

1                   A bill to be entitled  
2           An act relating to liens against motor vehicles and  
3           vessels; amending s. 559.917, F.S.; authorizing a  
4           person claiming a lien against a motor vehicle to  
5           obtain the release of the vehicle from a lien claimed  
6           by a motor vehicle repair shop under certain  
7           circumstances; amending s. 559.920, F.S.; prohibiting  
8           a motor vehicle repair shop from violating certain  
9           provisions; amending s. 713.585, F.S.; revising notice  
10          requirements for enforcing a lien by sale of a motor  
11          vehicle; revising requirements for notice of lien and  
12          notice of sale of a motor vehicle; requiring the  
13          lienor to make the motor vehicle available for  
14          inspection by notice recipients; revising requirements  
15          for transfer of title; authorizing a lienor to charge  
16          an administrative fee up to a certain amount; defining  
17          the term "administrative fee"; requiring a lienor to  
18          use a third-party mailing service to provide notices  
19          of lien and sale; defining the term "third-party  
20          mailing service"; establishing qualifications for  
21          certification of third-party mailing services;  
22          authorizing the department to deny or revoke  
23          certification under certain circumstances; requiring  
24          certain recordkeeping; specifying the period of  
25          certification; requiring a lienor to release certain

26 | personal property; requiring release of the vehicle  
27 | upon payment of charges; requiring a lienor to accept  
28 | an electronic or paper title as evidence of a person's  
29 | interest in a vehicle; amending s. 713.78, F.S.;  
30 | revising requirements for notice of lien for  
31 | recovering, towing, or storing a vehicle or vessel;  
32 | revising requirements for notice of the sale of such  
33 | vehicle or vessel; revising requirements for transfer  
34 | of title; authorizing a lienor to charge an  
35 | administrative fee up to a certain amount; defining  
36 | the term "administrative fee"; requiring a lienor to  
37 | use a third-party mailing service to provide notices  
38 | of lien and sale; defining the term "third-party  
39 | mailing service"; establishing qualifications for  
40 | certification of third-party mailing services;  
41 | authorizing the department to deny or revoke  
42 | certification under certain circumstances; requiring  
43 | certain recordkeeping; specifying the period of  
44 | certification; requiring a lienor to accept an  
45 | electronic or paper title as evidence of a person's  
46 | interest in a vehicle or vessel; providing an  
47 | effective date.

48 |  
49 | Be It Enacted by the Legislature of the State of Florida:  
50 |

51 Section 1. Section 559.917, Florida Statutes, is amended  
52 to read:

53 559.917 Bond to release possessory lien claimed by motor  
54 vehicle repair shop.—

55 (1) (a) A ~~Any~~ customer or a person of record claiming a  
56 lien against a motor vehicle may obtain the release of the ~~her~~  
57 ~~or his~~ motor vehicle from any lien claimed under part II of  
58 chapter 713 by a motor vehicle repair shop for repair work  
59 performed under a written repair estimate by filing with the  
60 clerk of the court in the circuit in which the disputed  
61 transaction occurred a cash or surety bond, payable to the  
62 person claiming the lien and conditioned for the payment of any  
63 judgment which may be entered on the lien. The bond shall be in  
64 the amount stated on the invoice required by s. 559.911, plus  
65 accrued storage charges, if any, less any amount paid to the  
66 motor vehicle repair shop as indicated on the invoice. The  
67 customer or person shall not be required to institute judicial  
68 proceedings in order to post the bond in the registry of the  
69 court and shall not, ~~nor shall the customer~~ be required to use a  
70 particular form for posting the bond, unless the clerk provides  
71 ~~shall provide~~ such form to the customer or person for filing.  
72 Upon the posting of such bond, the clerk of the court shall  
73 automatically issue a certificate notifying the lienor of the  
74 posting of the bond and directing the lienor to release the  
75 ~~customer's~~ motor vehicle.

76 (b) The lienor shall have 60 days to file suit to recover  
 77 the bond. The prevailing party in that action may be entitled to  
 78 damages plus court costs and reasonable attorney ~~attorney's~~  
 79 fees. If the lienor fails to file suit within 60 days after the  
 80 posting of such bond, the bond shall be discharged.

