

Amendment No.

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WITHDRAWN	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: Judiciary Committee
 2 Representative Fischer offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 559.917, Florida Statutes, is amended
 7 to read:

8 559.917 Bond to release possessory lien claimed by motor
 9 vehicle repair shop.—

10 (1) (a) A Any customer or a person of record claiming a
 11 lien against a motor vehicle may obtain the release of the her
 12 er-his motor vehicle from any lien claimed under part II of
 13 chapter 713 by a motor vehicle repair shop for repair work
 14 performed under a written repair estimate by filing with the
 15 clerk of the court in the circuit in which the disputed
 16 transaction occurred a cash or surety bond, payable to the

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17 person claiming the lien and conditioned for the payment of any
18 judgment which may be entered on the lien. The bond shall be in
19 the amount stated on the invoice required by s. 559.911, plus
20 accrued storage charges, if any, less any amount paid to the
21 motor vehicle repair shop as indicated on the invoice. The
22 customer or person shall not be required to institute judicial
23 proceedings in order to post the bond in the registry of the
24 court and shall not, ~~nor shall the customer~~ be required to use a
25 particular form for posting the bond, ~~unless the clerk~~ provides
26 ~~shall provide~~ such form to the customer or person for filing.
27 Upon the posting of such bond, the clerk of the court shall
28 automatically issue a certificate notifying the lienor of the
29 posting of the bond and directing the lienor to release the
30 ~~customer's~~ motor vehicle.

31 (b) The lienor shall have 60 days to file suit to recover
32 the bond. The prevailing party in that action may be entitled to
33 damages plus court costs and reasonable attorney ~~attorney's~~
34 fees. If the lienor fails to file suit within 60 days after the
35 posting of such bond, the bond shall be discharged by the clerk.

36 (2) The failure of a lienor to release or return to the
37 customer or person the motor vehicle upon which any lien is
38 claimed, upon receiving a copy of a certificate giving notice of
39 the posting of the bond and directing release of the motor
40 vehicle, shall subject the lienor to judicial proceedings which
41 may be brought by the customer or person to compel compliance

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42 with the certificate. Whenever a customer or person brings an
43 action to compel compliance with the certificate, the customer
44 or person need only establish that:

45 (a) Bond in the amount of the invoice, plus accrued
46 storage charges, if any, less any amount paid to the motor
47 vehicle repair shop as indicated on the invoice, was posted;

48 (b) A certificate was issued pursuant to this section;

49 (c) The motor vehicle repair shop, or any employee or
50 agent thereof who is authorized to release the motor vehicle,
51 received a copy of a certificate issued pursuant to this
52 section; and

53 (d) The motor vehicle repair shop or employee authorized
54 to release the motor vehicle failed to release the motor
55 vehicle.

56
57 The customer or person, upon a judgment in her or his favor in
58 an action brought under this subsection, may be entitled to
59 damages plus court costs and reasonable attorney ~~attorney's~~ fees
60 sustained by her or him by reason of such wrongful detention or
61 retention. Upon a judgment in favor of the motor vehicle repair
62 shop, the shop may be entitled to reasonable attorney ~~attorney's~~
63 fees.

64 (3) A ~~Any~~ motor vehicle repair shop that ~~which~~, or an ~~any~~
65 employee or agent thereof who is authorized to release the motor
66 vehicle who, upon receiving a copy of a certificate giving

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67 notice of the posting of the bond in the required amount and
68 directing release of the motor vehicle, fails to release or
69 return the property to the customer or person pursuant to this
70 section commits ~~is guilty of~~ a misdemeanor of the second degree,
71 punishable as provided in s. 775.082 or s. 775.083.

72 (4) A ~~Any~~ customer or person who stops payment on a credit
73 card charge or a check drawn in favor of a motor vehicle repair
74 shop on account of an invoice or who fails to post a cash or
75 surety bond pursuant to this section shall be prohibited from
76 any recourse under this section with respect to the motor
77 vehicle repair shop.

78 Section 2. Subsection (18) is added to section 559.920,
79 Florida Statutes, to read:

80 559.920 Unlawful acts and practices.—It shall be a
81 violation of this act for any motor vehicle repair shop or
82 employee thereof to:

83 (18) Violate any provision of s. 713.585.

84 Section 3. Subsections (1) through (4), (9), and (13) of
85 section 713.585, Florida Statutes, are amended, and subsections
86 (14) through (18) are added to that section, to read:

87 713.585 Enforcement of lien by sale of motor vehicle.—A
88 person claiming a lien under s. 713.58 for performing labor or
89 services on a motor vehicle may enforce such lien by sale of the
90 vehicle in accordance with the following procedures:

91 (1) The lienor or the lienor's agent must give notice of

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92 the lien, by certified mail, ~~return receipt requested, within 7~~
93 ~~business days, excluding Saturday and Sunday, from the beginning~~
94 ~~date of the assessment of storage charges on said motor vehicle,~~
95 to the registered owner of the vehicle, to the customer as
96 indicated on the order for repair, and to all other persons
97 claiming an interest therein ~~in~~ or lien thereon, as disclosed by
98 the records of the Department of Highway Safety and Motor
99 Vehicles or as disclosed by the records of any corresponding
100 agency of any other state in which the vehicle is identified
101 through a records check of the National Motor Vehicle Title
102 Information System or an equivalent commercially available
103 system as being the current state where the vehicle is titled.

