

1 A bill to be entitled

2 An act relating to towing of vehicles and vessels;  
3 amending s. 713.78, F.S.; requiring the owner or  
4 operator of a storage space to verify that a vehicle  
5 or vessel is not currently reported as an active theft  
6 before its public sale to recover certain costs;  
7 reenacting s. 713.78(2)(b), (4)(b), and (7)(a), F.S.,  
8 relating to liens for recovering, towing, or storing  
9 vehicles and vessels, to incorporate the amendments  
10 made by the act to s. 715.07, F.S., in references  
11 thereto; amending s. 715.07, F.S.; providing for  
12 removal of a vehicle or vessel by a cooperative  
13 association or a homeowners' association; revising  
14 requirements for removal of a vehicle or vessel from  
15 property without the owner's permission; revising  
16 notice and signage requirements; authorizing an owner  
17 or lessee of real property to have a vehicle or vessel  
18 removed from the property without certain signage  
19 under certain circumstances; requiring a notice to be  
20 attached to the vehicle or vessel and providing  
21 requirements therefor; requiring police verification  
22 and documentation of such a notice and requirements  
23 therefor; providing an effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:  
26

27 Section 1. Paragraph (a) of subsection (4) and subsection  
28 (6) of section 713.78, Florida Statutes, are amended, and for  
29 the purpose of incorporating the amendments made by this act to  
30 section 715.07, Florida Statutes, in references thereto,  
31 paragraph (b) of subsection (2), paragraph (b) of subsection  
32 (4), and paragraph (a) of subsection (7) of section 713.78,  
33 Florida Statutes, are reenacted, to read:

34 713.78 Liens for recovering, towing, or storing vehicles  
35 and vessels.—

36 (2) Whenever a person regularly engaged in the business of  
37 transporting vehicles or vessels by wrecker, tow truck, or car  
38 carrier recovers, removes, or stores a vehicle or vessel upon  
39 instructions from:

40 (b) The owner or lessor, or a person authorized by the  
41 owner or lessor, of property on which such vehicle or vessel is  
42 wrongfully parked, and the removal is done in compliance with s.  
43 715.07;

44  
45 she or he shall have a lien on the vehicle or vessel for a  
46 reasonable towing fee and for a reasonable storage fee; except  
47 that no storage fee shall be charged if the vehicle is stored  
48 for less than 6 hours.

49 (4) (a) Any person regularly engaged in the business of  
50 recovering, towing, or storing vehicles or vessels who comes  
51 into possession of a vehicle or vessel pursuant to subsection  
52 (2), and who claims a lien for recovery, towing, or storage

53 services, shall give notice to the registered owner, the  
54 insurance company insuring the vehicle notwithstanding the  
55 provisions of s. 627.736, and to all persons claiming a lien  
56 thereon, as disclosed by the records in the Department of  
57 Highway Safety and Motor Vehicles or as disclosed by the records  
58 of any corresponding agency in any other state in which the  
59 vehicle is identified through a records check of the National  
60 Motor Vehicle Title Information System or an equivalent  
61 commercially available system as being titled or registered, and  
62 shall verify that the vehicle or vessel is not currently  
63 reported stolen as provided in subsection (6).

64 (b) Whenever any law enforcement agency authorizes the  
65 removal of a vehicle or vessel or whenever any towing service,  
66 garage, repair shop, or automotive service, storage, or parking  
67 place notifies the law enforcement agency of possession of a  
68 vehicle or vessel pursuant to s. 715.07(2)(a)2., the law  
69 enforcement agency of the jurisdiction where the vehicle or  
70 vessel is stored shall contact the Department of Highway Safety  
71 and Motor Vehicles, or the appropriate agency of the state of  
72 registration, if known, within 24 hours through the medium of  
73 electronic communications, giving the full description of the  
74 vehicle or vessel. Upon receipt of the full description of the  
75 vehicle or vessel, the department shall search its files to  
76 determine the owner's name, the insurance company insuring the  
77 vehicle or vessel, and whether any person has filed a lien upon  
78 the vehicle or vessel as provided in s. 319.27(2) and (3) and

79 | notify the applicable law enforcement agency within 72 hours.  
80 | The person in charge of the towing service, garage, repair shop,  
81 | or automotive service, storage, or parking place shall obtain  
82 | such information from the applicable law enforcement agency  
83 | within 5 days after the date of storage and shall give notice  
84 | pursuant to paragraph (a). The department may release the  
85 | insurance company information to the requestor notwithstanding  
86 | the provisions of s. 627.736.

