

1 A bill to be entitled
2 An act relating to wrecker and towing-storage
3 operators; amending s. 321.051, F.S.; prohibiting the
4 Division of the Florida Highway Patrol from excluding
5 wrecker operators from the wrecker operator system or
6 from being designated as an authorized wrecker
7 operator based solely on a prior felony conviction;
8 providing an exception; amending s. 713.78, F.S.;
9 defining the term "towing-storage operator";
10 authorizing a towing-storage operator to charge
11 certain fees; limiting types of fees that a towing-
12 storage operator may charge for specified purposes;
13 requiring a towing-storage operator to accept
14 specified payment methods; removing certain
15 requirements for law enforcement agencies and the
16 Department of Highway Safety and Motor Vehicles;
17 revising the timeframe in which certain unclaimed
18 vehicles or vessels may be sold; revising the
19 timeframe in which a notice of lien must be sent for
20 certain unclaimed vehicles or vessels; revising the
21 timeframe in which a towing-storage operator must
22 provide certain notice to the public agency of
23 jurisdiction; requiring that such notice be sent by
24 certified mail; requiring the posting of a bond or
25 other security be done in a specified manner; revising

26 | the timeframe in which public notice of the sale of a
 27 | vehicle or vessel must be published; restricting the
 28 | imposition of storage charges under certain
 29 | circumstances; revising provisions regarding
 30 | permission to inspect vehicle or vessel; providing
 31 | means by which a rental car company may appoint its
 32 | agent; providing when a vehicle must be made available
 33 | for inspection; requiring a towing-storage operator to
 34 | maintain certain records for a specified period of
 35 | time; providing the exclusive remedy for certain
 36 | liens; conforming cross-references; making technical
 37 | changes; amending s. 559.917, F.S.; providing
 38 | procedures and requirements for acquiring a bond to
 39 | release certain liens; providing definitions; amending
 40 | ss. 83.19, 83.805, 677.210, and 715.07 F.S.;
 41 | conforming provisions to changes made by the act;
 42 | amending s. 715.07, F.S.; conforming a cross-
 43 | reference; providing an effective date.

44 |
 45 | Be It Enacted by the Legislature of the State of Florida:

46 |
 47 | Section 1. Subsection (5) is added to section 321.051,
 48 | Florida Statutes, to read:

49 | 321.051 Florida Highway Patrol wrecker operator system;
 50 | penalties for operation outside of system.-

51 (5) The Division of the Florida Highway Patrol may not
 52 exclude a wrecker operator from the wrecker operator system or
 53 fail to designate him or her as an authorized wrecker operator
 54 based solely on a prior felony conviction, unless such
 55 conviction is for a forcible felony as defined in s. 776.08.

56 Section 2. Subsections (1), (2), (4), (5), (6), (9), and
 57 (10), paragraph (a) of subsection (11), paragraph (a) of
 58 subsection (12), and paragraphs (a), (b), and (d) of subsection
 59 (13) of section 713.78, Florida Statutes, are amended, and
 60 subsections (18) and (19) are added to that section, to read:

61 713.78 Liens for recovering, towing, or storing vehicles
 62 and vessels.—

63 (1) For the purposes of this section, the term:

64 (a)-(e) "Equivalent commercially available system" means a
 65 service that charges a fee to provide vehicle information and
 66 that at a minimum maintains records from those states
 67 participating in data sharing with the National Motor Vehicle
 68 Title Information System.

69 (b)-(d) "National Motor Vehicle Title Information System"
 70 means the federally authorized electronic National Motor Vehicle
 71 Title Information System.

72 (c) "Towing-storage operator" means a person who regularly
 73 engages in the business of transporting vehicles or vessels by
 74 wrecker, tow truck, or car carrier.

75 (d)-(a) "Vehicle" means any mobile item, whether motorized

76 or not, which is mounted on wheels.

77 (e)~~(b)~~ "Vessel" means every description of watercraft,
 78 barge, and airboat used or capable of being used as a means of
 79 transportation on water, other than a seaplane or a "documented
 80 vessel" as defined in s. 327.02.

81 (f)~~(e)~~ "Wrecker" means any truck or other vehicle that
 82 ~~which~~ is used to tow, carry, or otherwise transport motor
 83 vehicles or vessels upon the streets and highways of this state
 84 and ~~which~~ is equipped for that purpose with a boom, winch, car
 85 carrier, or other similar equipment.

86 (2) (a) ~~Whenever~~ A towing-storage operator ~~person~~ regularly
 87 engaged in the business of transporting vehicles or vessels by
 88 wrecker, tow truck, or car carrier may charge only the following
 89 fees for, or incidental to, the recovery, removal, or storage of
 90 a vehicle or vessel:

91 1. A reasonable hazardous waste fee.

92 2. A reasonable fee for a service authorized by ordinance
 93 of the county or municipality in which the service is performed.

94 3. A reasonable fee for service authorized by rule of the
 95 Department of Highway Safety and Motor Vehicles.

96 4. A lien release administrative fee as set forth in
 97 paragraph (15) (a).

98 5. A reasonable administrative fee or charge imposed upon
 99 the owner of a vehicle or vessel by a county or municipality.