81 (2) The failure of a lienor to release or return to the  
 82 customer or person the motor vehicle upon which any lien is  
 83 claimed, upon receiving a copy of a certificate giving notice of  
 84 the posting of the bond and directing release of the motor  
 85 vehicle, shall subject the lienor to judicial proceedings which  
 86 may be brought by the customer or person to compel compliance  
 87 with the certificate. Whenever a customer or person brings an  
 88 action to compel compliance with the certificate, the customer  
 89 or person need only establish that:

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

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

94 (c) The motor vehicle repair shop, or any employee or  
 95 agent thereof who is authorized to release the motor vehicle,  
 96 received a copy of a certificate issued pursuant to this  
 97 section; and

98 (d) The motor vehicle repair shop or employee authorized  
 99 to release the motor vehicle failed to release the motor  
 100 vehicle.

101  
102 The customer or person, upon a judgment in her or his favor in  
103 an action brought under this subsection, may be entitled to  
104 damages plus court costs and reasonable attorney ~~attorney's~~ fees  
105 sustained by her or him by reason of such wrongful detention or  
106 retention. Upon a judgment in favor of the motor vehicle repair  
107 shop, the shop may be entitled to reasonable attorney ~~attorney's~~  
108 fees.

109 (3) A ~~Any~~ motor vehicle repair shop that ~~which~~, or an ~~any~~  
110 employee or agent thereof who is authorized to release the motor  
111 vehicle who, upon receiving a copy of a certificate giving  
112 notice of the posting of the bond in the required amount and  
113 directing release of the motor vehicle, fails to release or  
114 return the property to the customer or person pursuant to this  
115 section commits ~~is guilty of~~ a misdemeanor of the second degree,  
116 punishable as provided in s. 775.082 or s. 775.083.

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

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

125 559.920 Unlawful acts and practices.—It shall be a

126 violation of this act for any motor vehicle repair shop or  
 127 employee thereof to:

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

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

132 713.585 Enforcement of lien by sale of motor vehicle.—A  
 133 person claiming a lien under s. 713.58 for performing labor or  
 134 services on a motor vehicle may enforce such lien by sale of the  
 135 vehicle in accordance with the following procedures:

136 (1) The lienor or the lienor's agent must give notice of  
 137 the lien, by certified mail, return receipt requested, ~~within 7~~  
 138 ~~business days, excluding Saturday and Sunday, from the beginning~~  
 139 ~~date of the assessment of storage charges on said motor vehicle,~~  
 140 to the registered owner of the vehicle, to the customer as  
 141 indicated on the order for repair, and to all other persons  
 142 claiming an interest therein ~~in~~ or lien thereon, as disclosed by  
 143 the records of the Department of Highway Safety and Motor  
 144 Vehicles or as disclosed by the records of any corresponding  
 145 agency of any other state in which the vehicle is identified  
 146 through a records check of the National Motor Vehicle Title  
 147 Information System or an equivalent commercially available  
 148 system as being the current state where the vehicle is titled.  
 149 Such notice must ~~contain~~:

150 (a) Be sent to the registered owner, the customer, and all

151 other persons claiming an interest therein or lien thereon  
152 within 7 business days, excluding Saturday and Sunday, after the  
153 date on which storage charges begin to accrue on the vehicle.  
154 However, in no event shall the notice of lien be sent less than  
155 30 days before the sale of the motor vehicle.

156 (b) Be sent by certified mail, return receipt requested,  
157 with the vehicle identification number of the motor vehicle  
158 subject to the lien clearly printed in the delivery address box  
159 or section of the return receipt card; on the outside of the  
160 envelope sent to the registered owner, the customer, and all  
161 other persons claiming an interest therein or lien thereon; and  
162 on the electronic image of the return receipt card available on  
163 the United States Postal Service website.

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

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

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

172 (f)~~(d)~~ Contain notice that the lienor claims a lien on the  
173 vehicle for labor and services performed and storage charges, if  
174 any, and the cash sum which, if paid to the lienor, would be  
175 sufficient to redeem the vehicle from the lien claimed by the

176 | lienor.

177 |       (g) Contain the motor vehicle repair shop's registration  
178 | number, owner's name, and physical address and the entity name,  
179 | as registered with the Division of Corporations, of the business  
180 | where the repair work or storage occurred, which must also  
181 | appear on the outside of the envelope sent to the registered  
182 | owner, the customer, and all other persons claiming an interest  
183 | in or lien on the vehicle.

184 |       (h) Contain the name of the person or entity that  
185 | authorized the labor or services on the vehicle.

186 |       (i) Contain an itemized statement of the amount claimed to  
187 | be owed to the lienor, including the date the vehicle was  
188 | dropped off for repairs; the date the repairs were completed;  
189 | the amount due for repairs, adjustments, or modifications to the  
190 | vehicle; any administrative fees; and any daily storage charges.

