

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 motor
18 vehicle repair shop, garage, automotive service
19 facility, or storage operator to use a third-party
20 service to provide notices of lien and sale; providing
21 an exception; defining the term "third-party service";
22 requiring a third-party service to apply to and be
23 approved by the department; providing requirements;
24 authorizing the department to deny, suspend, or revoke
25 approval under certain circumstances; providing

26 recordkeeping requirements; providing requirements for
27 retaining approved status; requiring maintenance of a
28 website for access to certain information; requiring a
29 lienor to release certain personal property; requiring
30 release of the vehicle upon payment of charges;
31 requiring a lienor to accept a copy of an electronic
32 title or a paper title as evidence of a person's
33 interest in a vehicle; amending s. 713.78, F.S.;

34 revising requirements for notice of lien for
35 recovering, towing, or storing a vehicle or vessel;
36 revising requirements for notice of the sale of such
37 vehicle or vessel; revising requirements for transfer
38 of title; authorizing a lienor to charge an
39 administrative fee up to a certain amount; defining
40 the term "administrative fee"; requiring a towing-
41 storage operator to use a third-party service to
42 provide notices of lien and sale; providing an
43 exception; defining the term "third-party service";
44 requiring a third-party service to apply to and be
45 approved by the department; providing requirements;
46 authorizing the department to deny, suspend, or revoke
47 approval under certain circumstances; providing
48 recordkeeping requirements; providing requirements for
49 retaining approved status; requiring maintenance of a
50 website for access to certain information; requiring a

51 lienor to accept a copy of an electronic title or a
 52 paper title as evidence of a person's interest in a
 53 vehicle or vessel; providing an effective date.

54
 55 Be It Enacted by the Legislature of the State of Florida:

56
 57 Section 1. Section 559.917, Florida Statutes, is amended
 58 to read:

59 559.917 Bond to release possessory lien claimed by motor
 60 vehicle repair shop.—

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

76 | particular form for posting the bond, ~~unless the clerk~~ provides
77 | ~~shall provide~~ such form to the customer or person for filing.
78 | Upon the posting of such bond, the clerk of the court shall
79 | automatically issue a certificate notifying the lienor of the
80 | posting of the bond and directing the lienor to release the
81 | ~~customer's~~ motor vehicle.

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

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

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

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

100 | (c) The motor vehicle repair shop, or any employee or

101 agent thereof who is authorized to release the motor vehicle,
102 received a copy of a certificate issued pursuant to this
103 section; and

104 (d) The motor vehicle repair shop or employee authorized
105 to release the motor vehicle failed to release the motor
106 vehicle.

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

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

123 (4) A ~~Any~~ customer or person who stops payment on a credit
124 card charge or a check drawn in favor of a motor vehicle repair
125 shop on account of an invoice or who fails to post a cash or

126 surety bond pursuant to this section shall be prohibited from
 127 any recourse under this section with respect to the motor
 128 vehicle repair shop.

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

131 559.920 Unlawful acts and practices.—It shall be a
 132 violation of this act for any motor vehicle repair shop or
 133 employee thereof to:

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

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

138 713.585 Enforcement of lien by sale of motor vehicle.—A
 139 person claiming a lien under s. 713.58 for performing labor or
 140 services on a motor vehicle may enforce such lien by sale of the
 141 vehicle in accordance with the following procedures:

142 (1) The lienor or the lienor's agent must give notice of
 143 the lien, by certified mail, ~~return receipt requested, within 7~~
 144 ~~business days, excluding Saturday and Sunday, from the beginning~~
 145 ~~date of the assessment of storage charges on said motor vehicle,~~
 146 to the registered owner of the vehicle, to the customer as
 147 indicated on the order for repair, and to all other persons
 148 claiming an interest therein ~~in~~ or lien thereon, as disclosed by
 149 the records of the Department of Highway Safety and Motor
 150 Vehicles or as disclosed by the records of any corresponding

151 agency of any other state in which the vehicle is identified
152 through a records check of the National Motor Vehicle Title
153 Information System or an equivalent commercially available
154 system as being the current state where the vehicle is titled.

