

By the Committee on Banking and Insurance; and 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; defining
17 the term "administrative fee"; requiring a lienor to
18 use a third-party service to provide notices of lien
19 and sale; providing an exception; defining the term
20 "third-party service"; establishing qualifications for
21 approval of third-party services; authorizing the
22 Department of Highway Safety and Motor Vehicles to
23 deny, suspend, or revoke approval under certain
24 circumstances; providing certain recordkeeping
25 requirements; requiring a third-party service to
26 annually take certain actions to continue to be
27 approved; requiring a third-party service to maintain
28 a website that offers specified information; requiring
29 a lienor to release certain personal property;

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30 requiring release of the vehicle upon payment of
31 charges; requiring a lienor to accept an electronic or
32 paper title as evidence of a person's interest in a
33 vehicle; amending s. 713.78, F.S.; revising
34 requirements for notice of lien for recovering,
35 towing, or storing a vehicle or vessel; revising
36 requirements for notice of the sale of such vehicle or
37 vessel; revising requirements for transfer of title;
38 authorizing a lienor to charge an administrative fee
39 up to a certain amount; defining the term
40 "administrative fee"; requiring a lienor to use a
41 third-party service to provide notices of lien and
42 sale; providing an exception; defining the term
43 "third-party service"; establishing qualifications for
44 approval of third-party services; authorizing the
45 department to deny, suspend, or revoke approval under
46 certain circumstances; providing certain recordkeeping
47 requirements; requiring a third-party service to
48 annually take certain actions to continue to be
49 approved; requiring a third-party service to maintain
50 a website that offers specified information; requiring
51 a lienor to accept an electronic or paper title as
52 evidence of a person's interest in a vehicle or
53 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 to
58 read:

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

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

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

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

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

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

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

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

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

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

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

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

126 Section 2. Section 559.920, Florida Statutes, is amended to
127 read:

128 559.920 Unlawful acts and practices.—It shall be a
129 violation of this act for any motor vehicle repair shop or
130 employee thereof to do any of the following:

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

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

136 (3) Misrepresent that repairs have been made to a motor
137 vehicle.†

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

140 (5) Misrepresent that the vehicle being inspected or
141 diagnosed is in a dangerous condition or that the customer's
142 continued use of the vehicle may be harmful or cause great
143 damage to the vehicle.†

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

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- 146 (7) Fraudulently misuse any customer's credit card.†
- 147 (8) Make or authorize in any manner or by any means
148 whatever any written or oral statement which is untrue,
149 deceptive or misleading, and which is known, or which by the
150 exercise of reasonable care should be known, to be untrue,
151 deceptive or misleading.†
- 152 (9) Make false promises of a character likely to influence,
153 persuade, or induce a customer to authorize the repair, service,
154 or maintenance of a motor vehicle.†
- 155 (10) Substitute used, rebuilt, salvaged, or straightened
156 parts for new replacement parts without notice to the motor
157 vehicle owner and to her or his insurer if the cost of repair is
158 to be paid pursuant to an insurance policy and the identity of
159 the insurer or its claims adjuster is disclosed to the motor
160 vehicle repair shop.†
- 161 (11) Cause or allow a customer to sign any work order that
162 does not state the repairs requested by the customer or the
163 automobile's odometer reading at the time of repair.†
- 164 (12) Fail or refuse to give to a customer a copy of any
165 document requiring the customer's signature upon completion or
166 cancellation of the repair work.†
- 167 (13) Willfully depart from or disregard accepted practices
168 and professional standards.†
- 169 (14) Have repair work subcontracted without the knowledge
170 or consent of the customer unless the motor vehicle repair shop
171 or employee thereof demonstrates that the customer could not
172 reasonably have been notified.†
- 173 (15) Conduct the business of motor vehicle repair in a
174 location other than that stated on the registration

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175 certificate.~~†~~

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

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

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

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

187 713.585 Enforcement of lien by sale of motor vehicle.—A
188 person claiming a lien under s. 713.58 for performing labor or
189 services on a motor vehicle may enforce such lien by sale of the
190 vehicle in accordance with the following procedures:

191 (1) The lienor or the lienor's agent must give notice of
192 the lien, by certified mail, return receipt requested, ~~within 7~~
193 ~~business days, excluding Saturday and Sunday, from the beginning~~
194 ~~date of the assessment of storage charges on said motor vehicle,~~
195 to the registered owner of the vehicle, to the customer as
196 indicated on the order for repair, and to all other persons
197 claiming an interest therein ~~in~~ or lien thereon, as disclosed by
198 the records of the Department of Highway Safety and Motor
199 Vehicles or as disclosed by the records of any corresponding
200 agency of any other state in which the vehicle is identified
201 through a records check of the National Motor Vehicle Title
202 Information System or an equivalent commercially available
203 system as being the current state where the vehicle is titled.

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204 Such notice must ~~contain~~:

205 (a) Be sent to the registered owner, the customer, and all
206 other persons claiming an interest therein or lien thereon
207 within 7 business days, excluding Saturday and Sunday, after the
208 date on which storage charges begin to accrue on the vehicle.
209 However, in no event shall the notice of lien be sent less than
210 30 days before the sale of the motor vehicle.

211 (b) Be sent by certified mail, return receipt requested,
212 with the vehicle identification number of the motor vehicle
213 subject to the lien clearly printed in the delivery address box
214 or section of the return receipt card; on the outside of the
215 envelope sent to the registered owner, the customer, and all
216 other persons claiming an interest therein or lien thereon; and
217 on the electronic image of the return receipt card available on
218 the United States Postal Service website.

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

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

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

227 (f)~~(d)~~ Contain notice that the lienor claims a lien on the
228 vehicle for labor and services performed and storage charges, if
229 any, and the cash sum which, if paid to the lienor, would be
230 sufficient to redeem the vehicle from the lien claimed by the
231 lienor.

232 (g) Contain the motor vehicle repair shop's registration

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233 number, owner's name, and physical address and the entity name,
234 as registered with the Division of Corporations, of the business
235 where the repair work or storage occurred, which must also
236 appear on the outside of the envelope sent to the registered
237 owner, the customer, and all other persons claiming an interest
238 in or lien on the vehicle.

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

241 (i) Contain an itemized statement of the amount claimed to
242 be owed to the lienor, including the date the vehicle was
243 dropped off for repairs; the date the repairs were completed;
244 the amount due for repairs, adjustments, or modifications to the
245 vehicle; any administrative fees; and any daily storage charges.

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

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

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

260 (m)~~(h)~~ Contain notice that the owner of the vehicle has a
261 right to recover possession of the vehicle without instituting

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262 judicial proceedings by posting bond in accordance with s.
263 559.917.

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

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

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

278 (q) Contain the address at which the vehicle is physically
279 located.

280 (2) If attempts to locate the owner or lienholder are
281 unsuccessful after a check of the records of the Department of
282 Highway Safety and Motor Vehicles and any state disclosed by the
283 check of the National Motor Vehicle Title Information System or
284 an equivalent commercially available system, the lienor must
285 notify the local law enforcement agency in writing by certified
286 mail or acknowledged hand delivery that the lienor has been
287 unable to locate the owner or lienholder, that a physical search
288 of the vehicle has disclosed no ownership information, and that
289 a good faith effort, including records checks of the Department
290 of Highway Safety and Motor Vehicles database and the National

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291 Motor Vehicle Title Information System or an equivalent
292 commercially available system, has been made. A description of
293 the motor vehicle which includes the year, make, and
294 identification number must be given on the notice. This
295 notification must take place within 7 business days, excluding
296 Saturday and Sunday, after ~~from~~ the ~~beginning~~ date on which ~~of~~
297 ~~the assessment of~~ storage charges begin to accrue on the ~~said~~
298 ~~motor~~ vehicle. For purposes of this subsection ~~paragraph~~, the
299 term "good faith effort" means that the following checks have
300 been performed by the company to establish the prior state of
301 registration and title:

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

305 (b) A check of the federally mandated electronic National
306 Motor Vehicle Title Information System or an equivalent
307 commercially available system to determine the state of
308 registration when there is not a current title or registration
309 record for the vehicle on file with the department. ~~of Highway~~
310 ~~Safety and Motor Vehicles;~~

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

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

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

319 (3) A vehicle may not be sold earlier than 60 days after

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320 completion of the repair work. If the date of the sale was not
321 included in the notice of lien required in subsection (1),
322 notice of the sale must be sent by certified mail, return
323 receipt requested, at least ~~not less than~~ 15 days before the
324 date of sale, to the customer as indicated on the order for
325 repair, and to all other persons claiming an interest in or lien
326 on the motor vehicle, as disclosed by the records of the
327 Department of Highway Safety and Motor Vehicles or of a
328 corresponding agency of any other state in which the vehicle
329 appears to have been registered after completion of a check of
330 the National Motor Vehicle Title Information System or an
331 equivalent commercially available system. Such notice must:

332 (a) Be sent by certified mail, return receipt requested,
333 with the vehicle identification number of the motor vehicle
334 subject to the sale clearly identified and printed in the
335 delivery address box or section of the return receipt card and
336 on the outside of the envelope sent to the registered owner, the
337 customer, and all other persons claiming an interest therein or
338 lien thereon and clearly visible on the electronic image of the
339 return receipt card available on the United States Postal
340 Service website.

341 (b) Contain the motor vehicle repair shop's registration
342 number, owner's name, and physical address and the entity name,
343 as registered with the Division of Corporations, of the business
344 where the repair work or storage occurred, which must also
345 appear on the outside of the envelope containing the notice of
346 sale in the return address section of the envelope.

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

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349 required by this section once in a newspaper circulated in the
350 county where the vehicle repair work was completed and the sale
351 is to take place held. A certificate of compliance with the
352 notification provisions of this section, which includes the
353 vehicle identification number, verified by the lienor, together
354 with a copy of the notice of lien required by subsection (1) and
355 the notice of sale required by subsection (3), and a copy of all
356 return receipts ~~receipt~~ for mailing of the notices ~~notice~~
357 required by this section, which must include proof of
358 publication, and checks of the Department of Highway Safety and
359 Motor Vehicles and the National Motor Vehicle Title Information
360 System or an equivalent commercially available system, must be
361 duly and expeditiously filed with the clerk of the circuit court
362 in the county where the vehicle is held. The lienor, at the time
363 of filing the certificate of compliance, must pay to the clerk
364 of that court a service charge of \$10 for indexing and recording
365 the certificate.

366 (9)(a) A copy of the certificate of compliance, which must
367 include the vehicle identification number, and the report of
368 sale, certified by the clerk of the court, a copy of the notice
369 of lien required by subsection (1) and the notice of sale
370 required by subsection (3), and a copy of all return receipts
371 for mailing of the notices required by this section, and proof
372 of the required check of the National Motor Vehicle Title
373 Information System or an equivalent commercially available
374 system shall constitute satisfactory proof for application to
375 the Department of Highway Safety and Motor Vehicles for transfer
376 of title, together with any other proof required by any rules
377 and regulations of the department.

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378 (b) The Department of Highway Safety and Motor Vehicles may
379 not approve an application for transfer of title if the
380 application fails to include a copy of the notice of lien
381 required by subsection (1) and the notice of sale required by
382 subsection (3) and a copy of all return receipts for mailing of
383 the notices. The vehicle identification number on the return
384 receipts must match the vehicle identification number of the
385 vehicle that is the subject of the transfer of title and must be
386 clearly visible on the electronic image of the return receipt
387 card available on the United States Postal Service website.

388 (13) A failure to make good faith efforts as defined in
389 subsection (2) precludes the imposition of any storage charges
390 against the vehicle. If a lienor fails to provide notice to any
391 person claiming a lien on a vehicle under subsection (1) within
392 7 business days after the date assessment of storage of the
393 vehicle charges has begun, ~~then~~ the lienor may not charge the
394 person is precluded from charging for more than 7 days of
395 storage, but such failure ~~to provide timely notice~~ does not
396 affect charges made for repairs, adjustments, or modifications
397 to the vehicle or the priority of liens on the vehicle.

