

CHAMBER ACTION

1 The State Infrastructure Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to recovering, towing, and storage of
7 motor vehicles, vessels, and mobile homes; amending s.
8 319.30, F.S.; redefining the term "certificate of
9 destruction," to conform; amending s. 323.001, F.S.;
10 revising certain towing and storage rates; amending s.
11 713.78, F.S.; removing mobile homes from the application
12 of a statutory lien for towing and storage; conforming
13 provisions related to recovering, towing, or storing
14 vessels; providing for attorney's fees; creating s.
15 713.785, F.S.; authorizing the imposition of lien by a
16 mobile home transport company for recovering, towing, or
17 storing a mobile home; providing definitions; requiring a
18 mobile home transport company to provide notice of
19 recovery, towing, or storage services; providing for the
20 filing of a complaint; providing procedures for the sale
21 of an unclaimed mobile home; specifying circumstances
22 under which a mobile home transport company must obtain a
23 certificate of destruction; providing for fees;

24 authorizing the Department of Highway Safety and Motor
25 Vehicles to adopt rules; providing for fees; providing for
26 issuing certificates of destruction and revalidation
27 stickers; providing procedures for disputing a lien and
28 for discharge of a lien; providing for the posting and
29 repayment of surety; providing for criminal penalties;
30 amending s. 715.07, F.S.; conforming provisions related to
31 towing vessels parked on private property; imposing
32 criminal penalties for failure to comply with certain laws
33 governing the towing of vehicles and vessels; providing
34 effective dates.

35
36 Be It Enacted by the Legislature of the State of Florida:

37
38 Section 1. Paragraph (a) of subsection (1) of section
39 319.30, Florida Statutes, is amended to read:

40 319.30 Definitions; dismantling, destruction, change of
41 identity of motor vehicle or mobile home; salvage.--

42 (1) As used in this section, the term:

43 (a) "Certificate of destruction" means the certificate
44 issued pursuant to s. 713.78(11) or s. 713.785(7)(a).

45 Section 2. Subsection (1) of section 323.001, Florida
46 Statutes, is republished, and paragraph (c) of subsection (2) of
47 that section is amended, to read:

48 323.001 Wrecker operator storage facilities; vehicle
49 holds.--

50 (1) An investigating agency may place a hold on a motor
51 vehicle stored within a wrecker operator's storage facility for

52 a period not to exceed 5 days, excluding holidays and weekends,
53 unless extended in writing.

54 (2) The investigating agency must notify the wrecker
55 operator in writing within 5 days, excluding holidays and
56 weekends, whether the hold is to be continued. If no
57 notification follows this period of time, the wrecker operator
58 may release the vehicle to the designated person pursuant to s.
59 713.78.

60 (c) The towing and storage rates for the owner or
61 lienholder of the held vehicle shall not exceed the contract or
62 county rates ~~for the investigating agency.~~

63 Section 3. Subsections (2), (4), (5), (7), and (10) of
64 section 713.78, Florida Statutes, are amended to read:

65 713.78 Liens for recovering, towing, or storing vehicles
66 and vessels.--

67 (2) Whenever a person regularly engaged in the business of
68 transporting vehicles or vessels by wrecker, tow truck, or car
69 carrier recovers, removes, or stores a vehicle or vessel, ~~or~~
70 ~~mobile home~~ upon instructions from:

71 (a) The owner thereof; or

72 (b) The owner or lessor, or a person authorized by the
73 owner or lessor, of property on which such vehicle or vessel is
74 wrongfully parked, and such removal is done in compliance with
75 s. 715.07; or

76 (c) Any law enforcement agency, ~~or~~

77 ~~(d) A mobile home park owner as defined in s. 723.003 who~~
78 ~~has a current writ of possession for a mobile home lot pursuant~~
79 ~~to s. 723.061,~~

80
81 she or he shall have a lien on the ~~such~~ vehicle or vessel for a
82 reasonable towing fee and for a reasonable storage fee; except
83 that no storage fee shall be charged if the ~~such~~ vehicle is
84 stored for less than 6 hours.

85 (4)(a) Any person regularly engaged in the business of
86 recovering, towing, or storing vehicles or vessels who comes
87 into possession of a vehicle or vessel pursuant to subsection
88 (2), and who claims a lien for recovery, towing, or storage
89 services, shall give notice to the registered owner, the
90 insurance company insuring the vehicle notwithstanding the
91 provisions of s. 627.736, and to all persons claiming a lien
92 thereon, as disclosed by the records in the Department of
93 Highway Safety and Motor Vehicles or of a corresponding agency
94 in any other state.