87 |         (6) Any vehicle or vessel which is stored pursuant to  
88 | subsection (2) and which remains unclaimed, or for which  
89 | reasonable charges for recovery, towing, or storing remain  
90 | unpaid, and any contents not released pursuant to subsection  
91 | (10), may be sold by the owner or operator of the storage space  
92 | for such towing or storage charge after 35 days following ~~from~~  
93 | the time the vehicle or vessel is stored therein if the vehicle  
94 | or vessel is more than 3 years of age or after 50 days following  
95 | the time the vehicle or vessel is stored therein if the vehicle  
96 | or vessel is 3 years of age or less. The sale shall be at public  
97 | sale for cash. If the date of the sale was not included in the  
98 | notice required in subsection (4), notice of the sale shall be  
99 | given to the person in whose name the vehicle or vessel is  
100 | registered and to all persons claiming a lien on the vehicle or  
101 | vessel as shown on the records of the Department of Highway  
102 | Safety and Motor Vehicles or of any corresponding agency in any  
103 | other state in which the vehicle is identified through a records  
104 | check of the National Motor Vehicle Title Information System or

105 an equivalent commercially available system as being titled.  
106 Notice shall be sent by certified mail to the owner of the  
107 vehicle or vessel and the person having the recorded lien on the  
108 vehicle or vessel at the address shown on the records of the  
109 registering agency and shall be mailed at least ~~not less than~~ 15  
110 days before the date of the sale. After diligent search and  
111 inquiry, if the name and address of the registered owner or the  
112 owner of the recorded lien cannot be ascertained, the  
113 requirements of notice by mail may be dispensed with. In  
114 addition to the notice by mail, public notice of the time and  
115 place of sale shall be made by publishing a notice thereof one  
116 time, at least 10 days before ~~prior to~~ the date of the sale, in  
117 a newspaper of general circulation in the county in which the  
118 sale is to be held. The proceeds of the sale, after payment of  
119 reasonable towing and storage charges, and costs of the sale, in  
120 that order of priority, shall be deposited with the clerk of the  
121 circuit court for the county if the owner or lienholder is  
122 absent, and the clerk shall hold such proceeds subject to the  
123 claim of the owner or lienholder legally entitled thereto. The  
124 clerk shall be entitled to receive 5 percent of such proceeds  
125 for the care and disbursement thereof. In addition to the notice  
126 requirements of this section and compliance with the federal  
127 Servicemembers' Civil Relief Act of 2003, within 72 hours before  
128 the public sale of the vehicle or vessel, the owner or operator  
129 of the storage space shall obtain written proof of verification  
130 that the vehicle or vessel is not currently reported as an

131 active theft by submitting the vehicle or vessel identification  
132 number to a vendor using the National Motor Vehicle Title  
133 Information System to obtain a report that includes active theft  
134 data from a national vehicle theft database or by submitting the  
135 vehicle or vessel identification number to a state or local law  
136 enforcement agency by hand delivery, facsimile, or electronic  
137 transmission to obtain a National Crime Information Center  
138 stolen vehicle report. Such report is required before a  
139 certificate of title or a certificate of destruction is issued.  
140 The certificate of title issued under this law shall be  
141 discharged of all liens unless otherwise provided by court  
142 order. The owner or lienholder may file a complaint after the  
143 vehicle or vessel has been sold in the county court of the  
144 county in which it is stored. Upon determining the respective  
145 rights of the parties, the court may award damages, attorney's  
146 fees, and costs in favor of the prevailing party.

147 (7) (a) A wrecker operator recovering, towing, or storing  
148 vehicles or vessels is not liable for damages connected with  
149 such services, theft of such vehicles or vessels, or theft of  
150 personal property contained in such vehicles or vessels,  
151 provided that such services have been performed with reasonable  
152 care and provided, further, that, in the case of removal of a  
153 vehicle or vessel upon the request of a person purporting, and  
154 reasonably appearing, to be the owner or lessee, or a person  
155 authorized by the owner or lessee, of the property from which  
156 such vehicle or vessel is removed, such removal has been done in

157 compliance with s. 715.07. Further, a wrecker operator is not  
 158 liable for damage to a vehicle, vessel, or cargo that obstructs  
 159 the normal movement of traffic or creates a hazard to traffic  
 160 and is removed in compliance with the request of a law  
 161 enforcement officer.

162 Section 2. Section 715.07, Florida Statutes, is amended to  
 163 read:

164 715.07 Vehicles or vessels ~~parked on private property;~~  
 165 towing.-

166 (1) As used in this section, the term:

167 (a) "Vehicle" means a ~~any~~ mobile item that ~~which~~ normally  
 168 uses wheels, whether motorized or not.

