

By Senator Constantine

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

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

55  
56 Be It Enacted by the Legislature of the State of Florida:

57  
58 Section 1. Subsection (2) of section 30.231, Florida

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59 Statutes, is amended to read:

60 30.231 Sheriffs' fees for service of summons, subpoenas,  
61 and executions.—

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

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

76 30.30 Writs, process; duties and liabilities in levying.—

77 (1) Whenever any writ~~7~~ issuing out of any court of this  
78 state ~~is, shall be~~ delivered to a sheriff~~7~~ commanding the  
79 sheriff to levy upon property specifically described therein, it  
80 shall be his or her duty to levy upon such property. If a party  
81 to whom a writ of replevin has been issued requests expedited  
82 service of the writ, the sheriff shall expedite service no later  
83 than 3 days after such request, subject to payment of the  
84 additional expenses allowed by s. 30.231(2). If no property is  
85 specifically described in the writ, the sheriff ~~he or she~~ shall  
86 levy upon:

87 (a) Any property in the possession of the defendant which

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88 is described in instructions for levy; and

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

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

97 78.065 Order to show cause; contents.—

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

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

110 78.068 Prejudgment writ of replevin.—

111 (1) A prejudgment writ of replevin may be issued and the  
112 property seized delivered forthwith to the petitioners when the  
113 nature of the claim and the amount thereof, if any, and the  
114 grounds relied upon for the issuance of the writ clearly appear  
115 from specific facts shown by the verified petition or by  
116 separate affidavit of the petitioner. The court shall advance

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117 the cause on the calendar and shall rule on whether a writ of  
118 replevin will be issued within 3 days after the date the civil  
119 action seeking issuance of the writ of replevin is filed.

120 Section 5. Paragraph (a) of subsection (5) of section  
121 319.24, Florida Statutes, is amended to read:

122 319.24 Issuance in duplicate; delivery; liens and  
123 encumbrances.—

124 (5) (a) Upon satisfaction of any first lien or encumbrance  
125 recorded at the department, the owner of the motor vehicle or  
126 mobile home, as shown on the title certificate, or the person  
127 satisfying the lien shall be entitled to demand and receive from  
128 the lienholder a satisfaction of the lien. If the lienholder,  
129 upon satisfaction of the lien and upon demand, fails or refuses  
130 to furnish a satisfaction thereof within 30 days after demand,  
131 he or she shall be held liable for all costs, damages, and  
132 expenses, including reasonable attorney's fees, lawfully  
133 incurred by the titled owner or person satisfying the lien in  
134 any suit brought in this state for cancellation of the lien. A  
135 motor vehicle dealer acquiring ownership of a motor vehicle with  
136 an outstanding purchase money lien, shall pay and satisfy the  
137 outstanding lien within 10 working days after ~~of~~ acquiring  
138 ownership. The lienholder receiving final payment as defined in  
139 s. 674.215 shall mail or otherwise deliver a lien satisfaction  
140 and the certificate of title indicating the satisfaction within  
141 15 ~~10~~ working days after ~~of~~ receipt of such final payment or  
142 notify the person satisfying the lien that the title is not  
143 available within 15 ~~10~~ working days after ~~of~~ receipt of such  
144 final payment. If the lienholder is unable to provide the  
145 certificate of title and notifies the person of such, the

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146 lienholder shall provide a lien satisfaction and shall be  
147 responsible for the cost of a duplicate title, including fast  
148 title charges as provided in s. 319.323. The provisions of this  
149 paragraph shall not apply to electronic transactions pursuant to  
150 subsection (9).

151 Section 6. Subsection (17) is added to section 320.02,  
152 Florida Statutes, to read:

153 320.02 Registration required; application for registration;  
154 forms.—

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

170 Section 7. Section 320.1315, Florida Statutes, is created  
171 to read:

172 320.1315 Electronic notification to motor vehicle floor  
173 plan financiers upon issuance of temporary tags.—

174 (1) In order to protect the integrity of the motor vehicle

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175 financing market, the department is directed to develop an  
176 electronic notification system that will notify motor vehicle  
177 floor plan financiers of any temporary tag that is issued on a  
178 motor vehicle that is in the inventory of a secured debtor.

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

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

192 (4) Upon termination of a perfected security interest in  
193 the inventory of a secured debtor, a floor plan financier shall  
194 notify the department of such termination and the department  
195 shall no longer be required to notify the financier of temporary  
196 tags issued on motor vehicles that are in the inventory of the  
197 secured debtor.

198 (5) The department may adopt rules pursuant to ss.  
199 120.536(1) and 120.54 to implement this section.

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

202 320.0609 Transfer and exchange of registration license  
203 plates; transfer fee.-

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

212 (b) The requirement to pay a transfer fee does not apply  
213 when the replacement vehicle is classified under s.  
214 320.08(2) (b), (c), or (d) or (3) (a), (b), or (c) and the  
215 original vehicle to be replaced is also classified under s.  
216 320.08(2) (b), (c), or (d) or (3) (a), (b), or (c).

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

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

225 320.131 Temporary tags.—

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

229 (m) For a retail sale by a licensed dealer when an  
230 application for the transfer of a registration license plate is  
231 being processed.  
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233 Further, the department is authorized to disallow the purchase  
234 of temporary tags by licensed dealers, common carriers, or  
235 financial institutions in those cases where abuse has occurred.