191 |       (j)~~(e)~~ Contain notice that the lien claimed by the lienor  
192 | is subject to enforcement pursuant to this section and that the  
193 | vehicle may be sold to satisfy the lien.

194 |       (k)~~(f)~~ Contain ~~if known,~~ the date, time, and location of  
195 | any proposed or scheduled sale of the vehicle. A vehicle may not  
196 | be sold earlier than 60 days after completion of the repair  
197 | work.

198 |       (l)~~(g)~~ Contain notice that the owner of the vehicle or any  
199 | person claiming an interest therein ~~in~~ or lien thereon has a  
200 | right to a hearing at any time before the scheduled date of sale



201 by filing a demand for hearing with the clerk of the circuit  
202 court in the county in which the vehicle is held and mailing  
203 copies of the demand for hearing to all other owners and lienors  
204 as reflected on the notice.

205 ~~(m)-(h)~~ Contain notice that the owner of the vehicle has a  
206 right to recover possession of the vehicle without instituting  
207 judicial proceedings by posting bond in accordance with s.  
208 559.917.

209 ~~(n)-(i)~~ Contain notice that any proceeds from the sale of  
210 the vehicle remaining after payment of the amount claimed to be  
211 due and owing to the lienor will be deposited with the clerk of  
212 the circuit court for disposition upon court order pursuant to  
213 subsection (8).

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

217 (p) Contain a statement that the lienor will make the  
218 vehicle available for inspection during regular business hours  
219 within 3 business days after receiving a written request to  
220 inspect the vehicle from a notice recipient, who may present  
221 either an electronic or a paper title as evidence of his or her  
222 interest in and right to inspect the vehicle.

223 (q) Contain the address at which the vehicle is physically  
224 located.

225 (2) If attempts to locate the owner or lienholder are

226 | unsuccessful after a check of the records of the Department of  
 227 | Highway Safety and Motor Vehicles and any state disclosed by the  
 228 | check of the National Motor Vehicle Title Information System or  
 229 | an equivalent commercially available system, the lienor must  
 230 | notify the local law enforcement agency in writing by certified  
 231 | mail or acknowledged hand delivery that the lienor has been  
 232 | unable to locate the owner or lienholder, that a physical search  
 233 | of the vehicle has disclosed no ownership information, and that  
 234 | a good faith effort, including records checks of the Department  
 235 | of Highway Safety and Motor Vehicles database and the National  
 236 | Motor Vehicle Title Information System or an equivalent  
 237 | commercially available system, has been made. A description of  
 238 | the motor vehicle which includes the year, make, and  
 239 | identification number must be given on the notice. This  
 240 | notification must take place within 7 business days, excluding  
 241 | Saturday and Sunday, after ~~from~~ the ~~beginning~~ date on which ~~of~~  
 242 | ~~the assessment of~~ storage charges begin to accrue on the ~~said~~  
 243 | ~~motor~~ vehicle. For purposes of this subsection ~~paragraph~~, the  
 244 | term "good faith effort" means that the following checks have  
 245 | been performed by the company to establish the prior state of  
 246 | registration and title:

247 |       (a) A check of the department's ~~Department of Highway~~  
 248 | ~~Safety and Motor Vehicles~~ database for the owner and any  
 249 | lienholder. ~~†~~

250 |       (b) A check of the federally mandated electronic National

251 Motor Vehicle Title Information System or an equivalent  
 252 commercially available system to determine the state of  
 253 registration when there is not a current title or registration  
 254 record for the vehicle on file with the department. ~~of Highway~~  
 255 ~~Safety and Motor Vehicles;~~

256 (c) A check of the vehicle for any type of tag, tag  
 257 record, temporary tag, or regular tag. ~~;~~

258 (d) A check of the vehicle for an inspection sticker or  
 259 other stickers and decals that could indicate the state of  
 260 possible registration. ~~;~~ ~~and~~

261 (e) A check of the interior of the vehicle for any papers  
 262 that could be in the glove box, trunk, or other areas for the  
 263 state of registration.

