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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: February 1, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Agenda Item No. 8(D)(1)(B)

Resolution No. R-59-11

Subject: Resolution Designating Code Inspectors and Code Enforcement Officers of the Miami-Dade County Department of Environmental Resources Management (DERM) to Administer the Provisions of Chapter 705 of the Florida Statutes which Pertain to Lost or Abandoned Property on Public Land

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Recommendation
It is recommended that the Board of County Commissioners (Board) approve the attached resolution designating DERM code inspectors and code enforcement officers to administer the provisions of Chapter 705 of the Florida Statutes (FS) as they pertain to lost and abandoned property on public land.

Scope
This resolution is countywide in scope.

Fiscal Impact/Funding Source
No additional staff would be hired if the resolution is approved. DERM has performed similar duties with state grant funds described below and will pursue other grants to fund future vessel removal work.

Track Record/Monitor
The Director of DERM will monitor activities performed by DERM staff pursuant to its designated authority.

Background
Derelict and abandoned vessels are a large and growing problem in coastal areas of the United States. This is particularly true in Miami-Dade County, which has the largest number of registered vessels in the State of Florida. Derelict and abandoned vessels adversely impact the marine environment and aesthetics of coastal areas and can pose a serious and substantial threat to navigation and to the public's health and safety.

Chapter 705, FS, (attached) provides a procedure for State and local governments to dispose of lost or abandoned property, including derelict vessels, located on public lands. The Statute gives all law enforcement officers the direct authority to post and remove lost and abandoned property from public land subject to certain criteria and procedures. Section 705.1015 of the Statute also permits code inspectors and code enforcement officers of a county or municipality to administer the provisions of Chapter 705, FS, which pertain to lost or abandoned property, if so designated by the county or municipality's governing body.

DERM has maintained a derelict vessel removal program for over ten years. During this time, DERM has worked cooperatively with the Florida Fish and Wildlife Conservation Commission (FWC) to identify and remove hundreds of derelict and abandoned boats from County waters. The primary sources of funding for this work have been FWC Derelict Vessel Removal and Florida Boating Improvement Program grants obtained by DERM. DERM will continue to seek grants from sources other than the FWC, such as the Florida Inland Navigation District (FIND), for future derelict vessel removal work.

DERM and FWC staff have worked cooperatively and effectively over the years to document and remove derelict vessels. However, DERM currently depends upon just one FWC officer to perform the necessary documentation, vessel ownership research, and posting of derelict vessels before the vessels can be

removed. While FWC's involvement is a requirement of FWC-funded derelict vessel removal projects, this process can sometimes take several months to complete due to competing demands on the FWC officer's time. Consequently, a much longer than necessary length of time may pass between when a derelict vessel is first documented and when it is removed, even when non-FWC funding is utilized. Once a derelict vessel or other item of abandoned property is physically posted as required by Chapter 705, FS, the vessel can be removed in as little as five (5) days after posting.

In addition to facilitating the removal of derelict vessels, Chapter 705, FS, can be used to address other types of abandoned property on environmentally sensitive public lands. DERM's Environmentally Endangered Lands (EEL) Program currently manages over 20,000 acres of publicly-owned natural areas in Miami-Dade County, including wetlands and submerged lands where junked vehicles, boats and other items are occasionally abandoned. Illegal structures such as shacks, boardwalks and docks are also sometimes constructed and abandoned by unknown parties on these environmentally-sensitive lands.

Section 19-12 of the Code of Miami-Dade County provides code enforcement officers in the Building & Neighborhood Compliance Department with the authority to post and remove abandoned property from public land. However, this authority has largely been applied only to upland rights-of-way and has historically not been used for property abandoned over submerged lands or in other natural areas outside of rights-of-way. Chapter 705, FS, pertains to all public land, including sovereign submerged lands and all federal, state, county and municipal-owned lands.