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

404 (15) (a) A lienor or the lienor's agent may charge an
405 administrative fee to the registered owner, the insurance
406 company insuring the vehicle, or a person of record claiming a

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407 lien against the vehicle to obtain release of the vehicle. Such
408 administrative fee may not exceed \$250. For purposes of this
409 paragraph, the term "administrative fee" means a lien fee or any
410 fee imposed by the lienor or the lienor's agent for
411 administrative costs added to the amount due for storage,
412 repairs, adjustments, or modifications to the vehicle.

413 (b) A lienor or the lienor's agent may not charge fees or
414 costs, other than those authorized in this section, that exceed
415 \$250.

416 (16) A motor vehicle or vessel repair shop; garage;
417 automotive service, storage, or parking place; or towing-storage
418 operator must use a third-party service approved by the
419 Department of Highway Safety and Motor Vehicles to transmit all
420 notices required by this section. If there are no third-party
421 services approved by the department, a lienor may mail the
422 notices and must provide evidence of compliance with this
423 section upon submission of an application for certificate of
424 title or certificate of destruction.

425 (a) For purposes of this subsection, the term "third-party
426 service" means a qualified business entity that, upon a request
427 submitted through a website by a motor vehicle or vessel repair
428 shop, towing-storage operator, garage, or automotive service,
429 storage, or parking place:

430 1. Accesses the National Motor Vehicle Title Information
431 System records to obtain the last state of record of the
432 vehicle.

433 2. Accesses the owner, lienholder, and insurer information,
434 as applicable, for a vehicle or vessel from the Department of
435 Highway Safety and Motor Vehicles.

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436 3. Electronically generates the notice required of the
437 motor vehicle or vessel repair shop, towing-storage operator,
438 garage, or automotive service, storage, or parking place by this
439 section through the website.

440 4. Prints and sends the notice required under this section
441 to any owner, lienholder, and insurer of record by certified
442 mail.

443 5. Electronically returns tracking information or other
444 proof of mailing and delivery of the notices to the motor
445 vehicle or vessel repair shop, towing-storage operator, garage,
446 or automotive service, storage, or parking place.

447 6. Electronically reports to the Department of Highway
448 Safety and Motor Vehicles via an electronic data exchange
449 process using a web interface the following information related
450 to the towing-storage notice, as applicable:

451 a. The vehicle identification number or vessel hull
452 identification number;

453 b. The license plate number;

454 c. The name and address of the towing-storage operator or
455 lienor;

456 d. The physical location of the vehicle;

457 e. The date of the tow;

458 f. The amount of storage fees owed at the time of the
459 notice; and

460 g. The date the notices were mailed and delivered.

461 (b) A third-party service must apply to the department and
462 be approved by the department in order to provide notices under
463 this section. The department shall prescribe the format for such
464 applications. The department may approve a third-party service

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465 applicant as qualified to provide the services described in
466 paragraph (a) based upon the following:

- 467 1. Providing the department a \$1 million bond;
468 2. Submitting an acceptable Internal Control and Data
469 Security Audit (Level 2) or equivalent from a licensed certified
470 public accountant; and
471 3. Successfully demonstrating the ability to electronically
472 provide required data to the department via an electronic data
473 exchange process using a web interface.

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

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

482 (e) A third-party service must annually provide the
483 department with evidence that it maintains a \$1 million bond and
484 must submit an Internal Control and Data Security Audit (Level
485 2) or equivalent from a licensed certified public accountant
486 annually to continue its approved status each year.

487 (f) A third-party service must maintain a publicly
488 available website that allows an owner, registrant, lienholder,
489 insurance company, or any agent thereof to search for notices
490 sent pursuant to this section. The search results must return
491 the same information provided to the department, excluding any
492 personal identifying information.

493 (17) A lienor must release to the owner, lienholder, or

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494 agent thereof all of the personal property found in but not
495 affixed to the vehicle. Upon payment of the charges owed, the
496 lienor must release the vehicle to the paying owner, lienholder,
497 or agent thereof.