95 (b) Whenever any law enforcement agency authorizes the
96 removal of a vehicle or vessel or whenever any towing service,
97 garage, repair shop, or automotive service, storage, or parking
98 place notifies the law enforcement agency of possession of a
99 vehicle or vessel pursuant to s. 715.07(2)(a)2., the applicable
100 law enforcement agency shall contact the Department of Highway
101 Safety and Motor Vehicles, or the appropriate agency of the
102 state of registration, if known, within 24 hours through the
103 medium of electronic communications, giving the full description
104 of the vehicle or vessel. Upon receipt of the full description
105 of the vehicle or vessel, the department shall search its files
106 to determine the owner's name, the insurance company insuring
107 the vehicle or vessel, and whether any person has filed a lien

108 upon the vehicle or vessel as provided in s. 319.27(2) and (3)
109 and notify the applicable law enforcement agency within 72
110 hours. The person in charge of the towing service, garage,
111 repair shop, or automotive service, storage, or parking place
112 shall obtain such information from the applicable law
113 enforcement agency within 5 days after ~~from~~ the date of storage
114 and shall give notice pursuant to paragraph (a). The department
115 may release the insurance company information to the requestor
116 notwithstanding the provisions of s. 627.736.

117 (c) Notice by certified mail, return receipt requested,
118 shall be sent within 7 business days after the date of storage
119 of the vehicle or vessel to the registered owner, the insurance
120 company insuring the vehicle notwithstanding the provisions of
121 s. 627.736, and all persons of record claiming a lien against
122 the vehicle or vessel. It shall state the fact of possession of
123 the vehicle or vessel, that a lien as provided in subsection (2)
124 is claimed, that charges have accrued and the amount thereof,
125 that the lien is subject to enforcement pursuant to law, and
126 that the owner or lienholder, if any, has the right to a hearing
127 as set forth in subsection (5), and that any vehicle or vessel
128 which remains unclaimed, or for which the charges for recovery,
129 towing, or storage services remain unpaid, may be sold free of
130 all prior liens after 35 days if the vehicle or vessel is more
131 than 3 years of age or after 50 days if the vehicle or vessel is
132 3 years of age or less.

133 (d) If attempts to locate the name and address of the
134 owner or lienholder prove unsuccessful, the towing-storage
135 operator shall, after 7 working days, excluding Saturday and

136 Sunday, of the initial tow or storage, notify the public agency
137 of jurisdiction in writing by certified mail or acknowledged
138 hand delivery that the towing-storage company has been unable to
139 locate the name and address of the owner or lienholder and a
140 physical search of the vehicle or vessel has disclosed no
141 ownership information and a good faith effort has been made. For
142 purposes of this paragraph and subsection (9), "good faith
143 effort" means that the following checks have been performed by
144 the company to establish prior state of registration and for
145 title:

146 1. Check of vehicle or vessel for any type of tag, tag
147 record, temporary tag, or regular tag.

148 2. Check of law enforcement report for tag number or other
149 information identifying the vehicle or vessel, if the vehicle or
150 vessel was towed at the request of a law enforcement officer.

151 3. Check of trip sheet or tow ticket of tow truck operator
152 to see if a tag was on vehicle or vessel at beginning of tow, if
153 private tow.

154 4. If there is no address of the owner on the impound
155 report, check of law enforcement report to see if an out-of-
156 state address is indicated from driver license information.

157 5. Check of vehicle or vessel for inspection sticker or
158 other stickers and decals that may indicate a state of possible
159 registration.

160 6. Check of the interior of the vehicle or vessel for any
161 papers that may be in the glove box, trunk, or other areas for a
162 state of registration.

163 7. Check of vehicle for vehicle identification number.

164 8. Check of vessel for vessel registration number.

165 9. Check of vessel hull for a hull identification number
166 which should be carved, burned, stamped, embossed, or otherwise
167 permanently affixed to the outboard side of the transom or, if
168 there is no transom, to the outmost seaboard side at the end of
169 the hull that bears the rudder or other steering mechanism.

170 (5)(a) The owner of a vehicle or vessel removed pursuant
171 to the provisions of subsection (2), or any person claiming a
172 lien, other than the towing-storage operator, within 10 days
173 after the time she or he has knowledge of the location of the
174 vehicle or vessel, may file a complaint in the county court of
175 the county in which the vehicle or vessel is stored or in which
176 the owner resides to determine if her or his property was
177 wrongfully taken or withheld from her or him.

178 (b) Upon filing of a complaint, an owner or lienholder may
179 have her or his vehicle or vessel released upon posting with the
180 court a cash or surety bond or other adequate security equal to
181 the amount of the charges for towing or storage and lot rental
182 amount to ensure the payment of such charges in the event she or
183 he does not prevail. Upon the posting of the bond and the
184 payment of the applicable fee set forth in s. 28.24, the clerk
185 of the court shall issue a certificate notifying the lienor of
186 the posting of the bond and directing the lienor to release the
187 vehicle or vessel. At the time of such release, after reasonable
188 inspection, she or he shall give a receipt to the towing-storage
189 company reciting any claims she or he has for loss or damage to
190 the vehicle or vessel or the contents thereof.

191 (c) Upon determining the respective rights of the parties,
192 the court may award damages, attorney's fees, and costs in favor
193 of the prevailing party. In any event, the final order shall
194 provide for immediate payment in full of recovery, towing, and
195 storage fees by the vehicle or vessel owner or lienholder; or
196 the agency ordering the tow; or the owner, lessee, or agent
197 thereof of the property from which the vehicle or vessel was
198 removed.

