

1 A bill to be entitled
2 An act relating to motor vehicle lien enforcement;
3 amending s. 30.231, F.S.; authorizing sheriffs expediting
4 execution of a writ of replevin to recover certain
5 additional expenses; amending s. 30.30, F.S.; requiring
6 sheriffs to expedite certain writs of replevin within a
7 specified amount of time; amending s. 78.065, F.S.;
8 requiring courts to advance certain matters related to
9 writs of replevin on the calendar and provide a ruling
10 within a specified amount of time; amending s. 78.068,
11 F.S.; requiring courts to advance certain matters related
12 to prejudgment writs of replevin on the calendar and
13 provide a ruling within a specified amount of time;
14 amending s. 319.24, F.S.; extending the time certain motor
15 vehicle lienholders have to deliver a certificate of title
16 indicating a lien satisfaction or notify the person
17 satisfying the lien that the title is not available;
18 amending s. 320.02, F.S.; authorizing the Department of
19 Highway Safety and Motor Vehicles to withhold
20 registration, renewal of registration, or replacement
21 registration of specified motor vehicles; creating s.
22 320.1315, F.S.; requiring the department to develop an
23 electronic notification system for certain purposes;
24 authorizing certain motor vehicle floor plan financiers to
25 provide the department with certain information; providing
26 responsibilities of the department relating to
27 notification of the issuance of temporary tags;
28 authorizing the department to adopt rules; amending s.

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29 | 320.0609, F.S.; requiring the issuance and display of a
30 | temporary tag under certain conditions; amending s.
31 | 320.131, F.S.; extending the authority of the department
32 | to design, issue, and regulate the use of temporary tags
33 | in cases involving transfer of a registration license
34 | plate; amending s. 559.903, F.S.; defining the terms
35 | "lienholder" and "owner" for purposes of the "Florida
36 | Motor Vehicle Repair Act"; amending s. 559.917, F.S.;
37 | providing for a motor vehicle owner or lienholder to
38 | obtain the release of a motor vehicle from a motor vehicle
39 | repair shop; amending s. 713.585, F.S.; modifying
40 | procedures for enforcing liens for labor or services by
41 | sale of a motor vehicle; amending s. 818.01, F.S.;
42 | providing penalties for the encumbrance, removal,
43 | destruction, or concealment of certain personal property;
44 | providing responsibilities of the department relating to
45 | the issuance of a license plate, revalidation sticker, or
46 | replacement license plate; requiring the department to
47 | create a notice to surrender form; providing procedures
48 | for the dispute of a notice to surrender; authorizing
49 | certain secured parties to move in a court of competent
50 | jurisdiction that the party be allowed to retain
51 | possession of collateral as security for a debt; providing
52 | an effective date.

53 |
54 | Be It Enacted by the Legislature of the State of Florida:
55 |

56 Section 1. Subsection (2) of section 30.231, Florida
 57 Statutes, is amended to read:

58 30.231 Sheriffs' fees for service of summons, subpoenas,
 59 and executions.--

60 (2) For levying on property and for the seizure of
 61 persons, the sheriff shall be allowed anticipated expenses
 62 necessary for the execution of the process directing such levy
 63 or seizure and for the safekeeping of property and persons in
 64 the custody of the sheriff. A reasonable cost deposit to cover
 65 said fees and expenses in connection with the requested services
 66 shall be deposited in advance, by the party requesting the
 67 service, with the officer requested to perform the service. If
 68 the sheriff is required to expedite execution of a writ of
 69 replevin pursuant to s. 30.30, the sheriff may recover
 70 additional expenses, including payment of off-duty deputy
 71 sheriffs, to expedite execution of the writ of replevin.

