

**WAREHOUSE LIENS UNDER FLA. STAT. 677 ARE NOT APPLICABLE TO
STORAGE CHARGES ON MOTOR VEHICLES**

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With the recent changes in Florida Statute 713.585 and 713.78 regarding towing, storage and repair liens on vehicles and vessels effective on January 1, 2020 -- which were designed in large part to stop fraudulent lien sales -- we are now seeing towing and storage shops attempt to utilize other statutes to fraudulently impose liens and fraudulently obtain titles to vehicles while eliminating the lien holder/lessor's interest in the vehicle. One method being used now is the "Warehouse Lien" found in Florida Statute 677.201. While the Florida DMV has recognized that this statute can be used to conduct a lien sale on a vehicle (See TL-27), our position is that this statute is inapplicable to foreclosing a lien on storage charges on a motor vehicle.

The Florida Statutes have established specific legal requirements to impose and foreclose on a lien on a motor vehicle for unpaid storage and towing. This is found in Florida Statute 713.78. This provision sets out very detailed requirements for a storage or towing lien to be foreclosed. The statute contains significant due process protections for owners and lenders. These protections include the right to post a bond prior to a lien sale to take possession of a vehicle without the need to file a lawsuit. The statute contains detailed provisions for the contents of the lien sale notice as well as requirements for publication of notice.

Florida Statute 677, the warehouse lien statute, clearly is designed to protect personal property storage facilities, such as mini warehouses, which store personal property. Nowhere in the statute is there any reference to automobiles. Since there is a specific statute related to liens for storage on automobiles, I recommend the Florida Statutes be amended to make this clear. One way to do this would be to amend Fla. Stat. 713.78 to state that this section is the exclusive provision under Florida law to impose and foreclose a lien for storage of a motor vehicle. Once this was done, we would request the Florida DMV to withdraw TL-27.

An alternative (not recommended) would be to add the language in 713.78(5) into 677.201-

(5)(a) The owner of a vehicle or vessel removed pursuant to 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 her or his property was wrongfully taken or withheld.

(b) At any time before the sale of the vehicle or vessel, 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.

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