264 (3) A vehicle may not be sold earlier than 60 days after  
 265 completion of the repair work. If the date of the sale was not  
 266 included in the notice of lien required in subsection (1),  
 267 notice of the sale must be sent by certified mail, return  
 268 receipt requested, at least ~~not less than~~ 15 days before the  
 269 date of sale, to the customer as indicated on the order for  
 270 repair, ~~and~~ and to all other persons claiming an interest in or lien  
 271 on the motor vehicle, as disclosed by the records of the  
 272 Department of Highway Safety and Motor Vehicles or of a  
 273 corresponding agency of any other state in which the vehicle  
 274 appears to have been registered after completion of a check of  
 275 the National Motor Vehicle Title Information System or an

276 equivalent commercially available system. Such notice must:  
277 (a) Be sent by certified mail, return receipt requested,  
278 with the vehicle identification number of the motor vehicle  
279 subject to the sale clearly identified and printed in the  
280 delivery address box or section of the return receipt card and  
281 on the outside of the envelope sent to the registered owner, the  
282 customer, and all other persons claiming an interest therein or  
283 lien thereon and clearly visible on the electronic image of the  
284 return receipt card available on the United States Postal  
285 Service website.

286 (b) Contain the motor vehicle repair shop's registration  
287 number, owner's name, and physical address and the entity name,  
288 as registered with the Division of Corporations, of the business  
289 where the repair work or storage occurred, which must also  
290 appear on the outside of the envelope containing the notice of  
291 sale in the return address section of the envelope.

292 (4) The lienor, at least 15 days before the proposed or  
293 scheduled date of sale of the vehicle, shall publish the notice  
294 required by this section once in a newspaper circulated in the  
295 county where the vehicle repair work was completed and the sale  
296 is to take place ~~held~~. A certificate of compliance with the  
297 notification provisions of this section, which includes the  
298 vehicle identification number, verified by the lienor, together  
299 with a copy of the notice of lien required by subsection (1) and  
300 the notice of sale required by subsection (3), and a copy of all

301 return receipts ~~receipt~~ for mailing of the notices ~~notice~~  
 302 required by this section, which must include proof of  
 303 publication, and checks of the Department of Highway Safety and  
 304 Motor Vehicles and the National Motor Vehicle Title Information  
 305 System or an equivalent commercially available system, must be  
 306 duly and expeditiously filed with the clerk of the circuit court  
 307 in the county where the vehicle is held. The lienor, at the time  
 308 of filing the certificate of compliance, must pay to the clerk  
 309 of that court a service charge of \$10 for indexing and recording  
 310 the certificate.

311 (9) (a) A copy of the certificate of compliance, which must  
 312 include the vehicle identification number, and the report of  
 313 sale, certified by the clerk of the court, a copy of the notice  
 314 of lien required by subsection (1) and the notice of sale  
 315 required by subsection (3), and a copy of all return receipts  
 316 for mailing of the notices required by this section, and proof  
 317 of the required check of the National Motor Vehicle Title  
 318 Information System or an equivalent commercially available  
 319 system shall constitute satisfactory proof for application to  
 320 the Department of Highway Safety and Motor Vehicles for transfer  
 321 of title, together with any other proof required by any rules  
 322 and regulations of the department.

323 (b) The Department of Highway Safety and Motor Vehicles  
 324 may not approve an application for transfer of title if the  
 325 application fails to include a copy of the notice of lien

326 required by subsection (1) and the notice of sale required by  
327 subsection (3) and a copy of all return receipts for mailing of  
328 the notices. The vehicle identification number on the return  
329 receipts must match the vehicle identification number of the  
330 vehicle that is the subject of the transfer of title and must be  
331 clearly visible on the electronic image of the return receipt  
332 card available on the United States Postal Service website.

333 (13) A failure to make good faith efforts as defined in  
334 subsection (2) precludes the imposition of any storage charges  
335 against the vehicle. If a lienor fails to provide notice to any  
336 person claiming a lien on a vehicle under subsection (1) within  
337 7 business days after the date assessment of storage of the  
338 vehicle charges has begun, then the lienor may not charge the  
339 person is precluded from charging for more than 7 days of  
340 storage, but such failure to provide timely notice does not  
341 affect charges made for repairs, adjustments, or modifications  
342 to the vehicle or the priority of liens on the vehicle.

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

349 (15) (a) A lienor or the lienor's agent may charge an  
350 administrative fee to the registered owner, the insurance

351 company insuring the vehicle, or a person of record claiming a  
352 lien against the vehicle to obtain release of the vehicle. Such  
353 administrative fee may not exceed \$250. For purposes of this  
354 paragraph, the term "administrative fee" means a lien fee or any  
355 fee imposed by the lienor or the lienor's agent for  
356 administrative costs added to the amount due for storage,  
357 repairs, adjustments, or modifications to the vehicle.