155 Such notice must ~~contain~~:

156 (a) Be sent to the registered owner, the customer, and all
157 other persons claiming an interest therein or lien thereon
158 within 7 business days, excluding Saturday and Sunday, after the
159 date on which storage charges begin to accrue on the vehicle.
160 However, in no event shall the notice of lien be sent less than
161 30 days before the sale of the motor vehicle.

162 (b) Be sent by certified mail with the last 8 digits of
163 the vehicle identification number of the motor vehicle subject
164 to the lien clearly printed in the delivery address box and on
165 the outside of the envelope sent to the registered owner, the
166 customer, and all other persons claiming an interest therein or
167 lien thereon.

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

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

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

176 (f)~~(d)~~ Contain notice that the lienor claims a lien on the
177 vehicle for labor and services performed and storage charges, if
178 any, and the cash sum which, if paid to the lienor, would be
179 sufficient to redeem the vehicle from the lien claimed by the
180 lienor.

181 (g) Contain the motor vehicle repair shop's registration
182 number, owner's name, and physical address and the entity name,
183 as registered with the Department of Agriculture and Consumer
184 Services, of the business where the repair work or storage
185 occurred, which must also appear on the outside of the envelope
186 sent to the registered owner, the customer, and all other
187 persons claiming an interest in or lien on the vehicle.

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

190 (i) Contain an itemized statement of the amount claimed to
191 be owed to the lienor, including the date the vehicle was
192 dropped off for repairs; the date the repairs were completed;
193 the date the customer was notified of the completion of the
194 repairs; the amount due for repairs, adjustments, or
195 modifications to the vehicle; any administrative fees; and any
196 daily storage charges.

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

200 (k)~~(f)~~ Contain ~~If known,~~ the date, time, and location of

201 any proposed or scheduled sale of the vehicle. A vehicle may not
202 be sold earlier than 60 days after completion of the repair
203 work.

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

211 (m)~~(h)~~ Contain notice that the owner of the vehicle has a
212 right to recover possession of the vehicle without instituting
213 judicial proceedings by posting bond in accordance with s.
214 559.917.

215 (n)~~(i)~~ Contain notice that any proceeds from the sale of
216 the vehicle remaining after payment of the amount claimed to be
217 due and owing to the lienor will be deposited with the clerk of
218 the circuit court for disposition upon court order pursuant to
219 subsection (8).

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

223 (p) Contain a statement that the lienor will make the
224 vehicle available for inspection during regular business hours
225 within 3 business days after receiving a written request to

226 inspect the vehicle from a notice recipient, who may present
227 either a copy of an electronic title or a paper title as
228 evidence of his or her interest in and right to inspect the
229 vehicle.

230 (q) Contain the address at which the vehicle is physically
231 located.

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

251 term "good faith effort" means that the following checks have
 252 been performed by the company to establish the prior state of
 253 registration and title:

254 (a) A check of the department's ~~Department of Highway~~
 255 ~~Safety and Motor Vehicles~~ database for the owner and any
 256 lienholder.~~;~~

257 (b) A check of the federally mandated electronic National
 258 Motor Vehicle Title Information System or an equivalent
 259 commercially available system to determine the state of
 260 registration when there is not a current title or registration
 261 record for the vehicle on file with the department. ~~of Highway~~
 262 ~~Safety and Motor Vehicles;~~

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

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

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

271 (3) A vehicle may not be sold earlier than 60 days after
 272 completion of the repair work. If the date of the sale was not
 273 included in the notice of lien required in subsection (1),
 274 notice of the sale must be sent by certified mail at least,
 275 ~~return receipt requested, not less than 15 days before the date~~

276 of sale~~7~~ to the customer as indicated on the order for repair~~7~~
277 and to all other persons claiming an interest in or lien on the
278 motor vehicle, as disclosed by the records of the Department of
279 Highway Safety and Motor Vehicles or of a corresponding agency
280 of any other state in which the vehicle appears to have been
281 registered after completion of a check of the National Motor
282 Vehicle Title Information System or an equivalent commercially
283 available system. Such notice must:

284 (a) Be sent by certified mail with the last 8 digits of
285 the vehicle identification number of the motor vehicle subject
286 to the sale clearly identified and printed in the delivery
287 address box and on the outside of the envelope sent to the
288 registered owner, the customer, and all other persons claiming
289 an interest therein or lien thereon.

