

Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>    </u>	

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee  
 2 Representative Wood offered the following:

**Amendment (with title amendment)**

5 Between lines 256 and 257, insert:

6 Section 2. Paragraph (a) of subsection (4) and subsection  
 7 (6) of section 713.78, Florida Statutes, are amended, and for  
 8 the purpose of incorporating the amendments made by this act to  
 9 section 715.07, Florida Statutes, in references thereto,  
 10 paragraph (b) of subsection (2), paragraph (b) of subsection  
 11 (4), and paragraph (a) of subsection (7) of section 713.78,  
 12 Florida Statutes, are reenacted, to read:

13 713.78 Liens for recovering, towing, or storing vehicles  
 14 and vessels.—

15 (2) Whenever a person regularly engaged in the business of  
 16 transporting vehicles or vessels by wrecker, tow truck, or car  
 17 carrier recovers, removes, or stores a vehicle or vessel upon

## Amendment No. 3

18 instructions from:

19 (b) The owner or lessor, or a person authorized by the  
20 owner or lessor, of property on which such vehicle or vessel is  
21 wrongfully parked, and the removal is done in compliance with s.  
22 715.07;

23  
24 she or he shall have a lien on the vehicle or vessel for a  
25 reasonable towing fee and for a reasonable storage fee; except  
26 that no storage fee shall be charged if the vehicle is stored  
27 for less than 6 hours.

28 (4) (a) Any person regularly engaged in the business of  
29 recovering, towing, or storing vehicles or vessels who comes  
30 into possession of a vehicle or vessel pursuant to subsection  
31 (2), and who claims a lien for recovery, towing, or storage  
32 services, shall give notice to the registered owner, the  
33 insurance company insuring the vehicle notwithstanding the  
34 provisions of s. 627.736, and to all persons claiming a lien  
35 thereon, as disclosed by the records in the Department of  
36 Highway Safety and Motor Vehicles or as disclosed by the records  
37 of any corresponding agency in any other state in which the  
38 vehicle is identified through a records check of the National  
39 Motor Vehicle Title Information System or an equivalent  
40 commercially available system as being titled or registered, and  
41 shall verify that the vehicle or vessel is not currently  
42 reported stolen as provided in subsection (6).

43 (b) Whenever any law enforcement agency authorizes the

## Amendment No. 3

44 removal of a vehicle or vessel or whenever any towing service,  
45 garage, repair shop, or automotive service, storage, or parking  
46 place notifies the law enforcement agency of possession of a  
47 vehicle or vessel pursuant to s. 715.07(2)(a)2., the law  
48 enforcement agency of the jurisdiction where the vehicle or  
49 vessel is stored shall contact the Department of Highway Safety  
50 and Motor Vehicles, or the appropriate agency of the state of  
51 registration, if known, within 24 hours through the medium of  
52 electronic communications, giving the full description of the  
53 vehicle or vessel. Upon receipt of the full description of the  
54 vehicle or vessel, the department shall search its files to  
55 determine the owner's name, the insurance company insuring the  
56 vehicle or vessel, and whether any person has filed a lien upon  
57 the vehicle or vessel as provided in s. 319.27(2) and (3) and  
58 notify the applicable law enforcement agency within 72 hours.  
59 The person in charge of the towing service, garage, repair shop,  
60 or automotive service, storage, or parking place shall obtain  
61 such information from the applicable law enforcement agency  
62 within 5 days after the date of storage and shall give notice  
63 pursuant to paragraph (a). The department may release the  
64 insurance company information to the requestor notwithstanding  
65 the provisions of s. 627.736.

66 (6) Any vehicle or vessel which is stored pursuant to  
67 subsection (2) and which remains unclaimed, or for which  
68 reasonable charges for recovery, towing, or storing remain  
69 unpaid, and any contents not released pursuant to subsection