100 (b) If a towing-storage operator recovers, removes, or

101 stores a vehicle or vessel upon instructions from:

102 1.(a) The owner thereof;

103 2.(b) The owner or lessor, or a person authorized by the
 104 owner or lessor, of property on which such vehicle or vessel is
 105 wrongfully parked, and the removal is done in compliance with s.
 106 715.07;

107 3.(e) The landlord or a person authorized by the landlord,
 108 when such motor vehicle or vessel remained on the premises after
 109 the tenancy terminated and the removal is done in compliance
 110 with s. 83.806 or s. 715.104; or

111 4.(d) Any law enforcement agency,

112
 113 she or he has ~~shall have~~ a lien on the vehicle or vessel for a
 114 reasonable recovery fee, a reasonable towing fee, ~~for a~~
 115 ~~reasonable administrative fee or charge imposed by a county or~~
 116 ~~municipality~~, and ~~for~~ a reasonable storage fee; except that a
 117 storage fee may not be charged if the vehicle or vessel is
 118 stored for fewer than 6 hours.

119 (c) A towing-storage operator must accept credit cards,
 120 debit cards, or electronic payment methods.

121 (4) (a) A towing-storage operator ~~person regularly engaged~~
 122 ~~in the business of recovering, towing, or storing vehicles or~~
 123 ~~vessels~~ who comes into possession of a vehicle or vessel
 124 pursuant to paragraph (2) (b) subsection (2), and who claims a
 125 lien for recovery, towing, or storage services, must ~~shall~~ give

126 notice, by certified mail, to the registered owner, the
127 insurance company insuring the vehicle notwithstanding s.
128 627.736, and all persons claiming a lien thereon, as disclosed
129 by the records in the Department of Highway Safety and Motor
130 Vehicles or as disclosed by the records of any corresponding
131 agency in any other state in which the vehicle is identified
132 through a records check of the National Motor Vehicle Title
133 Information System or an equivalent commercially available
134 system as being titled or registered.

135 ~~(b) Whenever a law enforcement agency authorizes the~~
136 ~~removal of a vehicle or vessel or whenever a towing service,~~
137 ~~garage, repair shop, or automotive service, storage, or parking~~
138 ~~place notifies the law enforcement agency of possession of a~~
139 ~~vehicle or vessel pursuant to s. 715.07(2)(a)2., the law~~
140 ~~enforcement agency of the jurisdiction where the vehicle or~~
141 ~~vessel is stored shall contact the Department of Highway Safety~~
142 ~~and Motor Vehicles, or the appropriate agency of the state of~~
143 ~~registration, if known, within 24 hours through the medium of~~
144 ~~electronic communications, giving the full description of the~~
145 ~~vehicle or vessel. Upon receipt of the full description of the~~
146 ~~vehicle or vessel, the department shall search its files to~~
147 ~~determine the owner's name, the insurance company insuring the~~
148 ~~vehicle or vessel, and whether any person has filed a lien upon~~
149 ~~the vehicle or vessel as provided in s. 319.27(2) and (3) and~~
150 ~~notify the applicable law enforcement agency within 72 hours.~~

151 ~~The person in charge of the towing service, garage, repair shop,~~
152 ~~or automotive service, storage, or parking place shall obtain~~
153 ~~such information from the applicable law enforcement agency~~
154 ~~within 5 days after the date of storage and shall give notice~~
155 ~~pursuant to paragraph (a). The department may release the~~
156 ~~insurance company information to the requestor notwithstanding~~
157 ~~s. 627.736.~~

158 (b)(c) The notice of lien must be sent by certified mail
159 to the registered owner, the insurance company insuring the
160 vehicle notwithstanding s. 627.736, and all other persons
161 claiming a lien thereon within 3 ~~7~~ business days, excluding
162 Saturday and Sunday, after the date of storage of the vehicle or
163 vessel. ~~However, in no event shall the notice of lien be sent~~
164 ~~less than 30 days before the sale of the vehicle or vessel.~~ The
165 notice must state:

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

174 2. The name, physical address, and telephone number of the
175 lienor, and the entity name, as registered with the Division of

176 Corporations, of the business where the towing and storage
 177 occurred, which must also appear on the outside of the envelope
 178 sent to the registered owner and all other persons claiming an
 179 interest in or lien on the vehicle or vessel.

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

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

183 5. That a lien as provided in paragraph (2)(b) ~~subsection~~
 184 ~~(2)~~ is claimed.

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

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

190 8. That any vehicle or vessel that remains unclaimed, or
 191 for which the charges for recovery, towing, or storage services
 192 remain unpaid, may be sold free of all prior liens 35 days after
 193 the vehicle or vessel is stored by the lienor if the vehicle or
 194 vessel is more than 3 years of age or 65 ~~50~~ days after the
 195 vehicle or vessel is stored by the lienor if the vehicle or
 196 vessel is 3 years of age or less.

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

199 (c) ~~(d)~~ The notice of lien may not be sent to the
 200 registered owner, the insurance company insuring the vehicle or

201 vessel, and all other persons claiming a lien thereon less than
 202 30 days before the sale of a the vehicle or vessel that is more
 203 than 3 years of age or less than 60 days before the sale of a
 204 vehicle or vessel that is 3 years of age or less.

