

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Transportation &
 2 Infrastructure Subcommittee
 3 Representative Rodriguez, A. M. offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

7 Section 1. Paragraphs (c) and (d) of subsection (4),
 8 subsection (6), and subsection (10) of section 713.78, Florida
 9 Statutes, are amended, and subsection (14) is added to that
 10 section, to read:

11 713.78 Liens for recovering, towing, or storing vehicles
 12 and vessels.-

13 (4)

14 (c) ~~Notice by certified mail shall be sent~~ Within 7
 15 business days after the date of storage of the vehicle or
 16 vessel, the towing-storage operator shall, through a third-party

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17 notification service approved by the Department of Highway
18 Safety and Motor Vehicles, send notice by certified mail to the
19 registered owner, the insurance company insuring the vehicle
20 notwithstanding the provisions of s. 627.736, and all persons of
21 record claiming a lien against the vehicle or vessel. The notice
22 ~~It~~ shall state the fact of possession of the vehicle or vessel,
23 that a lien as provided in subsection (2) is claimed, that
24 charges have accrued and the amount thereof, that the lien is
25 subject to enforcement pursuant to law, and that the owner or
26 lienholder, if any, has the right to a hearing as set forth in
27 subsection (5), and that any vehicle or vessel which remains
28 unclaimed, or for which the charges for recovery, towing, or
29 storage services remain unpaid, may be sold free of all prior
30 liens after 35 days if the vehicle or vessel is more than 3
31 years of age or after 50 days if the vehicle or vessel is 3
32 years of age or less.

33 (d) If attempts to locate the name and address of the
34 owner or lienholder prove unsuccessful, ~~the towing storage~~
35 ~~operator shall, after 7 business working days, excluding~~
36 ~~Saturday and Sunday, of the initial tow or storage, the towing-~~
37 storage operator shall, through a third-party notification
38 service approved by the Department of Highway Safety and Motor
39 Vehicles, send notice by certified mail to notify the public
40 agency of jurisdiction where the vehicle or vessel is stored ~~in~~
41 ~~writing by certified mail or acknowledged hand delivery that the~~

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42 towing-storage company has been unable to locate the name and
43 address of the owner or lienholder and a physical search of the
44 vehicle or vessel has disclosed no ownership information and a
45 good faith effort has been made, including records checks of the
46 Department of Highway Safety and Motor Vehicles database and the
47 National Motor Vehicle Title Information System or an equivalent
48 commercially available system. For purposes of this paragraph
49 and subsection (9), "good faith effort" means that the following
50 checks have been performed by the company to establish prior
51 state of registration and for title:

52 1. Check of the Department of Highway Safety and Motor
53 Vehicles database for the owner and any lienholder.

54 2. Check of the electronic National Motor Vehicle Title
55 Information System or an equivalent commercially available
56 system to determine the state of registration when there is not
57 a current registration record for the vehicle on file with the
58 Department of Highway Safety and Motor Vehicles.

59 3. Check of vehicle or vessel for any type of tag, tag
60 record, temporary tag, or regular tag.

61 4. Check of law enforcement report for tag number or other
62 information identifying the vehicle or vessel, if the vehicle or
63 vessel was towed at the request of a law enforcement officer.

64 5. Check of trip sheet or tow ticket of tow truck operator
65 to see if a tag was on vehicle or vessel at beginning of tow, if
66 private tow.

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67 6. If there is no address of the owner on the impound
68 report, check of law enforcement report to see if an out-of-
69 state address is indicated from driver license information.

70 7. Check of vehicle or vessel for inspection sticker or
71 other stickers and decals that may indicate a state of possible
72 registration.

73 8. Check of the interior of the vehicle or vessel for any
74 papers that may be in the glove box, trunk, or other areas for a
75 state of registration.

76 9. Check of vehicle for vehicle identification number.

77 10. Check of vessel for vessel registration number.

78 11. Check of vessel hull for a hull identification number
79 which should be carved, burned, stamped, embossed, or otherwise
80 permanently affixed to the outboard side of the transom or, if
81 there is no transom, to the outmost seaboard side at the end of
82 the hull that bears the rudder or other steering mechanism.

