

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; amending s. 78.068,
10 F.S.; requiring courts to advance certain matters related
11 to prejudgment writs of replevin on the calendar; amending
12 s. 320.02, F.S.; authorizing the Department of Highway
13 Safety and Motor Vehicles to withhold renewal of
14 registration or replacement registration of specified
15 motor vehicles under certain circumstances; amending s.
16 320.03, F.S.; preemption jurisdiction over the outsourced
17 electronic filing system to the state; requiring the
18 department to continue its current outsourcing of the
19 existing electronic filing system; approving the system
20 for use in all counties; authorizing motor vehicle dealers
21 to charge certain fees; requiring a report from the Office
22 of Program Policy Analysis and Government Accountability
23 by a specified date; creating s. 320.1316, F.S.; providing
24 responsibilities of the department relating to the
25 issuance of a license plate, revalidation sticker, or
26 replacement license plate for certain vehicles; requiring
27 the department to create a notice to surrender form;
28 providing procedures for the dispute of a notice to

29 | surrender; amending s. 559.903, F.S.; defining the terms
30 | "lienholder" and "owner" for purposes of the Florida Motor
31 | Vehicle Repair Act; amending s. 559.917, F.S.; providing
32 | for a motor vehicle owner or lienholder to obtain the
33 | release of a motor vehicle from a motor vehicle repair
34 | shop; revising criteria required to establish an action to
35 | compel compliance; amending s. 713.585, F.S.; modifying
36 | procedures for enforcing liens for labor or services by
37 | sale of a motor vehicle; amending s. 322.34, F.S.;
38 | creating certain rights for lienholders; deleting a return
39 | receipt mailing requirement; amending s. 713.78, F.S.;
40 | clarifying provisions; deleting a return receipt mailing
41 | requirement; creating certain rights for lienholders;
42 | deleting a provision that allows a complaint to be filed
43 | in the county where the owner resides; creating a cause of
44 | action to determine the rights of the parties after a
45 | vehicle or vessel has been sold; providing for attorney's
46 | fees and costs; providing a right of inspection to
47 | lienholders; amending s. 320.0609, F.S., relating to the
48 | transfer and exchange of registration license plates and
49 | transfer fees; requiring that a temporary tag be issued
50 | and displayed during the time that an application for a
51 | transfer of a registration license plate is being
52 | processed; providing exceptions; amending s. 320.131,
53 | F.S.; authorizing the department to issue temporary tags
54 | for the time that an application for a transfer of a
55 | registration license plate is being processed; amending s.
56 | 320.0609, F.S., relating to the transfer and exchange of

57 registration license plates and transfer fees; requiring a
58 licensed motor vehicle dealer to provide certain required
59 information via an electronic system to the department
60 when the owner of a vehicle transfers a registration
61 license plate to a replacement or substitute vehicle
62 acquired from the dealer; providing that the electronic
63 system shall be administered by the department; requiring
64 the dealer to give the owner written notice documenting
65 the transfer if the dealer cannot provide the required
66 transfer information to the department under certain
67 circumstances; requiring the dealer to maintain certain
68 records; providing for the dealer and the department to
69 charge a fee; providing for exceptions; authorizing the
70 department to adopt rules; providing effective dates.

71
72 Be It Enacted by the Legislature of the State of Florida:

73
74 Section 1. Subsection (2) of section 30.231, Florida
75 Statutes, is amended to read:

76 30.231 Sheriffs' fees for service of summons, subpoenas,
77 and executions.--

78 (2) For levying on property and for the seizure of
79 persons, the sheriff shall be allowed anticipated expenses
80 necessary for the execution of the process directing such levy
81 or seizure and for the safekeeping of property and persons in
82 the custody of the sheriff. A reasonable cost deposit to cover
83 said fees and expenses in connection with the requested services
84 shall be deposited in advance, by the party requesting the

85 service, with the officer requested to perform the service. If
 86 the sheriff is required to expedite execution of a writ of
 87 replevin pursuant to s. 30.30, the sheriff may recover
 88 additional expenses, including payment of off-duty deputy
 89 sheriffs, to expedite execution of the writ of replevin.

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

92 30.30 Writs, process; duties and liabilities in levying.--

93 (1) Whenever any writ, ~~issuing out of any court of this~~
 94 ~~state is,~~ ~~shall be delivered to a sheriff,~~ commanding the
 95 sheriff to levy upon property specifically described therein, it
 96 shall be his or her duty to levy upon such property. If a party
 97 to whom a writ of replevin has been issued requests expedited
 98 service of the writ because the writ is upon property that
 99 includes motor vehicles, the sheriff shall expedite service no
 100 later than 3 days after such request, subject to payment of the
 101 additional expenses allowed by s. 30.231(2). If no property is
 102 specifically described in the writ, the sheriff ~~he or she~~ shall
 103 levy upon:

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

106 (b) Upon any property assessed against the defendant on
 107 the current tax rolls of the county or registered in his or her
 108 name under any law of the United States or of the state, upon
 109 the request of the plaintiff or the plaintiff's attorney listing
 110 such property in an instructions for levy. The instructions for
 111 levy shall state the balance due on such writ.

