

SUMMARY OF SUGGESTED AMENDMENTS TO F.S. 713.78

1. Make Fla. Stat. 713.78 the exclusive Florida statute to foreclose a storage lien

The warehouse lien statute in Fla. Stat. 677.210, and the “**SELF-SERVICE STORAGE SPACE**” statute in Fla. Stat.83.801, have been abused to impose liens on vehicles. Warehouse liens generally relate to personal property storage facilities. I met with the DMV and suggested these statutes should not apply to liens on vehicles, since there is a very specific statute for storage liens related to vehicles (e.g. Fla. Stat. 713.78). The DMV disagreed, pointing to their regulations (Warehouse lien – TL 27 - <https://www3.flhsmv.gov/dmv/Proc/tl/tl-27.pdf>). Nevertheless, due to my urging, the DMV put out an alert in July 2020 advising tag offices to closely scrutinize warehouse lien transactions involving vehicles.

There are very few protections for vehicle or vessel owners or lienholders under Fla. Stat. 677.210 and 83.801 *et seq.* – certainly not to the extent found in Fla. Stat. 713.78 and 713.585 which specifically relate to liens on vehicles (e.g. notice provisions, time between the notice and sale date, and procedure to post a bond). **Our suggestion is to amend Fla. Stat. 713.78 to make clear it is the sole procedure to place a lien for storage on a vessel or motor vehicle.** This can easily be done by adding the following provision to Fla. Stat. 78.78 -

(18) Fla. Stat. 713.78 is the exclusive provision to foreclose a storage lien on a vehicle or vessel.

2. **Clarify the Rights of an Owner or Lender related to Posting a Bond on a Storage/Towing Lien**

The Legislature changed Fla. Stat. 713.78 last year so a lawsuit does not have to be filed prior to posting a bond for towing/storage liens. That is a good thing. **BUT**, 713.78 was not changed to reference Fla. Stat 559.917 regarding the procedure to post a bond, the 60 day time limit for the shop to file a claim on the bond, or releasing the bond when a claim is not timely filed. Simply stated, as highlighted below it appears clear that under the existing storage and towing statute, the 60 day time period in 559.917 for a claim to be made on a bond is currently limited to just repair liens, and does not apply to towing/storage liens --

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

(1)(a) A customer or a person of record claiming a lien against a motor vehicle may obtain the release of the motor vehicle from **any lien claimed under part II of chapter 713 by a motor vehicle repair shop for repair work performed under a written repair estimate** by filing with the clerk of the court in the circuit in which the disputed transaction occurred a cash or surety bond, payable to the person claiming the lien and conditioned for the payment of any judgment which may be entered on the lien....

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

Thus under 713.78 there is no procedure to get the bond released when posted for a towing/storage lien and the car is recovered where the shop never files a claim on the bond. Actually, there is no procedure at all

in the towing/storage statute either for the shop to make a claim on the bond, or how to obtain release of the bond. This clearly appears to be an oversight when the statute was amended in 2019. **Our suggestion is to amend 559.917 to also reference liens for towing and storage so the 60 day time limit will apply to both repair liens, and towing/storage liens, and amend 713.78 to reference the bond process under 559.917.**

3. Clarify the Rights of an Owner or Lender to Inspect a Vehicle

In most cases, an owner or Lender may want to inspect the vehicle before paying any money demanded. The Legislature amended Fla. Stat. 713.585 related to repair liens, and now an owner or lender is entitled to inspect a vehicle held for a repair lien upon 3 business days written notice to the repair shop. See Fla. Stat. 713.585(14). BUT, no similar amendment was made in the towing and storage statute. While the towing and storage statute does provide for a right to inspect any vehicle being held pursuant to an unpaid towing or storage bill, it does not contain the same language as in the repair lien statute in Fla. Stat. 713.78(10) and is much more restrictive. The current language for inspections requires the owner or Lender to present a notarized document signed by the customer to be authorized to inspect the vehicle:

“(10) Persons who provides services pursuant to this section shall permit vehicle or vessel owners, lienholders ... or their agents, which agency is evidenced by an original writing acknowledged by the owner before a notary public... to inspect the towed vehicle.”

Our proposal is to amend Fla. Stat. 713.78(10) so that it mirrors the right to inspection language of a vehicle in the repair lien statute, Fla. Stat. 713.585(14):

“(10) Persons who provide services pursuant to this section shall permit vehicle or vessel owners, lienholders, insurance company representatives, or their agents, ~~which agency is evidenced by an original writing acknowledged by the owner before a notary public or other person empowered by law to administer oaths,~~ **to inspect the vehicle. The lienor must make the vehicle available for inspection during regular business hours within 3 business days after receiving a written request to inspect the vehicle,** ~~to inspect the towed vehicle or vessel~~ and shall release to the owner, lienholder, or agent the vehicle, vessel, or all personal property not affixed to the vehicle or vessel which was in the vehicle or vessel at the time the vehicle or vessel came into the custody of the person providing such services.”

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1 A bill to be entitled
 2 An act relating to liens against motor vehicles and
 3 vessels; amending s. 713.78, F.S.; amending s. 713.78
 4 to make clear that the sole procedure to claiming a
 5 lien against a motor vehicle or vessel for storage is
 6 found in Chapter 713; incorporating the provisions of
 7 s. 559.917 regarding posting of a bond; allowing
 8 owners and lienholders to inspect a motor vehicle or
 9 vessel upon written request; providing an effective
 10 date.

