

By the Committees on Judiciary; and Banking and Insurance; and  
Senators Stargel and Baxley

590-04040-19

2019772c2

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 a lienor  
13          to make the motor vehicle available for inspection by  
14          notice recipients; revising requirements for transfer  
15          of title; authorizing a lienor to charge an  
16          administrative fee up to a certain amount; defining  
17          the term "administrative fee"; requiring a motor  
18          vehicle repair shop, garage, automotive service  
19          facility, or storage operator to use a third-party  
20          service to provide notices of lien and sale; providing  
21          an exception; defining the term "third-party service";  
22          requiring a third-party service to apply to and be  
23          approved by the Department of Highway Safety and Motor  
24          Vehicles; providing requirements; authorizing the  
25          department to deny, suspend, or revoke approval under  
26          certain circumstances; providing recordkeeping  
27          requirements; providing requirements for retaining  
28          approved status; requiring maintenance of a website  
29          for access to certain information; requiring a lienor

590-04040-19

2019772c2

30 to release certain personal property; requiring the  
31 lienor to release the vehicle upon payment of charges;  
32 requiring a lienor to accept a copy of an electronic  
33 title or a paper title as evidence of a person's  
34 interest in a vehicle; amending s. 713.78, F.S.;

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

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

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

590-04040-19

2019772c2

59 read:

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

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

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

87 (2) The failure of a lienor to release or return to the

590-04040-19

2019772c2

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

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

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

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

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

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

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

590-04040-19

2019772c2

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

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

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

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

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

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

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

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

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

145 (6) Fraudulently alter any customer contract, estimate,

590-04040-19

2019772c2

146 invoice, or other document.†

147 (7) Fraudulently misuse any customer's credit card.†

148 (8) Make or authorize in any manner or by any means  
149 whatever any written or oral statement which is untrue,  
150 deceptive or misleading, and which is known, or which by the  
151 exercise of reasonable care should be known, to be untrue,  
152 deceptive or misleading.†

153 (9) Make false promises of a character likely to influence,  
154 persuade, or induce a customer to authorize the repair, service,  
155 or maintenance of a motor vehicle.†

156 (10) Substitute used, rebuilt, salvaged, or straightened  
157 parts for new replacement parts without notice to the motor  
158 vehicle owner and to her or his insurer if the cost of repair is  
159 to be paid pursuant to an insurance policy and the identity of  
160 the insurer or its claims adjuster is disclosed to the motor  
161 vehicle repair shop.†

162 (11) Cause or allow a customer to sign any work order that  
163 does not state the repairs requested by the customer or the  
164 automobile's odometer reading at the time of repair.†

165 (12) Fail or refuse to give to a customer a copy of any  
166 document requiring the customer's signature upon completion or  
167 cancellation of the repair work.†

168 (13) Willfully depart from or disregard accepted practices  
169 and professional standards.†

170 (14) Have repair work subcontracted without the knowledge  
171 or consent of the customer unless the motor vehicle repair shop  
172 or employee thereof demonstrates that the customer could not  
173 reasonably have been notified.†

174 (15) Conduct the business of motor vehicle repair in a

590-04040-19

2019772c2

175 location other than that stated on the registration  
176 certificate.~~†~~

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

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

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

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

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

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

590-04040-19

2019772c2

204 system as being the current state where the vehicle is titled.

205 Such notice must ~~contain~~:

206 (a) Be sent to the registered owner, the customer, and all  
207 other persons claiming an interest therein or lien thereon  
208 within 7 business days, excluding Saturday and Sunday, after the  
209 date on which storage charges begin to accrue on the vehicle.  
210 However, in no event shall the notice of lien be sent less than  
211 30 days before the sale of the motor vehicle.

212 (b) Be sent by certified mail with the last eight digits of  
213 the vehicle identification number of the motor vehicle subject  
214 to the lien clearly printed in the delivery address box and on  
215 the outside of the envelope sent to the registered owner, the  
216 customer, and all other persons claiming an interest therein or  
217 lien thereon.

