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1 A bill to be entitled
 2 An act relating to liens for recovering, towing, or
 3 storing vehicles or vessels; amending s. 713.78, F.S.;
 4 defining the term "department"; revising procedures for
 5 notification concerning liens for the recovery of certain
 6 costs for recovering, towing, or storing a vehicle or
 7 vessel; removing the authority of the Department of
 8 Highway Safety and Motor Vehicles to release information
 9 concerning the insurance company; establishing fees for
 10 the lien notification; revising requirements governing the
 11 contents of the notification; revising requirements for
 12 locating and notifying persons about the impending sale of
 13 an unclaimed vehicle or vessel or its contents; revising
 14 requirements concerning public notice of the impending
 15 sale; removing duplicative provisions concerning
 16 rulemaking by the department; amending s. 715.07, F.S.;
 17 conforming cross-references to changes made by the act;
 18 providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Subsections (1), (4), and (6), paragraphs (b)
 23 and (c) of subsection (11), paragraph (d) of subsection (12),
 24 and paragraphs (a) and (g) of subsection (13) of section 713.78,
 25 Florida Statutes, are amended to read:

26 713.78 Liens for recovering, towing, or storing vehicles
 27 and vessels.—

28 (1) For the purposes of this section, the term:

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29 (a) "Department" means the Department of Highway Safety
 30 and Motor Vehicles.

31 (b)~~(a)~~ "Vehicle" means any mobile item, whether motorized
 32 or not, which is mounted on wheels.

33 (c)~~(b)~~ "Vessel" means every description of watercraft,
 34 barge, and airboat used or capable of being used as a means of
 35 transportation on water, other than a seaplane or a "documented
 36 vessel" as defined in s. 327.02(9).

37 (d)~~(e)~~ "Wrecker" means any truck or other vehicle which is
 38 used to tow, carry, or otherwise transport motor vehicles or
 39 vessels upon the streets and highways of this state and which is
 40 equipped for that purpose with a boom, winch, car carrier, or
 41 other similar equipment.

42 (4) (a) Any person regularly engaged in the business of
 43 recovering, towing, or storing vehicles or vessels who comes
 44 into possession of a vehicle or vessel pursuant to subsection
 45 (2), and who claims a lien for recovery, towing, or storage
 46 services, shall give notice to the registered owner, the
 47 insurance company insuring the vehicle notwithstanding the
 48 provisions of s. 627.736, and ~~to~~ all persons claiming a lien
 49 thereon by submitting an application for notifications to the
 50 department on a form prescribed by the department within 7
 51 business days after the date of storage of the vehicle or vessel
 52 and shall maintain an invoice for such services with the
 53 signature of the operator who provided the service or the
 54 signature of an employee of the business attesting to the
 55 accuracy of the information on the invoice, ~~as disclosed by the~~

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56 ~~records in the Department of Highway Safety and Motor Vehicles~~
57 ~~or of a corresponding agency in any other state.~~

58 (b) When a ~~Whenever any~~ law enforcement agency authorizes
59 the removal of a vehicle or vessel or a ~~whenever any~~ towing
60 service, garage, repair shop, or automotive service, storage, or
61 parking place notifies the law enforcement agency of possession
62 of a vehicle or vessel pursuant to s. 715.07(2)(a)2., the law
63 enforcement agency of the jurisdiction where the vehicle or
64 vessel is stored shall contact the department ~~of Highway Safety~~
65 ~~and Motor Vehicles,~~ or the appropriate agency of the state of
66 registration, if known, within 24 hours through the medium of
67 electronic communications, giving the full description of the
68 vehicle or vessel. Upon receipt of the full description of the
69 vehicle or vessel, the department shall search its files to
70 determine the owner's name, the insurance company insuring the
71 vehicle or vessel, and whether any person has filed a lien upon
72 the vehicle or vessel as provided in s. 319.27(2) and (3) and
73 notify the applicable law enforcement agency within 72 hours.
74 The person in charge of the towing service, garage, repair shop,
75 or automotive service, storage, or parking place shall obtain
76 such information from the applicable law enforcement agency
77 within 5 days after the date of storage and shall give notice
78 pursuant to paragraph (a). ~~The department may release the~~
79 ~~insurance company information to the requestor notwithstanding~~
80 ~~the provisions of s. 627.736.~~