205 (d)(e) If attempts to locate the name and address of the
 206 owner or lienholder prove unsuccessful, the towing-storage
 207 operator shall, after 3 7 business days, excluding Saturday and
 208 Sunday, after the initial tow or storage, notify the public
 209 agency of jurisdiction where the vehicle or vessel is stored in
 210 writing by certified mail ~~or acknowledged hand delivery~~ that the
 211 towing-storage company has been unable to locate the name and
 212 address of the owner or lienholder and a physical search of the
 213 vehicle or vessel has disclosed no ownership information and a
 214 good faith effort has been made, including records checks of the
 215 Department of Highway Safety and Motor Vehicles database and the
 216 National Motor Vehicle Title Information System or an equivalent
 217 commercially available system. For purposes of this paragraph
 218 and subsection (9), the term "good faith effort" means that the
 219 following checks have been performed by the company to establish
 220 the prior state of registration and for title:

221 1. A check of the department's database for the owner and
 222 any lienholder.

223 2. A check of the electronic National Motor Vehicle Title
 224 Information System or an equivalent commercially available
 225 system to determine the state of registration when there is not

226 | a current registration record for the vehicle or vessel on file
 227 | with the department.

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

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

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

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

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

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

247 | 9. A check of the vehicle for a vehicle identification
 248 | number.

249 | 10. A check of the vessel for a vessel registration
 250 | number.

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

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

264 (b) Regardless of whether a complaint is filed pursuant to
 265 paragraph (a), ~~At~~ any time before the sale of the vehicle or
 266 vessel, an owner or lienholder may have her or his vehicle or
 267 vessel released upon payment of the applicable fee in s. 28.24
 268 and posting with the court a cash or surety bond, or other
 269 adequate security, in accordance with s. 559.917 equal to the
 270 amount of the charges for towing or storage and lot rental
 271 amount to ensure the payment of such charges in the event she or
 272 he does not prevail. Section 559.917 applies to the release of a
 273 lien of a vehicle, as defined in subsection (1), claimed by a
 274 towing-storage operator for recovery, towing, or storage
 275 charges. ~~Upon the posting of the bond and the payment of the~~

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

283 (c) Upon determining the respective rights of the parties,
284 the court may award damages, attorney ~~attorney's~~ fees, and costs
285 in favor of the prevailing party. In the event the lienor
286 prevails ~~In any event~~, the final order must ~~shall~~ provide for
287 immediate payment in full of recovery, towing, and storage fees
288 by the vehicle or vessel owner or lienholder; or the agency
289 ordering the tow; or the owner, lessee, or agent thereof of the
290 property from which the vehicle or vessel was removed.

291 (6) A vehicle or vessel that is stored pursuant to
292 paragraph (2)(b) ~~subsection (2)~~ and remains unclaimed, or for
293 which reasonable charges for recovery, towing, or storing remain
294 unpaid, and any contents not released pursuant to subsection
295 (10), may be sold by the owner or operator of the storage space
296 for such towing or storage charge 35 days after the vehicle or
297 vessel is stored by the lienor if the vehicle or vessel is more
298 than 3 years of age or 65 ~~50~~ days after the vehicle or vessel is
299 stored by the lienor if the vehicle or vessel is 3 years of age
300 or less. The sale must ~~shall~~ be at public sale for cash. If the

301 date of the sale was not included in the notice required in
 302 subsection (4), notice of the sale must ~~shall~~ be given to the
 303 person in whose name the vehicle or vessel is registered and to
 304 all persons claiming a lien on the vehicle or vessel as shown on
 305 the records of the Department of Highway Safety and Motor
 306 Vehicles or of any corresponding agency in any other state in
 307 which the vehicle is identified through a records check of the
 308 National Motor Vehicle Title Information System or an equivalent
 309 commercially available system as being titled. Notice of the
 310 sale must be sent by certified mail to the owner of the vehicle
 311 or vessel and the person having the recorded lien on the vehicle
 312 or vessel at the address shown on the records of the registering
 313 agency at least 30 days before the sale of the vehicle or
 314 vessel. ~~The notice must have clearly identified and printed, if~~
 315 ~~the claim of lien is for a motor vehicle,~~ The last 8 digits of
 316 the vehicle identification number of the ~~motor~~ vehicle subject
 317 to the lien, or, if the claim of lien is for a vessel, the hull
 318 identification number of the vessel subject to the lien, must be
 319 clearly identified and printed in the delivery address box and
 320 on the outside of the envelope sent to the registered owner and
 321 all other persons claiming an interest in ~~therein~~ or lien on the
 322 vehicle or vessel ~~thereon~~. ~~The notice must be sent to the owner~~
 323 ~~of the vehicle or vessel and the person having the recorded lien~~
 324 ~~on the vehicle or vessel at the address shown on the records of~~
 325 ~~the registering agency at least 30 days before the sale of the~~