11
 12 **Be It Enacted by the Legislature of the State of Florida:**

13
 14 Section 1. Section 713.78, Florida Statutes, is amended to
 15 read:

16 **713.78 Liens for recovering, towing, or storing vehicles and**
 17 **vessels.—**

- 18 (1) For the purposes of this section, the term:
- 19 (a) "Vehicle" means any mobile item, whether motorized or not,
 20 which is mounted on wheels.
- 21 (b) "Vessel" means every description of watercraft, barge, and
 22 airboat used or capable of being used as a means of
 23 transportation on water, other than a seaplane or a "documented
 24 vessel" as defined in s. 327.02.
- 25 (c) "Wrecker" means any truck or other vehicle which is used
 26 to tow, carry, or otherwise transport motor vehicles or vessels

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27 upon the streets and highways of this state and which is
 28 equipped for that purpose with a boom, winch, car carrier, or
 29 other similar equipment.

30 (d) "National Motor Vehicle Title Information System" means
 31 the federally authorized electronic National Motor Vehicle Title
 32 Information System.

33 (e) "Equivalent commercially available system" means a service
 34 that charges a fee to provide vehicle information and that at a
 35 minimum maintains records from those states participating in
 36 data sharing with the National Motor Vehicle Title Information
 37 System.

38 (2) Whenever a person regularly engaged in the business of
 39 transporting vehicles or vessels by wrecker, tow truck, or car
 40 carrier recovers, removes, or stores a vehicle or vessel upon
 41 instructions from:

42 (a) The owner thereof;

43 (b) The owner or lessor, or a person authorized by the owner
 44 or lessor, of property on which such vehicle or vessel is
 45 wrongfully parked, and the removal is done in compliance with
 46 s. 715.07;

47 (c) The landlord or a person authorized by the landlord, when
 48 such motor vehicle or vessel remained on the premises after the
 49 tenancy terminated and the removal is done in compliance with
 50 s. 83.806 or s. 715.104; or

51 (d) Any law enforcement agency,

52 she or he shall have a lien on the vehicle or vessel for a
 53 reasonable towing fee, for a reasonable administrative fee or
 54 charge imposed by a county or municipality, and for a reasonable

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55 storage fee; except that a storage fee may not be charged if the
 56 vehicle or vessel is stored for fewer than 6 hours.

57 (3) This section does not authorize any person to claim a lien
 58 on a vehicle for fees or charges connected with the
 59 immobilization of such vehicle using a vehicle boot or other
 60 similar device pursuant to s. 715.07.

61 (4) (a) A person regularly engaged in the business of
 62 recovering, towing, or storing vehicles or vessels who comes
 63 into possession of a vehicle or vessel pursuant to subsection
 64 (2), and who claims a lien for recovery, towing, or storage
 65 services, shall give notice, by certified mail, to the
 66 registered owner, the insurance company insuring the vehicle
 67 notwithstanding s. 627.736, and all persons claiming a lien
 68 thereon, as disclosed by the records in the Department of
 69 Highway Safety and Motor Vehicles or as disclosed by the records
 70 of any corresponding agency in any other state in which the
 71 vehicle is identified through a records check of the National
 72 Motor Vehicle Title Information System or an equivalent
 73 commercially available system as being titled or registered.

74 (b) Whenever a law enforcement agency authorizes the removal
 75 of a vehicle or vessel or whenever a towing service, garage,
 76 repair shop, or automotive service, storage, or parking place
 77 notifies the law enforcement agency of possession of a vehicle
 78 or vessel pursuant to s. 715.07(2)(a)2., the law enforcement
 79 agency of the jurisdiction where the vehicle or vessel is stored
 80 shall contact the Department of Highway Safety and Motor
 81 Vehicles, or the appropriate agency of the state of
 82 registration, if known, within 24 hours through the medium of

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83 electronic communications, giving the full description of the
 84 vehicle or vessel. Upon receipt of the full description of the
 85 vehicle or vessel, the department shall search its files to
 86 determine the owner's name, the insurance company insuring the
 87 vehicle or vessel, and whether any person has filed a lien upon
 88 the vehicle or vessel as provided in s. 319.27(2) and (3) and
 89 notify the applicable law enforcement agency within 72 hours.
 90 The person in charge of the towing service, garage, repair shop,
 91 or automotive service, storage, or parking place shall obtain
 92 such information from the applicable law enforcement agency
 93 within 5 days after the date of storage and shall give notice
 94 pursuant to paragraph (a). The department may release the
 95 insurance company information to the requestor notwithstanding
 96 s. 627.736.

97 (c) The notice of lien must be sent by certified mail to the
 98 registered owner, the insurance company insuring the vehicle
 99 notwithstanding s. 627.736, and all other persons claiming a
 100 lien thereon within 7 business days, excluding Saturday and
 101 Sunday, after the date of storage of the vehicle or vessel.
 102 However, in no event shall the notice of lien be sent less than
 103 30 days before the sale of the vehicle or vessel. The notice
 104 must state:

105 1. If the claim of lien is for a vehicle, the last 8 digits of
 106 the vehicle identification number of the vehicle subject to the
 107 lien, or, if the claim of lien is for a vessel, the hull
 108 identification number of the vessel subject to the lien, clearly
 109 printed in the delivery address box and on the outside of the
 110 envelope sent to the registered owner and all other persons

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111 claiming an interest therein or lien thereon.