169 (b) "Vessel" means every description of watercraft, barge,  
 170 and airboat used or capable of being used as a means of  
 171 transportation on water, other than a seaplane or a "documented  
 172 vessel" as defined in s. 327.02.

173 (2) The owner or lessee of real property, or a ~~any~~ person  
 174 authorized by the owner or lessee, which person may be the  
 175 designated representative of the condominium association if the  
 176 real property is a condominium, the designated representative of  
 177 the cooperative association if the real property is a  
 178 cooperative, or the designated representative of the homeowners'  
 179 association if the real property is owned by a homeowners'  
 180 association, may cause a ~~any~~ vehicle or vessel parked on such  
 181 property without her or his permission to be removed by a person  
 182 regularly engaged in the business of towing vehicles or vessels.

183 without liability for the costs of removal, transportation, or  
 184 storage or damages caused by such removal, transportation, or  
 185 storage, under any of the following circumstances:

186 (a) The towing or removal of a ~~any~~ vehicle or vessel from  
 187 private property without the consent of the registered owner or  
 188 other legally authorized person in control of that vehicle or  
 189 vessel is subject to strict compliance with the following  
 190 conditions and restrictions:

191 1.a. A ~~Any~~ towed or removed vehicle or vessel must be  
 192 stored at a site within a 10-mile radius of the point of removal  
 193 in a ~~any~~ county with a population of 500,000 ~~population~~ or more  
 194 ~~or, and~~ within a 15-mile radius of the point of removal in a ~~any~~  
 195 county with a population of less than 500,000 ~~population~~. That  
 196 site must be open for the purpose of redemption of vehicles from  
 197 8 a.m. to 6 p.m. on any day that the person or firm towing such  
 198 vehicle or vessel is open for towing purposes, ~~from 8:00 a.m. to~~  
 199 ~~6:00 p.m.,~~ and, when closed, shall have prominently posted a  
 200 sign indicating a telephone number where the operator of the  
 201 site can be reached at all times. Upon receipt of a telephoned  
 202 request to open the site to redeem a vehicle or vessel, the  
 203 operator must ~~shall~~ return to the site within 1 hour ~~or she or~~  
 204 ~~he will be in violation of this section.~~

205 b. If no towing business providing such service is located  
 206 within the area of towing limitations under ~~set forth in~~ sub-  
 207 subparagraph a., the following limitations apply: a ~~any~~ towed or  
 208 removed vehicle or vessel must be stored at a site within a 20-



209 | mile radius of the point of removal in a any county with a  
 210 | population of 500,000 ~~population~~ or more ~~or,~~ and within a 30-  
 211 | mile radius of the point of removal in a any county with a  
 212 | population of less than 500,000 ~~population~~.

213 |       2. Within 30 minutes after completion of the towing or  
 214 | removal, the person or firm that towed or removed ~~towing or~~  
 215 | ~~removing~~ the vehicle or vessel must ~~shall,~~ ~~within 30 minutes~~  
 216 | ~~after completion of such towing or removal,~~ notify the municipal  
 217 | police department or, in an unincorporated area, the sheriff,  
 218 | of: the ~~such~~ towing or removal;; the storage site; the time the  
 219 | vehicle or vessel was towed or removed; and the make, model,  
 220 | color, and license plate number of the vehicle or description  
 221 | and registration number of the vessel. The person or firm ~~and~~  
 222 | shall note on the trip record at the time of the telephone call  
 223 | ~~obtain~~ the case number, badge number, or name of the person at  
 224 | ~~that department~~ to whom such information was reported or attach  
 225 | the electronic receipt received from the department or office to  
 226 | the trip record if the notification was made by an electronic  
 227 | notification process approved by the police department or  
 228 | sheriff's office ~~and note that name on the trip record.~~

229 |       3. A person in the process of towing or removing a vehicle  
 230 | or vessel from the premises or parking lot in which the vehicle  
 231 | or vessel is not lawfully parked must stop when a person seeks  
 232 | the return of the vehicle or vessel. The vehicle or vessel must  
 233 | be returned upon the payment of a reasonable service fee of not  
 234 | more than one-half of the posted rate for the towing or removal

235 service as provided in subparagraph 7. ~~6.~~ The vehicle or vessel  
 236 may be towed or removed if, after a reasonable opportunity, the  
 237 owner or legally authorized person in control of the vehicle or  
 238 vessel is unable to pay the service fee. If the vehicle or  
 239 vessel is redeemed, a detailed signed receipt must be given to  
 240 the person redeeming the vehicle or vessel.