199 (7)(a) A wrecker operator recovering, towing, or storing
200 vehicles or vessels is not liable for damages connected with
201 such services, theft of such vehicles or vessels, or theft of
202 personal property contained in such vehicles or vessels,
203 provided that such services have been performed with reasonable
204 care and provided, further, that, in the case of removal of a
205 vehicle or vessel upon the request of a person purporting, and
206 reasonably appearing, to be the owner or lessee, or a person
207 authorized by the owner or lessee, of the property from which
208 such vehicle or vessel is removed, such removal has been done in
209 compliance with s. 715.07. Further, a wrecker operator is not
210 liable for damage to a vehicle, vessel, or cargo that obstructs
211 the normal movement of traffic or creates a hazard to traffic
212 and is removed in compliance with the request of a law
213 enforcement officer. ~~connected with such services when complying~~
214 ~~with the lawful directions of a law enforcement officer to~~
215 ~~remove a vehicle stopped, standing, or parked upon a street or~~
216 ~~highway in such a position as to obstruct the normal movement of~~
217 ~~traffic or in such a condition as to create a hazard to other~~
218 ~~traffic upon the street or highway.~~

219 (b) For the purposes of this subsection, a wrecker
220 operator is presumed to use reasonable care to prevent the theft
221 of a vehicle or vessel or of any personal property contained in
222 such vehicle stored in the wrecker operator's storage facility
223 if all of the following apply:

224 1. The wrecker operator surrounds the storage facility
225 with a chain-link or solid-wall type fence at least 6 feet in
226 height;

227 2. The wrecker operator has illuminated the storage
228 facility with lighting of sufficient intensity to reveal persons
229 and vehicles at a distance of at least 150 feet during
230 nighttime; and

231 3. The wrecker operator uses one or more of the following
232 security methods to discourage theft of vehicles or vessels or
233 of any personal property contained in such vehicles or vessels
234 stored in the wrecker operator's storage facility:

235 a. A night dispatcher or watchman remains on duty at the
236 storage facility from sunset to sunrise;

237 b. A security dog remains at the storage facility from
238 sunset to sunrise;

239 c. Security cameras or other similar surveillance devices
240 monitor the storage facility; or

241 d. A security guard service examines the storage facility
242 at least once each hour from sunset to sunrise.

243 (c) Any law enforcement agency requesting that a motor
244 vehicle be removed from an accident scene, street, or highway
245 must conduct an inventory and prepare a written record of all
246 personal property found in the vehicle before the vehicle is

247 removed by a wrecker operator. However, if the owner or driver
248 of the motor vehicle is present and accompanies the vehicle, no
249 inventory by law enforcement is required. A wrecker operator is
250 not liable for the loss of personal property alleged to be
251 contained in such a vehicle when such personal property was not
252 identified on the inventory record prepared by the law
253 enforcement agency requesting the removal of the vehicle.

254 (10) Persons who provide services pursuant to this section
255 shall permit vehicle or vessel owners or their agents, which
256 agency is evidenced by an original a writing acknowledged by the
257 owner before a notary public or other person empowered by law to
258 administer oaths, to inspect the towed vehicle or vessel and
259 shall release to the owner or agent the vehicle, vessel, or all
260 personal property not affixed to the vehicle or vessel which was
261 in the vehicle or vessel at the time the vehicle or vessel came
262 into the custody of the person providing such services.

263 Section 4. Effective January 1, 2006, section 713.785,
264 Florida Statutes, is created to read:

265 713.785 Liens for recovering, towing, or storing mobile
266 homes.--

267 (1) As used in this section, the term:

268 (a) "Mobile home transport company" means a person
269 regularly engaged in the business of transporting mobile homes.

270 (b) "Store" means a mobile home transport company has
271 legal possession of a mobile home either on the mobile home
272 transport company's property or on any other property.

273 (c) "Unpaid lot rental amount" or "rent" means any unpaid
274 financial obligations of the mobile home owner or tenant to the

275 mobile home park owner defined as "lot rental amount" in s.
276 723.003 or "rent" in part II of chapter 83 and includes any
277 amounts defined as storage charges in s. 723.084.

278 (2) If the mobile home transport company recovers,
279 removes, or stores a mobile home upon instructions from:

280 (a) The owner of the mobile home;

281 (b) Any law enforcement agency; or

282 (c) A mobile home park owner as defined in s. 723.003 who
283 has a current writ of possession for a mobile home lot under s.
284 723.062 or s. 83.62,

285
286 the mobile home transport company has a lien on the mobile home
287 for a reasonable towing fee and for a reasonable storage fee.

288 (3)(a) A mobile home transport company that comes into
289 possession of a mobile home under subsection (2) and that claims
290 a lien for recovery, towing, or storage services must give
291 notice to the registered owner and to all persons claiming a
292 lien on the mobile home as disclosed by the records in the
293 Department of Highway Safety and Motor Vehicles or of a
294 corresponding agency in any other state.