112 2. The name, physical address, and telephone number of the
 113 lienor, and the entity name, as registered with the Division of
 114 Corporations, of the business where the towing and storage
 115 occurred, which must also appear on the outside of the envelope
 116 sent to the registered owner and all other persons claiming an
 117 interest in or lien on the vehicle or vessel.

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

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

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

122 6. That charges have accrued and include an itemized statement
 123 of the amount thereof.

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

127 8. That any vehicle or vessel that remains unclaimed, or for
 128 which the charges for recovery, towing, or storage services
 129 remain unpaid, may be sold free of all prior liens 35 days after
 130 the vehicle or vessel is stored by the lienor if the vehicle or
 131 vessel is more than 3 years of age or 50 days after the vehicle
 132 or vessel is stored by the lienor if the vehicle or vessel is 3
 133 years of age or less.

134 9. The address at which the vehicle or vessel is physically
 135 located.

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

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139 before the sale of the vehicle or vessel.
 140 (e) If attempts to locate the name and address of the owner or
 141 lienholder prove unsuccessful, the towing-storage operator
 142 shall, after 7 business days, excluding Saturday and Sunday,
 143 after the initial tow or storage, notify the public agency of
 144 jurisdiction where the vehicle or vessel is stored in writing by
 145 certified mail or acknowledged hand delivery that the towing-
 146 storage company has been unable to locate the name and address
 147 of the owner or lienholder and a physical search of the vehicle
 148 or vessel has disclosed no ownership information and a good
 149 faith effort has been made, including records checks of the
 150 Department of Highway Safety and Motor Vehicles database and the
 151 National Motor Vehicle Title Information System or an equivalent
 152 commercially available system. For purposes of this paragraph
 153 and subsection (9), the term "good faith effort" means that the
 154 following checks have been performed by the company to establish
 155 the prior state of registration and for title:
 156 1. A check of the department's database for the owner and any
 157 lienholder.
 158 2. A check of the electronic National Motor Vehicle Title
 159 Information System or an equivalent commercially available
 160 system to determine the state of registration when there is not
 161 a current registration record for the vehicle or vessel on file
 162 with the department.
 163 3. A check of the vehicle or vessel for any type of tag, tag
 164 record, temporary tag, or regular tag.
 165 4. A check of the law enforcement report for a tag number or
 166 other information identifying the vehicle or vessel, if the

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167 vehicle or vessel was towed at the request of a law enforcement
 168 officer.

169 5. A check of the trip sheet or tow ticket of the tow truck
 170 operator to determine whether a tag was on the vehicle or vessel
 171 at the beginning of the tow, if a private tow.

172 6. If there is no address of the owner on the impound report,
 173 a check of the law enforcement report to determine whether an
 174 out-of-state address is indicated from driver license
 175 information.

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

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

182 9. A check of the vehicle for a vehicle identification number.

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

184 11. A check of the vessel hull for a hull identification
 185 number which should be carved, burned, stamped, embossed, or
 186 otherwise permanently affixed to the outboard side of the
 187 transom or, if there is no transom, to the outmost seaboard side
 188 at the end of the hull that bears the rudder or other steering
 189 mechanism.

190 (5) (a) The owner of a vehicle or vessel removed pursuant to
 191 subsection (2), or any person claiming a lien, other than the
 192 towing-storage operator, within 10 days after the time she or he
 193 has knowledge of the location of the vehicle or vessel, may file
 194 a complaint in the county court of the county in which the

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195 vehicle or vessel is stored to determine whether her or his
 196 property was wrongfully taken or withheld.

197 (b) At any time before the sale of the vehicle or vessel, an
 198 owner or lienholder may have her or his vehicle or vessel
 199 released upon posting with the court a cash or surety bond or
 200 other adequate security following the procedures outlined in
 201 s. 559.917 equal to the amount of the charges for towing or
 202 storage and lot rental amount to ensure the payment of such
 203 charges in the event she or he does not prevail. Upon the
 204 posting of the bond and the payment of the applicable fee set
 205 forth in s. 28.24, the clerk of the court shall issue a
 206 certificate notifying the lienor of the posting of the bond and
 207 directing the lienor to release the vehicle or vessel. At the
 208 time of such release, after reasonable inspection, she or he
 209 shall give a receipt to the towing-storage company reciting any
 210 claims she or he has for loss or damage to the vehicle or vessel
 211 or the contents thereof.

212 (c) Upon determining the respective rights of the parties, the
 213 court may award damages, attorney's fees, and costs in favor of
 214 the prevailing party. In any event, the final order shall
 215 provide for immediate payment in full of recovery, towing, and
 216 storage fees by the vehicle or vessel owner or lienholder; or
 217 the agency ordering the tow; or the owner, lessee, or agent
 218 thereof of the property from which the vehicle or vessel was
 219 removed.