104 Such notice must ~~contain~~:

105 (a) Be sent to the registered owner, the customer, and all
106 other persons claiming an interest therein or lien thereon
107 within 7 business days, excluding Saturday and Sunday, after the
108 date on which storage charges begin to accrue on the vehicle.
109 However, in no event shall the notice of lien be sent less than
110 30 days before the sale of the motor vehicle.

111 (b) Be sent by certified mail with the last 8 digits of
112 the vehicle identification number of the motor vehicle subject
113 to the lien clearly printed in the delivery address box and on
114 the outside of the envelope sent to the registered owner, the
115 customer, and all other persons claiming an interest therein or
116 lien thereon.

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117 (c)~~(a)~~ Contain a description of the vehicle, including, at
118 minimum, its year, make, vehicle identification number, and ~~the~~
119 ~~vehicle's~~ location.

120 (d)~~(b)~~ Contain the name and address of the owner of the
121 vehicle, the customer as indicated on the order for repair, and
122 any person claiming an interest therein ~~in~~ or lien thereon.

123 (e)~~(c)~~ Contain the name, address, and telephone number of
124 the lienor.

125 (f)~~(d)~~ Contain notice that the lienor claims a lien on the
126 vehicle for labor and services performed and storage charges, if
127 any, and the cash sum which, if paid to the lienor, would be
128 sufficient to redeem the vehicle from the lien claimed by the
129 lienor.

130 (g) Contain the motor vehicle repair shop's registration
131 number, owner's name, and physical address and the entity name,
132 as registered with the Department of Agriculture and Consumer
133 Services, of the business where the repair work or storage
134 occurred, which must also appear on the outside of the envelope
135 sent to the registered owner, the customer, and all other
136 persons claiming an interest in or lien on the vehicle.

137 (h) Contain the name of the person or entity that
138 authorized the labor or services on the vehicle.

139 (i) Contain an itemized statement of the amount claimed to
140 be owed to the lienor, including the date the vehicle was
141 dropped off for repairs; the date the repairs were completed;

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142 the date the customer was notified of the completion of the
143 repairs; the amount due for repairs, adjustments, or
144 modifications to the vehicle; any administrative fees; and any
145 daily storage charges.

146 (j)~~(e)~~ Contain notice that the lien claimed by the lienor
147 is subject to enforcement pursuant to this section and that the
148 vehicle may be sold to satisfy the lien.

149 (k)~~(f)~~ Contain ~~if known,~~ the date, time, and location of
150 any proposed or scheduled sale of the vehicle. A vehicle may not
151 be sold earlier than 60 days after completion of the repair
152 work.

153 (l)~~(g)~~ Contain notice that the owner of the vehicle or any
154 person claiming an interest therein ~~in~~ or lien thereon has a
155 right to a hearing at any time before the scheduled date of sale
156 by filing a demand for hearing with the clerk of the circuit
157 court in the county in which the vehicle is held and mailing
158 copies of the demand for hearing to all other owners and lienors
159 as reflected on the notice.

160 (m)~~(h)~~ Contain notice that the owner of the vehicle has a
161 right to recover possession of the vehicle without instituting
162 judicial proceedings by posting bond in accordance with s.
163 559.917.

164 (n)~~(i)~~ Contain notice that any proceeds from the sale of
165 the vehicle remaining after payment of the amount claimed to be
166 due and owing to the lienor will be deposited with the clerk of

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167 the circuit court for disposition upon court order pursuant to
168 subsection (8).

169 ~~(o)-(j)~~ Contain notice that a lienholder, if any, has the
170 right, as specified in subsection (5), to demand a hearing or to
171 post a bond.

172 (p) Contain a statement that the lienor will make the
173 vehicle available for inspection during regular business hours
174 within 3 business days after receiving a written request to
175 inspect the vehicle from a notice recipient, who may present
176 either a copy of an electronic title or paper title as evidence
177 of his or her interest in and right to inspect the vehicle.

178 (q) Contain the address at which the vehicle is physically
179 located.