295 (b) Notice by certified mail, return receipt requested,
296 shall be sent within 7 business days after the date of storage
297 of the mobile home to the registered owner at the owner's last
298 known address and all persons of record claiming a lien against
299 the mobile home. The notice shall state the fact of possession
300 of the mobile home, that a lien as provided in subsection (2) is
301 claimed, that charges have accrued and the amount thereof, that
302 the lien is subject to enforcement under law, that the owner or

303 lienholder, if any, has the right to a hearing as set forth in
304 subsection (4), and that any mobile home which remains unclaimed
305 or for which charges remain unpaid may be sold free of all prior
306 liens after 35 days of the eviction proceeding that resulted in
307 the issuance of the writ of possession, provided that any
308 lienholder entitled to notice pursuant to s. 723.084 has
309 received such notice and has failed to act pursuant to s.
310 723.084 to pay storage charges, take possession of the home, or
311 take legal action to foreclose its interest prior to issuance of
312 the writ of possession.

313 (4)(a) The owner of a mobile home stored under subsection
314 (2), or any person claiming a lien of record, other than the
315 mobile home transport company, within 10 days after the time she
316 or he has knowledge of the location of the mobile home, may file
317 a complaint in the court of the county in which the mobile home
318 is stored to determine if her or his property was wrongfully
319 taken or withheld from her or him.

320 (b) Upon filing of a complaint, an owner or lienholder may
321 have the mobile home released upon posting with the court a cash
322 or surety bond or other adequate security equal to the amount of
323 the charges for towing or storage and lot rental amount due and
324 owing at that time to ensure the payment of the charges in the
325 event she or he does not prevail. Upon the posting of the bond
326 and the payment of the applicable fee set forth in s. 28.24, the
327 clerk of the court shall issue a certificate notifying the
328 mobile home transport company of the posting of the bond and
329 directing the mobile home transport company to release the
330 mobile home. At the time of the release, after reasonable

331 inspection, she or he shall give a receipt to the mobile home
332 transport company citing any claims she or he has for loss or
333 damage to the mobile home or the contents thereof.

334 (c) Upon determining the respective rights of the parties,
335 the court may award damages and costs in favor of the prevailing
336 party. The final order shall provide for immediate payment in
337 full, of any lien for recovery, towing, and storage fees and any
338 unpaid lot rental amount accruing until the time the home is
339 removed from the property, by the mobile home owner or
340 lienholder or the owner, lessee, or agent thereof of the
341 property from which the mobile home was removed.

342 (5) A mobile home that is stored under subsection (2) and
343 which remains unclaimed or for which reasonable charges for
344 recovery, towing, or storing remain unpaid or for which a lot
345 rental amount is due and owing to the mobile home park owner as
346 evidenced by a judgment for unpaid rent and any contents of the
347 mobile home not released under subsection (9) may be sold by the
348 mobile home transport company for the towing or storage charge
349 and any unpaid lot rental amount 35 days after the mobile home
350 is stored by a mobile home transport company. The sale shall be
351 at public auction for cash. If the date of the sale was not
352 included in the notice required by subsection (3), notice of the
353 sale must be given to the person in whose name the mobile home
354 is registered at her or his last known address, to the mobile
355 home park owner, and to all persons claiming a lien on the
356 mobile home as shown on the records of the Department of Highway
357 Safety and Motor Vehicles or of the corresponding agency in any
358 other state. Notice must be sent by certified mail, return

359 receipt requested, at least 15 days before the date of the sale.
360 If the name and address of the registered owner or the owner of
361 the recorded lien cannot be ascertained after diligent search
362 and inquiry, the requirements for notice by mail may be
363 dispensed with. In addition to the notice by mail, public notice
364 of the time and place of sale must be made by publishing a
365 notice of the sale one time, at least 10 days before the date of
366 the sale, in a newspaper of general circulation in the county in
367 which the sale is to be held. The proceeds of the sale, after
368 payment of reasonable towing and storage charges, costs of the
369 sale, and the unpaid lot rental amount as evidenced by the
370 judgment for unpaid lot rental and an affidavit executed by the
371 mobile home park owner or the owner's agent establishing the
372 amount of unpaid lot rental amount through the date of the sale,
373 in that order of priority, must be deposited with the clerk of
374 the circuit court for the county if the owner is absent, and the
375 clerk shall hold the proceeds subject to the claim of the person
376 legally entitled to those proceeds. The clerk is entitled to
377 receive 5 percent of the proceeds for the care and disbursement
378 of the proceeds. The certificate of title issued under this
379 section shall be discharged of all liens unless otherwise
380 provided by court order.

381 (6) The mobile home transport company, the landlord or his
382 or her agent, or any subsequent purchaser for value is not
383 responsible to the tenant or any other party for loss,
384 destruction, or damage to the mobile home or other personal
385 property after coming into possession of the mobile home under
386 this section, provided the mobile home transport company, the

387 landlord, or the agent of either uses reasonable care in storing
388 the mobile home. As used in this subsection, the term
389 "reasonable care" means securing the mobile home by changing
390 door locks, or any similar methods for securing the mobile home,
391 in place in the mobile home park or in a separate storage area.