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

500 Section 4. Subsection (4), paragraphs (a) and (b) of
501 subsection (5), and subsections (6) and (9) of section 713.78,
502 Florida Statutes, are amended, and subsections (14) through (17)
503 are added to that section, to read:

504 713.78 Liens for recovering, towing, or storing vehicles
505 and vessels.—

506 (4) (a) A ~~Any~~ person regularly engaged in the business of
507 recovering, towing, or storing vehicles or vessels who comes
508 into possession of a vehicle or vessel pursuant to subsection
509 (2), and who claims a lien for recovery, towing, or storage
510 services, shall give notice, by certified mail, return receipt
511 requested, to the registered owner, the insurance company
512 insuring the vehicle notwithstanding ~~the provisions of s.~~
513 627.736, and ~~to~~ all persons claiming a lien thereon, as
514 disclosed by the records in the Department of Highway Safety and
515 Motor Vehicles or as disclosed by the records of any
516 corresponding agency in any other state in which the vehicle is
517 identified through a records check of the National Motor Vehicle
518 Title Information System or an equivalent commercially available
519 system as being titled or registered.

520 (b) Whenever a ~~any~~ law enforcement agency authorizes the
521 removal of a vehicle or vessel or whenever a ~~any~~ towing service,
522 garage, repair shop, or automotive service, storage, or parking

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523 place notifies the law enforcement agency of possession of a
524 vehicle or vessel pursuant to s. 715.07(2)(a)2., the law
525 enforcement agency of the jurisdiction where the vehicle or
526 vessel is stored shall contact the Department of Highway Safety
527 and Motor Vehicles, or the appropriate agency of the state of
528 registration, if known, within 24 hours through the medium of
529 electronic communications, giving the full description of the
530 vehicle or vessel. Upon receipt of the full description of the
531 vehicle or vessel, the department shall search its files to
532 determine the owner's name, the insurance company insuring the
533 vehicle or vessel, and whether any person has filed a lien upon
534 the vehicle or vessel as provided in s. 319.27(2) and (3) and
535 notify the applicable law enforcement agency within 72 hours.
536 The person in charge of the towing service, garage, repair shop,
537 or automotive service, storage, or parking place shall obtain
538 such information from the applicable law enforcement agency
539 within 5 days after the date of storage and shall give notice
540 pursuant to paragraph (a). The department may release the
541 insurance company information to the requestor notwithstanding
542 ~~the provisions of s. 627.736.~~

543 (c) The notice of lien must be sent by certified mail,
544 return receipt requested, to the registered owner, the insurance
545 company insuring the vehicle notwithstanding s. 627.736, and all
546 other persons claiming a lien thereon shall be sent within 7
547 business days, excluding Saturday and Sunday, after the date of
548 storage of the vehicle or vessel. However, in no event shall the
549 notice of lien be sent less than 15 days before the sale of ~~to~~
550 ~~the registered owner, the insurance company insuring the vehicle~~
551 ~~notwithstanding the provisions of s. 627.736, and all persons of~~

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552 ~~record claiming a lien against~~ the vehicle or vessel. The notice
553 must state:

554 1. If the claim of lien is for a vehicle, the vehicle
555 identification number of the vehicle subject to the lien clearly
556 printed in the delivery address box or section of the return
557 receipt card; on the outside of the envelope sent to the
558 registered owner and all other persons claiming an interest
559 therein or lien thereon; and on the electronic image of the
560 return receipt card available on the United States Postal
561 Service website.

562 2. The name, physical address, and telephone number of the
563 lienor, and the entity name, as registered with the Division of
564 Corporations, of the business where the towing and storage
565 occurred, which must also appear on the outside of the envelope
566 sent to the registered owner and all other persons claiming an
567 interest in or lien on the vehicle or vessel.

568 3. ~~It shall state~~ The fact of possession of the vehicle or
569 vessel.

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

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

573 6. That charges have accrued and include an itemized
574 statement of the amount thereof.