81 (c) Upon receipt of a valid and complete application for
82 notifications, the required notification fee of \$4, and the
83 service fees required under s. 320.04, the department shall

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84 ~~notify~~ Notice by certified mail shall be sent within 7 business
 85 ~~days after the date of storage of the vehicle or vessel to the~~
 86 registered owner, the insurance company insuring the vehicle
 87 notwithstanding the provisions of s. 627.736, and all persons of
 88 record claiming a lien against the vehicle or vessel. The
 89 notification must indicate the company or individual who has it
 90 ~~shall state the fact of possession of the vehicle or vessel,~~
 91 that a lien as provided in subsection (2) is claimed, that
 92 charges have accrued and the amount thereof, that the lien is
 93 subject to enforcement pursuant to law, ~~and~~ that the owner or
 94 lienholder, if any, has the right to a hearing as set forth in
 95 subsection (5), and that any vehicle or vessel that ~~which~~
 96 remains unclaimed, or for which the charges for recovery,
 97 towing, or storage services remain unpaid, may be sold free of
 98 all prior liens ~~after~~ 35 days after the date of the notification
 99 if the vehicle or vessel is more than 3 years of age or ~~after~~ 50
 100 days after the date of notification if the vehicle or vessel is
 101 3 years of age or less.

102 (d) If the department is unable ~~attempts~~ to locate the
 103 name and address of the owner or lienholder ~~prove unsuccessful,~~
 104 the department shall notify the towing-storage operator. Upon
 105 receipt of such notice, the towing-storage operator shall
 106 conduct, ~~after 7 working days, excluding Saturday and Sunday, of~~
 107 ~~the initial tow or storage, notify the public agency of~~
 108 ~~jurisdiction where the vehicle or vessel is stored in writing by~~
 109 ~~certified mail or acknowledged hand delivery that the towing-~~
 110 ~~storage company has been unable to locate the name and address~~
 111 ~~of the owner or lienholder and a physical search of the vehicle~~

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112 | or vessel and make a good faith effort to determine ~~has~~
113 | ~~disclosed no ownership information and a good faith effort has~~
114 | ~~been made.~~ The towing-storage operator shall send notice of the
115 | sale by certified mail to any potential owner, lienor, or
116 | insurance company discovered through the physical search and
117 | good faith effort.

118 | (e) As used in ~~For purposes of this~~ paragraph (d) and
119 | subsection (9), the term "good faith effort" means that the
120 | following checks have been performed by the company to establish
121 | prior state of registration and for title:

122 | 1. Check of vehicle or vessel for any type of tag, tag
123 | record, temporary tag, or regular tag.

124 | 2. Check of law enforcement report for tag number or other
125 | information identifying the vehicle or vessel, if the vehicle or
126 | vessel was towed at the request of a law enforcement officer.

127 | 3. Check of trip sheet or tow ticket of tow truck operator
128 | to see if a tag was on vehicle or vessel at beginning of tow, if
129 | private tow.

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

133 | 5. Check of vehicle or vessel for inspection sticker or
134 | other stickers and decals that may indicate a state of possible
135 | registration.

136 | 6. Check of the interior of the vehicle or vessel for any
137 | papers that may be in the glove box, trunk, or other areas for a
138 | state of registration.

139 | 7. Check of vehicle for vehicle identification number.

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140 8. Check of vessel for vessel registration number.

141 9. Check of vessel hull for a hull identification number
142 that ~~which~~ should be carved, burned, stamped, embossed, or
143 otherwise permanently affixed to the outboard side of the
144 transom or, if there is no transom, to the outmost seaboard side
145 at the end of the hull which ~~that~~ bears the rudder or other
146 steering mechanism.