326 ~~vehicle or vessel.~~ The notice must state the name, physical
327 address, and telephone number of the lienor, and the vehicle
328 identification number if the claim of lien is for a vehicle or
329 the hull identification number if the claim of lien is for a
330 vessel, all of which must also appear in the return address
331 section on the outside of the envelope containing the notice of
332 sale. After diligent search and inquiry, if the name and address
333 of the registered owner or the owner of the recorded lien cannot
334 be ascertained, the requirements of notice by mail may be
335 dispensed with. In addition to the notice by mail, public notice
336 of the time and place of sale must ~~shall~~ be made by publishing a
337 notice thereof one time, at least 30 ~~10~~ days before the date of
338 the sale, in a newspaper of general circulation in the county in
339 which the sale is to be held. The proceeds of the sale, after
340 payment of reasonable towing and storage charges, and costs of
341 the sale, in that order of priority, must ~~shall~~ be deposited
342 with the clerk of the circuit court for the county if the owner
343 or lienholder is absent, and the clerk shall hold such proceeds
344 subject to the claim of the owner or lienholder legally entitled
345 thereto. The clerk is ~~shall be~~ entitled to receive 5 percent of
346 such proceeds for the care and disbursement thereof. ~~The~~
347 ~~certificate of title issued under this law shall be discharged~~
348 ~~of All liens~~ Upon compliance by the towing-storage operator with
349 this section, all liens on the certificate of title issued under
350 this section must be discharged unless otherwise provided by

351 court order. The owner or lienholder may file a complaint after
 352 the vehicle or vessel has been sold in the county court of the
 353 county in which it is stored. Upon determining the respective
 354 rights of the parties, the court may award damages, attorney
 355 fees, and costs in favor of the prevailing party.

356 (9) Failure to make good faith efforts to substantially
 357 comply with the ~~notice~~ requirements of this section or ~~precludes~~
 358 ~~the imposition of any storage charges against the vehicle or~~
 359 ~~vessel. If a lienor fails to provide notice to a person claiming~~
 360 a lien on a vehicle or vessel in accordance with subsection (4),
 361 precludes the imposition of storage charges against the vehicle
 362 or vessel ~~the lienor may not charge the person~~ for more than 3 ~~7~~
 363 days of storage, but such failure does not affect charges made
 364 for towing the vehicle or vessel or the priority of liens on the
 365 vehicle or vessel.

366 (10) (a) A towing-storage operator ~~Persons who provide~~
 367 ~~services pursuant to this section~~ shall permit rental car
 368 ~~vehicle or vessel~~ owners, lienholders, insurance company
 369 representatives, or their agents, which agency is evidenced by
 370 an original writing acknowledged by the owner before a notary
 371 public or other person empowered by law to administer oaths, to
 372 inspect the towed vehicle ~~or vessel~~ and shall release to the
 373 owner, lienholder, or agent the vehicle, ~~vessel,~~ or all personal
 374 property not affixed to the vehicle ~~or vessel~~ which was in the
 375 vehicle ~~or vessel~~ at the time the vehicle ~~or vessel~~ came into

376 the custody of the person providing such services. For the
377 purposes of this paragraph, a rental car agreement does not
378 constitute evidence that the person who rented a vehicle is an
379 agent of the owner of the vehicle, and a towing-storage operator
380 may not release a vehicle owned by a rental car company to the
381 person who rented the vehicle unless the rental car company
382 appoints the person who rented the vehicle as its agent.

383 (b) A towing-storage operator shall permit non-rental
384 vehicle or vessel owners, lienholders, insurance company
385 representatives, or their agents to inspect the towed vehicle or
386 vessel. The towing-storage operator must make the vehicle or
387 vessel available for inspection during regular business hours
388 within 3 business days after receiving a written request to
389 inspect the vehicle or vessel and shall release to the owner,
390 lienholder, or agent the vehicle, vessel, or all personal
391 property not affixed to the vehicle or vessel which was in the
392 vehicle or vessel at the time the vehicle or vessel came into
393 the custody of the towing-storage operator. A towing-storage
394 operator must accept a copy of either an electronic title or a
395 paper title as evidence of a person's interest in a vehicle or
396 vessel.

397 (11) (a) A towing-storage operator ~~Any person regularly~~
398 ~~engaged in the business of recovering, towing, or storing~~
399 ~~vehicles or vessels~~ who comes into possession of a vehicle or
400 vessel pursuant to paragraph (2) (b) ~~subsection (2)~~ and who has

401 | complied with ~~the provisions of~~ subsections (4) ~~(3)~~ and (6),
 402 | when such vehicle or vessel is to be sold for purposes of being
 403 | dismantled, destroyed, or changed in such manner that it is not
 404 | the ~~motor~~ vehicle or vessel described in the certificate of
 405 | title, must ~~shall~~ report the vehicle to the National Motor
 406 | Vehicle Title Information System and apply to the Department of
 407 | Highway Safety and Motor Vehicles for a certificate of
 408 | destruction. A certificate of destruction, which authorizes the
 409 | dismantling or destruction of the vehicle or vessel described
 410 | therein, is ~~shall be~~ reassignable a maximum of two times before
 411 | dismantling or destruction of the vehicle is ~~shall be~~ required,
 412 | and must ~~shall~~ accompany the vehicle or vessel for which it is
 413 | issued, when such vehicle or vessel is sold for such purposes,
 414 | in lieu of a certificate of title. The application for a
 415 | certificate of destruction must include proof of reporting to
 416 | the National Motor Vehicle Title Information System and an
 417 | affidavit from the applicant that she or he ~~it~~ has complied with
 418 | all applicable requirements of this section and, if the vehicle
 419 | or vessel is not registered in this state or any other state, by
 420 | a statement from a law enforcement officer that the vehicle or
 421 | vessel is not reported stolen, and must ~~shall~~ be accompanied by
 422 | such documentation as may be required by the department.