It is recommended that the Board designate DERM code inspectors and code enforcement officers to administer the provisions of Chapter 705, FS, for the removal and disposal of derelict vessels and other lost or abandoned property located on public lands. This would be intended to supplement, not supplant, ongoing efforts by FWC and other law enforcement agencies to pursue derelict vessels located in County waters. Doing so will enhance DERM's ability to implement its derelict vessel removal program in a more timely and efficient manner than is currently the case. It will also allow DERM to more readily address other forms of lost or abandoned property located on environmentally-sensitive public lands without having to rely solely upon limited law enforcement resources.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: February 1, 2011

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 8(D)(1)(B)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(D)(1)(B)
2-1-11

RESOLUTION NO. R-59-11

RESOLUTION DESIGNATING CODE INSPECTORS AND CODE ENFORCEMENT OFFICERS OF THE DEPARTMENT OF ENVIRONMENTAL RESOURCES MANAGEMENT TO ADMINISTER THE PROVISIONS OF CHAPTER 705, FLORIDA STATUES, AS THEY PERTAIN TO LOST AND ABANDONED PROPERTY

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, Chapter 705 of the Florida Statutes (FS) provides a procedure for State and local governments to remove and dispose of lost or abandoned property, including derelict vessels, located on public lands; and

WHEREAS, Section 705.1015, FS, authorizes counties to designate employees who have authority to enforce codes or ordinances to administer the provisions of said chapter; and

WHEREAS, the ability to administer the provisions of Chapter 705, FS, will allow the Miami-Dade County Department of Environmental Resources Management (DERM) to more efficiently implement its ongoing derelict vessel removal and environmentally-sensitive land management programs and reduce DERM's dependence on law enforcement agencies to legally remove and dispose of lost and abandoned property located on public land,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby designates code inspectors and code enforcement officers of the Department of Environmental Resources Management to administer the provisions of Chapter 705, FS, which pertain to lost or abandoned property located in, on, over or upon public property as therein defined.

The foregoing resolution was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Jose "Pepe" Diaz** and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman			aye
Audrey M. Edmonson, Vice Chairwoman			aye
Bruno A. Barreiro	aye	Lynda Bell	aye
Jose "Pepe" Diaz	aye	Carlos A. Gimenez	aye
Sally A. Heyman	aye	Barbara J. Jordan	aye
Jean Monestime	aye	Dennis C. Moss	absent
Natacha Seijas	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of February, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **DIANE COLLINS**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Robert A. Duvall

Select Year: 2010 Go

The 2010 Florida Statutes

Title XL
REAL AND PERSONAL PROPERTY

Chapter 705
LOST OR ABANDONED PROPERTY

View Entire Chapter

CHAPTER 705
LOST OR ABANDONED PROPERTY

705.101 Definitions.
705.1015 County or municipal code inspectors or code enforcement officers; duties.
705.102 Reporting lost or abandoned property.
705.103 Procedure for abandoned or lost property.
705.104 Title to lost or abandoned property.
705.105 Procedure regarding unclaimed evidence.
705.106 Recovery from person wrongfully in possession.
705.17 Exceptions.
705.18 Disposal of personal property lost or abandoned on university or community college campuses; disposition of proceeds from sale.
705.182 Disposal of personal property found on the premises of public-use airports.
705.183 Disposal of derelict or abandoned aircraft on the premises of public-use airports.
705.184 Derelict or abandoned motor vehicles on the premises of public-use airports.
705.19 Abandonment of animals by owner; procedure for handling.

705.101 Definitions.—As used in this chapter:

(1) "Local government" means the board of county commissioners of a county or the commission or council of any municipality in the county.

(2) "Lost property" means all tangible personal property which does not have an identifiable owner and which has been mislaid on public property, upon a public conveyance, on premises used at the time for business purposes, or in parks, places of amusement, public recreation areas, or other places open to the public in a substantially operable, functioning condition or which has an apparent intrinsic value to the rightful owner.

(3) "Abandoned property" means all tangible personal property that does not have an identifiable owner and that has been disposed on public property in a wrecked, inoperative, or partially dismantled condition or has no apparent intrinsic value to the rightful owner. The term includes derelict vessels as defined in s. 823.11(1).

(4) "Law enforcement officer" means any person who is elected, appointed, or employed full time by any sheriff, any municipality, or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in

6

part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

(5) "Public property" means lands and improvements owned by the Federal Government, the state, the county, or a municipality and includes sovereignty submerged lands located adjacent to the county or municipality, buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way, and other similar property.

(6) "Unclaimed evidence" means any tangible personal property, including cash, not included within the definition of "contraband article," as provided in s. 932.701(2), which was seized by a law enforcement agency, was intended for use in a criminal or quasi-criminal proceeding, and is retained by the law enforcement agency or the clerk of the county or circuit court for 60 days after the final disposition of the proceeding and to which no claim of ownership has been made.