220 (6) A vehicle or vessel that is stored pursuant to subsection
 221 (2) and remains unclaimed, or for which reasonable charges for
 222 recovery, towing, or storing remain unpaid, and any contents not

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223 released pursuant to subsection (10), may be sold by the owner
 224 or operator of the storage space for such towing or storage
 225 charge 35 days after the vehicle or vessel is stored by the
 226 lienor if the vehicle or vessel is more than 3 years of age or
 227 50 days after the vehicle or vessel is stored by the lienor if
 228 the vehicle or vessel is 3 years of age or less. The sale shall
 229 be at public sale for cash. If the date of the sale was not
 230 included in the notice required in subsection (4), notice of the
 231 sale shall be given to the person in whose name the vehicle or
 232 vessel is registered and to all persons claiming a lien on the
 233 vehicle or vessel as shown on the records of the Department of
 234 Highway Safety and Motor Vehicles or of any corresponding agency
 235 in any other state in which the vehicle is identified through a
 236 records check of the National Motor Vehicle Title Information
 237 System or an equivalent commercially available system as being
 238 titled. Notice of the sale must be sent by certified mail. The
 239 notice must have clearly identified and printed, if the claim of
 240 lien is for a motor vehicle, the last 8 digits of the vehicle
 241 identification number of the motor vehicle subject to the lien,
 242 or, if the claim of lien is for a vessel, the hull
 243 identification number of the vessel subject to the lien, in the
 244 delivery address box and on the outside of the envelope sent to
 245 the registered owner and all other persons claiming an interest
 246 therein or lien thereon. The notice must be sent to the owner of
 247 the vehicle or vessel and the person having the recorded lien on
 248 the vehicle or vessel at the address shown on the records of the
 249 registering agency at least 30 days before the sale of the
 250 vehicle or vessel. The notice must state the name, physical

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251 address, and telephone number of the lienor, and the vehicle
 252 identification number if the claim of lien is for a vehicle or
 253 the hull identification number if the claim of lien is for a
 254 vessel, all of which must also appear in the return address
 255 section on the outside of the envelope containing the notice of
 256 sale. After diligent search and inquiry, if the name and address
 257 of the registered owner or the owner of the recorded lien cannot
 258 be ascertained, the requirements of notice by mail may be
 259 dispensed with. In addition to the notice by mail, public notice
 260 of the time and place of sale shall be made by publishing a
 261 notice thereof one time, at least 10 days before the date of the
 262 sale, in a newspaper of general circulation in the county in
 263 which the sale is to be held. The proceeds of the sale, after
 264 payment of reasonable towing and storage charges, and costs of
 265 the sale, in that order of priority, shall be deposited with the
 266 clerk of the circuit court for the county if the owner or
 267 lienholder is absent, and the clerk shall hold such proceeds
 268 subject to the claim of the owner or lienholder legally entitled
 269 thereto. The clerk shall be entitled to receive 5 percent of
 270 such proceeds for the care and disbursement thereof. The
 271 certificate of title issued under this law shall be discharged
 272 of all liens unless otherwise provided by court order. The owner
 273 or lienholder may file a complaint after the vehicle or vessel
 274 has been sold in the county court of the county in which it is
 275 stored. Upon determining the respective rights of the parties,
 276 the court may award damages, attorney fees, and costs in favor
 277 of the prevailing party.

278 (7) (a) A wrecker operator recovering, towing, or storing

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279 vehicles or vessels is not liable for damages connected with
 280 such services, theft of such vehicles or vessels, or theft of
 281 personal property contained in such vehicles or vessels,
 282 provided that such services have been performed with reasonable
 283 care and provided, further, that, in the case of removal of a
 284 vehicle or vessel upon the request of a person purporting, and
 285 reasonably appearing, to be the owner or lessee, or a person
 286 authorized by the owner or lessee, of the property from which
 287 such vehicle or vessel is removed, such removal has been done in
 288 compliance with s. 715.07. Further, a wrecker operator is not
 289 liable for damage to a vehicle, vessel, or cargo that obstructs
 290 the normal movement of traffic or creates a hazard to traffic
 291 and is removed in compliance with the request of a law
 292 enforcement officer.

293 (b) For the purposes of this subsection, a wrecker operator is
 294 presumed to use reasonable care to prevent the theft of a
 295 vehicle or vessel or of any personal property contained in such
 296 vehicle stored in the wrecker operator's storage facility if all
 297 of the following apply:

298 1. The wrecker operator surrounds the storage facility with a
 299 chain-link or solid-wall type fence at least 6 feet in height;

300 2. The wrecker operator has illuminated the storage facility
 301 with lighting of sufficient intensity to reveal persons and
 302 vehicles at a distance of at least 150 feet during nighttime;
 303 and

304 3. The wrecker operator uses one or more of the following
 305 security methods to discourage theft of vehicles or vessels or
 306 of any personal property contained in such vehicles or vessels