423 | (12) (a) Any person who violates paragraph (2) (b) ~~any~~
 424 | ~~provision of subsection (1), subsection (2),~~ subsection (4),
 425 | subsection (5), subsection (6), or subsection (7) is guilty of a

426 | misdemeanor of the first degree, punishable as provided in s.
427 | 775.082 or s. 775.083.

428 | (13) (a) Upon receipt by the Department of Highway Safety
429 | and Motor Vehicles of written notice from a wrecker operator who
430 | claims a wrecker operator's lien under subparagraph (2) (b) 4.
431 | ~~paragraph (2) (d)~~ for recovery, towing, or storage of an
432 | abandoned vehicle or vessel upon instructions from any law
433 | enforcement agency, for which a certificate of destruction has
434 | been issued under subsection (11) and the vehicle has been
435 | reported to the National Motor Vehicle Title Information System,
436 | the department shall place the name of the registered owner of
437 | that vehicle or vessel on the list of those persons who may not
438 | be issued a license plate or revalidation sticker for any motor
439 | vehicle under s. 320.03(8). If the vehicle or vessel is owned
440 | jointly by more than one person, the name of each registered
441 | owner must ~~shall~~ be placed on the list. The notice of wrecker
442 | operator's lien must ~~shall~~ be submitted on forms provided by the
443 | department and, ~~which must~~ include:

444 | 1. The name, address, and telephone number of the wrecker
445 | operator.

446 | 2. The name of the registered owner of the vehicle or
447 | vessel and the address to which the wrecker operator provided
448 | notice of the lien to the registered owner under subsection (4).

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

451 4. The vehicle identification number (VIN); registration
452 license plate number, state, and year; validation decal number,
453 state, and year; vessel registration number; hull identification
454 number; or other identification number, as applicable.

455 5. The name of the person or the corresponding law
456 enforcement agency that requested that the vehicle or vessel be
457 recovered, towed, or stored.

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

460 (b) For purposes of this subsection only, the amount of
461 the wrecker operator's lien for which the department will
462 prevent issuance of a license plate or revalidation sticker may
463 not exceed the amount of the charges for recovery, towing, and
464 storage of the vehicle or vessel for 7 days. These charges may
465 not exceed the maximum rates imposed by the ordinances of the
466 respective county or municipality under ss. 125.0103(1)(c) and
467 166.043(1)(c). This paragraph does not limit the amount of a
468 wrecker operator's lien claimed under paragraph (2)(b)
469 ~~subsection (2)~~ or prevent a wrecker operator from seeking civil
470 remedies for enforcement of the entire amount of the lien, but
471 limits only that portion of the lien for which the department
472 will prevent issuance of a license plate or revalidation
473 sticker.

474 (d) Upon discharge of the amount of the wrecker operator's
475 lien allowed by paragraph (b), the wrecker operator must issue a

476 certificate of discharged wrecker operator's lien on forms
 477 provided by the department to each registered owner of the
 478 vehicle or vessel attesting that the amount of the wrecker
 479 operator's lien allowed by paragraph (b) has been discharged.
 480 Upon presentation of the certificate of discharged wrecker
 481 operator's lien by the registered owner, the department must
 482 ~~shall~~ immediately remove the registered owner's name from the
 483 list of those persons who may not be issued a license plate or
 484 revalidation sticker for any motor vehicle under s. 320.03(8),
 485 thereby allowing issuance of a license plate or revalidation
 486 sticker. Issuance of a certificate of discharged wrecker
 487 operator's lien under this paragraph does not discharge the
 488 entire amount of the wrecker operator's lien claimed under
 489 paragraph (2)(b) ~~subsection (2)~~, but only certifies to the
 490 department that the amount of the wrecker operator's lien
 491 allowed by paragraph (b), for which the department will prevent
 492 issuance of a license plate or revalidation sticker, has been
 493 discharged.

494 (18) For three years, a towing-storage operator must
 495 retain records produced for all vehicles or vessels recovered,
 496 towed, stored, or released, which records must include at least
 497 the following:

- 498 (a) All notice publications and certified mailings;
- 499 (b) The purchase price of any unclaimed vehicle or vessel
 500 sold;

501 (c) The name and address of any person to which a vehicle
 502 or vessel was released;

503 (d) The name and address of the purchaser of any unclaimed
 504 vehicle or vessel; and

505 (e) All fees imposed under this section.

506 (19) This section is the exclusive remedy for the
 507 foreclosure of a storage lien on a vehicle or vessel pursuant to
 508 s. 83.19, s. 83.805, or s. 677.210.