147 (6) Any vehicle or vessel that ~~which~~ is stored pursuant to
148 subsection (2) and that ~~which~~ remains unclaimed, or for which
149 reasonable charges for recovery, towing, or storing remain
150 unpaid, and any contents not released pursuant to subsection
151 (10), may be sold by the owner or operator of the storage space
152 for such towing or storage charge ~~after~~ 35 days after ~~from~~ the
153 date notification was sent under subsection (4) that ~~time~~ the
154 vehicle or vessel is stored therein if the vehicle or vessel is
155 more than 3 years of age or ~~after~~ 50 days after the date that
156 such notification was sent following the time the vehicle or
157 ~~vessel is stored therein~~ if the vehicle or vessel is 3 years of
158 age or less. The sale shall be at public sale for cash. ~~If the~~
159 ~~date of the sale was not included in the notice required in~~
160 ~~subsection (4), notice of the sale shall be given to the person~~
161 ~~in whose name the vehicle or vessel is registered and to all~~
162 ~~persons claiming a lien on the vehicle or vessel as shown on the~~
163 ~~records of the Department of Highway Safety and Motor Vehicles~~
164 ~~or of the corresponding agency in any other state. Notice shall~~
165 ~~be sent by certified mail to the owner of the vehicle or vessel~~
166 ~~and the person having the recorded lien on the vehicle or vessel~~
167 ~~at the address shown on the records of the registering agency~~

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168 ~~and shall be mailed not less than 15 days before the date of the~~
169 ~~sale. After diligent search and inquiry, if the name and address~~
170 ~~of the registered owner or the owner of the recorded lien cannot~~
171 ~~be ascertained, the requirements of notice by mail may be~~
172 ~~dispensed with.~~ In addition to the notice by mail, public notice
173 of the time and place of sale shall be made by publishing a
174 notice thereof one time, at least 10 days before ~~prior to~~ the
175 date of the sale, in a newspaper of general circulation in the
176 county in which the sale is to be held. The public notice must
177 include the vehicle or vessel identification or hull number and
178 a description of the vehicle or vessel, including make, model,
179 and year of manufacture. The proceeds of the sale, after payment
180 of reasonable towing and storage charges, and costs of the sale,
181 in that order of priority, shall be deposited with the clerk of
182 the circuit court for the county where the sale was held if the
183 owner or lienholder is absent, and the clerk shall hold such
184 proceeds subject to the claim of the owner or lienholder legally
185 entitled thereto. The clerk shall be entitled to receive 5
186 percent of such proceeds for the care and disbursement thereof.
187 The certificate of title issued under this law shall be
188 discharged of all liens unless otherwise provided by court
189 order. The owner or lienholder may file a complaint after the
190 vehicle or vessel has been sold in the county court of the
191 county in which it is stored. Upon determining the respective
192 rights of the parties, the court may award damages, attorney's
193 fees, and costs in favor of the prevailing party.

194 (11)

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195 (b) The department ~~of Highway Safety and Motor Vehicles~~
 196 shall charge a fee of \$3 for each certificate of destruction. A
 197 service charge of \$4.25 shall be collected and retained by the
 198 tax collector who processes the application.

199 ~~(c) The Department of Highway Safety and Motor Vehicles~~
 200 ~~may adopt such rules as it deems necessary or proper for the~~
 201 ~~administration of this subsection.~~

202 (12)

203 (d) Employees of the department ~~of Highway Safety and~~
 204 ~~Motor Vehicles~~ and law enforcement officers may ~~are authorized~~
 205 ~~to~~ inspect the records of any person regularly engaged in the
 206 business of recovering, towing, or storing vehicles or vessels
 207 or transporting vehicles or vessels by wrecker, tow truck, or
 208 car carrier, to ensure compliance with the requirements of this
 209 section. Any person who fails to maintain records, or fails to
 210 produce records when required in a reasonable manner and at a
 211 reasonable time, commits a misdemeanor of the first degree,
 212 punishable as provided in s. 775.082 or s. 775.083.

213 (13) (a) Upon the department's receipt ~~by the department of~~
 214 ~~Highway Safety and Motor Vehicles~~ of written notice from a
 215 wrecker operator who claims a wrecker operator's lien under
 216 paragraph (2) (c) or paragraph (2) (d) for recovery, towing, or
 217 storage of an abandoned vehicle or vessel upon instructions from
 218 any law enforcement agency, for which a certificate of
 219 destruction has been issued under subsection (11), the
 220 department shall place the name of the registered owner of that
 221 vehicle or vessel on the list of those persons who may not be
 222 issued a license plate or revalidation sticker for any motor

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223 vehicle under s. 320.03(8). If the vehicle or vessel is owned
 224 jointly by more than one person, the name of each registered
 225 owner shall be placed on the list. The notice of wrecker
 226 operator's lien shall be submitted on forms provided by the
 227 department, which must include:

228 1. The name, address, and telephone number of the wrecker
 229 operator.