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307 stored in the wrecker operator's storage facility:
 308 a. A night dispatcher or watchman remains on duty at the
 309 storage facility from sunset to sunrise;
 310 b. A security dog remains at the storage facility from sunset
 311 to sunrise;
 312 c. Security cameras or other similar surveillance devices
 313 monitor the storage facility; or
 314 d. A security guard service examines the storage facility at
 315 least once each hour from sunset to sunrise.
 316 (c) Any law enforcement agency requesting that a motor vehicle
 317 be removed from an accident scene, street, or highway must
 318 conduct an inventory and prepare a written record of all
 319 personal property found in the vehicle before the vehicle is
 320 removed by a wrecker operator. However, if the owner or driver
 321 of the motor vehicle is present and accompanies the vehicle, no
 322 inventory by law enforcement is required. A wrecker operator is
 323 not liable for the loss of personal property alleged to be
 324 contained in such a vehicle when such personal property was not
 325 identified on the inventory record prepared by the law
 326 enforcement agency requesting the removal of the vehicle.
 327 (8) A person regularly engaged in the business of recovering,
 328 towing, or storing vehicles or vessels, except a person licensed
 329 under chapter 493 while engaged in "repossession" activities as
 330 defined in s. 493.6101, may not operate a wrecker, tow truck, or
 331 car carrier unless the name, address, and telephone number of
 332 the company performing the service is clearly printed in
 333 contrasting colors on the driver and passenger sides of its
 334 vehicle. The name must be in at least 3-inch permanently affixed

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335 letters, and the address and telephone number must be in at
 336 least 1-inch permanently affixed letters.

337 (9) Failure to make good faith efforts to comply with the
 338 notice requirements of this section precludes the imposition of
 339 any storage charges against the vehicle or vessel. If a lienor
 340 fails to provide notice to a person claiming a lien on a vehicle
 341 or vessel in accordance with subsection (4), the lienor may not
 342 charge the person for more than 7 days of storage, but such
 343 failure does not affect charges made for towing the vehicle or
 344 vessel or the priority of liens on the vehicle or vessel.

345 (10) Persons who provide services pursuant to this section
 346 shall permit vehicle or vessel owners, lienholders, insurance
 347 company representatives, or their agents, ~~which agency is~~
 348 ~~evidenced by an original writing acknowledged by the owner~~
 349 ~~before a notary public or other person empowered by law to~~
 350 ~~administer oaths~~, **to inspect the vehicle. The lienor must make the vehicle**
 351 **available for inspection during regular business hours within 3 business days after**
 352 **receiving a written request to inspect the vehicle, .** ~~to inspect the towed~~
 353 ~~vehicle or vessel~~ and shall release to the owner, lienholder, or
 354 agent the vehicle, vessel, or all personal property not affixed
 355 to the vehicle or vessel which was in the vehicle or vessel at
 356 the time the vehicle or vessel came into the custody of the
 357 person providing such services.

358 (11) (a) Any person regularly engaged in the business of
 359 recovering, towing, or storing vehicles or vessels who comes
 360 into possession of a vehicle or vessel pursuant to subsection
 361 (2) and who has complied with the provisions of subsections (3)
 362 and (6), when such vehicle or vessel is to be sold for purposes

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363 of being dismantled, destroyed, or changed in such manner that
 364 it is not the motor vehicle or vessel described in the
 365 certificate of title, shall report the vehicle to the National
 366 Motor Vehicle Title Information System and apply to the
 367 Department of Highway Safety and Motor Vehicles for a
 368 certificate of destruction. A certificate of destruction, which
 369 authorizes the dismantling or destruction of the vehicle or
 370 vessel described therein, shall be reassignable a maximum of two
 371 times before dismantling or destruction of the vehicle shall be
 372 required, and shall accompany the vehicle or vessel for which it
 373 is issued, when such vehicle or vessel is sold for such
 374 purposes, in lieu of a certificate of title. The application for
 375 a certificate of destruction must include proof of reporting to
 376 the National Motor Vehicle Title Information System and an
 377 affidavit from the applicant that it has complied with all
 378 applicable requirements of this section and, if the vehicle or
 379 vessel is not registered in this state or any other state, by a
 380 statement from a law enforcement officer that the vehicle or
 381 vessel is not reported stolen, and shall be accompanied by such
 382 documentation as may be required by the department.

383 (b) The Department of Highway Safety and Motor Vehicles shall
 384 charge a fee of \$3 for each certificate of destruction. A
 385 service charge of \$4.25 shall be collected and retained by the
 386 tax collector who processes the application.

387 (12) (a) Any person who violates any provision of subsection
 388 (1), subsection (2), subsection (4), subsection (5), subsection
 389 (6), or subsection (7) is guilty of a misdemeanor of the first
 390 degree, punishable as provided in s. 775.082 or s. 775.083.

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391 (b) Any person who violates the provisions of subsections (8)
 392 through (11) is guilty of a felony of the third degree,
 393 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

394 (c) Any person who uses a false or fictitious name, gives a
 395 false or fictitious address, or makes any false statement in any
 396 application or affidavit required under the provisions of this
 397 section is guilty of a felony of the third degree, punishable as
 398 provided in s. 775.082, s. 775.083, or s. 775.084.

399 (d) Employees of the Department of Highway Safety and Motor
 400 Vehicles and law enforcement officers are authorized to inspect
 401 the records of any person regularly engaged in the business of
 402 recovering, towing, or storing vehicles or vessels or
 403 transporting vehicles or vessels by wrecker, tow truck, or car
 404 carrier, to ensure compliance with the requirements of this
 405 section. Any person who fails to maintain records, or fails to
 406 produce records when required in a reasonable manner and at a
 407 reasonable time, commits a misdemeanor of the first degree,
 408 punishable as provided in s. 775.082 or s. 775.083.