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

114 78.065 Order to show cause; contents.--

115 (1) The court without delay shall examine the complaint
 116 filed; and, if on the basis of the complaint and further showing
 117 of the plaintiff in support of it the court finds that the
 118 defendant has waived in accordance with s. 78.075 his or her
 119 right to be notified and heard, the court shall promptly issue
 120 an order authorizing the clerk of the court to issue a writ of
 121 replevin. The court shall advance the cause on the calendar.

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

124 78.068 Prejudgment writ of replevin.--

125 (1) A prejudgment writ of replevin may be issued and the
 126 property seized delivered forthwith to the petitioners when the
 127 nature of the claim and the amount thereof, if any, and the
 128 grounds relied upon for the issuance of the writ clearly appear
 129 from specific facts shown by the verified petition or by
 130 separate affidavit of the petitioner. The court shall advance
 131 the cause on the calendar.

132 Section 5. Subsection (17) is added to section 320.02,
 133 Florida Statutes, to read:

134 320.02 Registration required; application for
 135 registration; forms.--

136 (17) If any applicant's name appears on a list of persons
 137 who may not be issued a license plate, revalidation sticker, or
 138 replacement license plate after a written notice to surrender a
 139 vehicle was submitted to the department by a lienor as provided

140 in s. 320.1316, the department may withhold renewal of
141 registration or replacement registration of any motor vehicle
142 owned by the applicant at the time the notice was submitted by
143 the lienor. The lienor must maintain proof that written notice
144 to surrender the vehicle was sent to each registered owner
145 pursuant to s. 320.1316(1). A revalidation sticker or
146 replacement license plate may not be issued until that person's
147 name no longer appears on the list or until the person presents
148 documentation from the lienor that the vehicle has been
149 surrendered to the lienor. The department shall not withhold an
150 initial registration in connection with an applicant's purchase
151 or lease of a motor vehicle solely because the applicant's name
152 is on the list created by s. 320.1316.

153 Section 6. Subsection (10) is added to section 320.03,
154 Florida Statutes, to read:

155 320.03 Registration; duties of tax collectors;
156 International Registration Plan.--

157 (10) Jurisdiction over the outsourced electronic filing
158 system for use by licensed motor vehicle dealers electronically
159 to title and to register motor vehicles and to issue or to
160 transfer registration license plates or decals is expressly
161 preempted to the state. The department shall continue its
162 current outsourcing of the existing electronic filing system,
163 including its program standards. The electronic filing system is
164 approved for use in all counties, shall apply uniformly to all
165 tax collectors of the state, and no tax collector may add or
166 detract from the program standards in his or her respective
167 county. A motor vehicle dealer licensed under this chapter may

168 charge a fee to the customer for use of the electronic filing
169 system and such fee is not a component of the program standards.
170 Final authority over disputes relating to program standards lies
171 with the department. By January 1, 2010, the Office of Program
172 Policy Analysis and Government Accountability, with input from
173 the department and from affected parties, including tax
174 collectors, service providers, and motor vehicle dealers, shall
175 report to the President of the Senate and the Speaker of the
176 House of Representatives on the status of the outsourced
177 electronic filing system, including the program standards, and
178 its compliance with this subsection. The report shall identify
179 all public and private alternatives for continued operation of
180 the electronic filing system and shall include any and all
181 appropriate recommendations, including revisions to the program
182 standards.

183 Section 7. Section 320.1316, Florida Statutes, is created
184 to read:

185 320.1316 Failure to surrender vehicle or vessel.--

186 (1) Upon receipt from a lienor who claims a lien on a
187 vehicle pursuant to s. 319.27 by the Department of Highway
188 Safety and Motor Vehicles of written notice to surrender a
189 vehicle or vessel that has been disposed of, concealed, removed,
190 or destroyed by the lienee, the department shall place the name
191 of the registered owner of that vehicle on the list of those
192 persons who may not be issued a license plate, revalidation
193 sticker, or replacement license plate for any motor vehicle
194 under s. 320.03(8) owned by the lienee at the time the notice
195 was given by the lienor. If the vehicle is owned jointly by more

196 than one person, the name of each registered owner shall be
 197 placed on the list.

198 (2) The notice to surrender the vehicle shall be submitted
 199 on forms developed by the department, which must include:

200 (a) The name, address, and telephone number of the lienor.

201 (b) The name of the registered owner of the vehicle and
 202 the address to which the lienor provided notice to surrender the
 203 vehicle to the registered owner.

204 (c) A general description of the vehicle, including its
 205 color, make, model, body style, and year.

206 (d) The vehicle identification number, registration
 207 license plate number, if known, or other identification number,
 208 as applicable.

209 (3) The registered owner of the vehicle may dispute a
 210 notice to surrender the vehicle by notifying the department of
 211 the dispute in writing on forms provided by the department and
 212 presenting proof that the vehicle was sold to a motor vehicle
 213 dealer licensed under s. 320.27, a mobile home dealer licensed
 214 under s. 320.77, or a recreational vehicle dealer licensed under
 215 s. 320.771.