230 2. The name of the registered owner of the vehicle or
 231 vessel and the address to which the wrecker operator provided
 232 notice of the lien to the registered owner under subsection (4).

233 3. A general description of the vehicle or vessel,
 234 including its color, make, model, body style, and year.

235 4. The vehicle identification number (VIN); registration
 236 license plate number, state, and year; validation decal number,
 237 state, and year; vessel registration number; hull identification
 238 number; or other identification number, as applicable.

239 5. The name of the person or the corresponding law
 240 enforcement agency that requested that the vehicle or vessel be
 241 recovered, towed, or stored.

242 6. The amount of the wrecker operator's lien, not to
 243 exceed the amount allowed by paragraph (b).

244 (g) The department ~~of Highway Safety and Motor Vehicles~~
 245 may adopt rules pursuant to ss. 120.536(1) and 120.54 to
 246 implement this section ~~subsection~~.

247 Section 2. Paragraph (a) of subsection (2) of section
 248 715.07, Florida Statutes, is amended to read:

249 715.07 Vehicles or vessels parked on private property;
 250 towing.-

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251 (2) The owner or lessee of real property, or any person
252 authorized by the owner or lessee, which person may be the
253 designated representative of the condominium association if the
254 real property is a condominium, may cause any vehicle or vessel
255 parked on such property without her or his permission to be
256 removed by a person regularly engaged in the business of towing
257 vehicles or vessels, without liability for the costs of removal,
258 transportation, or storage or damages caused by such removal,
259 transportation, or storage, under any of the following
260 circumstances:

261 (a) The towing or removal of any vehicle or vessel from
262 private property without the consent of the registered owner or
263 other legally authorized person in control of that vehicle or
264 vessel is subject to strict compliance with the following
265 conditions and restrictions:

266 1.a. Any towed or removed vehicle or vessel must be stored
267 at a site within a 10-mile radius of the point of removal in any
268 county of 500,000 population or more, and within a 15-mile
269 radius of the point of removal in any county of less than
270 500,000 population. That site must be open for the purpose of
271 redemption of vehicles on any day that the person or firm towing
272 such vehicle or vessel is open for towing purposes, from 8:00
273 a.m. to 6:00 p.m., and, when closed, shall have prominently
274 posted a sign indicating a telephone number where the operator
275 of the site can be reached at all times. Upon receipt of a
276 telephoned request to open the site to redeem a vehicle or
277 vessel, the operator shall return to the site within 1 hour or
278 she or he will be in violation of this section.

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279 b. If no towing business providing such service is located
280 within the area of towing limitations set forth in sub-
281 subparagraph a., the following limitations apply: any towed or
282 removed vehicle or vessel must be stored at a site within a 20-
283 mile radius of the point of removal in any county of 500,000
284 population or more, and within a 30-mile radius of the point of
285 removal in any county of less than 500,000 population.

286 2. The person or firm towing or removing the vehicle or
287 vessel shall, within 30 minutes after completion of such towing
288 or removal, notify the municipal police department or, in an
289 unincorporated area, the sheriff, of such towing or removal, the
290 storage site, the time the vehicle or vessel was towed or
291 removed, and the make, model, color, and license plate number of
292 the vehicle or description and registration number of the vessel
293 and shall obtain the name of the person at that department to
294 whom such information was reported and note that name on the
295 trip record.

296 3. A person in the process of towing or removing a vehicle
297 or vessel from the premises or parking lot in which the vehicle
298 or vessel is not lawfully parked must stop when a person seeks
299 the return of the vehicle or vessel. The vehicle or vessel must
300 be returned upon the payment of a reasonable service fee of not
301 more than one-half of the posted rate for the towing or removal
302 service as provided in subparagraph 6. The vehicle or vessel may
303 be towed or removed if, after a reasonable opportunity, the
304 owner or legally authorized person in control of the vehicle or
305 vessel is unable to pay the service fee. If the vehicle or

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306 vessel is redeemed, a detailed signed receipt must be given to
307 the person redeeming the vehicle or vessel.

308 4. A person may not pay or accept money or other valuable
309 consideration for the privilege of towing or removing vehicles
310 or vessels from a particular location.