72 Section 2. Subsection (1) of section 30.30, Florida
 73 Statutes, is amended to read:

74 30.30 Writs, process; duties and liabilities in levying.--

75 (1) Whenever any writ, ~~issuing out of any court of this~~
 76 state ~~is,~~ ~~shall be~~ delivered to a sheriff, ~~commanding the~~
 77 sheriff to levy upon property specifically described therein, it
 78 shall be his or her duty to levy upon such property. If a party
 79 to whom a writ of replevin has been issued requests expedited
 80 service of the writ, the sheriff shall expedite service no later
 81 than 3 days after such request, subject to payment of the
 82 additional expenses allowed by s. 30.231(2). If no property is

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83 specifically described in the writ, the sheriff ~~he or she~~ shall
 84 levy upon:

85 (a) Any property in the possession of the defendant which
 86 is described in instructions for levy; and

87 (b) Upon any property assessed against the defendant on
 88 the current tax rolls of the county or registered in his or her
 89 name under any law of the United States or of the state, upon
 90 the request of the plaintiff or the plaintiff's attorney listing
 91 such property in an instructions for levy. The instructions for
 92 levy shall state the balance due on such writ.

93 Section 3. Subsection (1) of section 78.065, Florida
 94 Statutes, is amended to read:

95 78.065 Order to show cause; contents.--

96 (1) The court without delay shall examine the complaint
 97 filed; and, if on the basis of the complaint and further showing
 98 of the plaintiff in support of it the court finds that the
 99 defendant has waived in accordance with s. 78.075 his or her
 100 right to be notified and heard, the court shall promptly issue
 101 an order authorizing the clerk of the court to issue a writ of
 102 replevin. The court shall advance the cause on the calendar and
 103 shall rule on whether a writ of replevin will be issued within 3
 104 days after the date the civil action seeking issuance of the
 105 writ of replevin is filed.

106 Section 4. Subsection (1) of section 78.068, Florida
 107 Statutes, is amended to read:

108 78.068 Prejudgment writ of replevin.--

109 (1) A prejudgment writ of replevin may be issued and the
 110 property seized delivered forthwith to the petitioners when the

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111 nature of the claim and the amount thereof, if any, and the
112 grounds relied upon for the issuance of the writ clearly appear
113 from specific facts shown by the verified petition or by
114 separate affidavit of the petitioner. The court shall advance
115 the cause on the calendar and shall rule on whether a writ of
116 replevin will be issued within 3 days after the date the civil
117 action seeking issuance of the writ of replevin is filed.

118 Section 5. Paragraph (a) of subsection (5) of section
119 319.24, Florida Statutes, is amended to read:

120 319.24 Issuance in duplicate; delivery; liens and
121 encumbrances.--

122 (5) (a) Upon satisfaction of any first lien or encumbrance
123 recorded at the department, the owner of the motor vehicle or
124 mobile home, as shown on the title certificate, or the person
125 satisfying the lien shall be entitled to demand and receive from
126 the lienholder a satisfaction of the lien. If the lienholder,
127 upon satisfaction of the lien and upon demand, fails or refuses
128 to furnish a satisfaction thereof within 30 days after demand,
129 he or she shall be held liable for all costs, damages, and
130 expenses, including reasonable attorney's fees, lawfully
131 incurred by the titled owner or person satisfying the lien in
132 any suit brought in this state for cancellation of the lien. A
133 motor vehicle dealer acquiring ownership of a motor vehicle with
134 an outstanding purchase money lien, shall pay and satisfy the
135 outstanding lien within 10 working days after ~~of~~ acquiring
136 ownership. The lienholder receiving final payment as defined in
137 s. 674.215 shall mail or otherwise deliver a lien satisfaction
138 and the certificate of title indicating the satisfaction within

139 | 15 ~~10~~ working days after ~~of~~ receipt of such final payment or
 140 | notify the person satisfying the lien that the title is not
 141 | available within 15 ~~10~~ working days after ~~of~~ receipt of such
 142 | final payment. If the lienholder is unable to provide the
 143 | certificate of title and notifies the person of such, the
 144 | lienholder shall provide a lien satisfaction and shall be
 145 | responsible for the cost of a duplicate title, including fast
 146 | title charges as provided in s. 319.323. The provisions of this
 147 | paragraph shall not apply to electronic transactions pursuant to
 148 | subsection (9).