392 (7)(a) A mobile home transport company that comes into
393 possession of a mobile home under subsection (2) and that
394 complies with subsection (3), if the mobile home is to be sold
395 for purposes of being dismantled, destroyed, or changed so that
396 it is not the mobile home described in the certificate of title,
397 must apply to the county tax collector for a certificate of
398 destruction. A certificate of destruction, which authorizes the
399 dismantling or destruction of the mobile home described in the
400 certificate, is reassignable no more than twice before
401 dismantling or destruction of the mobile home and the
402 certificate must accompany the mobile home for which it is
403 issued when the mobile home is sold for that purpose, in lieu of
404 a certificate of title. The application for a certificate of
405 destruction must include an affidavit from the applicant that it
406 has complied with all applicable requirements of this section;
407 must, if the mobile home is not registered in this state,
408 include a statement from a law enforcement officer that the
409 mobile home is not reported stolen; and shall be accompanied by
410 any other documentation as may be required by the department.

411 (b) The Department of Highway Safety and Motor Vehicles
412 shall charge a fee of \$3 for each certificate of destruction.
413 The tax collector who processes the application shall collect
414 and retain a service charge of \$4.25.

415 (c) The Department of Highway Safety and Motor Vehicles
416 may adopt rules to administer this subsection.

417 (d) Employees of the Department of Highway Safety and
418 Motor Vehicles and law enforcement officers may inspect the
419 records of each mobile home transport company in this state to
420 ensure compliance with this section.

421 (8)(a) Upon receipt by the Department of Highway Safety
422 and Motor Vehicles of written notice from a mobile home
423 transport company that claims a lien under paragraph (2)(b) or
424 paragraph (2)(c) for recovery, towing, or storage of a mobile
425 home for which a certificate of destruction has been issued
426 under subsection (7), the department shall place the name of the
427 registered owner of that mobile home on the list of those
428 persons who may not be issued a revalidation sticker under s.
429 320.03. If the mobile home is owned jointly by more than one
430 person, the name of each registered owner must be placed on the
431 list. The notice of a mobile home transport company's lien must
432 be submitted on forms provided by the department, which must
433 include:

434 1. The name, address, and telephone number of the mobile
435 home transport company.

436 2. The name of the registered owner of the mobile home and
437 the address to which the mobile home transport company provided
438 notice of the lien to the registered owner under subsection (3).

439 3. A general description of the mobile home, including its
440 color, make, model, body style, and year.

441 4. The mobile home sticker number, state, and year or
442 other identification number, as applicable.

443 5. The name of the person or the corresponding law
444 enforcement agency that requested that the mobile home be
445 recovered, towed, or stored.

446 6. The amount of the lien, not to exceed the amount
447 allowed by paragraph (b).

448 (b) For purposes of this subsection, the amount of the
449 mobile home transport company's lien for which the department
450 will prevent issuance of a revalidation sticker may not exceed
451 the amount of the charges for recovery, towing, and storage of
452 the mobile home for 7 days. These charges may not exceed the
453 maximum rates imposed by the ordinances of the respective county
454 or municipality under ss. 125.0103(1)(c) and 166.043(1)(c). This
455 paragraph does not limit the amount of a mobile home transport
456 company's lien claimed under subsection (2) or prevent a mobile
457 home transport company from seeking civil remedies for
458 enforcement of the entire amount of the lien, but limits only
459 that portion of the lien for which the department will prevent
460 issuance of a revalidation sticker.

461 (c)1. The registered owner of the mobile home may dispute
462 the mobile home transport company's lien by notifying the
463 department of the dispute in writing on forms provided by the
464 department, if at least one of the following applies:

465 a. The registered owner presents a notarized bill of sale
466 proving that the mobile home was sold in a private or casual
467 sale before the mobile home was recovered, towed, or stored.

468 b. The registered owner presents proof that the Florida
469 certificate of title of the mobile home was sold to a licensed

470 dealer as defined in s. 319.001 before the mobile home was
471 recovered, towed, or stored.

472 c. The records of the department were marked to indicate
473 that the mobile home was sold before the issuance of the
474 certificate of destruction under subsection (7).

475
476 If the registered owner's dispute of a mobile home transport
477 company's lien complies with one of these criteria, the
478 department shall immediately remove the registered owner's name
479 from the list of those persons who may not be issued a
480 revalidation sticker under s. 320.03. If the mobile home is
481 owned jointly by more than one person, each registered owner
482 must dispute the mobile home transport company's lien in order
483 to be removed from the list. However, the department shall deny
484 any dispute and maintain the registered owner's name on the list
485 of those persons who may not be issued a revalidation sticker if
486 the mobile home transport company has provided the department
487 with a certified copy of the judgment of a court which orders
488 the registered owner to pay the mobile home transport company's
489 lien claimed under this section. In such a case, the amount of
490 the mobile home transport company's lien authorized by paragraph
491 (b) may be increased to include no more than \$500 of the
492 reasonable costs and attorney's fees incurred in obtaining the
493 judgment. The department's action under this subparagraph is
494 ministerial in nature, is not final agency action, and is
495 appealable only to the county court for the county in which the
496 mobile home was ordered removed.

