

1 A bill to be entitled
 2 An act relating to liens for recovering, towing, or
 3 storing vehicles and vessels; amending s. 713.78, F.S.;
 4 revising certain requirements relating to notice provided
 5 by mail to the owner, insurance company, and persons
 6 claiming a lien against the vehicle or vessel; requiring
 7 that proof of mailing be retained and provided to certain
 8 persons upon request; providing an effective date.

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

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 12 Section 1. Subsections (4) and (6) of section 713.78,
 13 Florida Statutes, are amended to read:

14 713.78 Liens for recovering, towing, or storing vehicles
 15 and vessels.--

16 (4) (a) Any person regularly engaged in the business of
 17 recovering, towing, or storing vehicles or vessels who comes
 18 into possession of a vehicle or vessel pursuant to subsection
 19 (2), and who claims a lien for recovery, towing, or storage
 20 services, shall give notice to the registered owner, the
 21 insurance company insuring the vehicle notwithstanding the
 22 provisions of s. 627.736, and to all persons claiming a lien
 23 thereon, as disclosed by the records in the Department of
 24 Highway Safety and Motor Vehicles or of a corresponding agency
 25 in any other state.

26 (b) Whenever any law enforcement agency authorizes the
 27 removal of a vehicle or vessel or whenever any towing service,
 28 garage, repair shop, or automotive service, storage, or parking

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29 place notifies the law enforcement agency of possession of a
30 vehicle or vessel pursuant to s. 715.07(2)(a)2., the applicable
31 law enforcement agency shall contact the Department of Highway
32 Safety and Motor Vehicles, or the appropriate agency of the
33 state of registration, if known, within 24 hours through the
34 medium of electronic communications, giving the full description
35 of the vehicle or vessel. Upon receipt of the full description
36 of the vehicle or vessel, the department shall search its files
37 to determine the owner's name, the insurance company insuring
38 the vehicle or vessel, and whether any person has filed a lien
39 upon the vehicle or vessel as provided in s. 319.27(2) and (3)
40 and notify the applicable law enforcement agency within 72
41 hours. The person in charge of the towing service, garage,
42 repair shop, or automotive service, storage, or parking place
43 shall obtain such information from the applicable law
44 enforcement agency within 5 days after the date of storage and
45 shall give notice pursuant to paragraph (a). The department may
46 release the insurance company information to the requestor
47 notwithstanding the provisions of s. 627.736.

48 (c) Notice by certified mail, ~~return receipt requested,~~
49 shall be sent within 7 business days after the date of storage
50 of the vehicle or vessel to the registered owner, the insurance
51 company insuring the vehicle notwithstanding the provisions of
52 s. 627.736, and all persons of record claiming a lien against
53 the vehicle or vessel. Proof of mailing must be retained and
54 provided to any person involved in an action upon request. The
55 notice must ~~it shall~~ state the fact of possession of the vehicle
56 or vessel, that a lien as provided in subsection (2) is claimed,

57 | that charges have accrued and the amount thereof, that the lien
 58 | is subject to enforcement pursuant to law, ~~and~~ that the owner or
 59 | lienholder, if any, has the right to a hearing as set forth in
 60 | subsection (5), and that any vehicle or vessel that ~~which~~
 61 | remains unclaimed, or for which the charges for recovery,
 62 | towing, or storage services remain unpaid, may be sold free of
 63 | all prior liens after 35 days if the vehicle or vessel is more
 64 | than 3 years of age or after 50 days if the vehicle or vessel is
 65 | 3 years of age or less.

66 | (d) If attempts to locate the name and address of the
 67 | owner or lienholder prove unsuccessful, the towing-storage
 68 | operator shall, after 7 working days, excluding Saturday and
 69 | Sunday, following ~~of~~ the initial tow or storage, notify the
 70 | public agency of jurisdiction in writing by certified mail or
 71 | acknowledged hand delivery that the towing-storage company has
 72 | been unable to locate the name and address of the owner or
 73 | lienholder and a physical search of the vehicle or vessel has
 74 | disclosed no ownership information and a good faith effort has
 75 | been made. Proof of mailing must be retained and provided to any
 76 | person involved in an action upon request. For purposes of this
 77 | paragraph and subsection (9), "good faith effort" means that the
 78 | following checks have been performed by the company to establish
 79 | prior state of registration and for title:

- 80 | 1. Check of vehicle or vessel for any type of tag, tag
 81 | record, temporary tag, or regular tag.
- 82 | 2. Check of law enforcement report for tag number or other
 83 | information identifying the vehicle or vessel, if the vehicle or
 84 | vessel was towed at the request of a law enforcement officer.

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

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

91 5. Check of vehicle or vessel for inspection sticker or
 92 other stickers and decals that may indicate a state of possible
 93 registration.

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

97 7. Check of vehicle for vehicle identification number.

98 8. Check of vessel for vessel registration number.

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

104 (6) Any vehicle or vessel that ~~which~~ is stored pursuant to
 105 subsection (2) and that ~~which~~ remains unclaimed, or for which
 106 reasonable charges for recovery, towing, or storing remain
 107 unpaid, and any contents not released pursuant to subsection
 108 (10), may be sold by the owner or operator of the storage space
 109 for such towing, ~~or~~ storage, and other applicable charges ~~charge~~
 110 after 35 days following ~~from~~ the time the vehicle or vessel is
 111 stored therein if the vehicle or vessel is more than 3 years of
 112 age or after 50 days following the time the vehicle or vessel is

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113 stored therein if the vehicle or vessel is 3 years of age or
114 less. The sale shall be at public auction for cash. If the date
115 of the sale was not included in the notice required in
116 subsection (4), notice of the sale shall be given to the person
117 in whose name the vehicle or vessel is registered and to all
118 persons claiming a lien on the vehicle or vessel as shown on the
119 records of the Department of Highway Safety and Motor Vehicles
120 or of the corresponding agency in any other state. Notice shall
121 be sent by certified mail, ~~return receipt requested,~~ to the
122 owner of the vehicle or vessel and the person having the
123 recorded lien on the vehicle or vessel at the address shown on
124 the records of the registering agency and shall be mailed not
125 less than 15 days before the date of the sale. Proof of mailing
126 must be retained and provided to any person involved in the
127 action upon request. After diligent search and inquiry, if the
128 name and address of the registered owner or the owner of the
129 recorded lien cannot be ascertained, the requirements of notice
130 by mail may be dispensed with. In addition to the notice by
131 mail, public notice of the time and place of sale shall be made
132 by publishing a notice thereof one time, at least 10 days prior
133 to the date of the sale, in a newspaper of general circulation
134 in the county in which the sale is to be held. The proceeds of
135 the sale, after payment of reasonable towing and storage
136 charges, and costs of the sale, in that order of priority, shall
137 be deposited with the clerk of the circuit court for the county
138 if the owner is absent, and the clerk shall hold such proceeds
139 subject to the claim of the person legally entitled thereto. The
140 clerk shall be entitled to receive 5 percent of such proceeds

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141 | for the care and disbursement thereof. The certificate of title
142 | issued under this law shall be discharged of all liens unless
143 | otherwise provided by court order.

144 | Section 2. This act shall take effect July 1, 2006.