509 Section 3. Section 559.917, Florida Statutes, is amended
 510 to read:

511 559.917 Bond to release possessory lien claimed by motor
 512 vehicle repair shop or towing-storage operator.—

513 (1)(a) A customer or a person of record claiming a lien
 514 against a motor vehicle or vessel may obtain the release of the
 515 motor vehicle or vessel from any lien claimed under part II of
 516 chapter 713 by a motor vehicle repair shop for repair work
 517 performed under a written repair estimate or by a towing-storage
 518 operator for recovery, towing, or storage charges by filing with
 519 the clerk of the court in the circuit in which the disputed
 520 transaction occurred a cash or surety bond, payable to the
 521 person claiming the lien and conditioned for the payment of any
 522 judgment which may be entered on the lien. The bond must ~~shall~~
 523 be in the amount stated on the notice of lien required under s.
 524 713.78(4) or on the invoice required by s. 559.911, plus accrued
 525 storage charges, if any, less any amount paid to the motor

526 vehicle repair shop as indicated on the invoice. The customer or
527 person is ~~shall~~ not be required to institute judicial
528 proceedings in order to post the bond in the registry of the
529 court and is ~~shall~~ not be required to use a particular form for
530 posting the bond unless the clerk provides such form to the
531 customer or person for filing. Upon the posting of such bond,
532 the clerk of the court shall automatically issue a certificate
533 notifying the lienor of the posting of the bond and directing
534 the lienor to release the motor vehicle or vessel.

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

541 (2) ~~If the failure of~~ a lienor fails to release or return
542 to the customer or person the motor vehicle or vessel upon which
543 any lien is claimed, upon receiving a copy of a certificate
544 giving notice of the posting of the bond and directing release
545 of the motor vehicle or vessel, the lienor is ~~shall~~ subject ~~the~~
546 ~~lienor~~ to judicial proceedings which may be brought by the
547 customer or person to compel compliance with the certificate. If
548 ~~Whenever~~ a customer or person brings an action to compel
549 compliance with the certificate, the customer or person must
550 ~~need only~~ establish the following that:

551 (a) That the bond in the amount on the notice of lien
552 required under s. 713.78(4) or on ~~of~~ the invoice, plus accrued
553 storage charges, if any, less any amount paid to the motor
554 vehicle repair shop as indicated on the invoice, was posted.~~;~~

555 (b) That a certificate was issued under ~~pursuant to~~ this
556 section.;

557 (c) That the motor vehicle repair shop or towing-storage
558 operator, or any employee or agent thereof who is authorized to
559 release the motor vehicle or vessel, received a copy of a
560 certificate issued under ~~pursuant to~~ this section.~~;~~ and

561 (d) That the motor vehicle repair shop or towing-storage
562 operator, or an employee or agent thereof who is authorized to
563 release the motor vehicle or vessel, failed to release the motor
564 vehicle or vessel.

565
566 The customer or person of record, claiming a lien against a
567 motor vehicle or vessel, upon a judgment in her or his favor in
568 an action brought under this subsection, may be entitled to
569 damages plus court costs and reasonable attorney fees sustained
570 by her or him by reason of such wrongful detention or retention.
571 Upon a judgment in favor of the motor vehicle repair shop or
572 towing-storage operator, the shop or towing-storage operator may
573 be entitled to reasonable attorney fees.

574 (3) A motor vehicle repair shop or towing-storage operator
575 ~~that~~, or an employee or agent thereof who is authorized to

576 | release the motor vehicle or vessel, who, upon receiving a copy
 577 | of a certificate giving notice of the posting of the bond in the
 578 | required amount and directing release of the motor vehicle or
 579 | vessel, fails to release or return the property to the customer
 580 | or person pursuant to this section commits a misdemeanor of the
 581 | second degree, punishable as provided in s. 775.082 or s.
 582 | 775.083.

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

589 | (5) For purposes of this section, the terms "towing-
 590 | storage operator" and "vessel" have the same meanings as in s.
 591 | 713.78(1).

592 | Section 4. Subsection (5) is added to section 83.19,
 593 | Florida Statutes, to read:

594 | 83.19 Sale of property distrained.—

595 | (5) A lien on a vehicle or vessel, as those terms are
 596 | defined in s. 713.78(1), of a tenant or lessee must be
 597 | foreclosed pursuant to s. 713.78 and may not be foreclosed under
 598 | this chapter.

599 | Section 5. Section 83.805, Florida Statutes, is amended to
 600 | read:

601 83.805 Lien.—

602 (1) The owner of a self-service storage facility or self-
 603 contained storage unit and the owner's heirs, executors,
 604 administrators, successors, and assigns have a lien upon all
 605 personal property, whether or not owned by the tenant, located
 606 at a self-service storage facility or in a self-contained
 607 storage unit for rent, labor charges, or other charges, present
 608 or future, in relation to the personal property and for expenses
 609 necessary for its preservation or expenses reasonably incurred
 610 in its sale or other disposition pursuant to ss. 83.801-83.809.
 611 The lien provided for in this section attaches as of the date
 612 that the personal property is brought to the self-service
 613 storage facility or as of the date the tenant takes possession
 614 of the self-contained storage unit, and the priority of this
 615 lien shall be the same as provided in s. 83.08; however, in the
 616 event of default, the owner must give notice to persons who hold
 617 perfected security interests under the Uniform Commercial Code
 618 in which the tenant is named as the debtor.