149 | Section 6. Subsection (17) is added to section 320.02,
 150 | Florida Statutes, to read:

151 | 320.02 Registration required; application for
 152 | registration; forms.--

153 | (17) If any applicant's name appears on a list of persons
 154 | who may not be issued a license plate, revalidation sticker, or
 155 | replacement license plate pursuant to a written notice to
 156 | surrender a vehicle submitted to the department by a lienor as
 157 | provided in s. 818.01(3), the department may withhold
 158 | registration, renewal of registration, or replacement
 159 | registration of any motor vehicle owned by the applicant at the
 160 | time the notice was submitted by the lienor. The lienor must
 161 | maintain proof that written notice to surrender the vehicle was
 162 | sent to each registered owner pursuant to s. 818.01(3). A
 163 | license plate, revalidation sticker, or replacement license
 164 | plate may not be issued until that person's name no longer
 165 | appears on the list or until the person presents documentation

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166 from the lienor that the vehicle has been surrendered to the
167 lienor.

168 Section 7. Section 320.1315, Florida Statutes, is created
169 to read:

170 320.1315 Electronic notification to motor vehicle floor
171 plan financiers upon issuance of temporary tags.--

172 (1) In order to protect the integrity of the motor vehicle
173 financing market, the department is directed to develop an
174 electronic notification system that will notify motor vehicle
175 floor plan financiers of any temporary tag that is issued on a
176 motor vehicle that is in the inventory of a secured debtor.

177 (2) Motor vehicle floor plan financiers may notify the
178 department of the motor vehicle dealer names and license numbers
179 of any secured debtors in which the financier has perfected a
180 security interest pursuant to chapter 679 or other applicable
181 law.

182 (3) Using the motor vehicle dealer name or license number,
183 the department shall query each temporary tag issued in the
184 state and, when a match occurs, shall electronically notify any
185 floor plan financier that has requested notification that a
186 temporary tag has been issued. Included in the notice shall be
187 the vehicle identification number, the motor vehicle dealer name
188 and license number that is associated with the temporary tag,
189 and the date of issuance of the temporary tag.

190 (4) Upon termination of a perfected security interest in
191 the inventory of a secured debtor, a floor plan financier shall
192 notify the department of such termination and the department
193 shall no longer be required to notify the financier of temporary

194 tags issued on motor vehicles that are in the inventory of the
 195 secured debtor.

196 (5) The department may adopt rules pursuant to ss.
 197 120.536(1) and 120.54 to implement this section.

198 Section 8. Subsection (2) of section 320.0609, Florida
 199 Statutes, are amended to read:

200 320.0609 Transfer and exchange of registration license
 201 plates; transfer fee.--

202 (2)(a) Upon a sale, trade, transfer, or other disposition
 203 of a motor vehicle, the owner shall remove the registration
 204 license plate therefrom and either return it or transfer it to a
 205 replacement motor vehicle. No registration license plate shall
 206 be temporarily or permanently attached to any new or used
 207 replacement or substitute vehicle without filing an application
 208 for transfer of such registration license plate and paying the
 209 transfer fee of \$4.50 to the department.

210 (b) The requirement to pay a transfer fee does not apply
 211 when the replacement vehicle is classified under s.
 212 320.08(2)(b), (c), or (d) or (3)(a), (b), or (c) and the
 213 original vehicle to be replaced is also classified under s.
 214 320.08(2)(b), (c), or (d) or (3)(a), (b), or (c).

215 (c) When a retail sale by a licensed motor vehicle dealer
 216 results in the transfer of a license plate, a temporary tag
 217 shall be issued and displayed during the time that the
 218 application for transfer of such registration license plate is
 219 being processed except when the department's records reflect
 220 that the transfer has occurred.

221 Section 9. Paragraph (m) is added to subsection (1) of
 222 section 320.131, Florida Statutes, to read:

223 320.131 Temporary tags.--

224 (1) The department is authorized and empowered to design,
 225 issue, and regulate the use of temporary tags to be designated
 226 "temporary tags" for use in the following cases:

227 (m) For a retail sale by a licensed dealer when an
 228 application for the transfer of a registration license plate is
 229 being processed.

