

By Senator Stargel

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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; amending
17 s. 713.78, F.S.; revising requirements for notice of
18 lien for recovering, towing, or storing a vehicle or
19 vessel; revising requirements for notice of the sale
20 of such vehicle or vessel; revising requirements for
21 transfer of title; authorizing a lienor to charge an
22 administrative fee up to a certain amount; providing
23 an effective date.

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

26
27 Section 1. Section 559.917, Florida Statutes, is amended to
28 read:

29 559.917 Bond to release possessory lien claimed by motor

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30 vehicle repair shop.—

31 (1) (a) A Any customer, or a person of record claiming a
32 lien against a motor vehicle, may obtain the release of the her
33 ~~er his~~ motor vehicle from any lien claimed under part II of
34 chapter 713 by a motor vehicle repair shop for repair work
35 performed under a written repair estimate by filing with the
36 clerk of the court in the circuit in which the disputed
37 transaction occurred a cash or surety bond, payable to the
38 person claiming the lien and conditioned for the payment of any
39 judgment which may be entered on the lien. The bond shall be in
40 the amount stated on the invoice required by s. 559.911, plus
41 accrued storage charges, if any, less any amount paid to the
42 motor vehicle repair shop as indicated on the invoice. The
43 customer or person shall not be required to institute judicial
44 proceedings in order to post the bond in the registry of the
45 court and shall not, ~~nor shall the customer~~ be required to use a
46 particular form for posting the bond, ~~unless the clerk provides~~
47 ~~shall provide~~ such form to the customer or person for filing.
48 Upon the posting of such bond, the clerk of the court shall
49 automatically issue a certificate notifying the lienor of the
50 posting of the bond and directing the lienor to release the
51 ~~customer's~~ motor vehicle.

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

57 (2) The failure of a lienor to release or return to the
58 customer or any person the motor vehicle upon which any lien is

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59 claimed, upon receiving a copy of a certificate giving notice of
60 the posting of the bond and directing release of the motor
61 vehicle, shall subject the lienor to judicial proceedings which
62 may be brought by the customer or person to compel compliance
63 with the certificate. Whenever a customer or any person brings
64 an action to compel compliance with the certificate, the
65 customer or person need only establish that:

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

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

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

73 (d) The motor vehicle repair shop or employee authorized to
74 release the motor vehicle failed to release the motor vehicle.

75

76 The customer or any person, upon a judgment in her or his favor
77 in an action brought under this subsection, may be entitled to
78 damages plus court costs and reasonable attorney ~~attorney's~~ fees
79 sustained by her or him by reason of such wrongful detention or
80 retention. Upon a judgment in favor of the motor vehicle repair
81 shop, the shop may be entitled to reasonable attorney ~~attorney's~~
82 fees.

83 (3) ~~A~~ ~~Any~~ motor vehicle repair shop ~~that~~ ~~which~~, or ~~an~~ ~~any~~
84 employee or agent thereof who is authorized to release the motor
85 vehicle who, upon receiving a copy of a certificate giving
86 notice of the posting of the bond in the required amount and
87 directing release of the motor vehicle, fails to release or

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88 return the property to the customer or any person pursuant to
89 this section commits ~~is guilty of~~ a misdemeanor of the second
90 degree, punishable as provided in s. 775.082 or s. 775.083.

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

97 Section 2. Section 559.920, Florida Statutes, is amended to
98 read:

99 559.920 Unlawful acts and practices.—It shall be a
100 violation of this act for any motor vehicle repair shop or
101 employee thereof to do any of the following:

102 (1) Engage or attempt to engage in repair work for
103 compensation of any type without first being registered with or
104 having submitted an affidavit of exemption to the department.†

105 (2) Make or charge for repairs which have not been
106 expressly or impliedly authorized by the customer.†

107 (3) Misrepresent that repairs have been made to a motor
108 vehicle.†

109 (4) Misrepresent that certain parts and repairs are
110 necessary to repair a vehicle.†

111 (5) Misrepresent that the vehicle being inspected or
112 diagnosed is in a dangerous condition or that the customer's
113 continued use of the vehicle may be harmful or cause great
114 damage to the vehicle.†

115 (6) Fraudulently alter any customer contract, estimate,
116 invoice, or other document.†

