 all such claimants, the person in possession of the motor  
21 vehicle shall be adjudged the rightful owner of the motor  
22 vehicle. In case of default by all nonpossessory claimants, no  
23 costs shall be charged to any party. This section shall not  
24 serve to extend any time to answer provided under an  
25 applicable rule of civil procedure.

26       (8) If a claimant not in possession of the motor  
27 vehicle files an answer in the action alleging his or her  
28 ownership of the motor vehicle or intervenes in the action  
29 alleging ownership, such claimant shall pay costs in an amount  
30 of \$250 or 5 percent of the estimated value of the motor  
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1 vehicle, whichever is less. No other filing fees or costs  
2 shall be assessed to any party in such action.

3 (9) If more than one party claiming ownership appears  
4 in the action, the court shall determine the legal owner of  
5 the motor vehicle pursuant to law.

6 Section 6. Subsection (1) of section 319.32, Florida  
7 Statutes, is amended to read:

8 319.32 Fees; service charges; disposition.--

9 (1) The department shall charge a fee of \$24 for each  
10 original certificate of title except for a certificate of  
11 title for a motor vehicle for hire registered under s.  
12 320.08(6), for which the title fee shall be \$3, \$24 for each  
13 duplicate copy of a certificate of title except for a  
14 certificate of title for a motor vehicle for hire registered  
15 under s. 320.08(6), for which the title fee shall be \$3, \$2  
16 for each salvage certificate of title, and \$3 for each  
17 assignment by a lienholder. It shall also charge a fee of \$2  
18 for noting a lien on a title certificate or otherwise  
19 recording a lien or ownership interest pursuant to s. 319.27,  
20 which fee shall include the services for the subsequent  
21 issuance of a corrected certificate or cancellation of lien  
22 when that lien is satisfied. If an application for a  
23 certificate of title is for a rebuilt vehicle, the department  
24 shall charge an additional fee of \$40 for conducting a  
25 physical examination of the vehicle to assure its identity. In  
26 addition to all other fees charged, a sum of \$1 shall be paid  
27 for the issuance of an original or duplicate certificate of  
28 title to cover the cost of materials used for security  
29 purposes.

30 Section 7. Section 319.323, Florida Statutes, is  
31 amended to read:



1           319.323 Expedited service; applications; fees.--The  
2 department shall establish a separate title office which may  
3 be utilized by private citizens and licensed motor vehicle  
4 dealers to receive expedited service on title transfers, title  
5 issuances, duplicate titles, and recordation of liens, and  
6 certificates of repossession. A fee of \$7 shall be charged for  
7 this service, which fee is in addition to the fees imposed by  
8 s. 319.32. Application for such expedited service may be made  
9 by mail or in person. The department shall issue each title  
10 applied for pursuant to this section within 5 working days  
11 after receipt of the application except for an application for  
12 a duplicate title certificate covered by s. 319.23(4), in  
13 which case the title must be issued within 5 working days  
14 after compliance with the department's verification  
15 requirements. This section shall not apply to an application  
16 based upon a title certificate issued by another state or  
17 country.

18           Section 8. This act shall take effect upon becoming a  
19 law.

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22                                           HOUSE SUMMARY

23 Provides that any action challenging the validity of a  
24 certificate of title issued under chapter 319, F.S., to a  
25 titleholder who obtained the title as a good faith  
26 purchaser shall be brought within 1 year of the date of  
27 issuance of title or such action shall be barred.  
28 Includes reference to ownership interest with respect to  
29 liens on motor vehicles or mobile homes and provides  
30 special requirements with respect to ownership interests  
31 which are different from that shown on the application  
for certificate of title. Provides for interpleader  
actions for law enforcement officers alleging possession  
of a stolen motor vehicle by a good faith purchaser. See  
bill for details.