83 (6) Any vehicle or vessel which is stored pursuant to
84 subsection (2) and which remains unclaimed, or for which
85 reasonable charges for recovery, towing, or storing remain
86 unpaid, and any contents not released pursuant to subsection
87 (10), may be sold by the owner or operator of the storage space
88 for such towing or storage charge after 35 days from the time
89 the vehicle or vessel is stored therein if the vehicle or vessel
90 is more than 3 years of age or after 50 days following the time
91 the vehicle or vessel is stored therein if the vehicle or vessel

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92 is 3 years of age or less. The sale shall be at public sale for
93 cash. If the date of the sale was not included in the notice
94 required in subsection (4), notice of the sale shall be given to
95 the person in whose name the vehicle or vessel is registered and
96 to all persons claiming a lien on the vehicle or vessel as shown
97 on the records of the Department of Highway Safety and Motor
98 Vehicles or of any corresponding agency in any other state in
99 which the vehicle is identified through a records check of the
100 National Motor Vehicle Title Information System or an equivalent
101 commercially available system as being titled. The towing-
102 storage operator shall, through a third-party notification
103 service approved by the Department of Highway Safety and Motor
104 Vehicles, send notice ~~shall be sent~~ by certified mail to the
105 owner of the vehicle or vessel and the person having the
106 recorded lien on the vehicle or vessel at the address shown on
107 the records of the registering agency and shall be mailed not
108 less than 15 days before the date of the sale. After diligent
109 search and inquiry, if the name and address of the registered
110 owner or the owner of the recorded lien cannot be ascertained,
111 the requirements of notice by mail may be dispensed with. In
112 addition to the notice by mail, public notice of the time and
113 place of sale shall be made by publishing a notice thereof one
114 time, at least 10 days before ~~prior to~~ the date of the sale, in
115 a newspaper of general circulation in the county in which the
116 sale is to be held. The proceeds of the sale, after payment of

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117 reasonable towing and storage charges, and costs of the sale, in
118 that order of priority, shall be deposited with the clerk of the
119 circuit court for the county if the owner or lienholder is
120 absent, and the clerk shall hold such proceeds subject to the
121 claim of the owner or lienholder legally entitled thereto. The
122 clerk shall be entitled to receive 5 percent of such proceeds
123 for the care and disbursement thereof. The certificate of title
124 issued under this law shall be discharged of all liens unless
125 otherwise provided by court order. The owner or lienholder may
126 file a complaint after the vehicle or vessel has been sold in
127 the county court of the county in which it is stored. Upon
128 determining the respective rights of the parties, the court may
129 award damages, ~~attorney's fees,~~ and costs in favor of the
130 prevailing party.

131 (10) Persons who provide services pursuant to this section
132 shall permit:

133 (a) A vehicle or vessel owner, lienholder, or owners,
134 lienholders, insurance company representative, upon presentation
135 of documentation of ownership or recorded claim of lien,
136 including the vehicle or vessel registration, lease or contract,
137 title certificate, electronic title, or lien sale notice; or

138 (b) An agent of the vehicle or vessel owner
139 ~~representatives, or their agents,~~ which agency is evidenced by
140 an original writing acknowledged by the owner before a notary
141 public or other person empowered by law to administer oaths,

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143 immediately upon his or her arrival at the storage facility and
144 before payment of any charges, to inspect the towed vehicle or
145 vessel and shall release to the owner, lienholder, or agent ~~the~~
146 ~~vehicle, vessel, or~~ all personal property not affixed to the
147 vehicle or vessel which was in the vehicle or vessel at the time
148 the vehicle or vessel came into the custody of the person
149 providing such services. Upon receiving the documentation
150 required under paragraph (a) or paragraph (b) and payment of the
151 towing and storage charges, the person providing such services
152 shall release the vehicle or vessel to such owner, lienholder,
153 or agent paying the charges.

