

CHAPTER 2019-73

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 431

An act relating to liens against motor vehicles and vessels; amending s. 559.917, F.S.; authorizing a person claiming a lien against a motor vehicle to obtain the release of the vehicle from a lien claimed by a motor vehicle repair shop under certain circumstances; amending s. 559.920, F.S.; prohibiting a motor vehicle repair shop from violating certain provisions; amending s. 713.585, F.S.; revising notice requirements for enforcing a lien by sale of a motor vehicle; revising requirements for notice of lien and notice of sale of a motor vehicle; requiring the lienor to make the motor vehicle available for inspection by notice recipients; revising requirements for transfer of title; authorizing a lienor to charge an administrative fee up to a certain amount; defining the term “administrative fee”; requiring a motor vehicle repair shop, garage, automotive service facility, or storage operator to use a third-party service to provide notices of lien and sale; providing an exception; defining the term “third-party service”; requiring a third-party service to apply to and be approved by the department; providing requirements; authorizing the department to deny, suspend, or revoke approval under certain circumstances; providing recordkeeping requirements; providing requirements for retaining approved status; requiring maintenance of a website for access to certain information; requiring a lienor to release certain personal property; requiring release of the vehicle upon payment of charges; requiring a lienor to accept a copy of an electronic title or a paper title as evidence of a person’s interest in a vehicle; amending s. 713.78, F.S.; revising requirements for notice of lien for recovering, towing, or storing a vehicle or vessel; revising requirements for notice of the sale of such vehicle or vessel; revising requirements for transfer of title; authorizing a lienor to charge an administrative fee up to a certain amount; defining the term “administrative fee”; requiring a towing-storage operator to use a third-party service to provide notices of lien and sale; providing an exception; defining the term “third-party service”; requiring a third-party service to apply to and be approved by the department; providing requirements; authorizing the department to deny, suspend, or revoke approval under certain circumstances; providing recordkeeping requirements; providing requirements for retaining approved status; requiring maintenance of a website for access to certain information; requiring a lienor to accept a copy of an electronic title or a paper title as evidence of a person’s interest in a vehicle or vessel; providing an effective date.

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

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

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

(1)(a) ~~A Any customer or a person of record claiming a lien against a motor vehicle~~ may obtain the release of ~~the her or his~~ 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. The bond shall be in the amount stated on the invoice required by s. 559.911, plus accrued storage charges, if any, less any amount paid to the motor vehicle repair shop as indicated on the invoice. The customer or person shall not be required to institute judicial proceedings in order to post the bond in the registry of the court ~~and shall not, nor shall the customer~~ be required to use a particular form for posting the bond, ~~unless the clerk provides~~ shall provide such form to the customer or person for filing. Upon the posting of such bond, the clerk of the court shall automatically issue a certificate notifying the lienor of the posting of the bond and directing the lienor to release the ~~customer's~~ motor vehicle.

(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~~ attorney's 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.

(2) The failure of a lienor to release or return to the customer or person the motor vehicle upon which any lien is claimed, upon receiving a copy of a certificate giving notice of the posting of the bond and directing release of the motor vehicle, shall subject the lienor to judicial proceedings which may be brought by the customer or person to compel compliance with the certificate. Whenever a customer or person brings an action to compel compliance with the certificate, the customer or person need only establish that:

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

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

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

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

The customer or person, upon a judgment in her or his favor in an action brought under this subsection, may be entitled to damages plus court costs

and reasonable attorney ~~attorney's~~ fees sustained by her or him by reason of such wrongful detention or retention. Upon a judgment in favor of the motor vehicle repair shop, the shop may be entitled to reasonable attorney ~~attorney's~~ fees.

(3) ~~A Any~~ motor vehicle repair shop ~~that which,~~ or ~~an any~~ employee or agent thereof who is authorized to release the motor vehicle who, upon receiving a copy of a certificate giving notice of the posting of the bond in the required amount and directing release of the motor vehicle, fails to release or return the property to the customer or person pursuant to this section ~~commits is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

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

Section 2. Subsection (18) is added to section 559.920, Florida Statutes, to read:

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

(18) Violate any provision of s. 713.585.

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

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

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

(a) Be sent to the registered owner, the customer, and all other persons claiming an interest therein or lien thereon within 7 business days, excluding Saturday and Sunday, after the date on which storage charges

begin to accrue on the vehicle. However, in no event shall the notice of lien be sent less than 30 days before the sale of the motor vehicle.

(b) Be sent by certified mail with the last 8 digits of the vehicle identification number of the motor vehicle subject to the lien clearly printed in the delivery address box and on the outside of the envelope sent to the registered owner, the customer, and all other persons claiming an interest therein or lien thereon.

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

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

(e)(e) Contain the name, address, and telephone number of the lienor.