290 (b) Contain the motor vehicle repair shop's registration
291 number, owner's name, and physical address and the entity name,
292 as registered with the Department of Agriculture and Consumer
293 Services, of the business where the repair work or storage
294 occurred, which must also appear on the outside of the envelope
295 containing the notice of sale in the return address section of
296 the envelope.

297 (4) The lienor, at least 15 days before the proposed or
298 scheduled date of sale of the vehicle, shall publish the notice
299 required by this section once in a newspaper circulated in the
300 county where the vehicle repair work was completed and where the

301 sale is to take place ~~held~~. A certificate of compliance with the
302 notification provisions of this section, which includes the
303 vehicle identification number, verified by the lienor, together
304 with a copy of the notice of lien required by subsection (1) and
305 the notice of sale required by subsection (3), which must
306 ~~include and return receipt for mailing of the notice required by~~
307 ~~this section~~, proof of publication, and checks of the Department
308 of Highway Safety and Motor Vehicles and the National Motor
309 Vehicle Title Information System or an equivalent commercially
310 available system, must be duly and expeditiously filed with the
311 clerk of the circuit court in the county where the vehicle is
312 held. The lienor, at the time of filing the certificate of
313 compliance, must pay to the clerk of that court a service charge
314 of \$10 for indexing and recording the certificate.

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

326 (b) The Department of Highway Safety and Motor Vehicles
327 may not approve an application for transfer of title if the
328 application fails to include a copy of the notice of lien
329 required by subsection (1) and the notice of sale required by
330 subsection (3). The vehicle identification number on the notice
331 of lien must match the vehicle identification number of the
332 vehicle that is the subject of the transfer of title.

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 or a person of record

351 claiming a lien against the vehicle to obtain release of the
352 vehicle from the claim of lien imposed under this section. 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 motor vehicle repair shop, garage, automotive
362 service facility, or storage operator must use a third-party
363 service approved by the Department of Highway Safety and Motor
364 Vehicles to transmit all notices required by this section. If
365 there is no third-party service approved by the department, the
366 motor vehicle repair shop, garage, automotive service facility,
367 or storage operator may mail the notices and provide evidence of
368 compliance with this section upon submission of an application
369 for certificate of title or certificate of destruction.

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

374 1. Accesses the National Motor Vehicle Title Information
375 System records to obtain the last state of record of the

376 vehicle.

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

379 3. Electronically generates the notices required of a
380 motor vehicle repair shop, an automotive service facility, a
381 garage, and a towing-storage operator by this section through
382 the website.

383 4. Prints and sends the notices required under this
384 section to each owner, lienholder, and insurer of record by
385 certified mail.

386 5. Electronically returns tracking information or other
387 proof of mailing and delivery of the notices to the motor
388 vehicle repair shop, automotive service facility, garage, and
389 towing-storage operator.

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

393 a. The vehicle identification number.

394 b. The license plate number.

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

396 d. The physical location of the vehicle.

397 e. The date on which the vehicle was dropped off for
398 repairs.

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

400 g. The amount due for repairs and the storage amount per

401 day.

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

403 i. The date on which the owner was notified that the

404 repairs were completed.

405 j. Other information required by the department.

406 (b) A third-party service must apply to and be approved by

407 the department in order to provide notices under this section.

408 The department shall prescribe the format for the application.

409 The department may approve the applicant as qualified to perform

410 the services provided in paragraph (a) if the applicant:

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

412 2. Submits an acceptable internal control and data

413 security audit (Level 2) or its equivalent performed by a

414 licensed certified public accountant.

415 3. Successfully demonstrates the ability to electronically

416 provide required data to the department via an electronic data

417 exchange process using a web interface.

418 (c) The department may deny, suspend, or revoke approval

419 of a third-party service if the department determines that the

420 third-party service has committed an act of fraud or

421 misrepresentation related to a notice required by this section.

422 (d) A third-party service must maintain all records

423 related to providing notices under this section for 5 years and

424 allow the department to inspect and copy such records upon

425 request. The records may be maintained in an electronic format.