230

231 Further, the department is authorized to disallow the purchase
 232 of temporary tags by licensed dealers, common carriers, or
 233 financial institutions in those cases where abuse has occurred.

234 Section 10. Section 559.903, Florida Statutes, is amended
 235 to read:

236 559.903 Definitions.--As used in this act:

237 (1) "Customer" means the person who signs the written
 238 repair estimate or any other person whom the person who signs
 239 the written repair estimate designates on the written repair
 240 estimate as a person who may authorize repair work.

241 (2) "Department" means the Department of Agriculture and
 242 Consumer Services.

243 (3) "Employee" means an individual who is employed full
 244 time or part time by a motor vehicle repair shop and performs
 245 motor vehicle repair.

246 (4) "Final estimate" means the last estimate approved by
 247 the customer either in writing or orally, as evidenced by the
 248 written repair estimate.

249 (5) "Lienholder" means the person or entity that holds a
 250 lien or security interest on the motor vehicle and who perfected
 251 the lien or security interest on the motor vehicle pursuant to
 252 s. 319.27.

253 ~~(6)~~ ~~(5)~~ "Motor vehicle" means any automobile, truck, bus,
 254 recreational vehicle, motorcycle, motor scooter, or other motor
 255 powered vehicle, but does not include trailers, mobile homes,
 256 travel trailers, trailer coaches without independent motive
 257 power, watercraft or aircraft, or special mobile equipment as
 258 defined in s. 316.003(48).

259 ~~(7)~~ ~~(8)~~ "Motor vehicle repair" means all maintenance of and
 260 modifications and repairs to motor vehicles, and diagnostic work
 261 incident thereto, including, but not limited to, the rebuilding
 262 or restoring of rebuilt vehicles, body work, painting, warranty
 263 work, and other work customarily undertaken by motor vehicle
 264 repair shops.

265 ~~(8)~~ ~~(6)~~ "Motor vehicle repair shop" means any person who,
 266 for compensation, engages or attempts to engage in the repair of
 267 motor vehicles owned by other persons and includes, but is not
 268 limited to: mobile motor vehicle repair shops, motor vehicle and
 269 recreational vehicle dealers; garages; service stations; self-
 270 employed individuals; truck stops; paint and body shops; brake,
 271 muffler, or transmission shops; and shops doing glass work. Any
 272 person who engages solely in the maintenance or repair of the
 273 coach portion of a recreational vehicle is not a motor vehicle
 274 repair shop.

275 (9) "Owner" means the person or persons whose names appear
 276 on the title to the motor vehicle.

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277 (10)~~(7)~~ "Place of business" means a physical place where
278 the business of motor vehicle repair is conducted, including any
279 vehicle constituting a mobile motor vehicle repair shop from
280 which the business of motor vehicle repair is conducted.

281 Section 11. Section 559.917, Florida Statutes, is amended
282 to read:

283 559.917 Bond to release possessory lien claimed by motor
284 vehicle repair shop.--

285 (1) (a) Any customer may obtain the release of her or his
286 motor vehicle from any lien claimed under part II of chapter 713
287 by a motor vehicle repair shop for repair work performed under a
288 written repair estimate by filing with the clerk of the court in
289 the circuit in which the disputed transaction occurred a cash or
290 surety bond, payable to the person claiming the lien and
291 conditioned for the payment of any judgment which may be entered
292 on the lien. The bond shall be in the amount stated on the
293 invoice required by s. 559.911, plus accrued storage charges, if
294 any, less any amount paid to the motor vehicle repair shop as
295 indicated on the invoice. The customer shall not be required to
296 institute judicial proceedings in order to post the bond in the
297 registry of the court, nor shall the customer be required to use
298 a particular form for posting the bond, unless the clerk shall
299 provide such form to the customer for filing. Upon the posting
300 of such bond, the clerk of the court shall automatically issue a
301 certificate notifying the lienor of the posting of the bond and
302 directing the lienor to release the customer's motor vehicle.

