

By Senator Constantine

22-176B-04

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 bringing an
5 action challenging the validity of a
6 certificate of title issued pursuant to ch.
7 319, F.S.; providing an exception; amending s.
8 319.23, F.S.; providing a limitation on the
9 issuance of a title based on a title
10 certificate issued by another state or country;
11 amending s. 319.27, F.S.; authorizing the
12 recording of an ownership interest with respect
13 to a lien on a motor vehicle or mobile home;
14 providing special requirements with respect to
15 an ownership interest that is different from
16 the interest shown on an application for
17 certificate of title; creating s. 319.275,
18 F.S.; providing for an interpleader action by a
19 law enforcement officer alleging possession of
20 a stolen motor vehicle by a good-faith
21 purchaser or person duly issued a certificate
22 of title; providing requirements for the
23 petition; requiring delivery of notice to the
24 person in possession of the motor vehicle;
25 prohibiting the transfer of title until a
26 judicial determination of title is entered;
27 providing requirements for filing fees and
28 costs; amending s. 319.32, F.S.; clarifying
29 fees for recording a lien or an ownership
30 interest; amending s. 319.323, F.S.; providing
31 that certain provisions authorizing expedited

1 service on title transfers do not apply to a
2 title certificate issued by another state or
3 country; providing an effective date.
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5 Be It Enacted by the Legislature of the State of Florida:
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7 Section 1. This act may be cited as the "Beverly
8 Gagliardi Act."

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

11 319.22 Transfer of title.--

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

1 shall be barred; however, this limitation does not bar an
2 action brought by a creditor seeking to establish or perfect a
3 lien on a motor vehicle or mobile home noted on the
4 certificate of title securing a debt of the titleholder and
5 evidenced in writing.

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

8 319.23 Application for, and issuance of, certificate
9 of title.--

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

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

16 319.27 Notice of lien on motor vehicles or mobile
17 homes; notation on certificate; recording of lien.--

18 (4)(a) Notwithstanding the provisions of subsection
19 (2), any person holding a lien for purchase money or as
20 security for a debt in the form of a security agreement,
21 retain title contract, conditional bill of sale, chattel
22 mortgage, or other similar instrument or any ownership
23 interest covering a motor vehicle or mobile home previously
24 titled or registered outside this state upon which no Florida
25 certificate of title has been issued may use the facilities of
26 the department for the recording of such lien or ownership
27 interest as constructive notice of such lien or ownership
28 interest to creditors and purchasers of such motor vehicle or
29 mobile home in this state provided such lienholder files a
30 sworn notice of such lien or ownership interest in the
31 department, showing the following information:

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

7
8 Upon the filing of such notice of lien or ownership interest
9 and the payment of the fee provided in s. 319.32, the lien or
10 ownership interest shall be recorded in the department and is
11 valid for 4 years after the date of filing.

12 (b) In the case of ownership interest filed with the
13 department which is different from that shown on an
14 application for certificate of title, a certificate of title
15 may not be issued until 30 days after the claimant filing the
16 ownership interest has been notified of the conflict by
17 certified mail. If, within the 30-day period, the claimant
18 files with the department a written statement under oath that
19 the ownership interest on that particular vehicle is still
20 outstanding, the department may not issue the certificate for
21 a period of 90 days after receipt of the statement. The
22 claimant may file an action to enforce the ownership interest
23 in a court of competent jurisdiction within the 90-day period.
24 If the department is served with a copy of the court action
25 within the 90-day period, the department may not issue the
26 certificate to any person until after such conflict has been
27 settled by a final ruling by the court. If, within the 30-day
28 period, the claimant fails to file such written statement
29 under oath with the department or, within the 90-day period,
30 fails to file and serve the department with an action in a
31 court of competent jurisdiction to enforce the ownership

1 interest, the ownership interest shall be removed from the
2 records of the department and shall thereafter be
3 unenforceable, and the certificate of title may be issued in
4 accordance with the pending application, subject to, and
5 reflecting on such certificate of title, all liens of
6 creditors of the types listed in paragraph (c).

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

11 1. Any lien shown on the application for Florida
12 certificate of title;

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

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

17 (d)~~(c)~~ When a Florida certificate of title has been
18 issued on a motor vehicle or mobile home previously titled or
19 registered outside this state, liens valid in and registered
20 under the law of the state wherein such liens were created are
21 not valid in this state unless filed and noted upon the
22 certificate of title under the provisions of this section.

23 Section 5. Section 319.275, Florida Statutes, is
24 created to read:

25 319.275 Interpleader actions by a law enforcement
26 officer alleging possession of stolen motor vehicle by
27 good-faith purchaser.--

28 (1) Whenever a law enforcement officer has probable
29 cause to believe that a resident of this state is in
30 possession of a motor vehicle alleged by another to be stolen,
31 and the officer has authority to take possession of the motor

1 vehicle, but the officer has reason to believe that the
2 resident in possession is a good-faith purchaser of the motor
3 vehicle or is a person who has been duly issued a certificate
4 of title, the officer may not take physical possession of the
5 motor vehicle until lawful ownership has been determined by a
6 court, unless the competing claimants agree to another
7 resolution. The officer may, in lieu of seizing the motor
8 vehicle, assert constructive possession by bringing an action
9 to compel all claimants to interplead in county court. The
10 petition in such action must set forth, under oath, the
11 following facts:

12 (a) The identity of the motor vehicle, with reasonable
13 specificity.

14 (b) The identity and address of the person in
15 possession of the motor vehicle.