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

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

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

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

231 (g) Contain the motor vehicle repair shop's registration  
232 number, owner's name, and physical address and the entity name,



590-04040-19

2019772c2

233 as registered with the Department of Agriculture and Consumer  
234 Services, of the business where the repair work or storage  
235 occurred, which must also appear on the outside of the envelope  
236 sent to the registered owner, the customer, and all other  
237 persons claiming an interest in or lien on the vehicle.

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

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

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

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

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

261 (m)~~(h)~~ Contain notice that the owner of the vehicle has a

590-04040-19

2019772c2

262 right to recover possession of the vehicle without instituting  
263 judicial proceedings by posting bond in accordance with s.  
264 559.917.

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

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

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

280 (q) Contain the address at which the vehicle is physically  
281 located.

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

590-04040-19

2019772c2

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

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

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

313 (c) A check of the vehicle for any type of tag, tag record,  
314 temporary tag, or regular tag. ;

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

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

590-04040-19

2019772c2

320 state of registration.

321 (3) A vehicle may not be sold earlier than 60 days after  
322 completion of the repair work. If the date of the sale was not  
323 included in the notice of lien required in subsection (1),  
324 notice of the sale must be sent by certified mail at least~~7~~  
325 ~~return receipt requested, not less than~~ 15 days before the date  
326 of sale~~7~~ to the customer as indicated on the order for repair~~7~~  
327 and to all other persons claiming an interest in or lien on the  
328 motor vehicle, as disclosed by the records of the Department of  
329 Highway Safety and Motor Vehicles or of a corresponding agency  
330 of any other state in which the vehicle appears to have been  
331 registered after completion of a check of the National Motor  
332 Vehicle Title Information System or an equivalent commercially  
333 available system. Such notice must:

334 (a) Be sent by certified mail with the last eight digits of  
335 the vehicle identification number of the motor vehicle subject  
336 to the sale clearly identified and printed in the delivery  
337 address box and on the outside of the envelope sent to the  
338 registered owner, the customer, and all other persons claiming  
339 an interest therein or lien thereon.

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

590-04040-19

2019772c2

349 required by this section once in a newspaper circulated in the  
350 county where the vehicle repair work was completed and where the  
351 sale 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), which must  
356 include and return receipt for mailing of the notice required by  
357 ~~this section~~, proof of publication, and checks of the Department  
358 of Highway Safety and Motor Vehicles and the National Motor  
359 Vehicle Title Information System or an equivalent commercially  
360 available system, must be duly and expeditiously filed with the  
361 clerk of the circuit court in the county where the vehicle is  
362 held. The lienor, at the time of filing the certificate of  
363 compliance, must pay to the clerk of that court a service charge  
364 of \$10 for indexing and recording the certificate.

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

376 (b) The Department of Highway Safety and Motor Vehicles may  
377 not approve an application for transfer of title if the

590-04040-19

2019772c2

378 application fails to include a copy of the notice of lien  
379 required by subsection (1) and the notice of sale required by  
380 subsection (3). The vehicle identification number on the notice  
381 of lien must match the vehicle identification number of the  
382 vehicle that is the subject of the transfer of title.

383 (13) A failure to make good faith efforts as defined in  
384 subsection (2) precludes the imposition of any storage charges  
385 against the vehicle. If a lienor fails to provide notice to any  
386 person claiming a lien on a vehicle under subsection (1) within  
387 7 business days after the date assessment of storage of the  
388 vehicle charges has begun, ~~then~~ the lienor may not charge the  
389 person is precluded from charging for more than 7 days of  
390 storage, but such failure ~~to provide timely notice~~ does not  
391 affect charges made for repairs, adjustments, or modifications  
392 to the vehicle or the priority of liens on the vehicle.

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

399 (15) (a) A lienor or the lienor's agent may charge an  
400 administrative fee to the registered owner, the insurance  
401 company insuring the vehicle, or a person of record claiming a  
402 lien against the vehicle to obtain release of the vehicle. Such  
403 administrative fee may not exceed \$250. For purposes of this  
404 paragraph, the term "administrative fee" means a lien fee or any  
405 fee imposed by the lienor or the lienor's agent for  
406 administrative costs added to the amount due for storage,

590-04040-19

2019772c2

407 repairs, adjustments, or modifications to the vehicle.