303 (b) The lienor shall have 60 days to file suit to recover
304 the bond. The prevailing party in that action may be entitled to

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305 damages plus court costs and reasonable attorney's fees. If the
306 lienor fails to file suit within 60 days after the posting of
307 such bond, the bond shall be discharged.

308 (c) The owner or lienholder may obtain the release of a
309 motor vehicle pursuant to s. 713.78.

310 (2) The failure of a lienor to release or return to the
311 customer, owner, or lienholder the motor vehicle upon which any
312 lien is claimed, upon receiving a copy of a certificate giving
313 notice of the posting of the bond and directing release of the
314 motor vehicle, shall subject the lienor to judicial proceedings
315 which may be brought by the customer, owner, or lienholder to
316 compel compliance with the certificate. Whenever a customer,
317 owner, or lienholder brings an action to compel compliance with
318 the certificate, the customer, owner, or lienholder need only
319 establish that:

320 (a) Bond in the amount of the invoice, plus accrued
321 storage charges, if any, less any amount paid to the motor
322 vehicle repair shop as indicated on the invoice, was posted;

323 (b) A certificate was issued pursuant to this section;

324 (c) The motor vehicle repair shop, or any employee or
325 agent thereof who is authorized to release the motor vehicle,
326 received a copy of a certificate issued pursuant to this
327 section; and

328 (d) The motor vehicle repair shop or employee authorized
329 to release the motor vehicle failed to release the motor
330 vehicle.

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332 The customer, owner, or lienholder, upon a judgment in her or
333 his favor in an action brought under this subsection, may be
334 entitled to damages plus court costs and reasonable attorney's
335 fees sustained by her or him by reason of such wrongful
336 detention or retention. Upon a judgment in favor of the motor
337 vehicle repair shop, the shop may be entitled to reasonable
338 attorney's fees.

339 (3) Any motor vehicle repair shop which, or any employee
340 or agent thereof who is authorized to release the motor vehicle
341 who, upon receiving a copy of a certificate giving notice of the
342 posting of the bond in the required amount and directing release
343 of the motor vehicle, fails to release or return the property to
344 the customer, owner, or lienholder pursuant to this section
345 ~~commits is guilty of~~ a misdemeanor of the second degree,
346 punishable as provided in s. 775.082 or s. 775.083.

347 (4) Any customer, owner, or lienholder who stops payment
348 on a credit card charge or a check drawn in favor of a motor
349 vehicle repair shop on account of an invoice or who fails to
350 post a cash or surety bond pursuant to this section shall be
351 prohibited from any recourse under this section with respect to
352 the motor vehicle repair shop.

353 Section 12. Section 713.585, Florida Statutes, is amended
354 to read:

355 713.585 Enforcement of lien by sale of motor vehicle.--A
356 person claiming a lien under s. 713.58 for performing labor or
357 services on a motor vehicle may enforce such lien by sale of the
358 vehicle in accordance with the following procedures:

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359 (1) The lienor must give notice, by certified mail, ~~return~~
360 ~~receipt requested,~~ within 10 ~~15~~ business days, excluding
361 Saturday and Sunday, from the beginning date of the assessment
362 of storage charges on the ~~said~~ motor vehicle, to the registered
363 owner of the vehicle, to the customer as indicated on the order
364 for repair, and to all other persons claiming an interest in or
365 lien thereon, as disclosed by the records of the Department of
366 Highway Safety and Motor Vehicles or of a corresponding agency
367 of any other state in which the vehicle appears registered. Such
368 notice must contain:

369 (a) A description of the vehicle (year, make, vehicle
370 identification number) and its location.

371 (b) The name and address of the owner of the vehicle, the
372 customer as indicated on the order for repair, and any person
373 claiming an interest in or lien thereon.

374 (c) The name, address, and telephone number of the lienor.

375 (d) Notice that the lienor claims a lien on the vehicle
376 for labor and services performed and storage charges, if any,
377 and the cash sum which, if paid to the lienor, would be
378 sufficient to redeem the vehicle from the lien claimed by the
379 lienor.

380 (e) Notice that the lien claimed by the lienor is subject
381 to enforcement pursuant to this section and that the vehicle may
382 be sold to satisfy the lien.