619 (2) A lien on a vehicle or vessel, as those terms are
 620 defined in s. 713.78(1), of a tenant or lessee must be
 621 foreclosed pursuant to s. 713.78 and may not be foreclosed under
 622 this chapter.

623 Section 6. Subsection (10) of section 83.806, Florida
 624 Statutes, is amended to read:

625 83.806 Enforcement of lien.—An owner's lien as provided in

626 s. 83.805 may be satisfied as follows:

627 (10) If a lien is claimed on property that is a motor
 628 vehicle or a watercraft and rent and other charges related to
 629 the property remain unpaid or unsatisfied for 60 days after the
 630 maturity of the obligation to pay the rent and other charges,
 631 the facility or unit owner may sell the property pursuant to s.
 632 713.78 ~~this section~~ or have the property towed. If a motor
 633 vehicle or watercraft is towed, the facility or unit owner is
 634 not liable for the motor vehicle or watercraft or any damages to
 635 the motor vehicle or watercraft once a wrecker takes possession
 636 of the property. The wrecker taking possession of the property
 637 must comply with all notification and sale requirements provided
 638 in s. 713.78.

639 Section 7. Subsection (10) is added to section 677.210,
 640 Florida Statutes, to read:

641 677.210 Enforcement of warehouse's lien.—

642 (10) A lien on a vehicle or vessel, as those terms are
 643 defined in s. 713.78(1), must be foreclosed pursuant to s.
 644 713.78 and may not be foreclosed under this chapter.

645 Section 8. Paragraph (a) of subsection (2) of section
 646 715.07, Florida Statutes, is amended to read:

647 715.07 Vehicles or vessels parked on private property;
 648 towing.—

649 (2) The owner or lessee of real property, or any person
 650 authorized by the owner or lessee, which person may be the

651 designated representative of the condominium association if the
 652 real property is a condominium, may cause any vehicle or vessel
 653 parked on such property without her or his permission to be
 654 removed by a person regularly engaged in the business of towing
 655 vehicles or vessels, without liability for the costs of removal,
 656 transportation, or storage or damages caused by such removal,
 657 transportation, or storage, under any of the following
 658 circumstances:

659 (a) The towing or removal of any vehicle or vessel from
 660 private property without the consent of the registered owner or
 661 other legally authorized person in control of that vehicle or
 662 vessel is subject to substantial compliance with the following
 663 conditions and restrictions:

664 1.a. Any towed or removed vehicle or vessel must be stored
 665 at a site within a 10-mile radius of the point of removal in any
 666 county of 500,000 population or more, and within a 15-mile
 667 radius of the point of removal in any county of fewer than
 668 500,000 population. That site must be open for the purpose of
 669 redemption of vehicles on any day that the person or firm towing
 670 such vehicle or vessel is open for towing purposes, from 8:00
 671 a.m. to 6:00 p.m., and, when closed, shall have prominently
 672 posted a sign indicating a telephone number where the operator
 673 of the site can be reached at all times. Upon receipt of a
 674 telephoned request to open the site to redeem a vehicle or
 675 vessel, the operator shall return to the site within 1 hour or

676 she or he will be in violation of this section.

677 b. If no towing business providing such service is located
678 within the area of towing limitations set forth in sub-
679 subparagraph a., the following limitations apply: any towed or
680 removed vehicle or vessel must be stored at a site within a 20-
681 mile radius of the point of removal in any county of 500,000
682 population or more, and within a 30-mile radius of the point of
683 removal in any county of fewer than 500,000 population.

684 2. The person or firm towing or removing the vehicle or
685 vessel shall, within 30 minutes after completion of such towing
686 or removal, notify the municipal police department or, in an
687 unincorporated area, the sheriff, of such towing or removal, the
688 storage site, the time the vehicle or vessel was towed or
689 removed, and the make, model, color, and license plate number of
690 the vehicle or description and registration number of the vessel
691 and shall obtain the name of the person at that department to
692 whom such information was reported and note that name on the
693 trip record.

694 3. A person in the process of towing or removing a vehicle
695 or vessel from the premises or parking lot in which the vehicle
696 or vessel is not lawfully parked must stop when a person seeks
697 the return of the vehicle or vessel. The vehicle or vessel must
698 be returned upon the payment of a reasonable service fee of not
699 more than one-half of the posted rate for the towing or removal
700 service as provided in subparagraph 6. The vehicle or vessel may

701 | be towed or removed if, after a reasonable opportunity, the
 702 | owner or legally authorized person in control of the vehicle or
 703 | vessel is unable to pay the service fee. If the vehicle or
 704 | vessel is redeemed, a detailed signed receipt must be given to
 705 | the person redeeming the vehicle or vessel.

706 | 4. A person may not pay or accept money or other valuable
 707 | consideration for the privilege of towing or removing vehicles
 708 | or vessels from a particular location.