408 (b) A lienor or the lienor's agent may not charge fees or  
409 costs, other than those authorized in this section, that exceed  
410 \$250.

411 (16) A motor vehicle repair shop, garage, automotive  
412 service facility, or storage operator must use a third-party  
413 service approved by the Department of Highway Safety and Motor  
414 Vehicles to transmit all notices required by this section. If  
415 there is no third-party service approved by the department, the  
416 motor vehicle repair shop, garage, automotive service facility,  
417 or storage operator may mail the notices and provide evidence of  
418 compliance with this section upon submission of an application  
419 for certificate of title or certificate of destruction.

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

424 1. Accesses the National Motor Vehicle Title Information  
425 System records to obtain the last state of record of the  
426 vehicle.

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

429 3. Electronically generates the notices required of a motor  
430 vehicle repair shop, a garage, an automotive service facility,  
431 and a storage operator by this section through the website.

432 4. Prints and sends the notices required under this section  
433 to each owner, lienholder, and insurer of record by certified  
434 mail.

435 5. Electronically returns tracking information or other

590-04040-19

2019772c2

436 proof of mailing and delivery of the notices to the motor  
437 vehicle repair shop, the garage, the automotive service  
438 facility, and the storage operator.

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

442 a. The vehicle identification number.

443 b. The license plate number.

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

445 d. The physical location of the vehicle.

446 e. The date on which the vehicle was dropped off for  
447 repairs.

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

449 g. The amount due for repairs and the storage amount per  
450 day.

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

452 i. The date on which the owner was notified that the  
453 repairs were completed.

454 j. Other information required by the department.

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

457 The department shall prescribe the format for the application.

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

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

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

464 3. Successfully demonstrates the ability to electronically



590-04040-19

2019772c2

465 provide required data to the department via an electronic data  
466 exchange process using a web interface.

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

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

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

480 (f) A third-party service must maintain a publicly  
481 available website that allows owners, registrants, lienholders,  
482 insurance companies, or their agents to search for notices sent  
483 pursuant to this section. The search results must exclude  
484 personal identifying information but provide the same  
485 information provided to the department.

486 (17) A lienor must release to the owner, lienholder, or  
487 agent thereof all of the personal property found in but not  
488 affixed to the vehicle. Upon payment of the charges owed, the  
489 lienor must release the vehicle to the paying owner, lienholder,  
490 or agent thereof.

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

590-04040-19

2019772c2

494 Section 4. Subsection (4), paragraphs (a) and (b) of  
495 subsection (5), and subsections (6) and (9) of section 713.78,  
496 Florida Statutes, are amended, and subsections (14) through (17)  
497 are added to that section, to read:

498 713.78 Liens for recovering, towing, or storing vehicles  
499 and vessels.—

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

513 (b) Whenever a ~~any~~ law enforcement agency authorizes the  
514 removal of a vehicle or vessel or whenever a ~~any~~ towing service,  
515 garage, repair shop, or automotive service, storage, or parking  
516 place notifies the law enforcement agency of possession of a  
517 vehicle or vessel pursuant to s. 715.07(2)(a)2., the law  
518 enforcement agency of the jurisdiction where the vehicle or  
519 vessel is stored shall contact the Department of Highway Safety  
520 and Motor Vehicles, or the appropriate agency of the state of  
521 registration, if known, within 24 hours through the medium of  
522 electronic communications, giving the full description of the

590-04040-19

2019772c2

523 vehicle or vessel. Upon receipt of the full description of the  
524 vehicle or vessel, the department shall search its files to  
525 determine the owner's name, the insurance company insuring the  
526 vehicle or vessel, and whether any person has filed a lien upon  
527 the vehicle or vessel as provided in s. 319.27(2) and (3) and  
528 notify the applicable law enforcement agency within 72 hours.  
529 The person in charge of the towing service, garage, repair shop,  
530 or automotive service, storage, or parking place shall obtain  
531 such information from the applicable law enforcement agency  
532 within 5 days after the date of storage and shall give notice  
533 pursuant to paragraph (a). The department may release the  
534 insurance company information to the requestor notwithstanding  
535 ~~the provisions of s. 627.736.~~