180 (2) If attempts to locate the owner or lienholder are
181 unsuccessful after a check of the records of the Department of
182 Highway Safety and Motor Vehicles and any state disclosed by the
183 check of the National Motor Vehicle Title Information System or
184 an equivalent commercially available system, the lienor must
185 notify the local law enforcement agency in writing by certified
186 mail or acknowledged hand delivery that the lienor has been
187 unable to locate the owner or lienholder, that a physical search
188 of the vehicle has disclosed no ownership information, and that
189 a good faith effort, including records checks of the Department
190 of Highway Safety and Motor Vehicles database and the National
191 Motor Vehicle Title Information System or an equivalent

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192 commercially available system, has been made. A description of
193 the motor vehicle which includes the year, make, and
194 identification number must be given on the notice. This
195 notification must take place within 7 business days, excluding
196 Saturday and Sunday, after ~~from~~ the beginning date on which ~~of~~
197 ~~the assessment of~~ storage charges begin to accrue on the ~~said~~
198 ~~motor~~ vehicle. For purposes of this subsection ~~paragraph~~, the
199 term "good faith effort" means that the following checks have
200 been performed by the company to establish the prior state of
201 registration and title:

202 (a) A check of the department's ~~Department of Highway~~
203 ~~Safety and Motor Vehicles~~ database for the owner and any
204 lienholder. †

205 (b) A check of the federally mandated electronic National
206 Motor Vehicle Title Information System or an equivalent
207 commercially available system to determine the state of
208 registration when there is not a current title or registration
209 record for the vehicle on file with the department. † ~~of Highway~~
210 ~~Safety and Motor Vehicles;~~

211 (c) A check of the vehicle for any type of tag, tag
212 record, temporary tag, or regular tag. †

213 (d) A check of the vehicle for an inspection sticker or
214 other stickers and decals that could indicate the state of
215 possible registration. † ~~and~~

216 (e) A check of the interior of the vehicle for any papers

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217 that could be in the glove box, trunk, or other areas for the
218 state of registration.

219 (3) A vehicle may not be sold earlier than 60 days after
220 completion of the repair work. If the date of the sale was not
221 included in the notice of lien required in subsection (1),
222 notice of the sale must be sent by certified mail, ~~return~~
223 ~~receipt requested,~~ at least not less than 15 days before the
224 date of sale, to the customer as indicated on the order for
225 repair, and to all other persons claiming an interest in or lien
226 on the motor vehicle, as disclosed by the records of the
227 Department of Highway Safety and Motor Vehicles or of a
228 corresponding agency of any other state in which the vehicle
229 appears to have been registered after completion of a check of
230 the National Motor Vehicle Title Information System or an
231 equivalent commercially available system. Such notice must:

232 (a) Be sent by certified mail with the last 8 digits of
233 the vehicle identification number of the motor vehicle subject
234 to the sale clearly identified and printed in the delivery
235 address box and on the outside of the envelope sent to the
236 registered owner, the customer, and all other persons claiming
237 an interest therein or lien thereon.

238 (b) Contain the motor vehicle repair shop's registration
239 number, owner's name, and physical address and the entity name,
240 as registered with the Department of Agriculture and Consumer
241 Services, of the business where the repair work or storage

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242 occurred, which must also appear on the outside of the envelope
243 containing the notice of sale in the return address section of
244 the envelope.

245 (4) The lienor, at least 15 days before the proposed or
246 scheduled date of sale of the vehicle, shall publish the notice
247 required by this section once in a newspaper circulated in the
248 county where the vehicle repair work was completed and where the
249 sale is to take place held. A certificate of compliance with the
250 notification provisions of this section, which includes the
251 vehicle identification number, verified by the lienor, together
252 with a copy of the notice of lien required by subsection (1) and
253 the notice of sale required by subsection (3), and return
254 receipt for mailing of the notice required by this section,
255 which must include proof of publication, and checks of the
256 Department of Highway Safety and Motor Vehicles and the National
257 Motor Vehicle Title Information System or an equivalent
258 commercially available system, must be duly and expeditiously
259 filed with the clerk of the circuit court in the county where
260 the vehicle is held. The lienor, at the time of filing the
261 certificate of compliance, must pay to the clerk of that court a
262 service charge of \$10 for indexing and recording the
263 certificate.

264 (9)(a) A copy of the certificate of compliance, which must
265 include the vehicle identification number, and the report of
266 sale, certified by the clerk of the court, a copy of the notice

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267 of lien required by subsection (1) and the notice of sale
268 required by subsection (3), and proof of the required check of
269 the National Motor Vehicle Title Information System or an
270 equivalent commercially available system shall constitute
271 satisfactory proof for application to the Department of Highway
272 Safety and Motor Vehicles for transfer of title, together with
273 any other proof required by any rules and regulations of the
274 department.

275 (b) The Department of Highway Safety and Motor Vehicles
276 may not approve an application for transfer of title if the
277 application fails to include a copy of the notice of lien
278 required by subsection (1) and the notice of sale required by
279 subsection (3). The vehicle identification number on the notice
280 of lien must match the vehicle identification number of the
281 vehicle that is the subject of the transfer of title.

282 (13) A failure to make good faith efforts as defined in
283 subsection (2) precludes the imposition of any storage charges
284 against the vehicle. If a lienor fails to provide notice to any
285 person claiming a lien on a vehicle under subsection (1) within
286 7 business days after the date assessment of storage of the
287 vehicle charges has begun, then the lienor may not charge the
288 person is precluded from charging for more than 7 days of
289 storage, but such failure ~~to provide timely notice~~ does not
290 affect charges made for repairs, adjustments, or modifications
291 to the vehicle or the priority of liens on the vehicle.

