

HB 925

2013

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
26 registration; 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
 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

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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
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
66 | the 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
71 | license plate number, if known, or other identification number,
72 | as 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.

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

112 6. The petitioner no longer has possession of the vehicle

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

119 (c) If the petitioner establishes good cause, as defined
120 in paragraph (b), for his or her failure to surrender the
121 vehicle 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.