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

431 (f) A third-party service must maintain a publicly
432 available website that allows owners, registrants, lienholders,
433 insurance companies, or their agents to search for notices sent
434 pursuant to this section. The search results must exclude
435 personal identifying information but provide the same
436 information provided to the department.

437 (17) A lienor must release to the owner, lienholder, or
438 agent thereof all of the personal property found in but not
439 affixed to the vehicle. Upon payment of the charges owed, the
440 lienor must release the vehicle to the paying owner, lienholder,
441 or agent thereof.

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

445 Section 4. Subsection (4), paragraphs (a) and (b) of
446 subsection (5), and subsections (6) and (9) of section 713.78,
447 Florida Statutes, are amended, and subsections (14) through (17)
448 are added to that section, to read:

449 713.78 Liens for recovering, towing, or storing vehicles
450 and vessels.—

451 (4) (a) A ~~Any~~ person regularly engaged in the business of
452 recovering, towing, or storing vehicles or vessels who comes
453 into possession of a vehicle or vessel pursuant to subsection
454 (2), and who claims a lien for recovery, towing, or storage
455 services, shall give notice, by certified mail, to the
456 registered owner, the insurance company insuring the vehicle
457 notwithstanding ~~the provisions of s. 627.736,~~ and ~~to~~ all persons
458 claiming a lien thereon, as disclosed by the records in the
459 Department of Highway Safety and Motor Vehicles or as disclosed
460 by the records of any corresponding agency in any other state in
461 which the vehicle is identified through a records check of the
462 National Motor Vehicle Title Information System or an equivalent
463 commercially available system as being titled or registered.

464 (b) Whenever a ~~any~~ law enforcement agency authorizes the
465 removal of a vehicle or vessel or whenever a ~~any~~ towing service,
466 garage, repair shop, or automotive service, storage, or parking
467 place notifies the law enforcement agency of possession of a
468 vehicle or vessel pursuant to s. 715.07(2)(a)2., the law
469 enforcement agency of the jurisdiction where the vehicle or
470 vessel is stored shall contact the Department of Highway Safety
471 and Motor Vehicles, or the appropriate agency of the state of
472 registration, if known, within 24 hours through the medium of
473 electronic communications, giving the full description of the
474 vehicle or vessel. Upon receipt of the full description of the
475 vehicle or vessel, the department shall search its files to

476 determine the owner's name, the insurance company insuring the
477 vehicle or vessel, and whether any person has filed a lien upon
478 the vehicle or vessel as provided in s. 319.27(2) and (3) and
479 notify the applicable law enforcement agency within 72 hours.
480 The person in charge of the towing service, garage, repair shop,
481 or automotive service, storage, or parking place shall obtain
482 such information from the applicable law enforcement agency
483 within 5 days after the date of storage and shall give notice
484 pursuant to paragraph (a). The department may release the
485 insurance company information to the requestor notwithstanding
486 ~~the provisions of s. 627.736.~~

487 (c) The notice of lien must be sent by certified mail to
488 the registered owner, the insurance company insuring the vehicle
489 notwithstanding s. 627.736, and all other persons claiming a
490 lien thereon shall be sent within 7 business days, excluding
491 Saturday and Sunday, after the date of storage of the vehicle or
492 vessel. However, in no event shall the notice of lien be sent
493 less than 30 days before the sale of to the registered owner,
494 ~~the insurance company insuring the vehicle notwithstanding the~~
495 ~~provisions of s. 627.736, and all persons of record claiming a~~
496 ~~lien against~~ the vehicle or vessel. The notice must state:
497 1. If the claim of lien is for a vehicle, the last 8
498 digits of the vehicle identification number of the vehicle
499 subject to the lien, or, if the claim of lien is for a vessel,
500 the hull identification number of the vessel subject to the

501 lien, clearly printed in the delivery address box and on the
502 outside of the envelope sent to the registered owner and all
503 other persons claiming an interest therein or lien thereon.