536 (c) The notice of lien must be sent by certified mail to  
537 the registered owner, the insurance company insuring the vehicle  
538 notwithstanding s. 627.736, and all other persons claiming a  
539 lien thereon shall be sent within 7 business days, excluding  
540 Saturday and Sunday, after the date of storage of the vehicle or  
541 vessel. However, in no event shall the notice of lien be sent  
542 less than 30 days before the sale of to the registered owner,  
543 ~~the insurance company insuring the vehicle notwithstanding the~~  
544 ~~provisions of s. 627.736, and all persons of record claiming a~~  
545 ~~lien against~~ the vehicle or vessel. The notice must state:

546 1. If the claim of lien is for a vehicle, the last eight  
547 digits of the vehicle identification number of the vehicle  
548 subject to the lien, or, if the claim of lien is for a vessel,  
549 the hull identification number of the vessel subject to the  
550 lien, clearly printed in the delivery address box and on the  
551 outside of the envelope sent to the registered owner and all

590-04040-19

2019772c2

552 other persons claiming an interest therein or lien thereon.

553 2. The name, physical address, and telephone number of the  
554 lienor, and the entity name, as registered with the Division of  
555 Corporations, of the business where the towing and storage  
556 occurred, which must also appear on the outside of the envelope  
557 sent to the registered owner and all other persons claiming an  
558 interest in or lien on the vehicle or vessel.

559 3. ~~It shall state~~ The fact of possession of the vehicle or  
560 vessel.

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

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

564 6. That charges have accrued and include an itemized  
565 statement of the amount thereof.

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

569 8. That any vehicle or vessel that ~~which~~ remains unclaimed,  
570 or for which the charges for recovery, towing, or storage  
571 services remain unpaid, may be sold free of all prior liens  
572 ~~after~~ 35 days after the vehicle or vessel is stored by the  
573 lienor if the vehicle or vessel is more than 3 years of age or  
574 ~~after~~ 50 days after the vehicle or vessel is stored by the  
575 lienor if the vehicle or vessel is 3 years of age or less.

576 9. The address at which the vehicle or vessel is physically  
577 located.

578 (d) The notice of lien may not be sent to the registered  
579 owner, the insurance company insuring the vehicle or vessel, and  
580 all other persons claiming a lien thereon less than 30 days

590-04040-19

2019772c2

581 before the sale of the vehicle or vessel.

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

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

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

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

608 4. A check of the law enforcement report for a tag number  
609 or other information identifying the vehicle or vessel, if the

590-04040-19

2019772c2

610 vehicle or vessel was towed at the request of a law enforcement  
611 officer.

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

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

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

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

625 9. A check of the vehicle for a vehicle identification  
626 number.

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

628 11. A check of the vessel hull for a hull identification  
629 number which should be carved, burned, stamped, embossed, or  
630 otherwise permanently affixed to the outboard side of the  
631 transom or, if there is no transom, to the outmost seaboard side  
632 at the end of the hull that bears the rudder or other steering  
633 mechanism.

634 (5) (a) The owner of a vehicle or vessel removed pursuant to  
635 ~~the provisions of~~ subsection (2), or any person claiming a lien,  
636 other than the towing-storage operator, within 10 days after the  
637 time she or he has knowledge of the location of the vehicle or  
638 vessel, may file a complaint in the county court of the county

590-04040-19

2019772c2

639 in which the vehicle or vessel is stored to determine whether ~~if~~  
640 her or his property was wrongfully taken or withheld ~~from her or~~  
641 ~~him~~.