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

244 5. Except when the ~~for~~ property is appurtenant to and  
 245 obviously a part of a single-family residence or, ~~and except for~~  
 246 ~~instances~~ when notice is personally given to the owner or other  
 247 legally authorized person in control of the vehicle or vessel  
 248 that the area in which that vehicle or vessel is parked is  
 249 reserved or otherwise unavailable for unauthorized vehicles or  
 250 vessels and that the vehicle or vessel is subject to being  
 251 removed at the owner's or operator's expense, before towing or  
 252 removing a vehicle or vessel from private property without the  
 253 consent of the owner or other legally authorized person in  
 254 control of that vehicle or vessel, a ~~any~~ property owner or  
 255 lessee, ~~or person authorized by the property owner or lessee,~~  
 256 ~~prior to towing or removing any vehicle or vessel from private~~  
 257 ~~property without the consent of the owner or other legally~~  
 258 ~~authorized person in control of that vehicle or vessel,~~ must  
 259 post a notice subject to ~~meeting~~ the following ~~requirements:~~

260 a. The notice must:

261        (I) Be prominently placed at each driveway access or curb  
262 cut allowing vehicular access to the property, within 5 feet  
263 from the public right-of-way line. If there are no curbs or  
264 access barriers, the signs must be posted not less than one sign  
265 for each 25 feet of lot frontage.

266        (II)b. ~~The notice must~~ Clearly indicate, in not less than  
267 2-inch high, light-reflective letters on a contrasting  
268 background, that unauthorized vehicles will be towed away at the  
269 owner's expense. The words "tow-away zone" must be included on  
270 the sign in not less than 4-inch high letters.

271        (III)e. ~~The notice must also~~ Provide the name and current  
272 telephone number of the person or firm towing or removing ~~the~~  
273 vehicles or vessels. If such person or firm is doing business  
274 under a fictitious or other name, the notice must clearly show  
275 the current fictitious or other name of that person or firm.

276        b.d. The sign structure containing the required notices  
277 must be permanently installed with the words "tow-away zone" at  
278 least not less than 3 feet but no and not more than 6 feet above  
279 ground level and must be continuously maintained on the property  
280 for at least not less than 24 hours before ~~prior to the~~ towing  
281 or removing a vehicle or vessel ~~removal of any vehicles or~~  
282 ~~vessels.~~

283        e. The local government may require permitting and  
284 inspection of such ~~these~~ signs before ~~prior to any~~ towing or  
285 removing a vehicle or vessel is ~~removal of vehicles or vessels~~  
286 ~~being~~ authorized.

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

293 ~~d.g.~~ A property owner towing or removing vessels from real  
 294 property must post notice, consistent with the requirements in  
 295 sub-subparagraphs a.-c. ~~a.-f.~~, which apply to vehicles, that  
 296 unauthorized vehicles or vessels will be towed away at the  
 297 owner's expense.

298 6. Notwithstanding subparagraph 5., a business owner or  
 299 lessee may authorize the removal of a vehicle or vessel by a  
 300 towing company when a the vehicle or vessel is parked in such a  
 301 manner that restricts the normal operation of business; is and  
 302 if a vehicle or vessel parked on a public right-of-way in a  
 303 manner that obstructs access to a private driveway; or has been  
 304 parked or stored on private property for a period exceeding 5  
 305 days, the owner ~~or~~ lessee, or agent of the owner or lessee, of  
 306 the real property may have the vehicle or vessel removed by a  
 307 towing company upon signing an order that the vehicle or vessel  
 308 be removed without a posted tow-away zone sign. However, the 5-  
 309 day period after which the owner or lessee, or agent of the  
 310 owner or lessee, of the real property may have the vehicle or  
 311 vessel removed without tow-away zone signage does not begin  
 312 until both of the following requirements are met:

313 a. Such owner, lessee, or agent attaches to the vehicle or  
314 vessel with adhesive material a notice that the vehicle or  
315 vessel will be towed or removed from the property. The notice  
316 must:

317 I. In the case of a vehicle, be attached to the vehicle's  
318 windshield.

319 II. In the case of a vessel, be attached adjacent to the  
320 vessel registration number on the left or port side of the  
321 vessel.

322 III. Be at least 8 inches by 10 inches in size and be  
323 sufficiently weatherproofed to withstand normal exposure to the  
324 elements.