504 2. The name, physical address, and telephone number of the
505 lienor, and the entity name, as registered with the Division of
506 Corporations, of the business where the towing and storage
507 occurred, which must also appear on the outside of the envelope
508 sent to the registered owner and all other persons claiming an
509 interest in or lien on the vehicle or vessel.

510 3. ~~It shall state~~ The fact of possession of the vehicle or
511 vessel.

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

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

515 6. That charges have accrued and include an itemized
516 statement of the amount thereof.

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

520 8. That any vehicle or vessel that ~~which~~ remains
521 unclaimed, or for which the charges for recovery, towing, or
522 storage services remain unpaid, may be sold free of all prior
523 liens ~~after~~ 35 days after the vehicle or vessel is stored by the
524 lienor if the vehicle or vessel is more than 3 years of age or
525 ~~after~~ 50 days after the vehicle or vessel is stored by the

526 | lienor if the vehicle or vessel is 3 years of age or less.

527 | 9. The address at which the vehicle or vessel is
528 | physically located.

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

533 | (e)~~(d)~~ If attempts to locate the name and address of the
534 | owner or lienholder prove unsuccessful, the towing-storage
535 | operator shall, after 7 business ~~working~~ days, excluding
536 | Saturday and Sunday, after ~~of~~ the initial tow or storage, notify
537 | the public agency of jurisdiction where the vehicle or vessel is
538 | stored in writing by certified mail or acknowledged hand
539 | delivery that the towing-storage company has been unable to
540 | locate the name and address of the owner or lienholder and a
541 | physical search of the vehicle or vessel has disclosed no
542 | ownership information and a good faith effort has been made,
543 | including records checks of the Department of Highway Safety and
544 | Motor Vehicles database and the National Motor Vehicle Title
545 | Information System or an equivalent commercially available
546 | system. For purposes of this paragraph and subsection (9), the
547 | term "good faith effort" means that the following checks have
548 | been performed by the company to establish the prior state of
549 | registration and for title:

550 | 1. A check of the department's ~~Department of Highway~~

551 ~~Safety and Motor Vehicles~~ database for the owner and any
552 lienholder.

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

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

560 4. A check of the law enforcement report for a tag number
561 or other information identifying the vehicle or vessel, if the
562 vehicle or vessel was towed at the request of a law enforcement
563 officer.

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

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

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

574 8. A check of the interior of the vehicle or vessel for
575 any papers that may be in the glove box, trunk, or other areas

576 for a state of registration.

577 9. A check of the vehicle for a vehicle identification
578 number.

579 10. A check of the vessel for a vessel registration
580 number.

581 11. A check of the vessel hull for a hull identification
582 number which should be carved, burned, stamped, embossed, or
583 otherwise permanently affixed to the outboard side of the
584 transom or, if there is no transom, to the outmost seaboard side
585 at the end of the hull that bears the rudder or other steering
586 mechanism.

587 (5) (a) The owner of a vehicle or vessel removed pursuant
588 to ~~the provisions of~~ subsection (2), or any person claiming a
589 lien, other than the towing-storage operator, within 10 days
590 after the time she or he has knowledge of the location of the
591 vehicle or vessel, may file a complaint in the county court of
592 the county in which the vehicle or vessel is stored to determine
593 whether ~~if~~ her or his property was wrongfully taken or withheld
594 ~~from her or him~~.

595 (b) At any time before the sale of the vehicle or vessel
596 ~~Upon filing of a complaint~~, an owner or lienholder may have her
597 or his vehicle or vessel released upon posting with the court a
598 cash or surety bond or other adequate security equal to the
599 amount of the charges for towing or storage and lot rental
600 amount to ensure the payment of such charges in the event she or

601 he does not prevail. Upon the posting of the bond and the
602 payment of the applicable fee set forth in s. 28.24, the clerk
603 of the court shall issue a certificate notifying the lienor of
604 the posting of the bond and directing the lienor to release the
605 vehicle or vessel. At the time of such release, after reasonable
606 inspection, she or he shall give a receipt to the towing-storage
607 company reciting any claims she or he has for loss or damage to
608 the vehicle or vessel or the contents thereof.