497 2. A person against whom a mobile home transport company's
498 lien has been imposed may alternatively obtain a discharge of
499 the lien by filing a complaint, challenging the validity of the
500 lien or the amount thereof, in the county court of the county in
501 which the mobile home was ordered removed. Upon filing of the
502 complaint, the person may have her or his name removed from the
503 list of those persons who may not be issued a revalidation
504 sticker for any mobile home under s. 320.03 upon posting with
505 the court a cash or surety bond or other adequate security equal
506 to the amount of the mobile home transport company's lien to
507 ensure the payment of the lien in the event she or he does not
508 prevail. Upon the posting of the bond and the payment of the
509 applicable fee set forth in s. 28.24, the clerk of the court
510 shall issue a certificate notifying the department of the
511 posting of the bond and directing the department to release the
512 mobile home transport company's lien. Upon determining the
513 respective rights of the parties, the court may award damages
514 and costs in favor of the prevailing party.

515 3. If a person against whom a mobile home transport
516 company's lien has been imposed does not object to the lien but
517 cannot discharge the lien by payment because the mobile home
518 transport company has moved or gone out of business, the person
519 may have her or his name removed from the list of those persons
520 who may not be issued a revalidation sticker under s. 320.03
521 upon posting with the clerk of court in the county in which the
522 mobile home was ordered removed a cash or surety bond or other
523 adequate security equal to the amount of the mobile home
524 transport company's lien. Upon the posting of the bond and the

525 payment of the application fee set forth in s. 28.24, the clerk
526 of the court shall issue a certificate notifying the department
527 of the posting of the bond and directing the department to
528 release the mobile home transport company's lien. The department
529 shall mail to the mobile home transport company, at the address
530 upon the lien form, notice that the mobile home transport
531 company must claim the security within 60 days or the security
532 will be released to the person who posted it. At the conclusion
533 of the 60 days, the department shall direct the clerk as to
534 which party is entitled to payment of the security, less
535 applicable fees of the clerk.

536 4. A mobile home transport company's lien expires 5 years
537 after its filing.

538 (d) Upon discharge of the amount of the mobile home
539 transport company's lien allowed under paragraph (b), the mobile
540 home transport company must issue a certificate of discharged
541 lien on a form provided by the department to each registered
542 owner of the mobile home attesting that the amount of the mobile
543 home transport company's lien allowed under paragraph (b) has
544 been discharged. Upon presentation of the certificate of
545 discharged lien by the registered owner, the department shall
546 immediately remove the registered owner's name from the list of
547 those persons who may not be issued a revalidation sticker under
548 s. 320.03. Issuance of a certificate of discharged lien under
549 this paragraph does not discharge the entire amount of the
550 mobile home transport company's lien claimed under subsection
551 (2) but certifies to the department only that the amount of the
552 mobile home transport company's lien allowed by paragraph (b),

553 for which the department will prevent issuance of a revalidation
554 sticker, has been discharged.

555 (e) When a mobile home transport company files a notice of
556 lien under this subsection, the department shall charge the
557 mobile home transport company a fee of \$2, which must be
558 deposited into the General Revenue Fund. The tax collector who
559 processes a notice of lien shall collect and retain a service
560 charge of \$2.50.

561 (f) The Department of Highway Safety and Motor Vehicles
562 may adopt rules to administer this subsection.

563 (9) Persons who provide services under this section shall
564 permit a mobile home owner or her or his agent, whose agency is
565 evidenced by a writing acknowledged by the owner before a notary
566 public or other person empowered by law to administer oaths, to
567 inspect the mobile home and shall release to the owner or agent
568 all personal property not affixed to the mobile home, provided
569 there exists no landlord's lien for rent under s. 713.691 or s.
570 713.77.

571 (10) Any person who violates subsection (3), subsection
572 (5), subsection (6), subsection (7), or subsection (9) commits a
573 misdemeanor of the first degree, punishable as provided in s.
574 775.082 or s. 775.083.

575 Section 5. Section 715.07, Florida Statutes, is amended to
576 read:

577 715.07 Vehicles or vessels parked on private property;
578 towing.--

579 (1) As used in this section, the term "vehicle" means any
580 mobile item which normally uses wheels, whether motorized or
581 not.