311 5. Except for property appurtenant to and obviously a part
312 of a single-family residence, and except for instances when
313 notice is personally given to the owner or other legally
314 authorized person in control of the vehicle or vessel that the
315 area in which that vehicle or vessel is parked is reserved or
316 otherwise unavailable for unauthorized vehicles or vessels and
317 that the vehicle or vessel is subject to being removed at the
318 owner's or operator's expense, any property owner or lessee, or
319 person authorized by the property owner or lessee, before ~~prior~~
320 ~~to~~ towing or removing any vehicle or vessel from private
321 property without the consent of the owner or other legally
322 authorized person in control of that vehicle or vessel, must
323 post a notice meeting the following requirements:

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

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

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334 c. The notice must also provide the name and current
335 telephone number of the person or firm towing or removing the
336 vehicles or vessels.

337 d. The sign structure containing the required notices must
338 be permanently installed with the words "tow-away zone" not less
339 than 3 feet and not more than 6 feet above ground level and must
340 be continuously maintained on the property for not less than 24
341 hours before ~~prior to~~ the towing or removal of any vehicles or
342 vessels.

343 e. The local government may require permitting and
344 inspection of these signs before ~~prior to~~ any towing or removal
345 of vehicles or vessels is being authorized.

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

352 g. A property owner towing or removing vessels from real
353 property must post notice, consistent with the requirements in
354 sub-subparagraphs a.-f., which apply to vehicles, that
355 unauthorized vehicles or vessels will be towed away at the
356 owner's expense.

357
358 A business owner or lessee may authorize the removal of a
359 vehicle or vessel by a towing company when the vehicle or vessel
360 is parked in such a manner that restricts the normal operation
361 of business; and if a vehicle or vessel parked on a public

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362 right-of-way obstructs access to a private driveway the owner,
 363 lessee, or agent may have the vehicle or vessel removed by a
 364 towing company upon signing an order that the vehicle or vessel
 365 be removed without a posted tow-away zone sign.

366 6. Any person or firm that tows or removes vehicles or
 367 vessels and proposes to require an owner, operator, or person in
 368 control of a vehicle or vessel to pay the costs of towing and
 369 storage before ~~prior to~~ redemption of the vehicle or vessel must
 370 file and keep on record with the local law enforcement agency a
 371 complete copy of the current rates to be charged for such
 372 services and post at the storage site an identical rate schedule
 373 and any written contracts with property owners, lessees, or
 374 persons in control of property which authorize such person or
 375 firm to remove vehicles or vessels as provided in this section.

376 7. Any person or firm towing or removing any vehicles or
 377 vessels from private property without the consent of the owner
 378 or other legally authorized person in control of the vehicles or
 379 vessels shall, on any trucks, wreckers as defined in s.
 380 713.78(1) ~~s. 713.78(1)(e)~~, or other vehicles used in the towing
 381 or removal, have the name, address, and telephone number of the
 382 company performing such service clearly printed in contrasting
 383 colors on the driver and passenger sides of the vehicle. The
 384 name shall be in at least 3-inch permanently affixed letters,
 385 and the address and telephone number shall be in at least 1-inch
 386 permanently affixed letters.

387 8. Vehicle entry for the purpose of removing the vehicle
 388 or vessel shall be allowed with reasonable care on the part of
 389 the person or firm towing the vehicle or vessel. Such person or

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390 firm shall be liable for any damage occasioned to the vehicle or
391 vessel if such entry is not in accordance with the standard of
392 reasonable care.

393 9. When a vehicle or vessel has been towed or removed
394 pursuant to this section, it must be released to its owner or
395 custodian within one hour after requested. Any vehicle or vessel
396 owner or agent shall have the right to inspect the vehicle or
397 vessel before accepting its return, and no release or waiver of
398 any kind which would release the person or firm towing the
399 vehicle or vessel from liability for damages noted by the owner
400 or other legally authorized person at the time of the redemption
401 may be required from any vehicle or vessel owner, custodian, or
402 agent as a condition of release of the vehicle or vessel to its
403 owner. A detailed, signed receipt showing the legal name of the
404 company or person towing or removing the vehicle or vessel must
405 be given to the person paying towing or storage charges at the
406 time of payment, whether requested or not.

407 Section 3. This act shall take effect October 1, 2011.