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

578 8. That any vehicle or vessel that ~~which~~ remains unclaimed,
579 or for which the charges for recovery, towing, or storage
580 services remain unpaid, may be sold free of all prior liens

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581 ~~after~~ 35 days after the vehicle or vessel is stored by the
582 lienor if the vehicle or vessel is more than 3 years of age or
583 ~~after~~ 50 days after the vehicle or vessel is stored by the
584 lienor if the vehicle or vessel is 3 years of age or less.

585 9. The address at which the vehicle or vessel is physically
586 located.

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

591 (e) ~~(d)~~ If attempts to locate the name and address of the
592 owner or lienholder prove unsuccessful, the towing-storage
593 operator shall, after 7 business ~~working~~ days, excluding
594 Saturday and Sunday, after ~~of~~ the initial tow or storage, notify
595 the public agency of jurisdiction where the vehicle or vessel is
596 stored in writing by certified mail or acknowledged hand
597 delivery that the towing-storage company has been unable to
598 locate the name and address of the owner or lienholder and a
599 physical search of the vehicle or vessel has disclosed no
600 ownership information and a good faith effort has been made,
601 including records checks of the Department of Highway Safety and
602 Motor Vehicles database and the National Motor Vehicle Title
603 Information System or an equivalent commercially available
604 system. For purposes of this paragraph and subsection (9), the
605 term "good faith effort" means that the following checks have
606 been performed by the company to establish the prior state of
607 registration and for title:

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

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

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

617 4. A check of the law enforcement report for a tag number
618 or other information identifying the vehicle or vessel, if the
619 vehicle or vessel was towed at the request of a law enforcement
620 officer.

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

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

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

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

634 9. A check of the vehicle for a vehicle identification
635 number.

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

637 11. A check of the vessel hull for a hull identification
638 number which should be carved, burned, stamped, embossed, or

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639 otherwise permanently affixed to the outboard side of the
640 transom or, if there is no transom, to the outmost seaboard side
641 at the end of the hull that bears the rudder or other steering
642 mechanism.

643 (5) (a) The owner of a vehicle or vessel removed pursuant to
644 ~~the provisions of~~ subsection (2), or any person claiming a lien,
645 other than the towing-storage operator, within 10 days after the
646 time she or he has knowledge of the location of the vehicle or
647 vessel, may file a complaint in the county court of the county
648 in which the vehicle or vessel is stored to determine whether ~~if~~
649 her or his property was wrongfully taken or withheld ~~from her or~~
650 ~~him~~.

651 (b) At any time before the sale of the vehicle or vessel
652 ~~Upon filing of a complaint~~, an owner or lienholder may have her
653 or his vehicle or vessel released upon posting with the court a
654 cash or surety bond or other adequate security equal to the
655 amount of the charges for towing or storage and lot rental
656 amount to ensure the payment of such charges in the event she or
657 he does not prevail. Upon the posting of the bond and the
658 payment of the applicable fee set forth in s. 28.24, the clerk
659 of the court shall issue a certificate notifying the lienor of
660 the posting of the bond and directing the lienor to release the
661 vehicle or vessel. At the time of such release, after reasonable
662 inspection, she or he shall give a receipt to the towing-storage
663 company reciting any claims she or he has for loss or damage to
664 the vehicle or vessel or the contents thereof.

665 (6) A ~~Any~~ vehicle or vessel that ~~which~~ is stored pursuant
666 to subsection (2) and ~~which~~ remains unclaimed, or for which
667 reasonable charges for recovery, towing, or storing remain