216 Section 8. Section 559.903, Florida Statutes, is amended
 217 to read:

218 559.903 Definitions.--As used in this act:

219 (1) "Customer" means the person who signs the written
 220 repair estimate or any other person whom the person who signs
 221 the written repair estimate designates on the written repair
 222 estimate as a person who may authorize repair work.

223 (2) "Department" means the Department of Agriculture and
 224 Consumer Services.

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

228 (4) "Final estimate" means the last estimate approved by
 229 the customer either in writing or orally, as evidenced by the
 230 written repair estimate.

231 (5) "Lienholder" means the person or entity that holds a
 232 lien or security interest on the motor vehicle and who perfected
 233 the lien or security interest on the motor vehicle pursuant to
 234 s. 319.27.

235 ~~(6)-(5)~~ "Motor vehicle" means any automobile, truck, bus,
 236 recreational vehicle, motorcycle, motor scooter, or other motor
 237 powered vehicle, but does not include trailers, mobile homes,
 238 travel trailers, trailer coaches without independent motive
 239 power, watercraft or aircraft, or special mobile equipment as
 240 defined in s. 316.003(48).

241 ~~(7)-(8)~~ "Motor vehicle repair" means all maintenance of and
 242 modifications and repairs to motor vehicles, and diagnostic work
 243 incident thereto, including, but not limited to, the rebuilding
 244 or restoring of rebuilt vehicles, body work, painting, warranty
 245 work, and other work customarily undertaken by motor vehicle
 246 repair shops.

247 ~~(8)-(6)~~ "Motor vehicle repair shop" means any person who,
 248 for compensation, engages or attempts to engage in the repair of
 249 motor vehicles owned by other persons and includes, but is not
 250 limited to: mobile motor vehicle repair shops, motor vehicle and

251 recreational vehicle dealers; garages; service stations; self-
 252 employed individuals; truck stops; paint and body shops; brake,
 253 muffler, or transmission shops; and shops doing glass work. Any
 254 person who engages solely in the maintenance or repair of the
 255 coach portion of a recreational vehicle is not a motor vehicle
 256 repair shop.

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

259 (10)~~(7)~~ "Place of business" means a physical place where
 260 the business of motor vehicle repair is conducted, including any
 261 vehicle constituting a mobile motor vehicle repair shop from
 262 which the business of motor vehicle repair is conducted.

263 Section 9. Section 559.917, Florida Statutes, is amended
 264 to read:

265 559.917 Bond to release possessory lien claimed by motor
 266 vehicle repair shop.--

267 (1) (a) Any customer may obtain the release of her or his
 268 motor vehicle from any lien claimed under part II of chapter 713
 269 by a motor vehicle repair shop for repair work performed under a
 270 written repair estimate by filing with the clerk of the court in
 271 the circuit in which the disputed transaction occurred a cash or
 272 surety bond, payable to the person claiming the lien and
 273 conditioned for the payment of any judgment which may be entered
 274 on the lien. The bond shall be in the amount stated on the
 275 invoice required by s. 559.911, plus accrued storage charges, if
 276 any, less any amount paid to the motor vehicle repair shop as
 277 indicated on the invoice. The customer shall not be required to
 278 institute judicial proceedings in order to post the bond in the

279 registry of the court, nor shall the customer be required to use
 280 a particular form for posting the bond, unless the clerk shall
 281 provide such form to the customer for filing. Upon the posting
 282 of such bond, the clerk of the court shall automatically issue a
 283 certificate notifying the lienor of the posting of the bond and
 284 directing the lienor to release the customer's motor vehicle.

285 (b) The lienor shall have 60 days to file suit to recover
 286 the bond. The prevailing party in that action may be entitled to
 287 damages plus court costs and reasonable attorney's fees. If the
 288 lienor fails to file suit within 60 days after the posting of
 289 such bond, the bond shall be discharged.

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

292 (2) The failure of a lienor to release or return to the
 293 customer, owner, or lienholder the motor vehicle upon which any
 294 lien is claimed, upon receiving a copy of a certificate giving
 295 notice of the posting of the bond and directing release of the
 296 motor vehicle, shall subject the lienor to judicial proceedings
 297 which may be brought by the customer, owner, or lienholder to
 298 compel compliance with the certificate. Whenever a customer,
 299 owner, or lienholder brings an action to compel compliance with
 300 the certificate, the customer, owner, or lienholder need only
 301 establish that:

302 (a) Bond in the amount of the invoice, plus accrued
 303 storage charges, if any, less any amount paid to the motor
 304 vehicle repair shop as indicated on the invoice, plus 15
 305 percent, was posted;

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

307 (c) The motor vehicle repair shop, or any employee or
308 agent thereof who is authorized to release the motor vehicle,
309 received a copy of a certificate issued pursuant to this
310 section; and

311 (d) The motor vehicle repair shop or employee authorized
312 to release the motor vehicle failed to release the motor
313 vehicle.