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292 (14) At any time before the proposed or scheduled date of
293 sale of a vehicle, the owner, the customer, or a person claiming
294 an interest therein or lien thereon may request to inspect the
295 vehicle. The lienor must make the vehicle available for
296 inspection during regular business hours within 3 business days
297 after receiving a written request to inspect the vehicle.

298 (15) (a) A lienor or the lienor's agent may charge an
299 administrative fee to the registered owner, the insurance
300 company insuring the vehicle, or a person of record claiming a
301 lien against the vehicle to obtain release of the vehicle. Such
302 administrative fee may not exceed \$250. For purposes of this
303 paragraph, the term "administrative fee" means a lien fee or any
304 fee imposed by the lienor or the lienor's agent for
305 administrative costs added to the amount due for storage,
306 repairs, adjustments, or modifications to the vehicle.

307 (b) A lienor or the lienor's agent may not charge fees or
308 costs, other than those authorized in this section, that exceed
309 \$250.

310 (16) A motor vehicle repair shop, garage, automotive
311 service facility, or storage operator must use a third-party
312 service approved by the Department of Highway Safety and Motor
313 Vehicles to transmit all notices required by this section. If
314 there is no third-party service approved by the department, the
315 motor vehicle repair shop, garage, automotive service facility,
316 or storage operator may mail the notices and provide evidence of

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317 compliance with this section upon submission of an application
318 for certificate of title or certificate of destruction.

319 (a) For purposes of this subsection, the term "third-party
320 service" means a qualified business entity that, upon a request
321 submitted through a website by a motor vehicle repair shop,
322 garage, automotive service facility, or storage operator:

323 1. Accesses the National Motor Vehicle Title Information
324 System records to obtain the last state of record of the
325 vehicle.

326 2. Accesses the owner, lienholder, and insurer
327 information, as applicable, for a vehicle from the department.

328 3. Electronically generates the notices required of a
329 motor vehicle repair shop and a towing-storage operator by this
330 section through the website.

331 4. Prints and sends the notices required under this
332 section to each owner, lienholder, and insurer of record by
333 certified mail.

334 5. Electronically returns tracking information or other
335 proof of mailing and delivery of the notices to the motor
336 vehicle repair shop and towing-storage operator.

337 6. Electronically reports to the department, via an
338 electronic data exchange process using a web interface, the
339 following information related to the repair and storage notices:

340 a. The vehicle identification number.

341 b. The license plate number.

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342 c. The name and address of the repair shop or lienor.

343 d. The physical location of the vehicle.

344 e. The date on which the vehicle was dropped off for
345 repairs.

346 f. The date on which the repairs were completed.

347 g. The amount due for repairs and the storage amount per
348 day.

349 h. The dates on which the notice was mailed and delivered.

350 i. The date on which the owner was notified the repairs
351 were completed.

352 j. Other information required by the department.

353 (b) A third-party service must apply to and be approved by
354 the department in order to provide notices under this section.

355 The department shall prescribe the format for the application.

356 The department may approve the applicant as qualified to perform
357 the services provided in paragraph (a) if the applicant:

358 1. Provides the department with a \$1 million bond.

359 2. Submits an acceptable internal control and data
360 security audit (Level 2) or its equivalent performed by a
361 licensed certified public accountant.

362 3. Successfully demonstrates the ability to electronically
363 provide required data to the department via an electronic data
364 exchange process using a web interface.

365 (c) The department may deny, suspend, or revoke approval
366 of a third-party service if the department determines that the

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367 third-party service has committed an act of fraud or
368 misrepresentation related to a notice required by this section.

369 (d) A third-party service must maintain all records
370 related to providing notices under this section for 5 years and
371 allow the department to inspect and copy such records upon
372 request. The records may be maintained in an electronic format.

373 (e) A third-party service must annually provide the
374 department with evidence that it maintains a \$1 million bond and
375 must annually submit an internal control and data security audit
376 (Level 2) or its equivalent performed by a licensed certified
377 public accountant to continue its approved status each year.

378 (f) A third-party service must maintain a publicly
379 available website that allows owners, registrants, lienholders,
380 insurance companies, or their agents to search for notices sent
381 pursuant to this section. The search results must exclude
382 personal identifying information but provide the same
383 information provided to the department.

384 (17) A lienor must release to the owner, lienholder, or
385 agent thereof all of the personal property found in but not
386 affixed to the vehicle. Upon payment of the charges owed, the
387 lienor must release the vehicle to the paying owner, lienholder,
388 or agent thereof.

389 (18) A lienor must accept either an electronic or a paper
390 title as evidence of a person's interest in a vehicle.