358 (b) A lienor or the lienor's agent may not charge fees or  
359 costs, other than those authorized in this section, that exceed  
360 \$250.

361 (16) A lienor must use a third-party mailing service  
362 certified by the Department of Highway Safety and Motor Vehicles  
363 to transmit all notices required by this section.

364 (a) For purposes of this subsection, the term "third-party  
365 mailing service" means a business entity qualified under  
366 paragraph (b) that, upon a request submitted through a website  
367 by a lienor:

368 1. Accesses the National Motor Vehicle Title Information  
369 System records to obtain the last state of record of the  
370 vehicle;

371 2. Accesses the owner, lienholder, and insurer  
372 information, as applicable, for a vehicle from the department;

373 3. Electronically generates the notices required under  
374 this section;

375 4. Prints and sends the notices required under this

376 section to each owner, lienholder, and insurer of record by  
377 certified mail; and

378 5. Electronically returns tracking information or other  
379 proof of mailing and delivery of the notices to the lienor.

380 (b) A third-party mailing service must apply to the  
381 department for certification, in the format prescribed by the  
382 department, in order to provide notices under this section. The  
383 department may certify an applicant if the applicant:

384 1. Provides the department with evidence that it has been  
385 issued a current and valid \$1 million bond by a surety insurer  
386 authorized to do business in this state; and

387 2. Submits a positive audit of the applicant's internal  
388 controls performed within the preceding year by an independent  
389 certified public accountant licensed under chapter 473.

390 (c) The department may deny or revoke certification of a  
391 third-party mailing service if the department determines that  
392 the third-party mailing service has committed an act of fraud or  
393 misrepresentation related to a notice required by this section.

394 (d) A third-party mailing service must maintain all  
395 records related to providing notices under this section for 5  
396 years. The records may be maintained in an electronic format.

397 (e) Certification under this section is valid for 1 year.  
398 A third-party mailing service that does not maintain the minimum  
399 qualifications for certification may not have its certification  
400 renewed.



401       (17) A lienor must release to the owner, lienholder, or  
 402 agent thereof all of the personal property found in but not  
 403 affixed to the vehicle. Upon payment of the charges owed, the  
 404 lienor must release the vehicle to the paying owner, lienholder,  
 405 or agent thereof.

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

408       Section 4. Subsection (4), paragraphs (a) and (b) of  
 409 subsection (5), and subsections (6) and (9) of section 713.78,  
 410 Florida Statutes, are amended, and subsections (14) through (17)  
 411 are added to that section, to read:

412       713.78 Liens for recovering, towing, or storing vehicles  
 413 and vessels.—

414       (4) (a) A ~~Any~~ person regularly engaged in the business of  
 415 recovering, towing, or storing vehicles or vessels who comes  
 416 into possession of a vehicle or vessel pursuant to subsection  
 417 (2), and who claims a lien for recovery, towing, or storage  
 418 services, shall give notice, by certified mail, return receipt  
 419 requested, to the registered owner, the insurance company  
 420 insuring the vehicle notwithstanding ~~the provisions of s.~~  
 421 627.736, and ~~to~~ all persons claiming a lien thereon, as  
 422 disclosed by the records in the Department of Highway Safety and  
 423 Motor Vehicles or as disclosed by the records of any  
 424 corresponding agency in any other state in which the vehicle is  
 425 identified through a records check of the National Motor Vehicle

426 Title Information System or an equivalent commercially available  
427 system as being titled or registered.

428 (b) Whenever a ~~any~~ law enforcement agency authorizes the  
429 removal of a vehicle or vessel or whenever a ~~any~~ towing service,  
430 garage, repair shop, or automotive service, storage, or parking  
431 place notifies the law enforcement agency of possession of a  
432 vehicle or vessel pursuant to s. 715.07(2)(a)2., the law  
433 enforcement agency of the jurisdiction where the vehicle or  
434 vessel is stored shall contact the Department of Highway Safety  
435 and Motor Vehicles, or the appropriate agency of the state of  
436 registration, if known, within 24 hours through the medium of  
437 electronic communications, giving the full description of the  
438 vehicle or vessel. Upon receipt of the full description of the  
439 vehicle or vessel, the department shall search its files to  
440 determine the owner's name, the insurance company insuring the  
441 vehicle or vessel, and whether any person has filed a lien upon  
442 the vehicle or vessel as provided in s. 319.27(2) and (3) and  
443 notify the applicable law enforcement agency within 72 hours.  
444 The person in charge of the towing service, garage, repair shop,  
445 or automotive service, storage, or parking place shall obtain  
446 such information from the applicable law enforcement agency  
447 within 5 days after the date of storage and shall give notice  
448 pursuant to paragraph (a). The department may release the  
449 insurance company information to the requestor notwithstanding  
450 ~~the provisions of s. 627.736.~~