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- 117 (7) Fraudulently misuse any customer's credit card.†
- 118 (8) Make or authorize in any manner or by any means
119 whatever any written or oral statement which is untrue,
120 deceptive or misleading, and which is known, or which by the
121 exercise of reasonable care should be known, to be untrue,
122 deceptive or misleading.†
- 123 (9) Make false promises of a character likely to influence,
124 persuade, or induce a customer to authorize the repair, service,
125 or maintenance of a motor vehicle.†
- 126 (10) Substitute used, rebuilt, salvaged, or straightened
127 parts for new replacement parts without notice to the motor
128 vehicle owner and to her or his insurer if the cost of repair is
129 to be paid pursuant to an insurance policy and the identity of
130 the insurer or its claims adjuster is disclosed to the motor
131 vehicle repair shop.†
- 132 (11) Cause or allow a customer to sign any work order that
133 does not state the repairs requested by the customer or the
134 automobile's odometer reading at the time of repair.†
- 135 (12) Fail or refuse to give to a customer a copy of any
136 document requiring the customer's signature upon completion or
137 cancellation of the repair work.†
- 138 (13) Willfully depart from or disregard accepted practices
139 and professional standards.†
- 140 (14) Have repair work subcontracted without the knowledge
141 or consent of the customer unless the motor vehicle repair shop
142 or employee thereof demonstrates that the customer could not
143 reasonably have been notified.†
- 144 (15) Conduct the business of motor vehicle repair in a
145 location other than that stated on the registration

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146 certificate.~~†~~

147 (16) Rebuild or restore a rebuilt vehicle without the
148 knowledge of the owner in such a manner that it does not conform
149 to the original vehicle manufacturer's established repair
150 procedures or specifications and allowable tolerances for the
151 particular model and year.~~† or~~

152 (17) Perform any other act that is a violation of this part
153 or that constitutes fraud or misrepresentation.

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

155 Section 3. Subsections (1) through (4), (9), and (13) of
156 section 713.585, Florida Statutes, are amended, and subsections
157 (14) and (15) are added to that section, to read:

158 713.585 Enforcement of lien by sale of motor vehicle.—A
159 person claiming a lien under s. 713.58 for performing labor or
160 services on a motor vehicle may enforce such lien by sale of the
161 vehicle in accordance with the following procedures:

162 (1) Regardless of whether the lienor intends to collect
163 storage fees, the lienor or the lienor's agent or designee must
164 give notice of the lien, by certified mail, return receipt
165 requested, within 7 business days, excluding Saturday and
166 Sunday, from the beginning date of the assessment of storage
167 charges on said motor vehicle, to the registered owner of the
168 vehicle, to the customer as indicated on the order for repair,
169 and to all other persons claiming an interest therein ~~in~~ or lien
170 thereon, as disclosed by the records of the Department of
171 Highway Safety and Motor Vehicles or as disclosed by the records
172 of any corresponding agency of any other state in which the
173 vehicle is identified through a records check of the National
174 Motor Vehicle Title Information System or an equivalent

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175 commercially available system as being the current state where
176 the vehicle is titled. Such notice must ~~contain~~:

177 (a) Be received by the registered owner, the customer, and
178 all other persons claiming an interest therein or lien thereon
179 within 7 business days, excluding Saturday and Sunday, after the
180 date of storage of the vehicle or within 10 business days,
181 excluding Saturday and Sunday, after the date of completion of
182 the repairs, whichever is earlier. However, in no event shall
183 the notice of lien be received less than 30 days before the sale
184 of the motor vehicle.

185 (b) Be sent by certified mail, return receipt requested,
186 with the vehicle identification number of the motor vehicle
187 subject to the lien clearly identified and printed in the
188 delivery address box or section of the return receipt card and
189 on the outside of the envelope received by the registered owner,
190 the customer, and all other persons claiming an interest therein
191 or lien thereon and clearly visible on the electronic image of
192 the return receipt card available on the United States Postal
193 Service website.

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

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

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

202 (f)~~(d)~~ Contain notice that the lienor claims a lien on the
203 vehicle for labor and services performed and storage charges, if

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204 any, and the cash sum which, if paid to the lienor, would be
205 sufficient to redeem the vehicle from the lien claimed by the
206 lienor.

207 (g) Contain the motor vehicle repair shop's registration
208 number, owner's name, and physical address and the entity name,
209 as registered with the Division of Corporations, of the business
210 where the repair work or storage occurred, which must also
211 appear on the outside of the envelope containing the notice of
212 lien in the return address section of the envelope.