391 Section 4. Subsection (4), paragraphs (a) and (b) of

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392 subsection (5), and subsections (6) and (9) of section 713.78,
393 Florida Statutes, are amended, and subsections (14) through (17)
394 are added to that section, to read:

395 713.78 Liens for recovering, towing, or storing vehicles
396 and vessels.—

397 (4) (a) A ~~Any~~ person regularly engaged in the business of
398 recovering, towing, or storing vehicles or vessels who comes
399 into possession of a vehicle or vessel pursuant to subsection
400 (2), and who claims a lien for recovery, towing, or storage
401 services, shall give notice, by certified mail, to the
402 registered owner, the insurance company insuring the vehicle
403 notwithstanding ~~the provisions of s. 627.736~~, and ~~to~~ all persons
404 claiming a lien thereon, as disclosed by the records in the
405 Department of Highway Safety and Motor Vehicles or as disclosed
406 by the records of any corresponding agency in any other state in
407 which the vehicle is identified through a records check of the
408 National Motor Vehicle Title Information System or an equivalent
409 commercially available system as being titled or registered.

410 (b) Whenever a ~~any~~ law enforcement agency authorizes the
411 removal of a vehicle or vessel or whenever a ~~any~~ towing service,
412 garage, repair shop, or automotive service, storage, or parking
413 place notifies the law enforcement agency of possession of a
414 vehicle or vessel pursuant to s. 715.07(2)(a)2., the law
415 enforcement agency of the jurisdiction where the vehicle or
416 vessel is stored shall contact the Department of Highway Safety

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417 and Motor Vehicles, or the appropriate agency of the state of
418 registration, if known, within 24 hours through the medium of
419 electronic communications, giving the full description of the
420 vehicle or vessel. Upon receipt of the full description of the
421 vehicle or vessel, the department shall search its files to
422 determine the owner's name, the insurance company insuring the
423 vehicle or vessel, and whether any person has filed a lien upon
424 the vehicle or vessel as provided in s. 319.27(2) and (3) and
425 notify the applicable law enforcement agency within 72 hours.
426 The person in charge of the towing service, garage, repair shop,
427 or automotive service, storage, or parking place shall obtain
428 such information from the applicable law enforcement agency
429 within 5 days after the date of storage and shall give notice
430 pursuant to paragraph (a). The department may release the
431 insurance company information to the requestor notwithstanding
432 ~~the provisions of s. 627.736.~~

433 (c) The notice of lien must be sent by certified mail to
434 the registered owner, the insurance company insuring the vehicle
435 notwithstanding s. 627.736, and all other persons claiming a
436 lien thereon shall be sent within 7 business days, excluding
437 Saturday and Sunday, after the date of storage of the vehicle or
438 vessel. However, in no event shall the notice of lien be sent
439 less than 30 days before the sale of to the registered owner,
440 the insurance company insuring the vehicle notwithstanding the
441 provisions of s. 627.736, and all persons of record claiming a

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442 ~~lien against~~ the vehicle or vessel. The notice must state:

443 1. If the claim of lien is for a vehicle, the last 8
444 digits of the vehicle identification number of the vehicle
445 subject to the lien, or, if the claim of lien is for a vessel,
446 the hull identification number of the vessel subject to the
447 lien, clearly printed in the delivery address box and on the
448 outside of the envelope sent to the registered owner and all
449 other persons claiming an interest therein or lien thereon.

450 2. The name, physical address, and telephone number of the
451 lienor, and the entity name, as registered with the Division of
452 Corporations, of the business where the towing and storage
453 occurred, which must also appear on the outside of the envelope
454 sent to the registered owner and all other persons claiming an
455 interest in or lien on the vehicle or vessel.

456 3. ~~It shall state~~ The fact of possession of the vehicle or
457 vessel.

458 4. The name of the person or entity that authorized the
459 lienor to take possession of the vehicle or vessel.

460 5. That a lien as provided in subsection (2) is claimed.

461 6. That charges have accrued and include an itemized
462 statement of the amount thereof.

463 7. That the lien is subject to enforcement under pursuant
464 to law, and that the owner or lienholder, if any, has the right
465 to a hearing as set forth in subsection (5). ~~and~~

466 8. That any vehicle or vessel that ~~which~~ remains

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467 unclaimed, or for which the charges for recovery, towing, or
468 storage services remain unpaid, may be sold free of all prior
469 liens ~~after~~ 35 days after the vehicle or vessel is stored by the
470 lienor if the vehicle or vessel is more than 3 years of age or
471 ~~after~~ 50 days after the vehicle or vessel is stored by the
472 lienor if the vehicle or vessel is 3 years of age or less.

473 9. The address at which the vehicle or vessel is
474 physically located.

475 (d) The notice of lien may not be sent to the registered
476 owner, the insurance company insuring the vehicle or vessel, and
477 all other persons claiming a lien thereon less than 30 days
478 before the sale of the vehicle or vessel.