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

656 (6) A ~~Any~~ vehicle or vessel that ~~which~~ is stored pursuant  
657 to subsection (2) and ~~which~~ remains unclaimed, or for which  
658 reasonable charges for recovery, towing, or storing remain  
659 unpaid, and any contents not released pursuant to subsection  
660 (10), may be sold by the owner or operator of the storage space  
661 for such towing or storage charge ~~after~~ 35 days after ~~from the~~  
662 ~~time~~ the vehicle or vessel is stored by the lienor ~~therein~~ if  
663 the vehicle or vessel is more than 3 years of age or ~~after~~ 50  
664 days after ~~following the time~~ the vehicle or vessel is stored by  
665 the lienor ~~therein~~ if the vehicle or vessel is 3 years of age or  
666 less. The sale shall be at public sale for cash. If the date of  
667 the sale was not included in the notice required in subsection

590-04040-19

2019772c2

668 (4), notice of the sale shall be given to the person in whose  
669 name the vehicle or vessel is registered and to all persons  
670 claiming a lien on the vehicle or vessel as shown on the records  
671 of the Department of Highway Safety and Motor Vehicles or of any  
672 corresponding agency in any other state in which the vehicle is  
673 identified through a records check of the National Motor Vehicle  
674 Title Information System or an equivalent commercially available  
675 system as being titled. Notice of the sale must ~~shall~~ be sent by  
676 certified mail. The notice must have clearly identified and  
677 printed, if the claim of lien is for a motor vehicle, the last  
678 eight digits of the vehicle identification number of the motor  
679 vehicle subject to the lien, or, if the claim of lien is for a  
680 vessel, the hull identification number of the vessel subject to  
681 the lien, in the delivery address box and on the outside of the  
682 envelope sent to the registered owner and all other persons  
683 claiming an interest therein or lien thereon. The notice must be  
684 sent to the owner of the vehicle or vessel and the person having  
685 the recorded lien on the vehicle or vessel at the address shown  
686 on the records of the registering agency at least ~~and shall be~~  
687 ~~mailed not less than~~ 15 days before the sale of the vehicle or  
688 vessel ~~date of the sale~~. The notice must state the name,  
689 physical address, and telephone number of the lienor, and the  
690 vehicle identification number if the claim of lien is for a  
691 vehicle or the hull identification number if the claim of lien  
692 is for a vessel, all of which must also appear in the return  
693 address section on the outside of the envelope containing the  
694 notice of sale. After diligent search and inquiry, if the name  
695 and address of the registered owner or the owner of the recorded  
696 lien cannot be ascertained, the requirements of notice by mail



590-04040-19

2019772c2

697 may be dispensed with. In addition to the notice by mail, public  
698 notice of the time and place of sale shall be made by publishing  
699 a notice thereof one time, at least 10 days before ~~prior to~~ the  
700 date of the sale, in a newspaper of general circulation in the  
701 county in which the sale is to be held. The proceeds of the  
702 sale, after payment of reasonable towing and storage charges,  
703 and costs of the sale, in that order of priority, shall be  
704 deposited with the clerk of the circuit court for the county if  
705 the owner or lienholder is absent, and the clerk shall hold such  
706 proceeds subject to the claim of the owner or lienholder legally  
707 entitled thereto. The clerk shall be entitled to receive 5  
708 percent of such proceeds for the care and disbursement thereof.  
709 The certificate of title issued under this law shall be  
710 discharged of all liens unless otherwise provided by court  
711 order. The owner or lienholder may file a complaint after the  
712 vehicle or vessel has been sold in the county court of the  
713 county in which it is stored. Upon determining the respective  
714 rights of the parties, the court may award damages, attorney  
715 ~~attorney's~~ fees, and costs in favor of the prevailing party.

716 (9) Failure to make good faith ~~best~~ efforts to comply with  
717 the notice requirements of this section precludes ~~shall preclude~~  
718 the imposition of any storage charges against the ~~such~~ vehicle  
719 or vessel. If a lienor fails to provide notice to a person  
720 claiming a lien on a vehicle or vessel in accordance with  
721 subsection (4), the lienor may not charge the person for more  
722 than 7 days of storage, but such failure does not affect charges  
723 made for towing the vehicle or vessel or the priority of liens  
724 on the vehicle or vessel.