236 Section 10. Section 559.903, Florida Statutes, is amended  
237 to read:

238 559.903 Definitions.—As used in this act:

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

243 (2) "Department" means the Department of Agriculture and  
244 Consumer Services.

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

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

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

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

261 (7)~~(8)~~ "Motor vehicle repair" means all maintenance of and

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262 modifications and repairs to motor vehicles, and diagnostic work  
263 incident thereto, including, but not limited to, the rebuilding  
264 or restoring of rebuilt vehicles, body work, painting, warranty  
265 work, and other work customarily undertaken by motor vehicle  
266 repair shops.

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

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

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

283 Section 11. Section 559.917, Florida Statutes, is amended  
284 to read:

285 559.917 Bond to release possessory lien claimed by motor  
286 vehicle repair shop.—

287 (1) (a) Any customer may obtain the release of her or his  
288 motor vehicle from any lien claimed under part II of chapter 713  
289 by a motor vehicle repair shop for repair work performed under a  
290 written repair estimate by filing with the clerk of the court in

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291 the circuit in which the disputed transaction occurred a cash or  
292 surety bond, payable to the person claiming the lien and  
293 conditioned for the payment of any judgment which may be entered  
294 on the lien. The bond shall be in the amount stated on the  
295 invoice required by s. 559.911, plus accrued storage charges, if  
296 any, less any amount paid to the motor vehicle repair shop as  
297 indicated on the invoice. The customer shall not be required to  
298 institute judicial proceedings in order to post the bond in the  
299 registry of the court, nor shall the customer be required to use  
300 a particular form for posting the bond, unless the clerk shall  
301 provide such form to the customer for filing. Upon the posting  
302 of such bond, the clerk of the court shall automatically issue a  
303 certificate notifying the lienor of the posting of the bond and  
304 directing the lienor to release the customer's motor vehicle.

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

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

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

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320 the certificate, the customer, owner, or lienholder need only  
321 establish that:

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

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

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

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

331

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 or  
340 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 on  
348 a credit card charge or a check drawn in favor of a motor

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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:

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 for  
376 labor and services performed and storage charges, if any, and  
377 the cash sum which, if paid to the lienor, would be sufficient

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378 to redeem the vehicle from the lien claimed by the lienor.

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

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

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

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

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

401 (2) If attempts to locate the owner or lienholder are  
402 unsuccessful, the lienor must notify the local law enforcement  
403 agency in writing by certified mail or acknowledged hand  
404 delivery that the lienor has been unable to locate the owner or  
405 lienholder, that a physical search of the vehicle has disclosed  
406 no ownership information, and that a good faith effort has been

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407 made. A description of the motor vehicle which includes the  
408 year, make, and identification number must be given on the  
409 notice. This notification must take place within 10 ~~15~~ business  
410 days, excluding Saturday and Sunday, from the beginning date of  
411 the assessment of storage charges on the ~~said~~ motor vehicle. For  
412 purposes of this paragraph, the term "good faith effort" means  
413 that the following checks have been performed by the company to  
414 establish the prior state of registration and title:

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

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

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

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

435 (4) The lienor, at least 15 days before the proposed or

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436 scheduled date of sale of the vehicle, shall publish the notice  
437 required by this section once in a newspaper circulated in the  
438 county where the vehicle is held. A certificate of compliance  
439 with the notification provisions of this section, verified by  
440 the lienor, together with a copy of the notice ~~and return~~  
441 ~~receipt for mailing of the notice required by this section,~~ and  
442 proof of publication, must be duly and expeditiously filed with  
443 the clerk of the circuit court in the county where the vehicle  
444 is held. The lienor, at the time of filing the certificate of  
445 compliance, must pay to the clerk of that court a service charge  
446 of \$10 for indexing and recording the certificate.

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

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

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

464 (a) Whether the vehicle is subject to a valid lien by the



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465 lienor and the amount thereof;

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

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

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

472 (e) The reasonableness of storage charges.

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

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

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494 shall be deemed abandoned property and disposition thereof shall  
495 be governed by s. 705.103. The clerk shall receive 5 percent of  
496 the proceeds deposited with her or him, not to exceed \$25, for  
497 her or his services under this section.

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

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

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

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

516 (13) A failure to make good faith efforts as defined in  
517 subsection (2) precludes the imposition of any storage charges  
518 against the vehicle. If a lienor fails to provide notice to any  
519 person claiming a lien on a vehicle under subsection (1) within  
520 10 ~~15~~ business days, excluding Saturday or Sunday, after the  
521 assessment of storage charges have begun, then the lienor is  
522 precluded from charging for more than 15 days of storage, but

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523 failure to provide timely notice does not affect charges made  
524 for repairs, adjustments, or modifications to the vehicle or the  
525 priority of liens on the vehicle.

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

528 818.01 Disposing of or concealing personal property under  
529 lien or subject to conditional sale.-

530 (1) Any person who:

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

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

549 (c) Hides, conceals, or transfers ~~shall hide, conceal or~~  
550 ~~transfer,~~ such property with intent to defeat, hinder, or delay  
551 the enforcement of such lien, ~~or the recovery of such property~~

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552 by the lienor

553

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

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

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

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

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

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

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

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

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

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

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