479 (e) ~~(d)~~ If attempts to locate the name and address of the
480 owner or lienholder prove unsuccessful, the towing-storage
481 operator shall, after 7 business ~~working~~ days, excluding
482 Saturday and Sunday, after ~~of~~ the initial tow or storage, notify
483 the public agency of jurisdiction where the vehicle or vessel is
484 stored in writing by certified mail or acknowledged hand
485 delivery that the towing-storage company has been unable to
486 locate the name and address of the owner or lienholder and a
487 physical search of the vehicle or vessel has disclosed no
488 ownership information and a good faith effort has been made,
489 including records checks of the Department of Highway Safety and
490 Motor Vehicles database and the National Motor Vehicle Title
491 Information System or an equivalent commercially available

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492 system. For purposes of this paragraph and subsection (9), the
493 term "good faith effort" means that the following checks have
494 been performed by the company to establish the prior state of
495 registration and for title:

496 1. A check of the department's ~~Department of Highway~~
497 ~~Safety and Motor Vehicles~~ database for the owner and any
498 lienholder.

499 2. A check of the electronic National Motor Vehicle Title
500 Information System or an equivalent commercially available
501 system to determine the state of registration when there is not
502 a current registration record for the vehicle or vessel on file
503 with the department ~~of Highway Safety and Motor Vehicles~~.

504 3. A check of the vehicle or vessel for any type of tag,
505 tag record, temporary tag, or regular tag.

506 4. A check of the law enforcement report for a tag number
507 or other information identifying the vehicle or vessel, if the
508 vehicle or vessel was towed at the request of a law enforcement
509 officer.

510 5. A check of the trip sheet or tow ticket of the tow
511 truck operator to determine whether ~~see if~~ a tag was on the
512 vehicle or vessel at the beginning of the tow, if a private tow.

513 6. If there is no address of the owner on the impound
514 report, a check of the law enforcement report to determine
515 whether ~~see if~~ an out-of-state address is indicated from driver
516 license information.

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517 7. A check of the vehicle or vessel for an inspection
518 sticker or other stickers and decals that may indicate a state
519 of possible registration.

520 8. A check of the interior of the vehicle or vessel for
521 any papers that may be in the glove box, trunk, or other areas
522 for a state of registration.

523 9. A check of the vehicle for a vehicle identification
524 number.

525 10. A check of the vessel for a vessel registration
526 number.

527 11. A check of the vessel hull for a hull identification
528 number which should be carved, burned, stamped, embossed, or
529 otherwise permanently affixed to the outboard side of the
530 transom or, if there is no transom, to the outmost seaboard side
531 at the end of the hull that bears the rudder or other steering
532 mechanism.

533 (5) (a) The owner of a vehicle or vessel removed pursuant
534 to ~~the provisions of~~ subsection (2), or any person claiming a
535 lien, other than the towing-storage operator, within 10 days
536 after the time she or he has knowledge of the location of the
537 vehicle or vessel, may file a complaint in the county court of
538 the county in which the vehicle or vessel is stored to determine
539 whether ~~if~~ her or his property was wrongfully taken or withheld
540 ~~from her or him~~.

541 (b) At any time before the sale of the vehicle or vessel

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542 ~~Upon filing of a complaint,~~ an owner or lienholder may have her
543 or his vehicle or vessel released upon posting with the court a
544 cash or surety bond or other adequate security equal to the
545 amount of the charges for towing or storage and lot rental
546 amount to ensure the payment of such charges in the event she or
547 he does not prevail. Upon the posting of the bond and the
548 payment of the applicable fee set forth in s. 28.24, the clerk
549 of the court shall issue a certificate notifying the lienor of
550 the posting of the bond and directing the lienor to release the
551 vehicle or vessel. At the time of such release, after reasonable
552 inspection, she or he shall give a receipt to the towing-storage
553 company reciting any claims she or he has for loss or damage to
554 the vehicle or vessel or the contents thereof.

555 (6) A ~~Any~~ vehicle or vessel that ~~which~~ is stored pursuant
556 to subsection (2) and ~~which~~ remains unclaimed, or for which
557 reasonable charges for recovery, towing, or storing remain
558 unpaid, and any contents not released pursuant to subsection
559 (10), may be sold by the owner or operator of the storage space
560 for such towing or storage charge ~~after~~ 35 days after ~~from the~~
561 ~~time~~ the vehicle or vessel is stored by the lienor ~~therein~~ if
562 the vehicle or vessel is more than 3 years of age or ~~after~~ 50
563 days after ~~following the time~~ the vehicle or vessel is stored by
564 the lienor ~~therein~~ if the vehicle or vessel is 3 years of age or
565 less. The sale shall be at public sale for cash. If the date of
566 the sale was not included in the notice required in subsection