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

215 (i) Contain an itemized statement of the amount claimed to
216 be owed to the lienor, including the amount for repairs,
217 adjustments, or modifications to the vehicle, any administrative
218 fee, and any daily storage charges.

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

222 (k)~~(f)~~ Contain ~~If known,~~ the date, time, and location of
223 any proposed or scheduled sale of the vehicle. A vehicle may not
224 be sold earlier than 60 days after completion of the repair
225 work.

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

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233 (m) ~~(h)~~ Contain notice that the owner of the vehicle has a
234 right to recover possession of the vehicle without instituting
235 judicial proceedings by posting bond in accordance with s.
236 559.917.

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

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

245 (p) Contain notice that the lienor will make the vehicle
246 available for inspection during regular business hours within 3
247 business days after receiving a written request to inspect the
248 vehicle from any recipient of the notice.

249 (2) If attempts to locate the owner or lienholder are
250 unsuccessful after a check of the records of the Department of
251 Highway Safety and Motor Vehicles and any state disclosed by the
252 check of the National Motor Vehicle Title Information System or
253 an equivalent commercially available system, the lienor must
254 notify the local law enforcement agency in writing by certified
255 mail or acknowledged hand delivery that the lienor has been
256 unable to locate the owner or lienholder, that a physical search
257 of the vehicle has disclosed no ownership information, and that
258 a good faith effort, including records checks of the Department
259 of Highway Safety and Motor Vehicles database and the National
260 Motor Vehicle Title Information System or an equivalent
261 commercially available system, has been made. A description of

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262 the motor vehicle which includes the year, make, and
263 identification number must be given on the notice. This
264 notification must take place within 7 business days, excluding
265 Saturday and Sunday, after ~~from~~ the ~~beginning~~ date of storage of
266 the vehicle or within 10 business days, excluding Saturday and
267 Sunday, after the date of completion of the repairs, whichever
268 is earlier ~~the assessment of storage charges on said motor~~
269 ~~vehicle.~~ For purposes of this subsection ~~paragraph~~, the term
270 "good faith effort" means that the following checks have been
271 performed by the company to establish the prior state of
272 registration and title:

273 (a) A check of the Department of Highway Safety and Motor
274 Vehicles database for the owner and any lienholder.~~†~~

275 (b) A check of the federally mandated electronic National
276 Motor Vehicle Title Information System or an equivalent
277 commercially available system to determine the state of
278 registration when there is not a current title or registration
279 record for the vehicle on file with the Department of Highway
280 Safety and Motor Vehicles.~~†~~

281 (c) A check of the vehicle for any type of tag, tag record,
282 temporary tag, or regular tag.~~†~~

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

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

289 (3) In no event shall a vehicle be sold earlier than 60
290 days after completion of the repair work. If the date of the

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291 sale was not included in the notice of lien required in
292 subsection (1), notice of the sale must be sent by certified
293 mail, return receipt requested, and must be received at least
294 ~~not less than~~ 15 days before the date of sale by, ~~to~~ the
295 customer as indicated on the order for repair, and by ~~to~~ all
296 other persons claiming an interest in or lien on the motor
297 vehicle, as disclosed by the records of the Department of
298 Highway Safety and Motor Vehicles or of a corresponding agency
299 of any other state in which the vehicle appears to have been
300 registered after completion of a check of the National Motor
301 Vehicle Title Information System or an equivalent commercially
302 available system. Such notice must:

303 (a) Be sent by certified mail, return receipt requested,
304 with the vehicle identification number of the motor vehicle
305 subject to the sale clearly identified and printed in the
306 delivery address box or section of the return receipt card and
307 on the outside of the envelope received by the registered owner,
308 the customer, and all other persons claiming an interest therein
309 or lien thereon and clearly visible on the electronic image of
310 the return receipt card available on the United States Postal
311 Service website.

312 (b) Contain the motor vehicle repair shop's registration
313 number, owner's name, and physical address and the entity name,
314 as registered with the Division of Corporations, of the business
315 where the repair work or storage occurred, which must also
316 appear on the outside of the envelope containing the notice of
317 sale in the return address section of the envelope.