383 (f) If known, the date, time, and location of any proposed
384 or scheduled sale of the vehicle. No vehicle may be sold earlier
385 than 50 ~~60~~ days after completion of the repair work.

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386 (g) Notice that the owner of the vehicle or any person
387 claiming an interest in or lien thereon has a right to a hearing
388 at any time prior to the scheduled date of sale by filing a
389 demand for hearing with the clerk of the circuit court in the
390 county in which the vehicle is held and mailing copies of the
391 demand for hearing to all other owners and lienors as reflected
392 on the notice.

393 (h) Notice that the owner or lienholder of the vehicle has
394 a right to recover possession of the vehicle without instituting
395 judicial proceedings by posting bond in accordance with the
396 provisions of s. 559.917.

397 (i) Notice that any proceeds from the sale of the vehicle
398 remaining after payment of the amount claimed to be due and
399 owing to the lienor will be deposited with the clerk of the
400 circuit court for disposition upon court order pursuant to
401 subsection (8).

402 (2) If attempts to locate the owner or lienholder are
403 unsuccessful, the lienor must notify the local law enforcement
404 agency in writing by certified mail or acknowledged hand
405 delivery that the lienor has been unable to locate the owner or
406 lienholder, that a physical search of the vehicle has disclosed
407 no ownership information, and that a good faith effort has been
408 made. A description of the motor vehicle which includes the
409 year, make, and identification number must be given on the
410 notice. This notification must take place within 10 ~~15~~ business
411 days, excluding Saturday and Sunday, from the beginning date of
412 the assessment of storage charges on the ~~said~~ motor vehicle. For
413 purposes of this paragraph, the term "good faith effort" means

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414 that the following checks have been performed by the company to
415 establish the prior state of registration and title:

416 (a) A check of vehicle for any type of tag, tag record,
417 temporary tag, or regular tag;

418 (b) A check of vehicle for inspection sticker or other
419 stickers and decals that could indicate the state of possible
420 registration; and

421 (c) A check of the interior of the vehicle for any papers
422 that could be in the glove box, trunk, or other areas for the
423 state of registration.

424 (3) If the date of the sale was not included in the notice
425 required in subsection (1), notice of the sale must be sent by
426 certified mail, ~~return receipt requested~~, not less than 15 days
427 before the date of sale, to the customer as indicated on the
428 order for repair, and to all other persons claiming an interest
429 in or lien on the motor vehicle, as disclosed by the records of
430 the Department of Highway Safety and Motor Vehicles or of a
431 corresponding agency of any other state in which the vehicle
432 appears to have been registered. After diligent search and
433 inquiry, if the name and address of the registered owner or the
434 owner of the recorded lien cannot be ascertained, the
435 requirements for this notice may be disregarded.

436 (4) The lienor, at least 15 days before the proposed or
437 scheduled date of sale of the vehicle, shall publish the notice
438 required by this section once in a newspaper circulated in the
439 county where the vehicle is held. A certificate of compliance
440 with the notification provisions of this section, verified by
441 the lienor, together with a copy of the notice ~~and return~~

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442 ~~receipt for mailing of the notice required by this section,~~ and
443 proof of publication, must be duly and expeditiously filed with
444 the clerk of the circuit court in the county where the vehicle
445 is held. The lienor, at the time of filing the certificate of
446 compliance, must pay to the clerk of that court a service charge
447 of \$10 for indexing and recording the certificate.

448 (5) At any time prior to the proposed or scheduled date of
449 sale of a vehicle, the owner of the vehicle, or any person
450 claiming an interest in the vehicle or a lien thereon, may file
451 a demand for hearing with the clerk of the circuit court in the
452 county in which the vehicle is held to determine whether the
453 vehicle has been wrongfully taken or withheld from her or him.
454 Any person who files a demand for hearing shall mail copies of
455 the demand to all other owners and lienors as reflected on the
456 notice required in subsection (1). Upon the filing of a demand
457 for hearing, a hearing shall be held prior to the proposed or
458 scheduled date of sale of the vehicle.