314
315 The customer, owner, or lienholder, upon a judgment in her or
316 his favor in an action brought under this subsection, may be
317 entitled to damages plus court costs and reasonable attorney's
318 fees sustained by her or him by reason of such wrongful
319 detention or retention. Upon a judgment in favor of the motor
320 vehicle repair shop, the shop may be entitled to reasonable
321 attorney's fees.

322 (3) Any motor vehicle repair shop which, or any employee
323 or agent thereof who is authorized to release the motor vehicle
324 who, upon receiving a copy of a certificate giving notice of the
325 posting of the bond in the required amount and directing release
326 of the motor vehicle, fails to release or return the property to
327 the customer, owner, or lienholder pursuant to this section
328 commits ~~is guilty of~~ a misdemeanor of the second degree,
329 punishable as provided in s. 775.082 or s. 775.083.

330 (4) Any customer, owner, or lienholder who stops payment
331 on a credit card charge or a check drawn in favor of a motor
332 vehicle repair shop on account of an invoice or who fails to
333 post a cash or surety bond pursuant to this section shall be

334 prohibited from any recourse under this section with respect to
 335 the motor vehicle repair shop.

336 Section 10. Section 713.585, Florida Statutes, is amended
 337 to read:

338 713.585 Enforcement of lien by sale of motor vehicle.--A
 339 person claiming a lien under s. 713.58 for performing labor or
 340 services on a motor vehicle may enforce such lien by sale of the
 341 vehicle in accordance with the following procedures:

342 (1) The lienor must give notice, by certified mail, ~~return~~
 343 ~~receipt requested,~~ within 10 ~~15~~ business days, excluding
 344 Saturday and Sunday, from the beginning date of the assessment
 345 of storage charges on the ~~said~~ motor vehicle, to the registered
 346 owner of the vehicle, to the customer as indicated on the order
 347 for repair, and to all other persons claiming an interest in or
 348 lien thereon, as disclosed by the records of the Department of
 349 Highway Safety and Motor Vehicles or of a corresponding agency
 350 of any other state in which the vehicle appears registered. Such
 351 notice must contain:

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

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

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

358 (d) Notice that the lienor claims a lien on the vehicle
 359 for labor and services performed and storage charges, if any,
 360 and the cash sum which, if paid to the lienor, would be

361 sufficient to redeem the vehicle from the lien claimed by the
 362 lienor.

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

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

369 (g) Notice that the owner of the vehicle or any person
 370 claiming an interest in or lien thereon has a right to a hearing
 371 at any time prior to the scheduled date of sale by filing a
 372 demand for hearing with the clerk of the circuit court in the
 373 county in which the vehicle is held and mailing copies of the
 374 demand for hearing to all other owners and lienors as reflected
 375 on the notice.

376 (h) Notice that the owner or lienholder of the vehicle has
 377 a right to recover possession of the vehicle without instituting
 378 judicial proceedings by posting bond in accordance with the
 379 provisions of s. 559.917.

380 (i) Notice that any proceeds from the sale of the vehicle
 381 remaining after payment of the amount claimed to be due and
 382 owing to the lienor will be deposited with the clerk of the
 383 circuit court for disposition upon court order pursuant to
 384 subsection (8).

385 (2) If attempts to locate the owner or lienholder are
 386 unsuccessful, the lienor must notify the local law enforcement
 387 agency in writing by certified mail or acknowledged hand
 388 delivery that the lienor has been unable to locate the owner or

389 | lienholder, that a physical search of the vehicle has disclosed
390 | no ownership information, and that a good faith effort has been
391 | made. A description of the motor vehicle which includes the
392 | year, make, and identification number must be given on the
393 | notice. This notification must take place within 10 ~~15~~ business
394 | days, excluding Saturday and Sunday, from the beginning date of
395 | the assessment of storage charges on the ~~said~~ motor vehicle. For
396 | purposes of this paragraph, the term "good faith effort" means
397 | that the following checks have been performed by the company to
398 | establish the prior state of registration and title:

399 | (a) A check of vehicle for any type of tag, tag record,
400 | temporary tag, or regular tag;

401 | (b) A check of vehicle for inspection sticker or other
402 | stickers and decals that could indicate the state of possible
403 | registration; and

404 | (c) A check of the interior of the vehicle for any papers
405 | that could be in the glove box, trunk, or other areas for the
406 | state of registration.

407 | (3) If the date of the sale was not included in the notice
408 | required in subsection (1), notice of the sale must be sent by
409 | certified mail, ~~return receipt requested,~~ not less than 15 days
410 | before the date of sale, to the customer as indicated on the
411 | order for repair, and to all other persons claiming an interest
412 | in or lien on the motor vehicle, as disclosed by the records of
413 | the Department of Highway Safety and Motor Vehicles or of a
414 | corresponding agency of any other state in which the vehicle
415 | appears to have been registered. After diligent search and
416 | inquiry, if the name and address of the registered owner or the

417 owner of the recorded lien cannot be ascertained, the
418 requirements for this notice may be disregarded.