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

(g) Contain the motor vehicle repair shop's registration number, owner's name, and physical address and the entity name, as registered with the Department of Agriculture and Consumer Services, of the business where the repair work or storage occurred, which must also appear on the outside of the envelope sent to the registered owner, the customer, and all other persons claiming an interest in or lien on the vehicle.

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

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

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

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

(l)(g) Contain notice that the owner of the vehicle or any person claiming an interest therein ~~in~~ or lien thereon has a right to a hearing at any time before the scheduled date of sale by filing a demand for hearing with the

clerk of the circuit court in the county in which the vehicle is held and mailing copies of the demand for hearing to all other owners and lienors as reflected on the notice.

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

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

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

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

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

(2) If attempts to locate the owner or lienholder are unsuccessful after a check of the records of the Department of Highway Safety and Motor Vehicles and any state disclosed by the check of the National Motor Vehicle Title Information System or an equivalent commercially available system, the lienor must notify the local law enforcement agency in writing by certified mail or acknowledged hand delivery that the lienor has been unable to locate the owner or lienholder, that a physical search of the vehicle has disclosed no ownership information, and that a good faith effort, including records checks of the Department of Highway Safety and Motor Vehicles database and the National Motor Vehicle Title Information System or an equivalent commercially available system, has been made. A description of the motor vehicle which includes the year, make, and identification number must be given on the notice. This notification must take place within 7 business days, excluding Saturday and Sunday, ~~after~~ from the beginning date on which of the assessment of storage charges begin to accrue on the said motor vehicle. For purposes of this subsection paragraph, the term “good faith effort” means that the following checks have been performed by the company to establish the prior state of registration and title:

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

(b) A check of the federally mandated electronic National Motor Vehicle Title Information System or an equivalent commercially available system to determine the state of registration when there is not a current title or

registration record for the vehicle on file with the department, of Highway Safety and Motor Vehicles;

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

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

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

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

(a) Be sent by certified mail with the last 8 digits of the vehicle identification number of the motor vehicle subject to the sale clearly identified and printed in the delivery address box and on the outside of the envelope sent to the registered owner, the customer, and all other persons claiming an interest therein or lien thereon.

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

(4) The lienor, at least 15 days before the proposed or scheduled date of sale of the vehicle, shall publish the notice required by this section once in a newspaper circulated in the county where the vehicle repair work was completed and where the sale is to take place held. A certificate of compliance with the notification provisions of this section, which includes the vehicle identification number, verified by the lienor, together with a copy of the notice of lien required by subsection (1) and the notice of sale required by subsection (3), which must include and return receipt for mailing of the notice required by this section, proof of publication, and checks of the Department of Highway Safety and Motor Vehicles and the National Motor Vehicle Title Information System or an equivalent commercially available system, must be duly and expeditiously filed with the clerk of the circuit court in the county where the vehicle is held. The lienor, at the time of filing

the certificate of compliance, must pay to the clerk of that court a service charge of \$10 for indexing and recording the certificate.

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

(b) The Department of Highway Safety and Motor Vehicles may not approve an application for transfer of title if the application fails to include a copy of the notice of lien required by subsection (1) and the notice of sale required by subsection (3). The vehicle identification number on the notice of lien must match the vehicle identification number of the vehicle that is the subject of the transfer of title.

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

(14) At any time before the proposed or scheduled date of sale of a vehicle, the owner, the customer, or a person claiming an interest therein or lien thereon may request 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.

(15)(a) A lienor or the lienor's agent may charge an administrative fee to the registered owner or a person of record claiming a lien against the vehicle to obtain release of the vehicle from the claim of lien imposed under this section. Such administrative fee may not exceed \$250. For purposes of this paragraph, the term "administrative fee" means a lien fee or any fee imposed by the lienor or the lienor's agent for administrative costs added to the amount due for storage, repairs, adjustments, or modifications to the vehicle.

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

(16) A motor vehicle repair shop, garage, automotive service facility, or storage operator must use a third-party service approved by the Department of Highway Safety and Motor Vehicles to transmit all notices required by

this section. If there is no third-party service approved by the department, the motor vehicle repair shop, garage, automotive service facility, or storage operator may mail the notices and provide evidence of compliance with this section upon submission of an application for certificate of title or certificate of destruction.

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

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

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

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

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

5. Electronically returns tracking information or other proof of mailing and delivery of the notices to the motor vehicle repair shop, automotive service facility, garage, and towing-storage operator.

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

- a. The vehicle identification number.
- b. The license plate number.
- c. The name and address of the repair shop or lienor.
- d. The physical location of the vehicle.
- e. The date on which the vehicle was dropped off for repairs.
- f. The date on which the repairs were completed.
- g. The amount due for repairs and the storage amount per day.
- h. The dates on which the notice was mailed and delivered.
- i. The date on which the owner was notified that the repairs were completed.
- j. Other information required by the department.