409 (13)(a) Upon receipt by the Department of Highway Safety and
 410 Motor Vehicles of written notice from a wrecker operator who
 411 claims a wrecker operator's lien under paragraph (2)(d) for
 412 recovery, towing, or storage of an abandoned vehicle or vessel
 413 upon instructions from any law enforcement agency, for which a
 414 certificate of destruction has been issued under subsection (11)
 415 and the vehicle has been reported to the National Motor Vehicle
 416 Title Information System, the department shall place the name of
 417 the registered owner of that vehicle or vessel on the list of
 418 those persons who may not be issued a license plate or

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419 revalidation sticker for any motor vehicle under s. 320.03(8).
 420 If the vehicle or vessel is owned jointly by more than one
 421 person, the name of each registered owner shall be placed on the
 422 list. The notice of wrecker operator's lien shall be submitted
 423 on forms provided by the department, which must include:

424 1. The name, address, and telephone number of the wrecker
 425 operator.

426 2. The name of the registered owner of the vehicle or vessel
 427 and the address to which the wrecker operator provided notice of
 428 the lien to the registered owner under subsection (4).

429 3. A general description of the vehicle or vessel, including
 430 its color, make, model, body style, and year.

431 4. The vehicle identification number (VIN); registration
 432 license plate number, state, and year; validation decal number,
 433 state, and year; vessel registration number; hull identification
 434 number; or other identification number, as applicable.

435 5. The name of the person or the corresponding law enforcement
 436 agency that requested that the vehicle or vessel be recovered,
 437 towed, or stored.

438 6. The amount of the wrecker operator's lien, not to exceed
 439 the amount allowed by paragraph (b).

440 (b) For purposes of this subsection only, the amount of the
 441 wrecker operator's lien for which the department will prevent
 442 issuance of a license plate or revalidation sticker may not
 443 exceed the amount of the charges for recovery, towing, and
 444 storage of the vehicle or vessel for 7 days. These charges may
 445 not exceed the maximum rates imposed by the ordinances of the
 446 respective county or municipality under ss. 125.0103(1)(c)

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447 and 166.043(1) (c). This paragraph does not limit the amount of a
 448 wrecker operator's lien claimed under subsection (2) or prevent
 449 a wrecker operator from seeking civil remedies for enforcement
 450 of the entire amount of the lien, but limits only that portion
 451 of the lien for which the department will prevent issuance of a
 452 license plate or revalidation sticker.

453 (c)1. The registered owner of a vehicle or vessel may dispute
 454 a wrecker operator's lien, by notifying the department of the
 455 dispute in writing on forms provided by the department, if at
 456 least one of the following applies:

457 a. The registered owner presents a notarized bill of sale
 458 proving that the vehicle or vessel was sold in a private or
 459 casual sale before the vehicle or vessel was recovered, towed,
 460 or stored.

461 b. The registered owner presents proof that the Florida
 462 certificate of title of the vehicle or vessel was sold to a
 463 licensed dealer as defined in s. 319.001 before the vehicle or
 464 vessel was recovered, towed, or stored.

465 c. The records of the department were marked "sold" prior to
 466 the date of the tow.

467 If the registered owner's dispute of a wrecker operator's lien
 468 complies with one of these criteria, the department shall
 469 immediately remove the registered owner's name from the list of
 470 those persons who may not be issued a license plate or revalidation
 471 sticker for any motor vehicle under s. 320.03(8), thereby allowing
 472 issuance of a license plate or revalidation sticker. If the vehicle
 473 or vessel is owned jointly by more than one person, each registered
 474 owner must dispute the wrecker operator's lien in order to be

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475 removed from the list. However, the department shall deny any
476 dispute and maintain the registered owner's name on the list of
477 those persons who may not be issued a license plate or revalidation
478 sticker for any motor vehicle under s. 320.03(8) if the wrecker
479 operator has provided the department with a certified copy of the
480 judgment of a court which orders the registered owner to pay the
481 wrecker operator's lien claimed under this section. In such a case,
482 the amount of the wrecker operator's lien allowed by paragraph (b)
483 may be increased to include no more than \$500 of the reasonable
484 costs and attorney's fees incurred in obtaining the judgment. The
485 department's action under this subparagraph is ministerial in
486 nature, shall not be considered final agency action, and is
487 appealable only to the county court for the county in which the
488 vehicle or vessel was ordered removed.

489 2. A person against whom a wrecker operator's lien has been
490 imposed may alternatively obtain a discharge of the lien by
491 filing a complaint, challenging the validity of the lien or the
492 amount thereof, in the county court of the county in which the
493 vehicle or vessel was ordered removed. Upon filing of the
494 complaint, the person may have her or his name removed from the
495 list of those persons who may not be issued a license plate or
496 revalidation sticker for any motor vehicle under s. 320.03(8),
497 thereby allowing issuance of a license plate or revalidation
498 sticker, upon posting with the court a cash or surety bond or
499 other adequate security equal to the amount of the wrecker
500 operator's lien to ensure the payment of such lien in the event
501 she or he does not prevail. Upon the posting of the bond and the
502 payment of the applicable fee set forth in s. 28.24, the clerk

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503 of the court shall issue a certificate notifying the department
 504 of the posting of the bond and directing the department to
 505 release the wrecker operator's lien. Upon determining the
 506 respective rights of the parties, the court may award damages
 507 and costs in favor of the prevailing party.

