

By Senator Stargel

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1 A bill to be entitled
2 An act relating to liens on motor vehicles and
3 vessels; amending s. 320.02, F.S., relating to a list
4 of persons who may not be issued a license plate,
5 revalidation sticker, or replacement license plate for
6 failure to surrender a vehicle pursuant to notice
7 provided by a lienor; directing the department to
8 withhold renewal of registration and replacement
9 registration of vehicles; providing for a court order
10 to remove a person's name from such list; amending s.
11 320.1316, F.S.; revising a reference to specified
12 provisions relating to the department withholding a
13 license plate or registration renewal or replacement;
14 requiring the notice to surrender a vehicle to be
15 signed under oath by the lienor; revising procedures
16 for dispute of the notice to surrender; providing for
17 judicial proceedings; defining the term "good cause";
18 providing for attorney fees and costs; providing an
19 effective date.

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

22
23 Section 1. Subsection (17) of section 320.02, Florida
24 Statutes, is amended to read:

25 320.02 Registration required; application for registration;
26 forms.—

27 (17) If any applicant's name appears on a list of persons
28 who may not be issued a license plate, revalidation sticker, or
29 replacement license plate after a written notice to surrender a

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30 vehicle was submitted to the department by a lienor as provided
31 in s. 320.1316, the department shall ~~may~~ withhold renewal of
32 registration or replacement registration of any motor vehicle
33 owned by the applicant at the time the notice was submitted by
34 the lienor. The lienor must maintain proof that written notice
35 to surrender the vehicle was sent to each registered owner
36 pursuant to s. 320.1316(1). A revalidation sticker or
37 replacement license plate may not be issued until that person's
38 name no longer appears on the list, ~~or until~~ the person presents
39 documentation from the lienor that the vehicle has been
40 surrendered to the lienor, or a court orders the person's name
41 removed from the list as provided for in s. 320.1316. The
42 department shall not withhold an initial registration in
43 connection with an applicant's purchase or lease of a motor
44 vehicle solely because the applicant's name is on the list
45 created by s. 320.1316.

46 Section 2. Section 320.1316, Florida Statutes, is amended
47 to read:

48 320.1316 Failure to surrender vehicle or vessel.—

49 (1) Upon receipt from a lienor who claims a lien on a
50 vehicle pursuant to s. 319.27 by the Department of Highway
51 Safety and Motor Vehicles of written notice to surrender a
52 vehicle or vessel that has been disposed of, concealed, removed,
53 or destroyed by the lienee, the department shall place the name
54 of the registered owner of that vehicle on the list of those
55 persons who may not be issued a license plate, revalidation
56 sticker, or replacement license plate for any motor vehicle
57 under s. 320.02(17) ~~320.03(8)~~ owned by the lienee at the time
58 the notice was given by the lienor. If the vehicle is owned

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59 jointly by more than one person, the name of each registered
60 owner shall be placed on the list.

61 (2) The notice to surrender the vehicle shall be signed
62 under oath by the lienor and submitted on forms developed by the
63 department, which must include:

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

65 (b) The name of the registered owner of the vehicle and the
66 address to which the lienor provided notice to surrender the
67 vehicle to the registered owner.

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

70 (d) The vehicle identification number, registration license
71 plate number, if known, or other identification number, as
72 applicable.

73 (3) The registered owner of the vehicle may dispute a
74 notice to surrender the vehicle or his or her inclusion on the
75 list of those persons who may not be issued a license plate,
76 revalidation sticker, or replacement license plate under s.
77 320.02(17) by bringing a civil action in the county in which
78 such person resides ~~by notifying the department of the dispute~~
79 ~~in writing on forms provided by the department and presenting~~
80 ~~proof that the vehicle was sold to a motor vehicle dealer~~
81 ~~licensed under s. 320.27, a mobile home dealer licensed under s.~~
82 ~~320.77, or a recreational vehicle dealer licensed under s.~~
83 ~~320.771.~~

84 (4) In an action brought pursuant to subsection (3), the
85 petitioner is entitled to the summary procedure under s. 51.011,
86 and the court shall advance the cause on its calendar if
87 requested by the petitioner.

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88 (5) (a) At any hearing challenging the withholding of
89 registration renewal or replacement under s. 320.02(17), the
90 court shall first determine whether the lienor had a recorded
91 lien on the vehicle or vessel and whether the lienor properly
92 made a demand for the surrender of the vehicle or vessel in
93 accordance with this section. If the court determines that the
94 lien was recorded and that such a demand was properly made, the
95 court shall determine whether good cause exists for the
96 petitioner's failure to surrender the vehicle or vessel.

97 (b) For purposes of this subsection, "good cause" is
98 limited to proof that:

99 1. The vehicle that was the subject of the demand for
100 surrender was traded into a licensed motor vehicle dealer before
101 the date of the surrender demand;

102 2. The lienholder's lien giving rise to the stop has been
103 paid in full or otherwise satisfied;

104 3. There is ongoing litigation relating to validity or
105 enforceability of the lien;

106 4. The petitioner was in compliance with all of his or her
107 contractual obligations with the lienholder at the time of the
108 demand for surrender;

109 5. The vehicle or vessel was reported to law enforcement as
110 stolen by the registered owner of the vehicle or vessel before
111 the demand for surrender; or

112 6. The petitioner no longer has possession of the vehicle
113 or vessel and the loss of possession occurred pursuant to
114 operation of law. If the petitioner's loss of possession did not
115 occur pursuant to operation of law, the fact that a third party
116 has physical possession of the vehicle or vessel shall not

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117 constitute good cause for the failure to surrender the vehicle
118 or vessel.

119 (c) If the petitioner establishes good cause, as defined in
120 paragraph (b), for his or her failure to surrender the vehicle
121 or vessel, the court shall enter an order removing the
122 petitioner's name from the list of those persons who may not be
123 issued a license plate, revalidation sticker, or replacement
124 license plate for any motor vehicle under s. 320.02(17) and
125 award the petitioner his or her reasonable attorney fees and
126 costs that are actually incurred for the proceedings.

127 (d) If the court finds that the demand for surrender was
128 properly made by the lienor and the petitioner fails to
129 establish good cause for the failure to surrender the vehicle or
130 vessel, the court shall award the lienor its reasonable attorney
131 fees and costs that are actually incurred for the proceedings.

132 Section 3. This act shall take effect July 1, 2013.