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567 (4), notice of the sale shall be given to the person in whose
568 name the vehicle or vessel is registered and to all persons
569 claiming a lien on the vehicle or vessel as shown on the records
570 of the Department of Highway Safety and Motor Vehicles or of any
571 corresponding agency in any other state in which the vehicle is
572 identified through a records check of the National Motor Vehicle
573 Title Information System or an equivalent commercially available
574 system as being titled. Notice of the sale must ~~shall~~ be sent by
575 certified mail. The notice must have clearly identified and
576 printed, if the claim of lien is for a motor vehicle, the last 8
577 digits of the vehicle identification number of the motor vehicle
578 subject to the lien or, if the claim of lien is for a vessel,
579 the hull identification number of the vessel subject to the
580 lien, in the delivery address box and on the outside of the
581 envelope sent to the registered owner and all other persons
582 claiming an interest therein or lien thereon. The notice must be
583 sent to the owner of the vehicle or vessel and the person having
584 the recorded lien on the vehicle or vessel at the address shown
585 on the records of the registering agency at least ~~and shall be~~
586 mailed not less than 15 days before the sale of the vehicle or
587 vessel ~~date of the sale~~. The notice must state the name,
588 physical address, and telephone number of the lienor, and the
589 vehicle identification number if the claim of lien is for a
590 vehicle or the hull identification number if the claim of lien
591 is for a vessel, all of which must also appear in the return

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592 address section on the outside of the envelope containing the
593 notice of sale. After diligent search and inquiry, if the name
594 and address of the registered owner or the owner of the recorded
595 lien cannot be ascertained, the requirements of notice by mail
596 may be dispensed with. In addition to the notice by mail, public
597 notice of the time and place of sale shall be made by publishing
598 a notice thereof one time, at least 10 days before ~~prior to~~ the
599 date of the sale, in a newspaper of general circulation in the
600 county in which the sale is to be held. The proceeds of the
601 sale, after payment of reasonable towing and storage charges,
602 and costs of the sale, in that order of priority, shall be
603 deposited with the clerk of the circuit court for the county if
604 the owner or lienholder is absent, and the clerk shall hold such
605 proceeds subject to the claim of the owner or lienholder legally
606 entitled thereto. The clerk shall be entitled to receive 5
607 percent of such proceeds for the care and disbursement thereof.
608 The certificate of title issued under this law shall be
609 discharged of all liens unless otherwise provided by court
610 order. The owner or lienholder may file a complaint after the
611 vehicle or vessel has been sold in the county court of the
612 county in which it is stored. Upon determining the respective
613 rights of the parties, the court may award damages, attorney
614 ~~attorney's~~ fees, and costs in favor of the prevailing party.

615 (9) Failure to make good faith ~~best~~ efforts to comply with
616 the notice requirements of this section precludes ~~shall preclude~~

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617 the imposition of any storage charges against the such vehicle
618 or vessel. If a lienor fails to provide notice to a person
619 claiming a lien on a vehicle or vessel in accordance with
620 subsection (4), the lienor may not charge the person for more
621 than 7 days of storage, but such failure does not affect charges
622 made for towing the vehicle or vessel or the priority of liens
623 on the vehicle or vessel.

624 (14) (a) A copy of the notice of lien required by
625 subsection (4) and the notice of sale required by subsection
626 (6), which must include the vehicle identification number if the
627 claim of lien is for a vehicle or the hull identification number
628 if the claim of lien is for a vessel, and proof of the required
629 check of the National Motor Vehicle Title Information System or
630 an equivalent commercially available system shall constitute
631 satisfactory proof for application to the Department of Highway
632 Safety and Motor Vehicles for transfer of title, together with
633 any other proof required by any rules and regulations of the
634 department.

635 (b) The Department of Highway Safety and Motor Vehicles
636 may not approve an application for transfer of title if the
637 application fails to include a copy of the notice of lien
638 required by subsection (4) and the notice of sale required by
639 subsection (6). The vehicle or hull identification number on the
640 notice of lien must match the vehicle or hull identification
641 number of the vehicle or vessel that is the subject of the

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642 transfer of title.

643 (15) (a) A lienor or the lienor's agent may charge an
644 administrative fee to the registered owner, the insurance
645 company insuring the vehicle or vessel, or a person claiming a
646 lien against the vehicle or vessel to obtain release of the
647 vehicle or vessel. Such administrative fee may not exceed \$250.
648 For purposes of this paragraph, the term "administrative fee"
649 means a lien fee or any fee imposed by the lienor or the
650 lienor's agent for administrative costs added to the amount due
651 for towing and storing the vehicle or vessel.

652 (b) A lienor or the lienor's agent may not charge fees or
653 costs, other than those authorized in this section or ss.
654 125.0103 and 166.043, that exceed \$250.

655 (16) A towing-storage operator must use a third-party
656 service approved by the Department of Highway Safety and Motor
657 Vehicles to transmit all notices required by this section. If
658 there is no third-party service approved by the department, the
659 towing-storage operator may mail the notices and provide
660 evidence of compliance with this section upon submission of an
661 application for certificate of title or certificate of
662 destruction.