459 (6) In the event a lienor institutes a judicial proceeding
460 to enforce a lien, no filing fee shall be required at the time
461 of filing, but the court shall require the lienor to pay the
462 filing fee unless the lienor shall prevail in the action.

463 (7) At the hearing on the complaint, the court shall
464 forthwith issue its order determining:

465 (a) Whether the vehicle is subject to a valid lien by the
466 lienor and the amount thereof;

467 (b) The priority of the lien of the lienor as against any
468 existing security interest in the vehicle;

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469 (c) The distribution of any proceeds of the sale by the
470 clerk of the circuit court;

471 (d) The award of reasonable attorney's fees and costs to
472 the prevailing party; and

473 (e) The reasonableness of storage charges.

474 (8) A vehicle subject to lien enforcement pursuant to this
475 section must be sold by the lienor at public sale. Immediately
476 upon the sale of the vehicle and payment in cash of the purchase
477 price, the lienor shall deposit with the clerk of the circuit
478 court the proceeds of the sale less the amount claimed by the
479 lienor for work done and storage, if any, and all reasonable
480 costs and expenses incurred in conducting the sale, including
481 any attorney's fees and costs ordered by the court.

482 Simultaneously with depositing the proceeds of sale remaining
483 after payment to the lienor, the lienor shall file with the
484 clerk a verified report of the sale stating a description of the
485 vehicle sold, including the vehicle identification number; the
486 name and address of the purchaser; the date of the sale; and the
487 selling price. The report shall also itemize the amount retained
488 by the lienor pursuant to this section and shall indicate
489 whether a hearing was demanded and held. All proceeds held by
490 the court shall be held for the benefit of the owner of the
491 vehicle or any lienholder whose lien is discharged by the sale
492 and shall be disbursed only upon order of the court. Unless a
493 proceeding is initiated to validate a claim to such proceeds
494 within 1 year and a day from the date of the sale, the proceeds
495 shall be deemed abandoned property and disposition thereof shall
496 be governed by s. 705.103. The clerk shall receive 5 percent of

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497 the proceeds deposited with her or him, not to exceed \$25, for
498 her or his services under this section.

499 (9) A copy of the certificate of compliance and the report
500 of sale, certified by the clerk of the court, shall constitute
501 satisfactory proof for application to the Department of Highway
502 Safety and Motor Vehicles for transfer of title, together with
503 any other proof required by any rules and regulations of the
504 department.

505 (10) Nothing contained in this section shall be construed
506 as affecting an owner's right to redeem her or his vehicle from
507 the lien at any time prior to sale by paying the amount claimed
508 by the lienor for work done and assessed storage charges, plus
509 any costs incurred by the repair shop for utilizing enforcement
510 procedures under this section.

511 (11) Nothing in this section shall operate in derogation
512 of the rights and remedies established by s. 559.917.

513 (12) When a vehicle is sold by a lienor in accordance with
514 this law, a purchaser for value takes title to the vehicle free
515 and clear of all claims, liens, and encumbrances whatsoever,
516 unless otherwise provided by court order.

517 (13) A failure to make good faith efforts as defined in
518 subsection (2) precludes the imposition of any storage charges
519 against the vehicle. If a lienor fails to provide notice to any
520 person claiming a lien on a vehicle under subsection (1) within
521 10 ~~15~~ business days, excluding Saturday or Sunday, after the
522 assessment of storage charges have begun, then the lienor is
523 precluded from charging for more than 15 days of storage, but
524 failure to provide timely notice does not affect charges made

525 for repairs, adjustments, or modifications to the vehicle or the
 526 priority of liens on the vehicle.