582 (2) The owner or lessee of real property, or any person
583 authorized by the owner or lessee, which person may be the
584 designated representative of the condominium association if the
585 real property is a condominium, may cause any vehicle or vessel
586 parked on such property without her or his permission to be
587 removed by a person regularly engaged in the business of towing
588 vehicles or vessels, without liability for the costs of removal,
589 transportation, or storage or damages caused by such removal,
590 transportation, or storage, under any of the following
591 circumstances:

592 (a) The towing or removal of any vehicle or vessel from
593 private property without the consent of the registered owner or
594 other legally authorized person in control of that vehicle or
595 vessel is subject to strict compliance with the following
596 conditions and restrictions:

597 1.a. Any towed or removed vehicle or vessel must be stored
598 at a site within a 10-mile radius ~~10 miles~~ of the point of
599 removal in any county of 500,000 population or more, and within
600 a 15-mile radius ~~15 miles~~ of the point of removal in any county
601 of less than 500,000 population. That site must be open for the
602 purpose of redemption of vehicles on any day that the person or
603 firm towing such vehicle or vessel is open for towing purposes,
604 from 8:00 a.m. to 6:00 p.m., and, when closed, shall have
605 prominently posted a sign indicating a telephone number where
606 the operator of the site can be reached at all times. Upon

607 receipt of a telephoned request to open the site to redeem a
608 vehicle or vessel, the operator shall return to the site within
609 1 hour or she or he will be in violation of this section.

610 b. If no towing business providing such service is located
611 within the area of towing limitations set forth in sub-
612 subparagraph a., the following limitations apply: any towed or
613 removed vehicle or vessel must be stored at a site within a 20-
614 mile radius ~~20 miles~~ of the point of removal in any county of
615 500,000 population or more, and within a 30-mile radius ~~30 miles~~
616 of the point of removal in any county of less than 500,000
617 population.

618 2. The person or firm towing or removing the vehicle or
619 vessel shall, within 30 minutes after ~~of~~ completion of such
620 towing or removal, notify the municipal police department or, in
621 an unincorporated area, the sheriff of such towing or removal,
622 the storage site, the time the vehicle or vessel was towed or
623 removed, and the make, model, color, and license plate number of
624 the vehicle or description and registration number of the vessel
625 and shall obtain the name of the person at that department to
626 whom such information was reported and note that name on the
627 trip record.

628 3. A person in the process of towing or removing a vehicle
629 or vessel from the premises or parking lot in which the vehicle
630 or vessel is not lawfully parked must stop when a person seeks
631 the return of the vehicle or vessel. The vehicle or vessel must
632 be returned upon the payment of a reasonable service fee of not
633 more than one-half of the posted rate for the towing or removal
634 service as provided in subparagraph 6. The vehicle or vessel may

635 be towed or removed if, after a reasonable opportunity, the
636 owner or legally authorized person in control of the vehicle or
637 vessel is unable to pay the service fee. If the vehicle or
638 vessel is redeemed, a detailed signed receipt must be given to
639 the person redeeming the vehicle or vessel. ~~If the registered~~
640 ~~owner or other legally authorized person in control of the~~
641 ~~vehicle arrives at the scene prior to removal or towing of the~~
642 ~~vehicle, the vehicle shall be disconnected from the towing or~~
643 ~~removal apparatus, and that person shall be allowed to remove~~
644 ~~the vehicle without interference upon the payment of a~~
645 ~~reasonable service fee of not more than one-half of the posted~~
646 ~~rate for such towing service as provided in subparagraph 6., for~~
647 ~~which a receipt shall be given, unless that person refuses to~~
648 ~~remove the vehicle which is otherwise unlawfully parked.~~

649 4. A person may not pay or accept money or other valuable
650 consideration for the privilege of towing or removing vehicles
651 or vessels from a particular location. ~~The rebate or payment of~~
652 ~~money or any other valuable consideration from the individual or~~
653 ~~firm towing or removing vehicles to the owners or operators of~~
654 ~~the premises from which the vehicles are towed or removed, for~~
655 ~~the privilege of removing or towing those vehicles, is~~
656 ~~prohibited.~~

657 5. Except for property appurtenant to and obviously a part
658 of a single-family residence, and except for instances when
659 notice is personally given to the owner or other legally
660 authorized person in control of the vehicle or vessel that the
661 area in which that vehicle or vessel is parked is reserved or
662 otherwise unavailable for unauthorized vehicles or vessels and

663 that the vehicle or vessel is subject to being removed at the
664 owner's or operator's expense, any property owner or lessee, or
665 person authorized by the property owner or lessee, prior to
666 towing or removing any vehicle or vessel from private property
667 without the consent of the owner or other legally authorized
668 person in control of that vehicle or vessel, must post a notice
669 meeting the following requirements:

670 a. The notice must be prominently placed at each driveway
671 access or curb cut allowing vehicular access to the property,
672 within 5 feet from the public right-of-way line. If there are
673 no curbs or access barriers, the signs must be posted not less
674 than one sign for each 25 feet of lot frontage.

675 b. The notice must clearly indicate, in not less than 2-
676 inch high, light-reflective letters on a contrasting background,
677 that unauthorized vehicles will be towed away at the owner's
678 expense. The words "tow-away zone" must be included on the sign
679 in not less than 4-inch high letters.

680 c. The notice must also provide the name and current
681 telephone number of the person or firm towing or removing the
682 vehicles or vessels, ~~if the property owner, lessee, or person in~~
683 ~~control of the property has a written contract with the towing~~
684 ~~company.~~

685 d. The sign structure containing the required notices must
686 be permanently installed with the words "tow-away zone" not less
687 than 3 feet and not more than 6 feet above ground level and must
688 be continuously maintained on the property for not less than 24
689 hours prior to the towing or removal of any vehicles or vessels.