419 (4) The lienor, at least 15 days before the proposed or
420 scheduled date of sale of the vehicle, shall publish the notice
421 required by this section once in a newspaper circulated in the
422 county where the vehicle is held. A certificate of compliance
423 with the notification provisions of this section, verified by
424 the lienor, together with a copy of the notice ~~and return~~
425 ~~receipt for mailing of the notice required by this section,~~ and
426 proof of publication, must be duly and expeditiously filed with
427 the clerk of the circuit court in the county where the vehicle
428 is held. The lienor, at the time of filing the certificate of
429 compliance, must pay to the clerk of that court a service charge
430 of \$10 for indexing and recording the certificate.

431 (5) At any time prior to the proposed or scheduled date of
432 sale of a vehicle, the owner of the vehicle, or any person
433 claiming an interest in the vehicle or a lien thereon, may file
434 a demand for hearing with the clerk of the circuit court in the
435 county in which the vehicle is held to determine whether the
436 vehicle has been wrongfully taken or withheld from her or him.
437 Any person who files a demand for hearing shall mail copies of
438 the demand to all other owners and lienors as reflected on the
439 notice required in subsection (1). Upon the filing of a demand
440 for hearing, a hearing shall be held prior to the proposed or
441 scheduled date of sale of the vehicle.

442 (6) In the event a lienor institutes a judicial proceeding
443 to enforce a lien, no filing fee shall be required at the time

444 of filing, but the court shall require the lienor to pay the
445 filing fee unless the lienor shall prevail in the action.

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

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

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

452 (c) The distribution of any proceeds of the sale by the
453 clerk of the circuit court;

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

456 (e) The reasonableness of storage charges.

457 (8) A vehicle subject to lien enforcement pursuant to this
458 section must be sold by the lienor at public sale. Immediately
459 upon the sale of the vehicle and payment in cash of the purchase
460 price, the lienor shall deposit with the clerk of the circuit
461 court the proceeds of the sale less the amount claimed by the
462 lienor for work done and storage, if any, and all reasonable
463 costs and expenses incurred in conducting the sale, including
464 any attorney's fees and costs ordered by the court.

465 Simultaneously with depositing the proceeds of sale remaining
466 after payment to the lienor, the lienor shall file with the
467 clerk a verified report of the sale stating a description of the
468 vehicle sold, including the vehicle identification number; the
469 name and address of the purchaser; the date of the sale; and the
470 selling price. The report shall also itemize the amount retained
471 by the lienor pursuant to this section and shall indicate

472 whether a hearing was demanded and held. All proceeds held by
473 the court shall be held for the benefit of the owner of the
474 vehicle or any lienholder whose lien is discharged by the sale
475 and shall be disbursed only upon order of the court. Unless a
476 proceeding is initiated to validate a claim to such proceeds
477 within 1 year and a day from the date of the sale, the proceeds
478 shall be deemed abandoned property and disposition thereof shall
479 be governed by s. 705.103. The clerk shall receive 5 percent of
480 the proceeds deposited with her or him, not to exceed \$25, for
481 her or his services under this section.

482 (9) A copy of the certificate of compliance and the report
483 of sale, certified by the clerk of the court, shall constitute
484 satisfactory proof for application to the Department of Highway
485 Safety and Motor Vehicles for transfer of title, together with
486 any other proof required by any rules and regulations of the
487 department.

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

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

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

500 (13) A failure to make good faith efforts as defined in
 501 subsection (2) precludes the imposition of any storage charges
 502 against the vehicle. If a lienor fails to provide notice to any
 503 person claiming a lien on a vehicle under subsection (1) within
 504 10 ~~15~~ business days, excluding Saturday or Sunday, after the
 505 assessment of storage charges have begun, then the lienor is
 506 precluded from charging for more than 15 days of storage, but
 507 failure to provide timely notice does not affect charges made
 508 for repairs, adjustments, or modifications to the vehicle or the
 509 priority of liens on the vehicle.

510 Section 11. Subsection (8) of section 322.34, Florida
 511 Statutes, is amended to read:

512 322.34 Driving while license suspended, revoked, canceled,
 513 or disqualified.--

514 (8) (a) Upon the arrest of a person for the offense of
 515 driving while the person's driver's license or driving privilege
 516 is suspended or revoked, the arresting officer shall determine:

517 1. Whether the person's driver's license is suspended or
 518 revoked.

519 2. Whether the person's driver's license has remained
 520 suspended or revoked since a conviction for the offense of
 521 driving with a suspended or revoked license.

522 3. Whether the suspension or revocation was made under s.
 523 316.646 or s. 627.733, relating to failure to maintain required
 524 security, or under s. 322.264, relating to habitual traffic
 525 offenders.

526 4. Whether the driver is the registered owner or coowner
 527 of the vehicle.

528 (b) If the arresting officer finds in the affirmative as
529 to all of the criteria in paragraph (a), the officer shall
530 immediately impound or immobilize the vehicle.