725 (14) (a) A copy of the notice of lien required by subsection

590-04040-19

2019772c2

726 (4) and the notice of sale required by subsection (6), which  
727 must include the vehicle identification number if the claim of  
728 lien is for a vehicle or the hull identification number if the  
729 claim of lien is for a vessel, and proof of the required check  
730 of the National Motor Vehicle Title Information System or an  
731 equivalent commercially available system shall constitute  
732 satisfactory proof for application to the Department of Highway  
733 Safety and Motor Vehicles for transfer of title, together with  
734 any other proof required by any rules and regulations of the  
735 department.

736 (b) The Department of Highway Safety and Motor Vehicles may  
737 not approve an application for transfer of title if the  
738 application fails to include a copy of the notice of lien  
739 required by subsection (4) and the notice of sale required by  
740 subsection (6). The vehicle or hull identification number on the  
741 notice of lien must match the vehicle or hull identification  
742 number of the vehicle or vessel that is the subject of the  
743 transfer of title.

744 (15) (a) A lienor or the lienor's agent may charge an  
745 administrative fee to the registered owner, the insurance  
746 company insuring the vehicle or vessel, or a person claiming a  
747 lien against the vehicle or vessel to obtain release of the  
748 vehicle or vessel. Such administrative fee may not exceed \$250.  
749 For purposes of this paragraph, the term "administrative fee"  
750 means a lien fee or any fee imposed by the lienor or the  
751 lienor's agent for administrative costs added to the amount due  
752 for towing and storing the vehicle or vessel.

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

590-04040-19

2019772c2

755 125.0103 and 166.043, that exceed \$250.

756 (16) A towing-storage operator must use a third-party  
757 service approved by the Department of Highway Safety and Motor  
758 Vehicles to transmit all notices required by this section. If  
759 there is no third-party service approved by the department, the  
760 towing-storage operator may mail the notices and provide  
761 evidence of compliance with this section upon submission of an  
762 application for certificate of title or certificate of  
763 destruction.

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

767 1. Accesses the National Motor Vehicle Title Information  
768 System records to obtain the last state of record of the  
769 vehicle.

770 2. Accesses the owner, lienholder, and insurer information,  
771 as applicable, for a vehicle or vessel from the department.

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

774 4. Prints and sends the notices required under this section  
775 to each owner, lienholder, and insurer of record by certified  
776 mail.

777 5. Electronically returns tracking information or other  
778 proof of mailing and delivery of the notices to the towing-  
779 storage operator.

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

783 a. The vehicle identification number or vessel hull

590-04040-19

2019772c2

- 784 identification number.
- 785 b. The license plate number, if applicable.
- 786 c. The name and address of the towing-storage operator or
- 787 lienor.
- 788 d. The physical location of the vehicle or vessel.
- 789 e. The date on which the vehicle or vessel was towed.
- 790 f. The amount of storage fees owed at the time of the
- 791 notice.
- 792 g. The date of assessment of storage charges.
- 793 h. The dates on which the notice was mailed and delivered.
- 794 i. Other information required by the department.
- 795 (b) A third-party service must apply to and be approved by
- 796 the department in order to provide notices under this section.
- 797 The department shall prescribe the format for the application.
- 798 The department may approve the applicant as qualified to perform
- 799 the services provided in paragraph (a) if the applicant:
- 800 1. Provides the department with a \$1 million bond.
- 801 2. Submits an acceptable internal control and data security
- 802 audit (Level 2) or its equivalent performed by a licensed
- 803 certified public accountant.
- 804 3. Successfully demonstrates the ability to electronically
- 805 provide required data to the department via an electronic data
- 806 exchange process using a web interface.
- 807 (c) The department may deny, suspend, or revoke approval of
- 808 a third-party service if the department determines that the
- 809 third-party service has committed an act of fraud or
- 810 misrepresentation related to a notice required by this section.
- 811 (d) A third-party service must maintain all records related
- 812 to providing notices under this section for 5 years and allow

590-04040-19

2019772c2

813 the department to inspect and copy such records upon request.

814 The records may be maintained in an electronic format.

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

820 (f) A third-party service must maintain a publicly  
821 available website that allows owners, registrants, lienholders,  
822 insurance companies, or their agents to search for notices sent  
823 pursuant to this section. The search results must exclude  
824 personal identifying information but provide the same  
825 information provided to the department.

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

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