History.—s. 1, ch. 87-82; s. 15, ch. 89-268; s. 470, ch. 94-356; s. 70, ch. 99-248; s. 28, ch. 2000-197; s. 35, ch. 2002-46; s. 5, ch. 2004-39; s. 30, ch. 2004-344; s. 9, ch. 2006-309.

705.1015 County or municipal code inspectors or code enforcement officers; duties.—Employees of a county or municipality whose duty it is to ensure code compliance or enforce codes and ordinances may be designated by the governing body of the county or the municipality to administer the provisions of this chapter which pertain to lost or abandoned property. Designation of such employees shall not provide the employees with the authority to bear arms or make arrests.

History.—s. 16, ch. 89-268.

705.102 Reporting lost or abandoned property.—

(1) Whenever any person finds any lost or abandoned property, such person shall report the description and location of the property to a law enforcement officer.

(2) The law enforcement officer taking the report shall ascertain whether the person reporting the property wishes to make a claim to it if the rightful owner cannot be identified or located. If the person does wish to make such claim, he or she shall deposit with the law enforcement agency a reasonable sum sufficient to cover the agency's cost for transportation, storage, and publication of notice. This sum shall be reimbursed to the finder by the rightful owner should he or she identify and reclaim the property.

(3) It is unlawful for any person who finds any lost or abandoned property to appropriate the same to his or her own use or to refuse to deliver the same when required.

(4) Any person who unlawfully appropriates such lost or abandoned property to his or her own use or refuses to deliver such property when required commits theft as defined in s. 812.014, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 2, ch. 87-82; s. 4, ch. 92-79; s. 790, ch. 97-102.

705.103 Procedure for abandoned or lost property.—

(1) Whenever a law enforcement officer ascertains that an article of lost or abandoned property is present on public property and is of such nature that it can be easily removed, the officer shall take such article into custody and shall make a reasonable attempt to ascertain the rightful owner or lienholder pursuant to the provisions of this section.

(2) Whenever a law enforcement officer ascertains that an article of lost or abandoned property is present on public property and is of such nature that it cannot be easily removed, the officer shall cause a notice to be placed upon such article in substantially the following form:

7

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY. This property, to wit: (setting forth brief description) is unlawfully upon public property known as (setting forth brief description of location) and must be removed within 5 days; otherwise, it will be removed and disposed of pursuant to chapter 705, Florida Statutes. The owner will be liable for the costs of removal, storage, and publication of notice. Dated this: (setting forth the date of posting of notice), signed: (setting forth name, title, address, and telephone number of law enforcement officer).

Such notice shall be not less than 8 inches by 10 inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the law enforcement officer shall make a reasonable effort to ascertain the name and address of the owner. If such is reasonably available to the officer, she or he shall mail a copy of such notice to the owner on or before the date of posting. If the property is a motor vehicle as defined in s. 320.01(1) or a vessel as defined in s. 327.02, the law enforcement agency shall contact the Department of Highway Safety and Motor Vehicles in order to determine the name and address of the owner and any person who has filed a lien on the vehicle or vessel as provided in s. 319.27(2) or (3) or s. 328.15(1). On receipt of this information, the law enforcement agency shall mail a copy of the notice by certified mail, return receipt requested, to the owner and to the lienholder, if any. If, at the end of 5 days after posting the notice and mailing such notice, if required, the owner or any person interested in the lost or abandoned article or articles described has not removed the article or articles from public property or shown reasonable cause for failure to do so, the following shall apply:

(a) For abandoned property, the law enforcement agency may retain any or all of the property for its own use or for use by the state or unit of local government, trade such property to another unit of local government or state agency, donate the property to a charitable organization, sell the property, or notify the appropriate refuse removal service.

(b) For lost property, the officer shall take custody and the agency shall retain custody of the property for 90 days. The agency shall publish notice of the intended disposition of the property, as provided in this section, during the first 45 days of this time period.

1. If the agency elects to retain the property for use by the unit of government, donate the property to a charitable organization, surrender such property to the finder, sell the property, or trade the property to another unit of local government or state agency, notice of such election shall be given by an advertisement published once a week for 2 consecutive weeks in a newspaper of general circulation in the county where the property was found if the value of the property is more than $100. If the value of the property is $100 or less, notice shall be given by posting a description of the property at the law enforcement agency where the property was turned in. The notice must be posted for not less than 2 consecutive weeks in a public place designated by the law enforcement agency. The notice must describe the property in a manner reasonably adequate to permit the rightful owner of the property to claim it.