451           (c) The notice of lien must be sent by certified mail,  
452 return receipt requested, to the registered owner, the insurance  
453 company insuring the vehicle notwithstanding s. 627.736, and all  
454 other persons claiming a lien thereon ~~shall be sent~~ within 7  
455 business days, excluding Saturday and Sunday, after the date of  
456 storage of the vehicle or vessel. However, in no event shall the  
457 notice of lien be sent less than 15 days before the sale of ~~to~~  
458 ~~the registered owner, the insurance company insuring the vehicle~~  
459 ~~notwithstanding the provisions of s. 627.736, and all persons of~~  
460 ~~record claiming a lien against~~ the vehicle or vessel. The notice  
461 must state:

462           1. If the claim of lien is for a vehicle, the vehicle  
463 identification number of the vehicle subject to the lien clearly  
464 printed in the delivery address box or section of the return  
465 receipt card; on the outside of the envelope sent to the  
466 registered owner and all other persons claiming an interest  
467 therein or lien thereon; and on the electronic image of the  
468 return receipt card available on the United States Postal  
469 Service website.

470           2. The name, physical address, and telephone number of the  
471 lienor, and the entity name, as registered with the Division of  
472 Corporations, of the business where the towing and storage  
473 occurred, which must also appear on the outside of the envelope  
474 sent to the registered owner and all other persons claiming an  
475 interest in or lien on the vehicle or vessel.

476 3. ~~It shall state~~ The fact of possession of the vehicle or  
 477 vessel.

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

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

481 6. That charges have accrued and include an itemized  
 482 statement of the amount thereof.

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

486 8. That any vehicle or vessel that ~~which~~ remains  
 487 unclaimed, or for which the charges for recovery, towing, or  
 488 storage services remain unpaid, may be sold free of all prior  
 489 liens ~~after~~ 35 days after the vehicle or vessel is stored by the  
 490 lienor if the vehicle or vessel is more than 3 years of age or  
 491 ~~after~~ 50 days after the vehicle or vessel is stored by the  
 492 lienor if the vehicle or vessel is 3 years of age or less.

493 9. The address at which the vehicle or vessel is  
 494 physically located.

495 (d) The notice of lien may not be sent to the registered  
 496 owner, the insurance company insuring the vehicle or vessel, and  
 497 all other persons claiming a lien thereon less than 15 days  
 498 before the sale of the vehicle or vessel.

499 (e) ~~(d)~~ If attempts to locate the name and address of the  
 500 owner or lienholder prove unsuccessful, the towing-storage

501 operator shall, after 7 business ~~working~~ days, excluding  
 502 Saturday and Sunday, after ~~of~~ the initial tow or storage, notify  
 503 the public agency of jurisdiction where the vehicle or vessel is  
 504 stored in writing by certified mail or acknowledged hand  
 505 delivery that the towing-storage company has been unable to  
 506 locate the name and address of the owner or lienholder and a  
 507 physical search of the vehicle or vessel has disclosed no  
 508 ownership information and a good faith effort has been made,  
 509 including records checks of the Department of Highway Safety and  
 510 Motor Vehicles database and the National Motor Vehicle Title  
 511 Information System or an equivalent commercially available  
 512 system. For purposes of this paragraph and subsection (9), the  
 513 term "good faith effort" means that the following checks have  
 514 been performed by the company to establish the prior state of  
 515 registration and for title:

516 1. A check of the department's ~~Department of Highway~~  
 517 ~~Safety and Motor Vehicles~~ database for the owner and any  
 518 lienholder.

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

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

526 4. A check of the law enforcement report for a tag number  
527 or other information identifying the vehicle or vessel, if the  
528 vehicle or vessel was towed at the request of a law enforcement  
529 officer.

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

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

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

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

543 9. A check of the vehicle for a vehicle identification  
544 number.

545 10. A check of the vessel for a vessel registration  
546 number.

547 11. A check of the vessel hull for a hull identification  
548 number which should be carved, burned, stamped, embossed, or  
549 otherwise permanently affixed to the outboard side of the  
550 transom or, if there is no transom, to the outmost seaboard side

551 at the end of the hull that bears the rudder or other steering  
552 mechanism.