## Amendment No. 3

70 (10), may be sold by the owner or operator of the storage space  
71 for such towing or storage charge after 35 days following ~~from~~  
72 the time the vehicle or vessel is stored therein if the vehicle  
73 or vessel is more than 3 years of age or after 50 days following  
74 the time the vehicle or vessel is stored therein if the vehicle  
75 or vessel is 3 years of age or less. The sale shall be at public  
76 sale for cash. If the date of the sale was not included in the  
77 notice required in subsection (4), notice of the sale shall be  
78 given to the person in whose name the vehicle or vessel is  
79 registered and to all persons claiming a lien on the vehicle or  
80 vessel as shown on the records of the Department of Highway  
81 Safety and Motor Vehicles or of any corresponding agency in any  
82 other state in which the vehicle is identified through a records  
83 check of the National Motor Vehicle Title Information System or  
84 an equivalent commercially available system as being titled.  
85 Notice shall be sent by certified mail to the owner of the  
86 vehicle or vessel and the person having the recorded lien on the  
87 vehicle or vessel at the address shown on the records of the  
88 registering agency and shall be mailed at least ~~not less than~~ 15  
89 days before the date of the sale. After diligent search and  
90 inquiry, if the name and address of the registered owner or the  
91 owner of the recorded lien cannot be ascertained, the  
92 requirements of notice by mail may be dispensed with. In  
93 addition to the notice by mail, public notice of the time and  
94 place of sale shall be made by publishing a notice thereof one  
95 time, at least 10 days before ~~prior to~~ the date of the sale, in

## Amendment No. 3

96 a newspaper of general circulation in the county in which the  
97 sale is to be held. The proceeds of the sale, after payment of  
98 reasonable towing and storage charges, and costs of the sale, in  
99 that order of priority, shall be deposited with the clerk of the  
100 circuit court for the county if the owner or lienholder is  
101 absent, and the clerk shall hold such proceeds subject to the  
102 claim of the owner or lienholder legally entitled thereto. The  
103 clerk shall be entitled to receive 5 percent of such proceeds  
104 for the care and disbursement thereof. In addition to the notice  
105 requirements of this section and compliance with the federal  
106 Servicemembers' Civil Relief Act of 2003, within 72 hours before  
107 the public sale of the vehicle or vessel, the owner or operator  
108 of the storage space shall obtain written proof of verification  
109 that the vehicle or vessel is not currently reported as an  
110 active theft by submitting the vehicle or vessel identification  
111 number to a vendor using the National Motor Vehicle Title  
112 Information System to obtain a report that includes active theft  
113 data from a national vehicle theft database or by submitting the  
114 vehicle or vessel identification number to a state or local law  
115 enforcement agency by hand delivery, facsimile, or electronic  
116 transmission to obtain a National Crime Information Center  
117 stolen vehicle report. Such report is required before a  
118 certificate of title or a certificate of destruction is issued.  
119 The certificate of title issued under this law shall be  
120 discharged of all liens unless otherwise provided by court  
121 order. The owner or lienholder may file a complaint after the

Amendment No. 3

122 vehicle or vessel has been sold in the county court of the  
123 county in which it is stored. Upon determining the respective  
124 rights of the parties, the court may award damages, attorney's  
125 fees, and costs in favor of the prevailing party.

126 (7) (a) A wrecker operator recovering, towing, or storing  
127 vehicles or vessels is not liable for damages connected with  
128 such services, theft of such vehicles or vessels, or theft of  
129 personal property contained in such vehicles or vessels,  
130 provided that such services have been performed with reasonable  
131 care and provided, further, that, in the case of removal of a  
132 vehicle or vessel upon the request of a person purporting, and  
133 reasonably appearing, to be the owner or lessee, or a person  
134 authorized by the owner or lessee, of the property from which  
135 such vehicle or vessel is removed, such removal has been done in  
136 compliance with s. 715.07. Further, a wrecker operator is not  
137 liable for damage to a vehicle, vessel, or cargo that obstructs  
138 the normal movement of traffic or creates a hazard to traffic  
139 and is removed in compliance with the request of a law  
140 enforcement officer.

141  
142 -----  
143 **T I T L E A M E N D M E N T**

144 Remove line 12 and insert:  
145 therefor; amending s. 713.78, F.S.; requiring the  
146 owner or operator of a storage space to verify that a  
147 vehicle or vessel is not currently reported as an

Amendment No. 3

148 active theft before its public sale to recover certain  
149 costs; reenacting s. 713.78(2)(b), (4)(b), and (7)(a),  
150 F.S., relating to liens for recovering, towing, or  
151 storing vehicles and vessels, to incorporate the  
152 amendments made by the act to s. 715.07, F.S., in  
153 references thereto; providing an effective date.