690 e. The local government may require permitting and
691 inspection of these signs prior to any towing or removal of
692 vehicles or vessels being authorized.

693 f. A business with 20 or fewer parking spaces satisfies
694 the notice requirements of this subparagraph by prominently
695 displaying a sign stating "Reserved Parking for Customers Only
696 Unauthorized Vehicles or Vessels Will be Towed Away At the
697 Owner's Expense" in not less than 4-inch high, light-reflective
698 letters on a contrasting background.

699 g. A property owner towing or removing vessels from real
700 property must post notice, consistent with the requirements in
701 sub-subparagraphs a.-f., which apply to vehicles, that
702 unauthorized vehicles or vessels will be towed away at the
703 owner's expense.

704
705 A business owner or lessee may authorize the removal of a
706 vehicle or vessel by a towing company when the vehicle or vessel
707 is parked in such a manner that restricts the normal operation
708 of business; and if a vehicle or vessel parked on a public
709 right-of-way obstructs access to a private driveway the owner,
710 lessee, or agent may have the vehicle or vessel removed by a
711 towing company upon signing an order that the vehicle or vessel
712 be removed without a posted tow-away zone sign.

713 6. Any person or firm that tows or removes vehicles or
714 vessels and proposes to require an owner, operator, or person in
715 control of a vehicle or vessel to pay the costs of towing and
716 storage prior to redemption of the vehicle or vessel must file
717 and keep on record with the local law enforcement agency a

718 complete copy of the current rates to be charged for such
719 services and post at the storage site an identical rate schedule
720 and any written contracts with property owners, lessees, or
721 persons in control of property which authorize such person or
722 firm to remove vehicles or vessels as provided in this section.

723 7. Any person or firm towing or removing any vehicles or
724 vessels from private property without the consent of the owner
725 or other legally authorized person in control of the vehicles or
726 vessels shall, on any trucks, wreckers as defined in s.
727 713.78(1)(c), or other vehicles used in the towing or removal,
728 have the name, address, and telephone number of the company
729 performing such service clearly printed in contrasting colors on
730 the driver and passenger sides of the vehicle. The name shall
731 be in at least 3-inch permanently affixed letters, and the
732 address and telephone number shall be in at least 1-inch
733 permanently affixed letters.

734 8. Vehicle entry for the purpose of removing the vehicle
735 or vessel shall be allowed with reasonable care on the part of
736 the person or firm towing the vehicle or vessel. Such person or
737 firm shall be liable for any damage occasioned to the vehicle or
738 vessel if such entry is not in accordance with the standard of
739 reasonable care.

740 9. When a vehicle or vessel has been towed or removed
741 pursuant to this section, it must be released to its owner or
742 custodian within one hour after requested. Any vehicle or vessel
743 owner, ~~custodian~~, or agent shall have the right to inspect the
744 vehicle or vessel before accepting its return, and no release or
745 waiver of any kind which would release the person or firm towing

746 the vehicle or vessel from liability for damages noted by the
747 owner or other legally authorized person at the time of the
748 redemption may be required from any vehicle or vessel owner,
749 custodian, or agent as a condition of release of the vehicle or
750 vessel to its owner. A detailed, signed receipt showing the
751 legal name of the company or person towing or removing the
752 vehicle or vessel must be given to the person paying towing or
753 storage charges at the time of payment, whether requested or
754 not.

755 (b) These requirements are ~~shall be the~~ minimum standards
756 and do ~~shall~~ not preclude enactment of additional regulations by
757 any municipality or county including the right to regulate rates
758 when vehicles or vessels are towed from private property.

759 (3) This section does not apply to law enforcement,
760 firefighting, rescue squad, ambulance, or other emergency
761 vehicles or vessels that ~~which~~ are marked as such or to property
762 owned by any governmental entity.

763 (4) When a person improperly causes a vehicle or vessel to
764 be removed, such person shall be liable to the owner or lessee
765 of the vehicle or vessel for the cost of removal,
766 transportation, and storage; any damages resulting from the
767 removal, transportation, or storage of the vehicle or vessel;
768 attorney's ~~attorneys'~~ fees; and court costs.

769 (5)(a) Any person who violates ~~the provisions of~~
770 subparagraph (2)(a)2. or subparagraph (2)(a)6. commits ~~is guilty~~
771 ~~of~~ a misdemeanor of the first degree, punishable as provided in
772 s. 775.082 or s. 775.083.

773 (b) Any person who violates subparagraph (2)(a)1.,
774 subparagraph (2)(a)3., subparagraph (2)(a)4., ~~the provisions of~~
775 subparagraph (2)(a)7., or subparagraph (2)(a)9. commits ~~is~~
776 ~~guilty of~~ a felony of the third degree, punishable as provided
777 in s. 775.082, s. 775.083, or s. 775.084.

778 Section 6. Except as otherwise expressly provided in this
779 act, this act shall take effect July 1, 2005.