663 (a) For purposes of this subsection, the term "third-party
664 service" means a qualified business entity that, upon a request
665 submitted through a website by a towing-storage operator:

666 1. Accesses the National Motor Vehicle Title Information

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667 System records to obtain the last state of record of the
668 vehicle.
669 2. Accesses the owner, lienholder, and insurer
670 information, as applicable, for a vehicle or vessel from the
671 department.
672 3. Electronically generates the notices required of a
673 towing-storage operator by this section through the website.
674 4. Prints and sends the notices required under this
675 section to each owner, lienholder, and insurer of record by
676 certified mail.
677 5. Electronically returns tracking information or other
678 proof of mailing and delivery of the notices to the towing-
679 storage operator.
680 6. Electronically reports to the department, via an
681 electronic data exchange process using a web interface, the
682 following information related to the towing and storage notice:
683 a. The vehicle identification number or vessel hull
684 identification number.
685 b. The license plate number.
686 c. The name and address of the towing-storage operator or
687 lienor.
688 d. The physical location of the vehicle or vessel.
689 e. The date on which the vehicle or vessel was towed.
690 f. The amount of storage fees owed at the time of the
691 notice.

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692 g. The date of assessment of storage charges.

693 h. The dates on which the notice was mailed and delivered.

694 i. Other information required by the department.

695 (b) A third-party service must apply to and be approved by
696 the department in order to provide notices under this section.

697 The department shall prescribe the format for the application.

698 The department may approve the applicant as qualified to perform
699 the services provided in paragraph (a) if the applicant:

700 1. Provides the department with a \$1 million bond.

701 2. Submits an acceptable internal control and data
702 security audit (Level 2) or its equivalent performed by a
703 licensed certified public accountant.

704 3. Successfully demonstrates the ability to electronically
705 provide required data to the department via an electronic data
706 exchange process using a web interface.

707 (c) The department may deny, suspend, or revoke approval
708 of a third-party service if the department determines that the
709 third-party service has committed an act of fraud or
710 misrepresentation related to a notice required by this section.

711 (d) A third-party service must maintain all records
712 related to providing notices under this section for 5 years and
713 allow the department to inspect and copy such records upon
714 request. The records may be maintained in an electronic format.

715 (e) A third-party service must annually provide the
716 department with evidence that it maintains a \$1 million bond and

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717 must annually submit an internal control and data security audit
718 (Level 2) or its equivalent performed by a licensed certified
719 public accountant to continue its approved status each year.

720 (f) A third-party service must maintain a publicly
721 available website that allows owners, registrants, lienholders,
722 insurance companies, or their agents to search for notices sent
723 pursuant to this section. The search results must exclude
724 personal identifying information but provide the same
725 information provided to the department.

726 (17) A lienor must accept either a copy of an electronic
727 title or paper title as evidence of a person's interest in a
728 vehicle or vessel.

729 Section 5. 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:

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737

A bill to be entitled

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An act relating to liens against motor vehicles and

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vessels; amending s. 559.917, F.S.; authorizing a

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person claiming a lien against a motor vehicle to

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obtain the release of the vehicle from a lien claimed

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742 by a motor vehicle repair shop under certain
743 circumstances; amending s. 559.920, F.S.; prohibiting
744 a motor vehicle repair shop from violating certain
745 provisions; amending s. 713.585, F.S.; revising notice
746 requirements for enforcing a lien by sale of a motor
747 vehicle; revising requirements for notice of lien and
748 notice of sale of a motor vehicle; requiring the
749 lienor to make the motor vehicle available for
750 inspection by notice recipients; revising requirements
751 for transfer of title; authorizing a lienor to charge
752 an administrative fee up to a certain amount; defining
753 the term "administrative fee"; requiring a motor
754 vehicle repair shop, garage, automotive service
755 facility, or storage operator to use a third-party
756 service to provide notices of lien and sale; providing
757 an exception; defining the term "third-party service";
758 requiring a third-party service to apply to and be
759 approved by the department; providing requirements;
760 authorizing the department to deny, suspend, or revoke
761 approval under certain circumstances; providing
762 recordkeeping requirements; providing requirements for
763 retaining approved status; requiring maintenance of a
764 website for access to certain information; requiring a
765 lienor to release certain personal property; requiring
766 release of the vehicle upon payment of charges;

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767 requiring a lienor to accept an electronic or paper
768 title as evidence of a person's interest in a vehicle;
769 amending s. 713.78, F.S.; revising requirements for
770 notice of lien for recovering, towing, or storing a
771 vehicle or vessel; revising requirements for notice of
772 the sale of such vehicle or vessel; revising
773 requirements for transfer of title; authorizing a
774 lienor to charge an administrative fee up to a certain
775 amount; defining the term "administrative fee";
776 requiring a towing-storage operator to use a third-
777 party service to provide notices of lien and sale;
778 providing an exception; defining the term "third-party
779 service"; requiring a third-party service to apply to
780 and be approved by the department; providing
781 requirements; authorizing the department to deny,
782 suspend, or revoke approval under certain
783 circumstances; providing recordkeeping requirements;
784 providing requirements for retaining approved status;
785 requiring maintenance of a website for access to
786 certain information; requiring a lienor to accept an
787 electronic or paper title as evidence of a person's
788 interest in a vehicle or vessel; providing an
789 effective date.

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