325 IV. Clearly indicate the date on which the notice is  
326 posted.

327 V. Clearly indicate in bold letters that the vehicle or  
328 vessel will be towed or removed from the real property 5 days  
329 after the date on which a local law enforcement agency verifies  
330 and documents with a police report the notice's compliance with  
331 this subparagraph.

332 VI. Provide the name and phone number of the proposed  
333 towing company.

334 b. The local law enforcement agency is notified of the  
335 notice being posted pursuant to this subparagraph, and the local  
336 law enforcement agency verifies and documents the notice's  
337 compliance with this subparagraph with a police report that

338 shall be provided to the property owner or lessee, or agent of  
339 the property owner or lessee, and the towing company.

340 7.6. A ~~Any~~ person or firm that tows or removes vehicles or  
341 vessels and proposes to require an owner, operator, or person in  
342 control of a vehicle or vessel to pay the costs of towing and  
343 storage before ~~prior to~~ redemption of the vehicle or vessel must  
344 file and keep on record with the local law enforcement agency a  
345 complete copy of the current rates to be charged for such  
346 services and post at the storage site an identical rate schedule  
347 and any written contracts with property owners, lessees, or  
348 persons in control of property which authorize such person or  
349 firm to remove vehicles or vessels as provided in this section.

350 8.7. A ~~Any~~ person or firm towing or removing ~~any~~ vehicles  
351 or vessels from private property without the consent of the  
352 owner or other legally authorized person in control of the  
353 vehicles or vessels shall, on any trucks, wreckers as defined in  
354 s. 713.78(1)(c), or other vehicles used in the towing or  
355 removal, have the name, address, and telephone number of the  
356 company performing such service clearly printed in contrasting  
357 colors on the driver and passenger sides of the vehicle. The  
358 name shall be in at least 3-inch, permanently affixed letters,  
359 and the address and telephone number shall be in at least 1-  
360 inch, permanently affixed letters.

361 9.8. Vehicle entry for the purpose of removing the vehicle  
362 or vessel shall be allowed with reasonable care on the part of  
363 the person or firm towing the vehicle or vessel. Such person or

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

367 ~~10.9.~~ When a vehicle or vessel has been towed or removed  
368 pursuant to this section, it must be released to its owner or  
369 custodian within 1 ~~one~~ hour after requested. A ~~Any~~ vehicle or  
370 vessel owner or agent of the owner may ~~shall have the right to~~  
371 inspect the vehicle or vessel before accepting its return. A~~r~~  
372 ~~and no~~ release or waiver of any kind which would release the  
373 person or firm towing the vehicle or vessel from liability for  
374 damages noted by the owner or other legally authorized person at  
375 the time of the redemption may not be required from a ~~any~~  
376 vehicle or vessel owner or~~r~~ custodian~~r~~ or agent of the owner or  
377 custodian as a condition of release of the vehicle or vessel to  
378 its owner. A detailed, signed receipt showing the legal name of  
379 the company or person towing or removing the vehicle or vessel  
380 must be given to the person paying towing or storage charges at  
381 the time of payment, whether requested or not.

382 (b) The ~~These~~ requirements of this subsection are minimum  
383 standards and do not preclude enactment of additional  
384 regulations by a ~~any~~ municipality or county including the right  
385 to regulate rates when vehicles or vessels are towed from  
386 private property.

387 (3) This section does not apply to law enforcement,  
388 firefighting, rescue squad, ambulance, or other emergency  
389 vehicles or vessels that are marked as such or to property owned

390 by a ~~any~~ governmental entity.

391 (4) When a person improperly causes a vehicle or vessel to  
392 be removed, such person shall be liable to the owner or lessee  
393 of the vehicle or vessel for the cost of removal,  
394 transportation, and storage; any damages resulting from the  
395 removal, transportation, or storage of the vehicle or vessel;  
396 attorney's fees; and court costs.

397 (5) (a) A ~~Any~~ person who violates subparagraph (2) (a)2. or  
398 subparagraph (2) (a)7. ~~(2) (a)6.~~ commits a misdemeanor of the  
399 first degree, punishable as provided in s. 775.082 or s.  
400 775.083.

401 (b) A ~~Any~~ person who violates subparagraph (2) (a)1.,  
402 subparagraph (2) (a)3., subparagraph (2) (a)4., subparagraph  
403 (2) (a)8. ~~(2) (a)7.~~, or subparagraph (2) (a)10. ~~(2) (a)9.~~ commits a  
404 felony of the third degree, punishable as provided in s.  
405 775.082, s. 775.083, or s. 775.084.

406 Section 3. This act shall take effect upon becoming a law.