553 (5) (a) The owner of a vehicle or vessel removed pursuant  
554 to ~~the provisions of~~ subsection (2), or any person claiming a  
555 lien, other than the towing-storage operator, within 10 days  
556 after the time she or he has knowledge of the location of the  
557 vehicle or vessel, may file a complaint in the county court of  
558 the county in which the vehicle or vessel is stored to determine  
559 whether ~~if~~ her or his property was wrongfully taken or withheld  
560 ~~from her or him~~.

561 (b) At any time before the sale of the vehicle or vessel  
562 ~~Upon filing of a complaint~~, an owner or lienholder may have her  
563 or his vehicle or vessel released upon posting with the court a  
564 cash or surety bond or other adequate security equal to the  
565 amount of the charges for towing or storage and lot rental  
566 amount to ensure the payment of such charges in the event she or  
567 he does not prevail. Upon the posting of the bond and the  
568 payment of the applicable fee set forth in s. 28.24, the clerk  
569 of the court shall issue a certificate notifying the lienor of  
570 the posting of the bond and directing the lienor to release the  
571 vehicle or vessel. At the time of such release, after reasonable  
572 inspection, she or he shall give a receipt to the towing-storage  
573 company reciting any claims she or he has for loss or damage to  
574 the vehicle or vessel or the contents thereof.

575 (6) A ~~Any~~ vehicle or vessel that ~~which~~ is stored pursuant

576 to subsection (2) and ~~which~~ remains unclaimed, or for which  
577 reasonable charges for recovery, towing, or storing remain  
578 unpaid, and any contents not released pursuant to subsection  
579 (10), may be sold by the owner or operator of the storage space  
580 for such towing or storage charge ~~after~~ 35 days after ~~from the~~  
581 ~~time~~ the vehicle or vessel is stored by the lienor ~~therein~~ if  
582 the vehicle or vessel is more than 3 years of age or ~~after~~ 50  
583 days after ~~following the time~~ the vehicle or vessel is stored by  
584 the lienor ~~therein~~ if the vehicle or vessel is 3 years of age or  
585 less. The sale shall be at public sale for cash. If the date of  
586 the sale was not included in the notice required in subsection  
587 (4), notice of the sale shall be given to the person in whose  
588 name the vehicle or vessel is registered and to all persons  
589 claiming a lien on the vehicle or vessel as shown on the records  
590 of the Department of Highway Safety and Motor Vehicles or of any  
591 corresponding agency in any other state in which the vehicle is  
592 identified through a records check of the National Motor Vehicle  
593 Title Information System or an equivalent commercially available  
594 system as being titled. Notice of the sale must ~~shall~~ be sent by  
595 certified mail, return receipt requested. If the claim of lien  
596 is for a vehicle, the notice must have clearly identified and  
597 printed the vehicle identification number of the motor vehicle  
598 subject to the lien in the delivery address box or section of  
599 the return receipt card; on the outside of the envelope sent to  
600 the registered owner and all other persons claiming an interest



601 therein or lien thereon; and on the electronic image of the  
602 return receipt card available on the United States Postal  
603 Service website. The notice must be sent to the owner of the  
604 vehicle or vessel and the person having the recorded lien on the  
605 vehicle or vessel at the address shown on the records of the  
606 registering agency at least ~~and shall be mailed not less than~~ 15  
607 days before the sale of the vehicle or vessel ~~date of the sale~~.  
608 The notice must state the name, physical address, and telephone  
609 number of the lienor, and the vehicle identification number if  
610 the claim of lien is for a vehicle, all of which must also  
611 appear on the outside of the envelope containing the notice of  
612 sale in the return address section of the envelope. After  
613 diligent search and inquiry, if the name and address of the  
614 registered owner or the owner of the recorded lien cannot be  
615 ascertained, the requirements of notice by mail may be dispensed  
616 with. In addition to the notice by mail, public notice of the  
617 time and place of sale shall be made by publishing a notice  
618 thereof one time, at least 10 days before ~~prior to~~ the date of  
619 the sale, in a newspaper of general circulation in the county in  
620 which the sale is to be held. The proceeds of the sale, after  
621 payment of reasonable towing and storage charges, and costs of  
622 the sale, in that order of priority, shall be deposited with the  
623 clerk of the circuit court for the county if the owner or  
624 lienholder is absent, and the clerk shall hold such proceeds  
625 subject to the claim of the owner or lienholder legally entitled

626 thereto. The clerk shall be entitled to receive 5 percent of  
 627 such proceeds for the care and disbursement thereof. The  
 628 certificate of title issued under this law shall be discharged  
 629 of all liens unless otherwise provided by court order. The owner  
 630 or lienholder may file a complaint after the vehicle or vessel  
 631 has been sold in the county court of the county in which it is  
 632 stored. Upon determining the respective rights of the parties,  
 633 the court may award damages, attorney ~~attorney's~~ fees, and costs  
 634 in favor of the prevailing party.