709 | 5. Except for property appurtenant to and obviously a part
 710 | of a single-family residence, and except for instances when
 711 | notice is personally given to the owner or other legally
 712 | authorized person in control of the vehicle or vessel that the
 713 | area in which that vehicle or vessel is parked is reserved or
 714 | otherwise unavailable for unauthorized vehicles or vessels and
 715 | that the vehicle or vessel is subject to being removed at the
 716 | owner's or operator's expense, any property owner or lessee, or
 717 | person authorized by the property owner or lessee, before towing
 718 | or removing any vehicle or vessel from private property without
 719 | the consent of the owner or other legally authorized person in
 720 | control of that vehicle or vessel, must post a notice meeting
 721 | the following requirements:

722 | a. The notice must be prominently placed at each driveway
 723 | access or curb cut allowing vehicular access to the property
 724 | within 10 feet from the road, as defined in s. 334.03(22). If
 725 | there are no curbs or access barriers, the signs must be posted

726 | not fewer than one sign for each 25 feet of lot frontage.

727 | b. The notice must clearly indicate, in not fewer than 2-

728 | inch high, light-reflective letters on a contrasting background,

729 | that unauthorized vehicles will be towed away at the owner's

730 | expense. The words "tow-away zone" must be included on the sign

731 | in not fewer than 4-inch high letters.

732 | c. The notice must also provide the name and current

733 | telephone number of the person or firm towing or removing the

734 | vehicles or vessels.

735 | d. The sign structure containing the required notices must

736 | be permanently installed with the words "tow-away zone" not

737 | fewer than 3 feet and not more than 6 feet above ground level

738 | and must be continuously maintained on the property for not

739 | fewer than 24 hours before the towing or removal of any vehicles

740 | or vessels.

741 | e. The local government may require permitting and

742 | inspection of these signs before any towing or removal of

743 | vehicles or vessels being authorized.

744 | f. A business with 20 or fewer parking spaces satisfies

745 | the notice requirements of this subparagraph by prominently

746 | displaying a sign stating "Reserved Parking for Customers Only

747 | Unauthorized Vehicles or Vessels Will be Towed Away At the

748 | Owner's Expense" in not fewer than 4-inch high, light-reflective

749 | letters on a contrasting background.

750 | g. A property owner towing or removing vessels from real

751 property must post notice, consistent with the requirements in
 752 sub-subparagraphs a.-f., which apply to vehicles, that
 753 unauthorized vehicles or vessels will be towed away at the
 754 owner's expense.

755
 756 A business owner or lessee may authorize the removal of a
 757 vehicle or vessel by a towing company when the vehicle or vessel
 758 is parked in such a manner that restricts the normal operation
 759 of business; and if a vehicle or vessel parked on a public
 760 right-of-way obstructs access to a private driveway the owner,
 761 lessee, or agent may have the vehicle or vessel removed by a
 762 towing company upon signing an order that the vehicle or vessel
 763 be removed without a posted tow-away zone sign.

764 6. Any person or firm that tows or removes vehicles or
 765 vessels and proposes to require an owner, operator, or person in
 766 control or custody of a vehicle or vessel to pay the costs of
 767 towing and storage before redemption of the vehicle or vessel
 768 must file and keep on record with the local law enforcement
 769 agency a complete copy of the current rates to be charged for
 770 such services and post at the storage site an identical rate
 771 schedule and any written contracts with property owners,
 772 lessees, or persons in control of property which authorize such
 773 person or firm to remove vehicles or vessels as provided in this
 774 section.

775 7. Any person or firm towing or removing any vehicles or

776 vessels from private property without the consent of the owner
 777 or other legally authorized person in control or custody of the
 778 vehicles or vessels shall, on any trucks, wreckers as defined in
 779 s. 713.78(1) ~~s. 713.78(1)(c)~~, or other vehicles used in the
 780 towing or removal, have the name, address, and telephone number
 781 of the company performing such service clearly printed in
 782 contrasting colors on the driver and passenger sides of the
 783 vehicle. The name shall be in at least 3-inch permanently
 784 affixed letters, and the address and telephone number shall be
 785 in at least 1-inch permanently affixed letters.

786 8. Vehicle entry for the purpose of removing the vehicle
 787 or vessel shall be allowed with reasonable care on the part of
 788 the person or firm towing the vehicle or vessel. Such person or
 789 firm shall be liable for any damage occasioned to the vehicle or
 790 vessel if such entry is not in accordance with the standard of
 791 reasonable care.

792 9. When a vehicle or vessel has been towed or removed
 793 pursuant to this section, it must be released to its owner or
 794 person in control or custody within 1 hour after requested. Any
 795 vehicle or vessel owner or person in control or custody has the
 796 right to inspect the vehicle or vessel before accepting its
 797 return, and no release or waiver of any kind which would release
 798 the person or firm towing the vehicle or vessel from liability
 799 for damages noted by the owner or person in control or custody
 800 at the time of the redemption may be required from any vehicle

801 or vessel owner or person in control or custody as a condition
802 of release of the vehicle or vessel to its owner or person in
803 control or custody. A detailed receipt showing the legal name of
804 the company or person towing or removing the vehicle or vessel
805 must be given to the person paying towing or storage charges at
806 the time of payment, whether requested or not.

807 Section 9. This act shall take effect July 1, 2023.