508 3. If a person against whom a wrecker operator's lien has been
 509 imposed does not object to the lien, but cannot discharge the
 510 lien by payment because the wrecker operator has moved or gone
 511 out of business, the person may have her or his name removed
 512 from the list of those persons who may not be issued a license
 513 plate or revalidation sticker for any motor vehicle under
 514 s. 320.03(8), thereby allowing issuance of a license plate or
 515 revalidation sticker, upon posting with the clerk of court in
 516 the county in which the vehicle or vessel was ordered removed, a
 517 cash or surety bond or other adequate security equal to the
 518 amount of the wrecker operator's lien. Upon the posting of the
 519 bond and the payment of the application fee set forth in
 520 s. 28.24, the clerk of the court shall issue a certificate
 521 notifying the department of the posting of the bond and
 522 directing the department to release the wrecker operator's lien.
 523 The department shall mail to the wrecker operator, at the
 524 address upon the lien form, notice that the wrecker operator
 525 must claim the security within 60 days, or the security will be
 526 released back to the person who posted it. At the conclusion of
 527 the 60 days, the department shall direct the clerk as to which
 528 party is entitled to payment of the security, less applicable
 529 clerk's fees.

530 4. A wrecker operator's lien expires 5 years after filing.

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531 (d) Upon discharge of the amount of the wrecker operator's
 532 lien allowed by paragraph (b), the wrecker operator must issue a
 533 certificate of discharged wrecker operator's lien on forms
 534 provided by the department to each registered owner of the
 535 vehicle or vessel attesting that the amount of the wrecker
 536 operator's lien allowed by paragraph (b) has been discharged.
 537 Upon presentation of the certificate of discharged wrecker
 538 operator's lien by the registered owner, the department shall
 539 immediately remove the registered owner's name from the list of
 540 those persons who may not be issued a license plate or
 541 revalidation sticker for any motor vehicle under s. 320.03(8),
 542 thereby allowing issuance of a license plate or revalidation
 543 sticker. Issuance of a certificate of discharged wrecker
 544 operator's lien under this paragraph does not discharge the
 545 entire amount of the wrecker operator's lien claimed under
 546 subsection (2), but only certifies to the department that the
 547 amount of the wrecker operator's lien allowed by paragraph (b),
 548 for which the department will prevent issuance of a license
 549 plate or revalidation sticker, has been discharged.

550 (e) When a wrecker operator files a notice of wrecker
 551 operator's lien under this subsection, the department shall
 552 charge the wrecker operator a fee of \$2, which shall be
 553 deposited into the General Revenue Fund. A service charge of
 554 \$2.50 shall be collected and retained by the tax collector who
 555 processes a notice of wrecker operator's lien.

556 (f) This subsection applies only to the annual renewal in the
 557 registered owner's birth month of a motor vehicle registration
 558 and does not apply to the transfer of a registration of a motor

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559 vehicle sold by a motor vehicle dealer licensed under chapter
 560 320, except for the transfer of registrations which includes the
 561 annual renewals. This subsection does not apply to any vehicle
 562 registered in the name of the lessor. This subsection does not
 563 affect the issuance of the title to a motor vehicle,
 564 notwithstanding s. 319.23(8)(b).

565 (14)(a) A copy of the notice of lien required by subsection
 566 (4) and the notice of sale required by subsection (6), which
 567 must include the vehicle identification number if the claim of
 568 lien is for a vehicle or the hull identification number if the
 569 claim of lien is for a vessel, and proof of the required check
 570 of the National Motor Vehicle Title Information System or an
 571 equivalent commercially available system shall constitute
 572 satisfactory proof for application to the Department of Highway
 573 Safety and Motor Vehicles for transfer of title, together with
 574 any other proof required by any rules and regulations of the
 575 department.

576 (b) The Department of Highway Safety and Motor Vehicles may
 577 not approve an application for transfer of title if the
 578 application fails to include a copy of the notice of lien
 579 required by subsection (4) and the notice of sale required by
 580 subsection (6). The vehicle or hull identification number on the
 581 notice of lien must match the vehicle or hull identification
 582 number of the vehicle or vessel that is the subject of the
 583 transfer of title.

584 (15)(a) A lienor or the lienor's agent may charge an
 585 administrative fee to the registered owner or a person claiming
 586 a lien against the vehicle or vessel to obtain release of the

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587 vehicle or vessel from the claim of lien imposed under this
 588 section. Such administrative fee may not exceed \$250. For
 589 purposes of this paragraph, the term "administrative fee" means
 590 a lien fee or any fee imposed by the lienor or the lienor's
 591 agent for administrative costs added to the amount due for
 592 towing and storing the vehicle or vessel.

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

596 (16) A towing-storage operator must use a third-party service
 597 approved by the Department of Highway Safety and Motor Vehicles
 598 to transmit all notices required by this section. If there is no
 599 third-party service approved by the department, the towing-
 600 storage operator may mail the notices and provide evidence of
 601 compliance with this section upon submission of an application
 602 for certificate of title or certificate of destruction.