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668 unpaid, and any contents not released pursuant to subsection
669 (10), may be sold by the owner or operator of the storage space
670 for such towing or storage charge ~~after~~ 35 days after ~~from the~~
671 ~~time~~ the vehicle or vessel is stored by the lienor ~~therein~~ if
672 the vehicle or vessel is more than 3 years of age or ~~after~~ 50
673 days after ~~following the time~~ the vehicle or vessel is stored by
674 the lienor ~~therein~~ if the vehicle or vessel is 3 years of age or
675 less. The sale shall be at public sale for cash. If the date of
676 the sale was not included in the notice required in subsection
677 (4), notice of the sale shall be given to the person in whose
678 name the vehicle or vessel is registered and to all persons
679 claiming a lien on the vehicle or vessel as shown on the records
680 of the Department of Highway Safety and Motor Vehicles or of any
681 corresponding agency in any other state in which the vehicle is
682 identified through a records check of the National Motor Vehicle
683 Title Information System or an equivalent commercially available
684 system as being titled. Notice of the sale must ~~shall~~ be sent by
685 certified mail, return receipt requested. If the claim of lien
686 is for a vehicle, the notice must have clearly identified and
687 printed the vehicle identification number of the motor vehicle
688 subject to the lien in the delivery address box or section of
689 the return receipt card; on the outside of the envelope sent to
690 the registered owner and all other persons claiming an interest
691 therein or lien thereon; and on the electronic image of the
692 return receipt card available on the United States Postal
693 Service website. The notice must be sent to the owner of the
694 vehicle or vessel and the person having the recorded lien on the
695 vehicle or vessel at the address shown on the records of the
696 registering agency at least ~~and shall be mailed not less than~~ 15

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697 days before the sale of the vehicle or vessel ~~date of the sale~~.
698 The notice must state the name, physical address, and telephone
699 number of the lienor, and the vehicle identification number if
700 the claim of lien is for a vehicle, all of which must also
701 appear on the outside of the envelope containing the notice of
702 sale in the return address section of the envelope. After
703 diligent search and inquiry, if the name and address of the
704 registered owner or the owner of the recorded lien cannot be
705 ascertained, the requirements of notice by mail may be dispensed
706 with. In addition to the notice by mail, public notice of the
707 time and place of sale shall be made by publishing a notice
708 thereof one time, at least 10 days before ~~prior to~~ the date of
709 the sale, in a newspaper of general circulation in the county in
710 which the sale is to be held. The proceeds of the sale, after
711 payment of reasonable towing and storage charges, and costs of
712 the sale, in that order of priority, shall be deposited with the
713 clerk of the circuit court for the county if the owner or
714 lienholder is absent, and the clerk shall hold such proceeds
715 subject to the claim of the owner or lienholder legally entitled
716 thereto. The clerk shall be entitled to receive 5 percent of
717 such proceeds for the care and disbursement thereof. The
718 certificate of title issued under this law shall be discharged
719 of all liens unless otherwise provided by court order. The owner
720 or lienholder may file a complaint after the vehicle or vessel
721 has been sold in the county court of the county in which it is
722 stored. Upon determining the respective rights of the parties,
723 the court may award damages, attorney ~~attorney's~~ fees, and costs
724 in favor of the prevailing party.

725 (9) Failure to make good faith ~~best~~ efforts to comply with

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726 the notice requirements of this section precludes ~~shall preclude~~
727 the imposition of any storage charges against the ~~such~~ vehicle
728 or vessel. If a lienor fails to provide notice to a person
729 claiming a lien on a vehicle or vessel in accordance with
730 subsection (4), the lienor may not charge the person for more
731 than 7 days of storage, but such failure does not affect charges
732 made for towing the vehicle or vessel or the priority of liens
733 on the vehicle or vessel.

734 (14) (a) A copy of the notice of lien required by subsection
735 (4) and the notice of sale required by subsection (6), and a
736 copy of all return receipts for mailing of the notices required
737 by this section, which must include the vehicle identification
738 number, and proof of the required check of the National Motor
739 Vehicle Title Information System or an equivalent commercially
740 available system shall constitute satisfactory proof for
741 application to the Department of Highway Safety and Motor
742 Vehicles for transfer of title, together with any other proof
743 required by any rules and regulations of the department.

744 (b) The Department of Highway Safety and Motor Vehicles may
745 not approve an application for transfer of title if the
746 application fails to include a copy of the notice of lien
747 required by subsection (4) and the notice of sale required by
748 subsection (6) and a copy of all return receipts for mailing of
749 the notices required by this section. The vehicle identification
750 number on the return receipts must match the vehicle
751 identification number of the vehicle that is the subject of the
752 transfer of title and must be clearly visible on the electronic
753 image of the return receipt card available on the United States
754 Postal Service website.