318 (4) The lienor, at least 15 days before the proposed or
319 scheduled date of sale of the vehicle, shall publish the notice

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320 required by this section once in a newspaper circulated in the
321 county where the vehicle repair work was completed and the sale
322 is to take place ~~held~~. A certificate of compliance with the
323 notification provisions of this section, which includes the
324 vehicle identification number, verified by the lienor, together
325 with a copy of the notice of lien required by subsection (1) and
326 the notice of sale required by subsection (3), and a copy of all
327 return receipts ~~receipt~~ for mailing of the notices ~~notice~~
328 required by this section, which must include the vehicle
329 identification number, proof of publication, and checks of the
330 Department of Highway Safety and Motor Vehicles and the National
331 Motor Vehicle Title Information System or an equivalent
332 commercially available system, must be duly and expeditiously
333 filed with the clerk of the circuit court in the county where
334 the vehicle is held. The lienor, at the time of filing the
335 certificate of compliance, must pay to the clerk of that court a
336 service charge of \$10 for indexing and recording the
337 certificate.

338 (9)(a) A copy of the certificate of compliance, which must
339 include the vehicle identification number, and the report of
340 sale, certified by the clerk of the court, a copy of the notice
341 of lien required by subsection (1) and the notice of sale
342 required by subsection (3), and a copy of all return receipts
343 for mailing of the notices required by this section, which must
344 include the vehicle identification number, and proof of the
345 required check of the National Motor Vehicle Title Information
346 System or an equivalent commercially available system shall
347 constitute satisfactory proof for application to the Department
348 of Highway Safety and Motor Vehicles for transfer of title,

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349 together with any other proof required by any rules and
350 regulations of the department.

351 (b) The Department of Highway Safety and Motor Vehicles may
352 not approve an application for transfer of title if the
353 application fails to include a copy of the notice of lien
354 required by subsection (1) and the notice of sale required by
355 subsection (3) and a copy of all return receipts for mailing of
356 the notices required by this section indicating timely receipt
357 of the notices. The vehicle identification number on the return
358 receipts must match the vehicle identification number of the
359 vehicle that is the subject of the transfer of title and must be
360 clearly visible on the electronic image of the return receipt
361 card available on the United States Postal Service website.

362 (13) A failure to make good faith efforts as defined in
363 subsection (2) precludes the imposition of any storage charges
364 against the vehicle. If a lienor fails to provide notice to any
365 person claiming a lien on a vehicle under subsection (1) within
366 7 business days after the date assessment of storage of the
367 vehicle charges has begun, then the lienor may not charge the
368 person is precluded from charging for more than 7 days of
369 storage, but failure to provide timely notice does not affect
370 charges made for repairs, adjustments, or modifications to the
371 vehicle or the priority of liens on the vehicle.

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

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378 (15) (a) A lienor or the lienor's agent or designee may
379 charge an administrative fee, which means a lien fee or any fee
380 imposed by the lienor or the lienor's agent or designee for
381 administrative costs added to the amount due for storage,
382 repairs, adjustments, or modifications to the vehicle, charged
383 to the registered owner, the insurance company insuring the
384 vehicle, or a person of record claiming a lien against the
385 vehicle to obtain release of the vehicle. Such administrative
386 fee may not exceed \$250. A lienor may not charge any fee other
387 than those specifically authorized in this section.

388 (b) A lienor or the lienor's agent or designee may not
389 charge fees or costs, other than charges for storage, repairs,
390 adjustments, or modifications to the vehicle, as authorized in
391 this section, which total more than \$250.

392 Section 4. Subsection (4), paragraphs (a) and (b) of
393 subsection (5), and subsections (6) and (9) of section 713.78,
394 Florida Statutes, are amended, and subsections (14) and (15) are
395 added to that section, to read:

396 713.78 Liens for recovering, towing, or storing vehicles
397 and vessels.-

398 (4) (a) A ~~Any~~ person regularly engaged in the business of
399 recovering, towing, or storing vehicles or vessels who comes
400 into possession of a vehicle or vessel pursuant to subsection
401 (2), and who claims a lien for recovery, towing, or storage
402 services, shall give notice, by certified mail, return receipt
403 requested, to the registered owner, the insurance company
404 insuring the vehicle notwithstanding ~~the provisions of s.~~
405 627.736, and ~~to~~ all persons claiming a lien thereon, as
406 disclosed by the records in the Department of Highway Safety and

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407 Motor Vehicles or as disclosed by the records of any
408 corresponding agency in any other state in which the vehicle is
409 identified through a records check of the National Motor Vehicle
410 Title Information System or an equivalent commercially available
411 system as being titled or registered.