531 (c) Within 7 business days after the date the arresting
532 agency impounds or immobilizes the vehicle, either the arresting
533 agency or the towing service, whichever is in possession of the
534 vehicle, shall send notice by certified mail, ~~return receipt~~
535 ~~requested~~, to any coregistered owners of the vehicle other than
536 the person arrested and to each person of record claiming a lien
537 against the vehicle. All costs and fees for the impoundment or
538 immobilization, including the cost of notification, must be paid
539 by the owner of the vehicle or, if the vehicle is leased, by the
540 person leasing the vehicle.

541 (d) Either the arresting agency or the towing service,
542 whichever is in possession of the vehicle, shall determine
543 whether any vehicle impounded or immobilized under this section
544 has been leased or rented or if there are any persons of record
545 with a lien upon the vehicle. Either the arresting agency or the
546 towing service, whichever is in possession of the vehicle, shall
547 notify by express courier service with receipt or certified
548 mail, ~~return receipt requested~~, within 7 business days after the
549 date of the immobilization or impoundment of the vehicle, the
550 registered owner and all persons having a recorded lien against
551 the vehicle that the vehicle has been impounded or immobilized.
552 A lessor, rental car company, or lienholder may then obtain the
553 vehicle, upon payment of any lawful towing or storage charges.
554 If the vehicle is a rental vehicle subject to a written
555 contract, the charges may be separately charged to the renter,

556 in addition to the rental rate, along with other separate fees,
557 charges, and recouplements disclosed on the rental agreement. If
558 the storage facility fails to provide timely notice to a lessor,
559 rental car company, or lienholder as required by this paragraph,
560 the storage facility shall be responsible for payment of any
561 towing or storage charges necessary to release the vehicle to a
562 lessor, rental car company, or lienholder that accrue after the
563 notice period, which charges may then be assessed against the
564 driver of the vehicle if the vehicle was lawfully impounded or
565 immobilized.

566 (e) Except as provided in paragraph (d), the vehicle shall
567 remain impounded or immobilized for any period imposed by the
568 court until:

569 1. The owner presents proof of insurance to the arresting
570 agency; or

571 2. The owner presents proof of sale of the vehicle to the
572 arresting agency and the buyer presents proof of insurance to
573 the arresting agency.

574

575 If proof is not presented within 35 days after the impoundment
576 or immobilization, a lien shall be placed upon such vehicle
577 pursuant to s. 713.78.

578 (f) The owner of a vehicle that is impounded or
579 immobilized under this subsection may, within 10 days after the
580 date the owner has knowledge of the location of the vehicle,
581 file a complaint in the county in which the owner resides to
582 determine whether the vehicle was wrongfully taken or withheld.
583 Upon the filing of a complaint, the owner or lienholder may have

584 the vehicle released by posting with the court a bond or other
585 adequate security equal to the amount of the costs and fees for
586 impoundment or immobilization, including towing or storage, to
587 ensure the payment of such costs and fees if the owner or
588 lienholder does not prevail. When the vehicle owner or
589 lienholder does not prevail on a complaint that the vehicle was
590 wrongfully taken or withheld, he or she must pay the accrued
591 charges for the immobilization or impoundment, including any
592 towing and storage charges assessed against the vehicle. When
593 the bond is posted and the fee is paid as set forth in s. 28.24,
594 the clerk of the court shall issue a certificate releasing the
595 vehicle. At the time of release, after reasonable inspection,
596 the owner must give a receipt to the towing or storage company
597 indicating any loss or damage to the vehicle or to the contents
598 of the vehicle.

599 Section 12. Subsections (4), (5), (6), and (10) of section
600 713.78, Florida Statutes, are amended to read:

601 713.78 Liens for recovering, towing, or storing vehicles
602 and vessels.--

603 (4) (a) Any person regularly engaged in the business of
604 recovering, towing, or storing vehicles or vessels who comes
605 into possession of a vehicle or vessel pursuant to subsection
606 (2), and who claims a lien for recovery, towing, or storage
607 services, shall give notice to the registered owner, the
608 insurance company insuring the vehicle notwithstanding the
609 provisions of s. 627.736, and to all persons claiming a lien
610 thereon, as disclosed by the records in the Department of
611 Highway Safety and Motor Vehicles or of a corresponding agency

612 in any other state.

613 (b) Whenever any law enforcement agency authorizes the
614 removal of a vehicle or vessel or whenever any towing service,
615 garage, repair shop, or automotive service, storage, or parking
616 place notifies the law enforcement agency of possession of a
617 vehicle or vessel pursuant to s. 715.07(2)(a)2., the ~~applicable~~
618 law enforcement agency of the jurisdiction where the vehicle or
619 vessel is stored shall contact the Department of Highway Safety
620 and Motor Vehicles, or the appropriate agency of the state of
621 registration, if known, within 24 hours through the medium of
622 electronic communications, giving the full description of the
623 vehicle or vessel. Upon receipt of the full description of the
624 vehicle or vessel, the department shall search its files to
625 determine the owner's name, the insurance company insuring the
626 vehicle or vessel, and whether any person has filed a lien upon
627 the vehicle or vessel as provided in s. 319.27(2) and (3) and
628 notify the applicable law enforcement agency within 72 hours.
629 The person in charge of the towing service, garage, repair shop,
630 or automotive service, storage, or parking place shall obtain
631 such information from the applicable law enforcement agency
632 within 5 days after the date of storage and shall give notice
633 pursuant to paragraph (a). The department may release the
634 insurance company information to the requestor notwithstanding
635 the provisions of s. 627.736.