154 (14) (a) For purposes of this section, the term "third-
155 party notification service" means a qualified business entity
156 that, upon a request submitted through a website by a towing-
157 storage operator:

158 1. Accesses the Department of Highway Safety and Motor
159 Vehicles' database and the National Motor Vehicle Title
160 Information System to obtain any owner, lienholder, or insurer
161 information necessary for sending a notice required by this
162 section;

163 2. Electronically generates, and provides for the printing
164 and mailing of, the notice on behalf of the towing-storage
165 operator.

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166 3. Electronically returns tracking information or other
167 proof of mailing and delivery of the notice to the towing-
168 storage operator.

169 4. Electronically reports to the Department of Highway
170 Safety and Motor Vehicles through an electronic data exchange
171 process using an Internet interface the following information,
172 as applicable, related to the notice: vehicle identification
173 number or vessel hull identification number, license plate
174 number, the name and address of the towing-storage operator, the
175 physical location of the vehicle or vessel, the date of the tow,
176 the amount of towing and storage charges owed when the notice is
177 generated, and the date the notice is mailed and delivered.

178 (b) A third-party notification service must apply to the
179 Department of Highway Safety and Motor Vehicles and be approved
180 in order to provide notices under this section. The department
181 shall prescribe the format for such applications. The department
182 may approve a third-party notification service applicant as
183 qualified to provide the services described in paragraph (a) if
184 the applicant:

185 1. Provides the department with a performance bond in the
186 amount of \$1 million issued by a surety company authorized to do
187 business in the state;

188 2. Submits an acceptable level 2 internal control and data
189 security audit, or the equivalent, from an independent
190 certified public accountant licensed in the state, which audit

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191 must have been conducted within 1 year before applying to the
192 department; and

193 3. Successfully demonstrates its ability to electronically
194 report to the department the required information related to a
195 towing-storage notice through an electronic data exchange
196 process using an Internet interface.

197
198 Once approved by the department, to remain eligible to provide
199 notices under this section, a third-party notification service
200 must annually provide the department with proof it has
201 maintained the performance bond required in subparagraph 1. and
202 annually submit to the department an acceptable audit required
203 in subparagraph 2. conducted within 1 year since the previously
204 submitted audit.

205 (c) The department may deny, suspend, or revoke approval
206 of a third-party notification service if the department
207 determines that the third-party notification service has
208 committed an act of fraud or misrepresentation related to a
209 notice required by this section.

210 (d) A third-party notification service must maintain all
211 records related to providing notices under this section for 5
212 years and allow the department to inspect and copy such records
213 upon request. The records may be maintained in electronic
214 format.

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215 (e) In the event there are no third-party notification
216 services approved by the department, the towing-storage operator
217 may send any notice required by this section on its own behalf
218 and must, upon submission of an application for a certificate of
219 title or certificate of destruction, submit proof of compliance
220 with this section.

221 Section 2. This act shall take effect January 1, 2020.

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T I T L E A M E N D M E N T

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Remove everything before the enacting clause and insert:

227

An act relating to towing-storage operator liens; amending s.

228

713.78, F.S.; requiring certain lien notices be sent through a

229

third-party notification service; deleting a provision

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authorizing the award of attorney fees to the prevailing party

231

in court proceedings determining the respective rights of owners

232

or lienholders of vehicles or vessels and towing-storage

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operators; revising requirements for the inspection and release

234

of vehicles or vessels and personal property in such vehicles or

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vessels; defining the term "third-party notification service";

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requiring third-party notification services to apply to the

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Department of Highway Safety and Motor Vehicles; authorizing the

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department to approve an application if certain conditions are

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met; requiring approved third-party notification services to

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240 maintain a performance bond and conduct an annual internal
241 control and data security audit; authorizing the department to
242 deny, suspend, or revoke its approval under certain
243 circumstances; requiring a third-party notification service to
244 maintain certain records for a specified period and allow
245 copying of such records by the department; authorizing towing-
246 storage operators to send notices on their own behalf if there
247 are no approved third-party notification services; providing an
248 effective date.