527 Section 13. Section 818.01, Florida Statutes, is amended
 528 to read:

529 818.01 Disposing of or concealing personal property under
 530 lien or subject to conditional sale.--

531 (1) Any person who:

532 (a) Pledges, mortgages, sells, encumbers, removes,
 533 destroys, conceals ~~Whoever shall pledge, mortgage, sell, or~~
 534 ~~otherwise disposes of, or conspires, aids, abets, or assents in~~
 535 ~~the disposal~~ dispose of, any personal property, including any
 536 motor vehicle, ~~to him or her~~ belonging to the person, ~~or which~~
 537 ~~shall be in the person's his or her possession, and~~ which
 538 property is ~~shall be~~ subject to any written lien, ~~or which shall~~
 539 ~~be subject to any statutory lien, whether written or not, or is~~
 540 ~~which shall be~~ the subject of any written conditional sale
 541 contract under which the title is retained by the lienor vendor,
 542 without the written consent of the person holding such lien, ~~or~~
 543 retaining such title;

544 (b) Removes or causes the removal of any such property ~~and~~
 545 ~~whoever shall remove or cause to be removed~~ beyond the limits of
 546 the county where such lien was created or such conditional sale
 547 contract was entered into, ~~any such property,~~ without the
 548 written consent of the person holding such lien or retaining
 549 such title; ~~aforsaid,~~ ~~or~~

550 (c) Hides, conceals, or transfers ~~shall hide, conceal or~~
 551 ~~transfer,~~ such property with intent to defeat, hinder, or delay

552 the enforcement of such lien~~7~~ or the recovery of such property
 553 by the lienor

554
 555 ~~commits vendor, shall be guilty of~~ a misdemeanor of the first
 556 degree, punishable as provided in s. 775.082 or s. 775.083.

557 (2) It shall be prima facie evidence of concealing,
 558 selling, or disposing of such personal property whenever the
 559 person owning the property at the time the lien was created~~7~~ or
 560 who bought the property ~~same~~ under such retained title contract~~7~~
 561 fails or refuses to produce such property for inspection within
 562 the county where the lien was created, or the property
 563 delivered, upon demand of the person holding ~~having~~ such lien~~7~~
 564 or retaining such title, after the debt secured by such lien has
 565 become enforceable~~7~~ or the lienee ~~vendee~~ has substantially
 566 defaulted in the performance of such retained title contract.

567 (3) Upon receipt from a lienor who claims a lien on a
 568 vehicle pursuant to s. 319.27 by the Department of Highway
 569 Safety and Motor Vehicles of written notice to surrender a
 570 vehicle or vessel that has been disposed of, concealed, removed,
 571 or destroyed by the lienee, the department shall place the name
 572 of the registered owner of that vehicle on the list of those
 573 persons who may not be issued a license plate, revalidation
 574 sticker, or replacement license plate for any motor vehicle
 575 under s. 320.03(8) owned by the lienee at the time the notice
 576 was given by the lienor. If the vehicle is owned jointly by more
 577 than one person, the name of each registered owner shall be
 578 placed on the list.

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579 (a) The notice to surrender the vehicle shall be submitted
580 on forms developed by the department, which must include:

581 1. The name, address, and telephone number of the lienor.

582 2. The name of the registered owner of the vehicle and the
583 address to which the lienor provided notice to surrender the
584 vehicle to the registered owner.

585 3. A general description of the vehicle, including its
586 color, make, model, body style, and year.

587 4. The vehicle identification number, registration license
588 plate number, if known, or other identification number, as
589 applicable.

590 (b) The registered owner of the vehicle may dispute a
591 notice to surrender the vehicle by notifying the department of
592 the dispute in writing on forms provided by the department and
593 presenting proof that the vehicle was sold to a motor vehicle
594 dealer licensed under s. 320.27, a mobile home dealer licensed
595 under s. 320.77, or a recreational vehicle dealer licensed under
596 s. 320.771.

597 (4) A secured party who reasonably believes that an
598 individual intends to conceal or remove property subject to a
599 lien from the county where the lien was created or a conditional
600 sale contract was entered into may, within 10 days after
601 retaking possession of the property, move in a court of
602 competent jurisdiction that the secured party be allowed to
603 retain possession of the property as security for the debt. If
604 the court finds reasonable cause to believe that the individual
605 intends to conceal the property or remove it from this state, it
606 shall order that the property remain in the possession of the

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607 secured party, notwithstanding the other provisions of this
608 section.

609 Section 14. This act shall take effect July 1, 2009.