636 (c) Notice by certified mail, ~~return receipt requested,~~
637 shall be sent within 7 business days after the date of storage
638 of the vehicle or vessel to the registered owner, the insurance
639 company insuring the vehicle notwithstanding the provisions of

640 s. 627.736, and all persons of record claiming a lien against
641 the vehicle or vessel. It shall state the fact of possession of
642 the vehicle or vessel, that a lien as provided in subsection (2)
643 is claimed, that charges have accrued and the amount thereof,
644 that the lien is subject to enforcement pursuant to law, and
645 that the owner or lienholder, if any, has the right to a hearing
646 as set forth in subsection (5), and that any vehicle or vessel
647 which remains unclaimed, or for which the charges for recovery,
648 towing, or storage services remain unpaid, may be sold free of
649 all prior liens after 35 days if the vehicle or vessel is more
650 than 3 years of age or after 50 days if the vehicle or vessel is
651 3 years of age or less.

652 (d) If attempts to locate the name and address of the
653 owner or lienholder prove unsuccessful, the towing-storage
654 operator shall, after 7 working days, excluding Saturday and
655 Sunday, of the initial tow or storage, notify the public agency
656 of jurisdiction where the vehicle or vessel is stored in writing
657 by certified mail or acknowledged hand delivery that the towing-
658 storage company has been unable to locate the name and address
659 of the owner or lienholder and a physical search of the vehicle
660 or vessel has disclosed no ownership information and a good
661 faith effort has been made. For purposes of this paragraph and
662 subsection (9), "good faith effort" means that the following
663 checks have been performed by the company to establish prior
664 state of registration and for title:

- 665 1. Check of vehicle or vessel for any type of tag, tag
666 record, temporary tag, or regular tag.
- 667 2. Check of law enforcement report for tag number or other

668 information identifying the vehicle or vessel, if the vehicle or
 669 vessel was towed at the request of a law enforcement officer.

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

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

676 5. Check of vehicle or vessel for inspection sticker or
 677 other stickers and decals that may indicate a state of possible
 678 registration.

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

682 7. Check of vehicle for vehicle identification number.

683 8. Check of vessel for vessel registration number.

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

689 (5) (a) The owner of a vehicle or vessel removed pursuant
 690 to the provisions of subsection (2), or any person claiming a
 691 lien, other than the towing-storage operator, within 10 days
 692 after the time she or he has knowledge of the location of the
 693 vehicle or vessel, may file a complaint in the county court of
 694 the county in which the vehicle or vessel is stored ~~or in which~~
 695 ~~the owner resides~~ to determine if her or his property was

696 wrongfully taken or withheld from her or him.

697 (b) Upon filing of a complaint, an owner or lienholder may
698 have her or his vehicle or vessel released upon posting with the
699 court a cash or surety bond or other adequate security equal to
700 the amount of the charges for towing or storage and lot rental
701 amount to ensure the payment of such charges in the event she or
702 he does not prevail. Upon the posting of the bond and the
703 payment of the applicable fee set forth in s. 28.24, the clerk
704 of the court shall issue a certificate notifying the lienor of
705 the posting of the bond and directing the lienor to release the
706 vehicle or vessel. At the time of such release, after reasonable
707 inspection, she or he shall give a receipt to the towing-storage
708 company reciting any claims she or he has for loss or damage to
709 the vehicle or vessel or the contents thereof.

710 (c) Upon determining the respective rights of the parties,
711 the court may award damages, attorney's fees, and costs in favor
712 of the prevailing party. In any event, the final order shall
713 provide for immediate payment in full of recovery, towing, and
714 storage fees by the vehicle or vessel owner or lienholder; or
715 the agency ordering the tow; or the owner, lessee, or agent
716 thereof of the property from which the vehicle or vessel was
717 removed.