412 (b) Whenever a ~~any~~ law enforcement agency authorizes the
413 removal of a vehicle or vessel or whenever a ~~any~~ towing service,
414 garage, repair shop, or automotive service, storage, or parking
415 place notifies the law enforcement agency of possession of a
416 vehicle or vessel pursuant to s. 715.07(2)(a)2., the law
417 enforcement agency of the jurisdiction where the vehicle or
418 vessel is stored shall contact the Department of Highway Safety
419 and Motor Vehicles, or the appropriate agency of the state of
420 registration, if known, within 24 hours through the medium of
421 electronic communications, giving the full description of the
422 vehicle or vessel. Upon receipt of the full description of the
423 vehicle or vessel, the department shall search its files to
424 determine the owner's name, the insurance company insuring the
425 vehicle or vessel, and whether any person has filed a lien upon
426 the vehicle or vessel as provided in s. 319.27(2) and (3) and
427 notify the applicable law enforcement agency within 72 hours.
428 The person in charge of the towing service, garage, repair shop,
429 or automotive service, storage, or parking place shall obtain
430 such information from the applicable law enforcement agency
431 within 5 days after the date of storage and shall give notice
432 pursuant to paragraph (a). The department may release the
433 insurance company information to the requestor notwithstanding
434 ~~the provisions of s. 627.736.~~

435 (c) The notice of lien must be sent by certified mail,

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436 return receipt requested, and must be received by the registered
437 owner, the insurance company insuring the vehicle
438 notwithstanding s. 627.736, and all other persons claiming a
439 lien thereon shall be sent within 7 business days, excluding
440 Saturday and Sunday, after the date of storage of the vehicle or
441 vessel or within 10 business days, excluding Saturday and
442 Sunday, after the date of completion of services, whichever is
443 earlier. However, in no event shall the notice of lien be
444 received less than 30 days before the sale of to the registered
445 owner, the insurance company insuring the vehicle
446 notwithstanding the provisions of s. 627.736, and all persons of
447 record claiming a lien against the vehicle or vessel. The notice
448 must:

449 1. If the claim of lien is for a vehicle, have clearly
450 identified and printed the vehicle identification number of the
451 motor vehicle subject to the lien:

452 a. In the delivery address box or section of the return
453 receipt card.

454 b. On the outside of the envelope received by the
455 registered owner, the insurance company, and all other persons
456 claiming an interest therein or lien thereon.

457 c. On the electronic image of the return receipt card
458 available on the United States Postal Service website.

459 2. State the name, physical address, and telephone number
460 of the lienor and the entity name, as registered with the
461 Division of Corporations, of the business where the towing and
462 storage occurred, which must also appear on the outside of the
463 envelope containing the notice of lien in the return address
464 section of the envelope.

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465 3. It shall State the fact of possession of the vehicle or
466 vessel.

467 4. State the name of the person or entity that authorized
468 the lienor to take possession of the vehicle or vessel.

469 5. State, that a lien as provided in subsection (2) is
470 claimed.

471 6. State, that charges have accrued and include an itemized
472 statement of the amount thereof, including daily storage
473 charges.

474 7. State that the lien is subject to enforcement pursuant
475 to law~~7~~ and that the owner or lienholder, if any, has the right
476 to a hearing as set forth in subsection (5).

477 8. State,~~and~~ that any vehicle or vessel that ~~which~~ remains
478 unclaimed, or for which the charges for recovery, towing, or
479 storage services remain unpaid, may be sold free of all prior
480 liens ~~after~~ 35 days after the vehicle or vessel is stored by the
481 lienor if the vehicle or vessel is more than 3 years of age or
482 ~~after~~ 50 days after the vehicle or vessel is stored by the
483 lienor if the vehicle or vessel is 3 years of age or less.

484 (d) The notice of lien may not be received by the
485 registered owner, the insurance company insuring the vehicle or
486 vessel, and all other persons claiming a lien thereon less than
487 30 days before the sale of the vehicle or vessel.