609 (6) A ~~Any~~ vehicle or vessel that ~~which~~ is stored pursuant
610 to subsection (2) and ~~which~~ remains unclaimed, or for which
611 reasonable charges for recovery, towing, or storing remain
612 unpaid, and any contents not released pursuant to subsection
613 (10), may be sold by the owner or operator of the storage space
614 for such towing or storage charge ~~after~~ 35 days after ~~from the~~
615 ~~time~~ the vehicle or vessel is stored by the lienor ~~therein~~ if
616 the vehicle or vessel is more than 3 years of age or ~~after~~ 50
617 days after ~~following the time~~ the vehicle or vessel is stored by
618 the lienor ~~therein~~ if the vehicle or vessel is 3 years of age or
619 less. The sale shall be at public sale for cash. If the date of
620 the sale was not included in the notice required in subsection
621 (4), notice of the sale shall be given to the person in whose
622 name the vehicle or vessel is registered and to all persons
623 claiming a lien on the vehicle or vessel as shown on the records
624 of the Department of Highway Safety and Motor Vehicles or of any
625 corresponding agency in any other state in which the vehicle is

626 identified through a records check of the National Motor Vehicle
627 Title Information System or an equivalent commercially available
628 system as being titled. Notice of the sale must ~~shall~~ be sent by
629 certified mail. The notice must have clearly identified and
630 printed, if the claim of lien is for a motor vehicle, the last 8
631 digits of the vehicle identification number of the motor vehicle
632 subject to the lien, or, if the claim of lien is for a vessel,
633 the hull identification number of the vessel subject to the
634 lien, in the delivery address box and on the outside of the
635 envelope sent to the registered owner and all other persons
636 claiming an interest therein or lien thereon. The notice must be
637 sent to the owner of the vehicle or vessel and the person having
638 the recorded lien on the vehicle or vessel at the address shown
639 on the records of the registering agency at least ~~and shall be~~
640 ~~mailed not less than~~ 15 days before the sale of the vehicle or
641 vessel date of the sale. The notice must state the name,
642 physical address, and telephone number of the lienor, and the
643 vehicle identification number if the claim of lien is for a
644 vehicle or the hull identification number if the claim of lien
645 is for a vessel, all of which must also appear in the return
646 address section on the outside of the envelope containing the
647 notice of sale. After diligent search and inquiry, if the name
648 and address of the registered owner or the owner of the recorded
649 lien cannot be ascertained, the requirements of notice by mail
650 may be dispensed with. In addition to the notice by mail, public

651 notice of the time and place of sale shall be made by publishing
652 a notice thereof one time, at least 10 days before ~~prior to~~ the
653 date of the sale, in a newspaper of general circulation in the
654 county in which the sale is to be held. The proceeds of the
655 sale, after payment of reasonable towing and storage charges,
656 and costs of the sale, in that order of priority, shall be
657 deposited with the clerk of the circuit court for the county if
658 the owner or lienholder is absent, and the clerk shall hold such
659 proceeds subject to the claim of the owner or lienholder legally
660 entitled thereto. The clerk shall be entitled to receive 5
661 percent of such proceeds for the care and disbursement thereof.
662 The certificate of title issued under this law shall be
663 discharged of all liens unless otherwise provided by court
664 order. The owner or lienholder may file a complaint after the
665 vehicle or vessel has been sold in the county court of the
666 county in which it is stored. Upon determining the respective
667 rights of the parties, the court may award damages, attorney
668 ~~attorney's~~ fees, and costs in favor of the prevailing party.

669 (9) Failure to make good faith ~~best~~ efforts to comply with
670 the notice requirements of this section precludes ~~shall preclude~~
671 the imposition of any storage charges against the ~~such~~ vehicle
672 or vessel. If a lienor fails to provide notice to a person
673 claiming a lien on a vehicle or vessel in accordance with
674 subsection (4), the lienor may not charge the person for more
675 than 7 days of storage, but such failure does not affect charges

676 made for towing the vehicle or vessel or the priority of liens
677 on the vehicle or vessel.