635 (9) Failure to make good faith ~~best~~ efforts to comply with  
 636 the notice requirements of this section precludes ~~shall preclude~~  
 637 the imposition of any storage charges against the ~~such~~ vehicle  
 638 or vessel. If a lienor fails to provide notice to a person  
 639 claiming a lien on a vehicle or vessel in accordance with  
 640 subsection (4), the lienor may not charge the person for more  
 641 than 7 days of storage, but such failure does not affect charges  
 642 made for towing the vehicle or vessel or the priority of liens  
 643 on the vehicle or vessel.

644 (14) (a) A copy of the notice of lien required by  
 645 subsection (4) and the notice of sale required by subsection  
 646 (6), and a copy of all return receipts for mailing of the  
 647 notices required by this section, which must include the vehicle  
 648 identification number, and proof of the required check of the  
 649 National Motor Vehicle Title Information System or an equivalent  
 650 commercially available system shall constitute satisfactory

651 proof for application to the Department of Highway Safety and  
652 Motor Vehicles for transfer of title, together with any other  
653 proof required by any rules and regulations of the department.

654 (b) The Department of Highway Safety and Motor Vehicles  
655 may not approve an application for transfer of title if the  
656 application fails to include a copy of the notice of lien  
657 required by subsection (4) and the notice of sale required by  
658 subsection (6) and a copy of all return receipts for mailing of  
659 the notices required by this section. The vehicle identification  
660 number on the return receipts must match the vehicle  
661 identification number of the vehicle that is the subject of the  
662 transfer of title and must be clearly visible on the electronic  
663 image of the return receipt card available on the United States  
664 Postal Service website.

665 (15) (a) A lienor or the lienor's agent may charge an  
666 administrative fee to the registered owner, the insurance  
667 company insuring the vehicle or vessel, or a person claiming a  
668 lien against the vehicle or vessel to obtain release of the  
669 vehicle or vessel. Such administrative fee may not exceed \$250.  
670 For purposes of this paragraph, the term "administrative fee"  
671 means a lien fee or any fee imposed by the lienor or the  
672 lienor's agent for administrative costs added to the amount due  
673 for towing and storing the vehicle or vessel.

674 (b) A lienor or the lienor's agent may not charge fees or  
675 costs, other than those authorized in this section or ss.

676 125.0103 and 166.043, that exceed \$250.

677 (16) A lienor must use a third-party mailing service  
678 certified by the Department of Highway Safety and Motor Vehicles  
679 to transmit all notices required by this section.

680 (a) For purposes of this section, the term "third-party  
681 mailing service" means a business entity qualified under  
682 paragraph (b) that, upon a request submitted through a website  
683 by a lienor:

684 1. Accesses the National Motor Vehicle Title Information  
685 System records to obtain the last state of record of the  
686 vehicle;

687 2. Accesses the owner, lienholder, and insurer  
688 information, as applicable, for a vehicle or vessel from the  
689 department;

690 3. Electronically generates the notices required under  
691 this section;

692 4. Prints and sends the notices required under this  
693 section to each owner, lienholder, and insurer of record by  
694 certified mail; and

695 5. Electronically returns tracking information or other  
696 proof of mailing and delivery of the notices to the lienor.

697 (b) A third-party mailing service must apply to the  
698 department for certification, in the format prescribed by the  
699 department, in order to provide notices under this section. The  
700 department may certify an applicant if the applicant:

701        1. Provides the department with evidence that it has been  
 702 issued a current and valid \$1 million bond by a surety insurer  
 703 authorized to do business in this state; and

704        2. Submits a positive audit of the applicant's internal  
 705 controls performed within the preceding year by an independent  
 706 certified public accountant licensed under chapter 473.

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

711        (d) A third-party mailing service must maintain all  
 712 records related to providing notices under this section for 5  
 713 years. The records may be maintained in an electronic format.

714        (e) Certification under this section is valid for 1 year.  
 715 A third-party mailing service that does not maintain the minimum  
 716 qualifications for certification may not have its certification  
 717 renewed.

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

720        Section 5. This act shall take effect January 1, 2020.