488 (e)~~(d)~~ If attempts to locate the name and address of the
489 owner or lienholder prove unsuccessful, the towing-storage
490 operator shall, after 7 business ~~working~~ days, excluding
491 Saturday and Sunday, after ~~of~~ the initial tow or storage, notify
492 the public agency of jurisdiction where the vehicle or vessel is
493 stored in writing by certified mail or acknowledged hand

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494 delivery that the towing-storage company has been unable to
495 locate the name and address of the owner or lienholder and a
496 physical search of the vehicle or vessel has disclosed no
497 ownership information and a good faith effort has been made,
498 including records checks of the Department of Highway Safety and
499 Motor Vehicles database and the National Motor Vehicle Title
500 Information System or an equivalent commercially available
501 system. For purposes of this paragraph and subsection (9), the
502 term "good faith effort" means that the following checks have
503 been performed by the company to establish the prior state of
504 registration and for title:

505 1. A check of the Department of Highway Safety and Motor
506 Vehicles database for the owner and any lienholder.

507 2. A check of the electronic National Motor Vehicle Title
508 Information System or an equivalent commercially available
509 system to determine the state of registration when there is not
510 a current registration record for the vehicle or vessel on file
511 with the Department of Highway Safety and Motor Vehicles.

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

514 4. A check of the law enforcement report for a tag number
515 or other information identifying the vehicle or vessel, if the
516 vehicle or vessel was towed at the request of a law enforcement
517 officer.

518 5. A check of the trip sheet or tow ticket of the tow truck
519 operator to see if a tag was on the vehicle or vessel at the
520 beginning of the tow, if a private tow.

521 6. If there is no address of the owner on the impound
522 report, a check of the law enforcement report to determine

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523 whether ~~see if~~ an out-of-state address is indicated from driver
524 license information.

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

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

531 9. A check of the vehicle for a vehicle identification
532 number.

533 10. A check of the vessel for a vessel registration number.

534 11. A check of the vessel hull for a hull identification
535 number which should be carved, burned, stamped, embossed, or
536 otherwise permanently affixed to the outboard side of the
537 transom or, if there is no transom, to the outmost seaboard side
538 at the end of the hull that bears the rudder or other steering
539 mechanism.

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

548 (b) At any time before the sale of the vehicle or vessel
549 ~~Upon filing of a complaint,~~ an owner or lienholder may have her
550 or his vehicle or vessel released upon posting with the court a
551 cash or surety bond or other adequate security equal to the

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552 amount of the charges for towing or storage and lot rental
553 amount to ensure the payment of such charges in the event she or
554 he does not prevail. Upon the posting of the bond and the
555 payment of the applicable fee set forth in s. 28.24, the clerk
556 of the court shall issue a certificate notifying the lienor of
557 the posting of the bond and directing the lienor to release the
558 vehicle or vessel. At the time of such release, after reasonable
559 inspection, she or he shall give a receipt to the towing-storage
560 company reciting any claims she or he has for loss or damage to
561 the vehicle or vessel or the contents thereof.

562 (6) A Any vehicle or vessel that ~~which~~ is stored pursuant
563 to subsection (2) and that ~~which~~ remains unclaimed, or for which
564 reasonable charges for recovery, towing, or storing remain
565 unpaid, and any contents not released pursuant to subsection
566 (10), may be sold by the owner or operator of the storage space
567 for such towing or storage charge ~~after~~ 35 days after ~~from the~~
568 ~~time~~ the vehicle or vessel is stored by the lienor ~~therein~~ if
569 the vehicle or vessel is more than 3 years of age or ~~after~~ 50
570 days after ~~following the time~~ the vehicle or vessel is stored by
571 the lienor ~~therein~~ if the vehicle or vessel is 3 years of age or
572 less. The sale shall be at public sale for cash. If the date of
573 the sale was not included in the notice required in subsection
574 (4), notice of the sale shall be given to the person in whose
575 name the vehicle or vessel is registered and to all persons
576 claiming a lien on the vehicle or vessel as shown on the records
577 of the Department of Highway Safety and Motor Vehicles or of any
578 corresponding agency in any other state in which the vehicle is
579 identified through a records check of the National Motor Vehicle
580 Title Information System or an equivalent commercially available