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

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

20 (e) The fact that the person in possession of the
21 motor vehicle may be a good-faith purchaser of the motor
22 vehicle or a person who has been duly issued a certificate of
23 title.

24 (f) The identity and address of any other claimant to
25 the motor vehicle, including any creditor claiming a lien on
26 such vehicle.

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

29 (2) A verified copy of the written notice delivered to
30 the person in possession of the motor vehicle as provided in
31 this section must be attached to the petition.

1 (3) Prior to filing the petition, the officer shall
2 ensure that written notice has been delivered to the person in
3 possession of the motor vehicle. The written notice must
4 inform the person that the officer claims authority to take
5 possession of the motor vehicle, and that an action to compel
6 the person to interplead will be filed in county court unless
7 the person first surrenders possession voluntarily to the
8 officer. The notice must inform the person of the address of
9 the court and the business telephone number of the officer or
10 a business agent of the law enforcement agency through whom
11 additional information about the filing of the action may be
12 later obtained.

13 (4) The case shall proceed as an interpleader action
14 as provided by law and court rule.

15 (5) If the motor vehicle is subject to certification
16 of title by the department, the law enforcement officer shall
17 deliver a certified copy of the petition to the appropriate
18 office to place a hold on transfer of the title to such motor
19 vehicle.

20 (6) Title to such motor vehicle may not be
21 transferred, except among and between all parties named in the
22 petition, or intervening in the action, unless and until a
23 judgment adjudicating title is entered in the interpleader
24 action.

25 (7) If the person in possession of the motor vehicle
26 answers the petition and establishes his or her status as a
27 good-faith purchaser of the motor vehicle or a person who has
28 been duly issued a certificate of title, an adverse claimant
29 to the motor vehicle shall default upon such claim and lose
30 all right and title in and to the motor vehicle unless, within
31 30 days after service of process in the action upon a

1 claimant, the claimant files an answer establishing his or her
2 right and title in and to the motor vehicle. Upon default of
3 all such claimants, the person in possession of the motor
4 vehicle shall be adjudged the rightful owner of the motor
5 vehicle. In case of default by all nonpossessory claimants, no
6 costs shall be charged to any party. This section does not
7 extend any time to answer provided under an applicable rule of
8 civil procedure.

9 (8) If a claimant not in possession of the motor
10 vehicle files an answer in the action alleging his or her
11 ownership of the motor vehicle or intervenes in the action
12 alleging ownership, such claimant shall pay costs in an amount
13 of \$250 or 5 percent of the estimated value of the motor
14 vehicle, whichever is less. Other filing fees or costs may not
15 be assessed to any party in such action.

16 (9) If more than one party claiming ownership appears
17 in the action, the court shall determine the legal owner of
18 the motor vehicle as provided by law.

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

21 319.32 Fees; service charges; disposition.--

22 (1) The department shall charge a fee of \$24 for each
23 original certificate of title except for a certificate of
24 title for a motor vehicle for hire registered under s.
25 320.08(6), for which the title fee shall be \$3, \$24 for each
26 duplicate copy of a certificate of title except for a
27 certificate of title for a motor vehicle for hire registered
28 under s. 320.08(6), for which the title fee shall be \$3, \$2
29 for each salvage certificate of title, and \$3 for each
30 assignment by a lienholder. It shall also charge a fee of \$2
31 for noting a lien on a title certificate or otherwise

1 recording a lien or ownership interest pursuant to s. 319.27,
2 which fee shall include the services for the subsequent
3 issuance of a corrected certificate or cancellation of lien
4 when that lien is satisfied. If an application for a
5 certificate of title is for a rebuilt vehicle, the department
6 shall charge an additional fee of \$40 for conducting a
7 physical examination of the vehicle to assure its identity. In
8 addition to all other fees charged, a sum of \$1 shall be paid
9 for the issuance of an original or duplicate certificate of
10 title to cover the cost of materials used for security
11 purposes.

12 Section 7. Section 319.323, Florida Statutes, is
13 amended to read:

14 319.323 Expedited service; applications; fees.--The
15 department shall establish a separate title office which may
16 be utilized by private citizens and licensed motor vehicle
17 dealers to receive expedited service on title transfers, title
18 issuances, duplicate titles, and recordation of liens, and
19 certificates of repossession. A fee of \$7 shall be charged for
20 this service, which fee is in addition to the fees imposed by
21 s. 319.32. Application for such expedited service may be made
22 by mail or in person. The department shall issue each title
23 applied for pursuant to this section within 5 working days
24 after receipt of the application except for an application for
25 a duplicate title certificate covered by s. 319.23(4), in
26 which case the title must be issued within 5 working days
27 after compliance with the department's verification
28 requirements. This section does not apply to an application
29 based upon a title certificate issued by another state or
30 country unless the application is for a title to be issued to
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1 the person to whom the current non-Florida certificate was
2 issued.

3 Section 8. This act shall take effect upon becoming a
4 law.

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7 SENATE SUMMARY

8 Creates the "Beverly Gagliardi Act." Requires that an
9 action challenging the validity of a certificate of title
10 be brought within 1 year after issuance of title.
11 Provides for an ownership interest with respect to a lien
12 on a motor vehicle or mobile home to be recorded.
13 Provides for an interpleader action by a law enforcement
14 officer alleging possession of a stolen motor vehicle by
15 a good-faith purchaser or person duly issued a
16 certificate of title. Requires the person in possession
17 of the motor vehicle to be notified of the action.
18 Prohibits the transfer of title until a judicial
19 determination of title is entered. (See bill for
20 details.)
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