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755 (15) (a) A lienor or the lienor's agent may charge an
756 administrative fee to the registered owner, the insurance
757 company insuring the vehicle or vessel, or a person claiming a
758 lien against the vehicle or vessel to obtain release of the
759 vehicle or vessel. Such administrative fee may not exceed \$250.
760 For purposes of this paragraph, the term "administrative fee"
761 means a lien fee or any fee imposed by the lienor or the
762 lienor's agent for administrative costs added to the amount due
763 for towing and storing the vehicle or vessel.

764 (b) A lienor or the lienor's agent may not charge fees or
765 costs, other than those authorized in this section or ss.
766 125.0103 and 166.043, that exceed \$250.

767 (16) A motor vehicle or vessel repair shop; garage;
768 automotive service, storage, or parking place; or towing-storage
769 operator must use a third-party service approved by the
770 Department of Highway Safety and Motor Vehicles to transmit all
771 notices required by this section. If there are no third-party
772 services approved by the department, a lienor may mail the
773 notices and must provide evidence of compliance with this
774 section upon submission of an application for certificate of
775 title or certificate of destruction.

776 (a) For purposes of this subsection, the term "third-party
777 service" means a qualified business entity that, upon a request
778 submitted through a website by a motor vehicle or vessel repair
779 shop, towing-storage operator, garage, or automotive service,
780 storage, or parking place:

781 1. Accesses the National Motor Vehicle Title Information
782 System records to obtain the last state of record of the
783 vehicle.

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784 2. Accesses the owner, lienholder, and insurer information,
785 as applicable, for a vehicle or vessel from the Department of
786 Highway Safety and Motor Vehicles.

787 3. Electronically generates the notice required of the
788 motor vehicle or vessel repair shop, towing-storage operator,
789 garage, or automotive service, storage, or parking place by this
790 section through the website.

791 4. Prints and sends the notice required under this section
792 to any owner, lienholder, and insurer of record by certified
793 mail.

794 5. Electronically returns tracking information or other
795 proof of mailing and delivery of the notices to the motor
796 vehicle or vessel repair shop, towing-storage operator, garage,
797 or automotive service, storage, or parking place.

798 6. Electronically reports to the Department of Highway
799 Safety and Motor Vehicles via an electronic data exchange
800 process using a web interface the following information related
801 to the repair and storage notice, as applicable:

802 a. The vehicle identification number or vessel hull
803 identification number;

804 b. The license plate number;

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

806 d. The physical location of the vehicle or vessel;

807 e. The date the vehicle or vessel was dropped off for
808 repairs;

809 f. The date the repairs were completed;

810 g. The amount owed for the repairs;

811 h. The date of the assessment of storage charges;

812 i. The amount of storage fees at the time of the notice;

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813 and

814 j. The date the notices were mailed and delivered.

815 (b) A third-party service must apply to the department and
816 be approved by the department in order to provide notices under
817 this section. The department shall prescribe the format for such
818 applications. The department may approve a third-party service
819 applicant as qualified to provide the services described in
820 paragraph (a) based upon the following:

821 1. Providing the department a \$1 million bond;

822 2. Submitting an acceptable Internal Control and Data
823 Security Audit (Level 2) or equivalent from a licensed certified
824 public accountant; and

825 3. Successfully demonstrating the ability to electronically
826 provide required data to the department via an electronic data
827 exchange process using a web interface.

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

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

836 (e) A third-party service must annually provide the
837 department with evidence that it maintains a \$1 million bond and
838 must submit an Internal Control and Data Security Audit (Level
839 2) or equivalent from a currently licensed certified public
840 accountant annually to continue its approved status each year.

841 (f) A third-party service must maintain a publicly

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842 available website that allows an owner, registrant, lienholder,
843 insurance company, or any agent thereof to search for notices
844 sent pursuant to this section. The search results must return
845 the same information provided to the department, excluding any
846 personal identifying information.

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

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