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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/03/2022	.	
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The Committee on Transportation (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete lines 67 - 90

and insert:

Section 2. Paragraph (c) of subsection (4), subsection (10), paragraph (a) of subsection (15), and paragraph (a) of subsection (16) of section 713.78, Florida Statutes, are amended, and paragraph (g) is added to subsection (16) and subsection (18) is added to that section, to read:

713.78 Liens for recovering, towing, or storing vehicles



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11 and vessels.-

12 (4)

13 (c) The notice of lien must be sent by certified mail to
14 the registered owner, the insurance company insuring the vehicle
15 notwithstanding s. 627.736, and all other persons claiming a
16 lien thereon no earlier than 6 hours before and no later than
17 ~~within~~ 7 business days, excluding Saturday and Sunday, after the
18 date of storage of the vehicle or vessel. However, in no event
19 shall the notice of lien be sent less than 30 days before the
20 sale of the vehicle or vessel. The notice must state:

21 1. If the claim of lien is for a vehicle, the last 8 digits
22 of the vehicle identification number of the vehicle subject to
23 the lien, or, if the claim of lien is for a vessel, the hull
24 identification number of the vessel subject to the lien, clearly
25 printed in the delivery address box and on the outside of the
26 envelope sent to the registered owner and all other persons
27 claiming an interest therein or lien thereon.

28 2. The name, physical address, and telephone number of the
29 lienor, and the entity name, as registered with the Division of
30 Corporations, of the business where the towing and storage
31 occurred, which must also appear on the outside of the envelope
32 sent to the registered owner and all other persons claiming an
33 interest in or lien on the vehicle or vessel.

34 3. The fact of possession of the vehicle or vessel.

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

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

38 6. That charges have accrued and include an itemized
39 statement of the amount thereof.



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40 7. That the lien is subject to enforcement under law and
41 that the owner or lienholder, if any, has the right to a hearing
42 as set forth in subsection (5).

43 8. That any vehicle or vessel that remains unclaimed, or
44 for which the charges for recovery, towing, or storage services
45 remain unpaid, may be sold free of all prior liens 35 days after
46 the vehicle or vessel is stored by the lienor if the vehicle or
47 vessel is more than 3 years of age or 50 days after the vehicle
48 or vessel is stored by the lienor if the vehicle or vessel is 3
49 years of age or less.

50 9. The address at which the vehicle or vessel is physically
51 located.

52 (10) Persons who provide services pursuant to this section
53 shall permit vehicle or vessel owners, lienholders, insurance
54 company representatives, or their agents, which agency is
55 evidenced by an original writing acknowledged by the owner
56 before a notary public or other person empowered by law to
57 administer oaths, to inspect the towed vehicle or vessel and
58 shall release only to the owner, lienholder, or agent the
59 vehicle, vessel, or all personal property not affixed to the
60 vehicle or vessel which was in the vehicle or vessel at the time
61 the vehicle or vessel came into the custody of the person
62 providing such services. For the purposes of this subsection, a
63 rental car agreement does not constitute evidence that the
64 person who rented a vehicle is an agent of the owner of the
65 vehicle, and a towing company may not release a vehicle owned by
66 a rental car company to the person who rented the vehicle unless
67 the rental car company appoints the person who rented the
68 vehicle as its agent. Such appointment must be evidenced in an



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69 original writing acknowledged by the rental car company before a
70 notary public or other person empowered by law to administer
71 oaths and must authorize the person to inspect and redeem the
72 towed vehicle.

73 (15) (a) A lienor or the lienor's agent may charge a \$75
74 notification ~~an administrative~~ fee plus the actual costs of
75 complying with the requirements of this section to the
76 registered owner or a person claiming a lien against the vehicle
77 or vessel to obtain release of the vehicle or vessel from the
78 claim of lien imposed under this section. Such notification
79 ~~administrative~~ fee plus the actual costs of complying with the
80 requirements of this section may not exceed \$250. ~~For purposes~~
81 ~~of this paragraph, the term "administrative fee" means a lien~~
82 ~~fee or any fee imposed by the lienor or the lienor's agent for~~
83 ~~administrative costs added to the amount due for towing and~~
84 ~~storing the vehicle or vessel.~~

85 (16) A towing-storage operator must use a third-party
86 service approved by the Department of Highway Safety and Motor
87 Vehicles to transmit all notices required by this section. If
88 there is no third-party service approved by the department, the
89 towing-storage operator may mail the notices and provide
90 evidence of compliance with this section upon submission of an
91 application for certificate of title or certificate of
92 destruction.

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

96 1. Accesses the owner, lienholder, and insurer information,
97 as applicable, from the department for a vehicle or vessel.



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98 2. If the vehicle or vessel file on file with the
99 department does not have a current registration record, accesses
100 the National Motor Vehicle Title Information System records to
101 obtain the last state of record of the vehicle.

102 ~~2. Accesses the owner, lienholder, and insurer information,~~
103 ~~as applicable, for a vehicle or vessel from the department.~~

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

106 4. Prints and sends the notices required under this section
107 to each owner, lienholder, and insurer of record by certified
108 mail.

109 5. Electronically returns tracking information or other
110 proof of mailing and delivery of the notices to the towing-
111 storage operator.

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

115 a. The vehicle identification number or vessel hull
116 identification number.

117 b. The license plate number.

118 c. The name and address of the towing-storage operator or
119 lienor.

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

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

122 f. The amount of storage fees owed at the time of the
123 notice.

124 g. The date of assessment of storage charges.

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

126 i. Other information required by the department.



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127 (g) If a towing-storage operator uses a third-party service
128 approved by the department to provide notice required by this
129 section, proof of mailing by the third-party service is proof
130 that the towing-storage operator made a good faith effort to
131 comply with such notice requirement, regardless of whether the
132 recipient accepts delivery or otherwise receives notice.

133 (18) The regulation of claiming a lien for the recovery,
134 removal, towing, or storage of a vehicle or vessel, including,
135 but not limited to, notification fees, is preempted to the
136 state, and this section supersedes any county or municipal
137 ordinance, resolution, rule, regulation, or otherwise to the
138 contrary.

139
140 ===== T I T L E A M E N D M E N T =====

141 And the title is amended as follows:

142 Delete lines 12 - 13

143 and insert:

144 certain judicial findings are made; amending s.
145 713.78, F.S.; revising the timeframe required for
146 sending notices of lien; prohibiting towing companies
147 from releasing vehicles owned by rental car companies,
148 which are towed under certain circumstances, to the
149 person who rented the vehicle unless the rental car
150 company appoints the person as its agent; providing
151 requirements for such appointment; revising fees
152 relating to obtaining the release of a vehicle or
153 vessel with a claimed lien; deleting the definition of
154 the term "administrative fee"; revising the definition
155 of the term "third-party service"; specifying that



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156 proof of mailing by a third-party service is proof
157 that a towing-storage operator made a good faith
158 effort to comply with specified notice requirements;
159 preempting the regulation of claiming a lien for the
160 recovery, removal, towing, or storage of a vehicle or
161 vessel to the state; amending s. 715.07, F.S.;
162 prohibiting towing companies