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

606 1. Accesses the National Motor Vehicle Title Information
 607 System records to obtain the last state of record of the
 608 vehicle.

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

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

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

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615 5. Electronically returns tracking information or other proof
 616 of mailing and delivery of the notices to the towing-storage
 617 operator.

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

621 a. The vehicle identification number or vessel hull
 622 identification number.

623 b. The license plate number.

624 c. The name and address of the towing-storage operator or
 625 lienor.

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

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

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

629 g. The date of assessment of storage charges.

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

631 i. Other information required by the department.

632 (b) A third-party service must apply to and be approved by the
 633 department in order to provide notices under this section. The
 634 department shall prescribe the format for the application. The
 635 department may approve the applicant as qualified to perform the
 636 services provided in paragraph (a) if the applicant:

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

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

641 3. Successfully demonstrates the ability to electronically
 642 provide required data to the department via an electronic data

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643 exchange process using a web interface.

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

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

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

657 (f) A third-party service must maintain a publicly available
 658 website that allows owners, registrants, lienholders, insurance
 659 companies, or their agents to search for notices sent pursuant
 660 to this section. The search results must exclude personal
 661 identifying information but provide the same information
 662 provided to the department.

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

666
 667 (18) Fla. Stat. 713.78 is the exclusive provision to
 668 foreclose a storage lien on a vehicle or vessel.

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671 Section 2. Section 559.917, Florida Statutes, is amended
 672 to read:

673 **559.917 Bond to release possessory lien claimed by motor**
 674 **vehicle repair shop, towing or storage company.**—

675 (1) (a) A customer or a person of record claiming a lien
 676 against a motor vehicle may obtain the release of the motor
 677 vehicle from any lien claimed under part II of chapter 713 by a
 678 motor vehicle repair shop for repair work performed under a
 679 written repair estimate or towing or storage charges by filing
 680 with the clerk of the court in the circuit in which the disputed
 681 transaction occurred a cash or surety bond, payable to the
 682 person claiming the lien and conditioned for the payment of any
 683 judgment which may be entered on the lien. The bond shall be in
 684 the amount stated on the invoice required by s. 559.911, plus
 685 accrued towing and storage charges, if any, less any amount paid
 686 to the motor vehicle repair shop as indicated on the invoice.
 687 The customer or person shall not be required to institute
 688 judicial proceedings in order to post the bond in the registry
 689 of the court and shall not be required to use a particular form
 690 for posting the bond unless the clerk provides such form to the
 691 customer or person for filing. Upon the posting of such bond,
 692 the clerk of the court shall automatically issue a certificate
 693 notifying the lienor of the posting of the bond and directing
 694 the lienor to release the motor vehicle.

695 (b) The lienor shall have 60 days to file suit to recover the
 696 bond. The prevailing party in that action may be entitled to
 697 damages plus court costs and reasonable attorney fees. If the
 698 lienor fails to file suit within 60 days after the posting of

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699 such bond, the bond shall be discharged by the clerk.
 700 (2) The failure of a lienor to release or return to the
 701 customer or person the motor vehicle upon which any lien is
 702 claimed, upon receiving a copy of a certificate giving notice of
 703 the posting of the bond and directing release of the motor
 704 vehicle, shall subject the lienor to judicial proceedings which
 705 may be brought by the customer or person to compel compliance
 706 with the certificate. Whenever a customer or person brings an
 707 action to compel compliance with the certificate, the customer
 708 or person need only establish that:
 709 (a) Bond in the amount of the invoice, plus accrued storage
 710 charges, if any, less any amount paid to the motor vehicle
 711 repair shop as indicated on the invoice, was posted;
 712 (b) A certificate was issued pursuant to this section;
 713 (c) The motor vehicle repair shop, storage or towing company
 714 or any employee or agent thereof who is authorized to release
 715 the motor vehicle, received a copy of a certificate issued
 716 pursuant to this section; and
 717 (d) The motor vehicle repair shop, storage or towing company
 718 or employee authorized to release the motor vehicle failed to
 719 release the motor vehicle.
 720 The customer or person, upon a judgment in her or his favor in an
 721 action brought under this subsection, may be entitled to damages
 722 plus court costs and reasonable attorney fees sustained by her or
 723 him by reason of such wrongful detention or retention. Upon a
 724 judgment in favor of the motor vehicle repair shop, storage or
 725 towing company, the shop may be entitled to reasonable attorney
 726 fees.

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727 (3) A ,motor vehicle repair shop, storage or towing company
 728 that, or an employee or agent thereof who is authorized to
 729 release the motor vehicle who, upon receiving a copy of a
 730 certificate giving notice of the posting of the bond in the
 731 required amount and directing release of the motor vehicle,
 732 fails to release or return the property to the customer or
 733 person pursuant to this section commits a misdemeanor of the
 734 second degree, punishable as provided in s. 775.082 or
 735 s. 775.083.

736 (4) A customer or person who stops payment on a credit card
 737 charge or a check drawn in favor of a motor vehicle repair shop,
 738 storage or towing company on account of an invoice or who fails
 739 to post a cash or surety bond pursuant to this section shall be
 740 prohibited from any recourse under this section with respect to
 741 the motor vehicle repair shop, storage or towing company.
 742

743
 744 Section 3. This act shall take effect July 1, 2021.