718 (6) Any vehicle or vessel which is stored pursuant to
719 subsection (2) and which remains unclaimed, or for which
720 reasonable charges for recovery, towing, or storing remain
721 unpaid, and any contents not released pursuant to subsection
722 (10), may be sold by the owner or operator of the storage space
723 for such towing or storage charge after 35 days from the time

724 the vehicle or vessel is stored therein if the vehicle or vessel
 725 is more than 3 years of age or after 50 days following the time
 726 the vehicle or vessel is stored therein if the vehicle or vessel
 727 is 3 years of age or less. The sale shall be at public sale
 728 ~~auction~~ for cash. If the date of the sale was not included in
 729 the notice required in subsection (4), notice of the sale shall
 730 be given to the person in whose name the vehicle or vessel is
 731 registered and to all persons claiming a lien on the vehicle or
 732 vessel as shown on the records of the Department of Highway
 733 Safety and Motor Vehicles or of the corresponding agency in any
 734 other state. Notice shall be sent by certified mail, ~~return~~
 735 ~~receipt requested,~~ to the owner of the vehicle or vessel and the
 736 person having the recorded lien on the vehicle or vessel at the
 737 address shown on the records of the registering agency and shall
 738 be mailed not less than 15 days before the date of the sale.
 739 After diligent search and inquiry, if the name and address of
 740 the registered owner or the owner of the recorded lien cannot be
 741 ascertained, the requirements of notice by mail may be dispensed
 742 with. In addition to the notice by mail, public notice of the
 743 time and place of sale shall be made by publishing a notice
 744 thereof one time, at least 10 days prior to the date of the
 745 sale, in a newspaper of general circulation in the county in
 746 which the sale is to be held. The proceeds of the sale, after
 747 payment of reasonable towing and storage charges, and costs of
 748 the sale, in that order of priority, shall be deposited with the
 749 clerk of the circuit court for the county if the owner or
 750 lienholder is absent, and the clerk shall hold such proceeds
 751 subject to the claim of the owner or lienholder ~~person~~ legally

752 entitled thereto. The clerk shall be entitled to receive 5
 753 percent of such proceeds for the care and disbursement thereof.
 754 The certificate of title issued under this law shall be
 755 discharged of all liens unless otherwise provided by court
 756 order. The owner or lienholder may file a complaint after the
 757 vehicle or vessel has been sold in the county court of the
 758 county in which it is stored. Upon determining the respective
 759 rights of the parties, the court may award damages, attorney's
 760 fees, and costs in favor of the prevailing party.

761 (10) Persons who provide services pursuant to this section
 762 shall permit vehicle or vessel owners, lienholders, or their
 763 agents, which agency is evidenced by an original writing
 764 acknowledged by the owner before a notary public or other person
 765 empowered by law to administer oaths, to inspect the towed
 766 vehicle or vessel and shall release to the owner, lienholder, or
 767 agent the vehicle, vessel, or all personal property not affixed
 768 to the vehicle or vessel which was in the vehicle or vessel at
 769 the time the vehicle or vessel came into the custody of the
 770 person providing such services.

771 Section 13. Effective October 1, 2009, paragraph (c) is
 772 added to subsection (2) of section 320.0609, Florida Statutes,
 773 to read:

774 320.0609 Transfer and exchange of registration license
 775 plates; transfer fee.--

776 (2)

777 (c) If a retail sale by a licensed independent motor
 778 vehicle dealer results in the transfer of a registration license
 779 plate, a temporary tag shall be issued and displayed during the

780 time that the application for transfer of such registration
781 license plate is being processed unless the department's records
782 reflect that the transfer has occurred. However, this paragraph
783 shall not apply to independent motor vehicle dealers that are
784 owned by principals that also hold a franchise motor vehicle
785 dealer license in this state. This paragraph is repealed June
786 30, 2010.

787 Section 14. Effective July 1, 2010, subsection (8) is
788 added to section 320.0609, Florida Statutes, to read:

789 320.0609 Transfer and exchange of registration license
790 plates; transfer fee.--

791 (8) (a) When the owner of a vehicle transfers a
792 registration license plate to a replacement or substitute
793 vehicle acquired from a motor vehicle dealer licensed under this
794 chapter, the dealer shall timely provide to the department, via
795 an electronic system administered by the department for this
796 purpose, information regarding the transfer which is required by
797 the department. The dealer shall also give the owner written
798 notice documenting the transfer if the dealer cannot timely
799 provide the required transfer information to the department due
800 to system or connectivity problems. The dealer shall maintain
801 all records required by the department which must be open to
802 inspection by the department or its agents during reasonable
803 business hours. The dealer may charge the vehicle owner a fee to
804 comply with this subsection. The department may charge a fee of
805 \$2 to be deposited into the Highway Safety Operating Trust Fund
806 for each transfer in addition to any other fee imposed by law.

807 (b) A dealer is not required to comply with paragraph (a)
808 if the department's records are otherwise modified on the date
809 of transfer to reflect that the transfer has occurred.

810 (c) The department has authority to adopt rules pursuant
811 to ss. 120.536(1) and 120.54 to administer this subsection.

812 Section 15. Effective October 1, 2009, paragraph (m) is
813 added to subsection (1) of section 320.131, Florida Statutes, to
814 read:

815 320.131 Temporary tags.--

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

819 (m) For a retail sale by a licensed independent motor
820 vehicle dealer when an application for the transfer of a
821 registration license plate is being processed. This paragraph is
822 repealed June 30, 2010.

823
824 Further, the department is authorized to disallow the purchase
825 of temporary tags by licensed dealers, common carriers, or
826 financial institutions in those cases where abuse has occurred.

827 Section 16. Except as otherwise expressly provided in this
828 act, this act shall take effect July 1, 2009.