678 (14) (a) A copy of the notice of lien required by
679 subsection (4) and the notice of sale required by subsection
680 (6), which must include the vehicle identification number if the
681 claim of lien is for a vehicle or the hull identification number
682 if the claim of lien is for a vessel, and proof of the required
683 check of the National Motor Vehicle Title Information System or
684 an equivalent commercially available system shall constitute
685 satisfactory proof for application to the Department of Highway
686 Safety and Motor Vehicles for transfer of title, together with
687 any other proof required by any rules and regulations of the
688 department.

689 (b) The Department of Highway Safety and Motor Vehicles
690 may not approve an application for transfer of title if the
691 application fails to include a copy of the notice of lien
692 required by subsection (4) and the notice of sale required by
693 subsection (6). The vehicle or hull identification number on the
694 notice of lien must match the vehicle or hull identification
695 number of the vehicle or vessel that is the subject of the
696 transfer of title.

697 (15) (a) A lienor or the lienor's agent may charge an
698 administrative fee to the registered owner or a person claiming
699 a lien against the vehicle or vessel to obtain release of the
700 vehicle or vessel from the claim of lien imposed under this

701 section. Such administrative fee may not exceed \$250.
702 For purposes of this paragraph, the term "administrative fee"
703 means a lien fee or any fee imposed by the lienor or the
704 lienor's agent for administrative costs added to the amount due
705 for towing and storing the vehicle or vessel.

706 (b) A lienor or the lienor's agent may not charge fees or
707 costs, other than those authorized in this section or ss.
708 125.0103 and 166.043, that exceed \$250.

709 (16) A towing-storage operator must use a third-party
710 service approved by the Department of Highway Safety and Motor
711 Vehicles to transmit all notices required by this section. If
712 there is no third-party service approved by the department, the
713 towing-storage operator may mail the notices and provide
714 evidence of compliance with this section upon submission of an
715 application for certificate of title or certificate of
716 destruction.

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

720 1. Accesses the National Motor Vehicle Title Information
721 System records to obtain the last state of record of the
722 vehicle.

723 2. Accesses the owner, lienholder, and insurer
724 information, as applicable, for a vehicle or vessel from the
725 department.

726 3. Electronically generates the notices required of a
727 towing-storage operator by this section through the website.

728 4. Prints and sends the notices required under this
729 section to each owner, lienholder, and insurer of record by
730 certified mail.

731 5. Electronically returns tracking information or other
732 proof of mailing and delivery of the notices to the towing-
733 storage operator.

734 6. Electronically reports to the department, via an
735 electronic data exchange process using a web interface, the
736 following information related to the towing and storage notice:

737 a. The vehicle identification number or vessel hull
738 identification number.

739 b. The license plate number.

740 c. The name and address of the towing-storage operator or
741 lienor.

742 d. The physical location of the vehicle or vessel.

743 e. The date on which the vehicle or vessel was towed.

744 f. The amount of storage fees owed at the time of the
745 notice.

746 g. The date of assessment of storage charges.

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

748 i. Other information required by the department.

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

751 The department shall prescribe the format for the application.
752 The department may approve the applicant as qualified to perform
753 the services provided in paragraph (a) if the applicant:
754 1. Provides the department with a \$1 million bond.
755 2. Submits an acceptable internal control and data
756 security audit (Level 2) or its equivalent performed by a
757 licensed certified public accountant.
758 3. Successfully demonstrates the ability to electronically
759 provide required data to the department via an electronic data
760 exchange process using a web interface.
761 (c) The department may deny, suspend, or revoke approval
762 of a third-party service if the department determines that the
763 third-party service has committed an act of fraud or
764 misrepresentation related to a notice required by this section.
765 (d) A third-party service must maintain all records
766 related to providing notices under this section for 5 years and
767 allow the department to inspect and copy such records upon
768 request. The records may be maintained in an electronic format.
769 (e) A third-party service must annually provide the
770 department with evidence that it maintains a \$1 million bond and
771 must annually submit an internal control and data security audit
772 (Level 2) or its equivalent performed by a licensed certified
773 public accountant to continue its approved status each year.
774 (f) A third-party service must maintain a publicly
775 available website that allows owners, registrants, lienholders,

776 insurance companies, or their agents to search for notices sent
777 pursuant to this section. The search results must exclude
778 personal identifying information but provide the same
779 information provided to the department.

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

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