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

1. Provides the department with a \$1 million bond.
2. Submits an acceptable internal control and data security audit (Level 2) or its equivalent performed by a licensed certified public accountant.
3. Successfully demonstrates the ability to electronically provide required data to the department via an electronic data exchange process using a web interface.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. A check of the department’s Department of Highway Safety and Motor Vehicles database for the owner and any lienholder.

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

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

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

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

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

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

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

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

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

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

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

(b) At any time before the sale of the vehicle or vessel ~~Upon filing of a complaint~~, an owner or lienholder may have her or his vehicle or vessel released upon posting with the court a cash or surety bond or other adequate security equal to the amount of the charges for towing or storage and lot rental amount to ensure the payment of such charges in the event she or he does not prevail. Upon the posting of the bond and the payment of the

applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the lienor of the posting of the bond and directing the lienor to release the vehicle or vessel. At the time of such release, after reasonable inspection, she or he shall give a receipt to the towing-storage company reciting any claims she or he has for loss or damage to the vehicle or vessel or the contents thereof.

(6) ~~A Any vehicle or vessel that which~~ is stored pursuant to subsection (2) and ~~which~~ remains unclaimed, or for which reasonable charges for recovery, towing, or storing remain unpaid, and any contents not released pursuant to subsection (10), may be sold by the owner or operator of the storage space for such towing or storage charge after 35 days ~~after from the time~~ the vehicle or vessel is stored ~~by the lienor therein~~ if the vehicle or vessel is more than 3 years of age or after 50 days ~~after following the time~~ the vehicle or vessel is stored ~~by the lienor therein~~ if the vehicle or vessel is 3 years of age or less. The sale shall be at public sale for cash. If the date of the sale was not included in the notice required in subsection (4), notice of the sale shall be given to the person in whose name the vehicle or vessel is registered and to all persons claiming a lien on the vehicle or vessel as shown on the records of the Department of Highway Safety and Motor Vehicles or of any corresponding agency in any other state in which the vehicle is identified through a records check of the National Motor Vehicle Title Information System or an equivalent commercially available system as being titled. Notice of the sale must shall be sent by certified mail. The notice must have clearly identified and printed, if the claim of lien is for a motor vehicle, the last 8 digits of the vehicle identification number of the motor vehicle subject to the lien, or, if the claim of lien is for a vessel, the hull identification number of the vessel subject to the lien, in the delivery address box and on the outside of the envelope sent to the registered owner and all other persons claiming an interest therein or lien thereon. The notice must be sent to the owner of the vehicle or vessel and the person having the recorded lien on the vehicle or vessel at the address shown on the records of the registering agency at least and shall be mailed not less than 15 days before the sale of the vehicle or vessel date of the sale. The notice must state the name, physical address, and telephone number of the lienor, and the vehicle identification number if the claim of lien is for a vehicle or the hull identification number if the claim of lien is for a vessel, all of which must also appear in the return address section on the outside of the envelope containing the notice of sale. After diligent search and inquiry, if the name and address of the registered owner or the owner of the recorded lien cannot be ascertained, the requirements of notice by mail may be dispensed with. In addition to the notice by mail, public notice of the time and place of sale shall be made by publishing a notice thereof one time, at least 10 days ~~before prior to~~ the date of the sale, in a newspaper of general circulation in the county in which the sale is to be held. The proceeds of the sale, after payment of reasonable towing and storage charges, and costs of the sale, in that order of priority, shall be deposited with the clerk of the circuit court for the county if the owner or lienholder is absent, and the clerk shall hold such proceeds subject to the claim of the owner or lienholder legally entitled thereto. The clerk shall be entitled to

receive 5 percent of such proceeds for the care and disbursement thereof. The certificate of title issued under this law shall be discharged of all liens unless otherwise provided by court order. The owner or lienholder may file a complaint after the vehicle or vessel has been sold in the county court of the county in which it is stored. Upon determining the respective rights of the parties, the court may award damages, attorney attorney's fees, and costs in favor of the prevailing party.

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

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

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

(15)(a) A lienor or the lienor's agent may charge an administrative fee to the registered owner or a person claiming a lien against the vehicle or vessel to obtain release of the vehicle or vessel from the claim of lien imposed under this section. Such administrative fee may not exceed \$250. For purposes of this paragraph, the term "administrative fee" means a lien fee or any fee imposed by the lienor or the lienor's agent for administrative costs added to the amount due for towing and storing the vehicle or vessel.

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

(16) A towing-storage operator must use a third-party service approved by the Department of Highway Safety and Motor Vehicles to transmit all notices required by this section. If there is no third-party service approved by the department, the towing-storage operator may mail the notices and

provide evidence of compliance with this section upon submission of an application for certificate of title or certificate of destruction.

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

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

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

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

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

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

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

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

b. The license plate number.

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

d. The physical location of the vehicle or vessel.

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

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

g. The date of assessment of storage charges.

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

i. Other information required by the department.

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

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

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

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

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

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

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

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

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

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

Approved by the Governor June 7, 2019.

Filed in Office Secretary of State June 7, 2019.