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581 system as being titled. Notice of the sale must ~~shall~~ be sent by
582 certified mail, return receipt requested. If the claim of lien
583 is for a vehicle, the notice must have clearly identified and
584 printed the vehicle identification number of the motor vehicle
585 subject to the lien in the delivery address box or section of
586 the return receipt card; on the outside of the envelope received
587 by the registered owner and all other persons claiming an
588 interest therein or lien thereon; and on the electronic image of
589 the return receipt card available on the United States Postal
590 Service website. The notice must be received by ~~to~~ the owner of
591 the vehicle or vessel and the person having the recorded lien on
592 the vehicle or vessel at the address shown on the records of the
593 registering agency at least ~~and shall be mailed not less than 15~~
594 days before the sale of the vehicle or vessel ~~date of the sale.~~
595 The notice must state the name, physical address, and telephone
596 number of the lienor, and the vehicle identification number if
597 the claim of lien is for a vehicle, all of which must also
598 appear on the outside of the envelope containing the notice of
599 sale in the return address section of the envelope. After
600 diligent search and inquiry, if the name and address of the
601 registered owner or the owner of the recorded lien cannot be
602 ascertained, the requirements of notice by mail may be dispensed
603 with. In addition to the notice by mail, public notice of the
604 time and place of sale shall be made by publishing a notice
605 thereof one time, at least 10 days before ~~prior to~~ the date of
606 the sale, in a newspaper of general circulation in the county in
607 which the sale is to be held. The proceeds of the sale, after
608 payment of reasonable towing and storage charges, and costs of
609 the sale, in that order of priority, shall be deposited with the

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610 clerk of the circuit court for the county if the owner or
611 lienholder is absent, and the clerk shall hold such proceeds
612 subject to the claim of the owner or lienholder legally entitled
613 thereto. The clerk shall be entitled to receive 5 percent of
614 such proceeds for the care and disbursement thereof. The
615 certificate of title issued under this law shall be discharged
616 of all liens unless otherwise provided by court order. The owner
617 or lienholder may file a complaint after the vehicle or vessel
618 has been sold in the county court of the county in which it is
619 stored. Upon determining the respective rights of the parties,
620 the court may award damages, attorney ~~attorney's~~ fees, and costs
621 in favor of the prevailing party.

622 (9) Failure to make good faith ~~best~~ efforts to comply with
623 the notice requirements of this section precludes ~~shall preclude~~
624 the imposition of any storage charges against the ~~such~~ vehicle
625 or vessel. If a lienor fails to provide notice to any person
626 claiming a lien on a vehicle or vessel in accordance with
627 subsection (4), the lienor may not charge the person for more
628 than 7 days of storage, but failure to provide timely notice
629 does not affect charges made for towing the vehicle or vessel or
630 the priority of liens on the vehicle or vessel.

631 (14) (a) A copy of the notice of lien required by subsection
632 (4) and the notice of sale required by subsection (6), and a
633 copy of all return receipts for mailing of the notices required
634 by this section, which must include the vehicle identification
635 number, and proof of the required check of the National Motor
636 Vehicle Title Information System or an equivalent commercially
637 available system shall constitute satisfactory proof for
638 application to the Department of Highway Safety and Motor

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639 Vehicles for transfer of title, together with any other proof
640 required by any rules and regulations of the department.

641 (b) The Department of Highway Safety and Motor Vehicles may
642 not approve an application for transfer of title if the
643 application fails to include a copy of the notice of lien
644 required by subsection (4) and the notice of sale required by
645 subsection (6) and a copy of all return receipts for mailing of
646 the notices required by this section indicating timely receipt
647 of the notices. The vehicle identification number on the return
648 receipts must match the vehicle identification number of the
649 vehicle that is the subject of the transfer of title and must be
650 clearly visible on the electronic image of the return receipt
651 card available on the United States Postal Service website.

652 (15) (a) A lienor or the lienor's agent or designee may
653 charge an administrative fee, which means a lien fee or any fee
654 imposed by the lienor or the lienor's agent or designee for
655 administrative costs added to the amount due for towing and
656 storing the vehicle charged to the registered owner, the
657 insurance company insuring the vehicle or vessel, or a person
658 claiming a lien against the vehicle or vessel to obtain release
659 of the vehicle or vessel. Such administrative fee may not exceed
660 \$250.

661 (b) A lienor or the lienor's agent or designee may not
662 charge fees or costs, other than charges for towing and storage,
663 or any other fee or cost not authorized in this section or ss.
664 125.0103 and 166.043, which total more than \$250.

665 Section 5. This act shall take effect July 1, 2019.