2. If the agency elects to sell the property, it must do so at public sale by competitive bidding. Notice of the time and place of the sale shall be given by an advertisement of the sale published once a week for 2 consecutive weeks in a newspaper of general circulation in the county where the sale is to be held. The notice shall include a statement that the sale shall be subject to any and all liens. The sale must be held at the nearest suitable place to that where the lost or abandoned property is held or stored. The advertisement must include a description of the goods and the time and place of the sale. The sale may take place no earlier than 10 days after the final publication. If there is no newspaper of

8

general circulation in the county where the sale is to be held, the advertisement shall be posted at the door of the courthouse and at three other public places in the county at least 10 days prior to sale. Notice of the agency's intended disposition shall describe the property in a manner reasonably adequate to permit the rightful owner of the property to identify it.

(3) If the property is sold at public sale pursuant to subparagraph (2)(b)2., the agency shall deduct from the proceeds the costs of transportation, storage, and publication of notice, and any balance of proceeds shall be deposited into an interest-bearing account not later than 30 days after the date of the sale and held there for 1 year. The agency shall provide a bill of sale clearly stating that the sale is subject to any and all liens. The rightful owner of the property may claim the balance of the proceeds within 1 year from the date of the above stated deposit by making application to the agency. If no rightful owner comes forward with a claim to the property within the designated year, the balance of the proceeds shall be deposited into the State School Fund.

(4) The owner of any abandoned or lost property who, after notice as provided in this section, does not remove such property within the specified period shall be liable to the law enforcement agency for all costs of removal, storage, and destruction of such property, less any salvage value obtained by disposal of the property. Upon final disposition of the property, the law enforcement officer shall notify the owner, if known, of the amount owed. In the case of an abandoned vessel or motor vehicle, any person who neglects or refuses to pay such amount is not entitled to be issued a certificate of registration for such vessel or motor vehicle, or any other vessel or motor vehicle, until such costs have been paid. The law enforcement officer shall supply the Department of Highway Safety and Motor Vehicles with a list of persons whose vessel registration privileges or whose motor vehicle privileges have been revoked under this subsection. Neither the department nor any other person acting as agent thereof shall issue a certificate of registration to a person whose vessel or motor vehicle registration privileges have been revoked, as provided by this subsection, until such costs have been paid.

(5) Whoever opposes, obstructs, or resists any law enforcement officer or any person authorized by the law enforcement officer in the discharge of her or his duties as provided in this section upon conviction is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(6) Any law enforcement officer or any person authorized by the law enforcement officer is immune from prosecution, civil or criminal, for reasonable, good faith trespass upon real property while in the discharge of duties imposed by this section.

(7) The rightful owner shall be liable for the law enforcement agency's costs for transportation and storage of lost or abandoned property and the agency's cost for publication of notice of disposition of lost property. If the rightful owner does not pay such costs within 30 days of making claim to the property, title to the property shall vest in the law enforcement agency.

History.—s. 3, ch. 87-82; s. 1, ch. 90-307; s. 12, ch. 94-241; s. 471, ch. 94-356; s. 1, ch. 97-51; s. 791, ch. 97-102; s. 29, ch. 2000-197; s. 10, ch. 2006-309.

705.104 Title to lost or abandoned property.—

(1) Title to lost or abandoned property is hereby vested in the finder upon the expiration of the 90-day custodial time period specified in s. 705.103(2)(b), provided the notice requirements of s. 705.103 have been met, unless the rightful owner or a lienholder claims the property within that time.

(2) Employees of any state, county, or municipal agency shall be deemed agents of such governmental entity, and lost or abandoned property found by them during the course of their official duties shall be turned in to the proper person or department designated to receive such property by the

governmental entity. Such property shall be subject to the provisions of this chapter, after which, if unclaimed by the rightful owner, the title to such property shall be vested in the state, county, or municipality and not in the employee.

(3) Employees of public transportation systems shall be deemed agents of such transportation systems, and lost or abandoned property found on public conveyances, in depots, or in garages of a transportation system shall be turned in to the proper person or department designated to receive such property by the transportation systems. Such property shall be subject to the provisions of this section, after which, if unclaimed by the rightful owner, the title to such property shall be vested in the transportation system and not in the employee.

History.—s. 4, ch. 87-82; s. 2, ch. 90-307.

705.105 Procedure regarding unclaimed evidence.—

(1) Title to unclaimed evidence or unclaimed tangible personal property lawfully seized pursuant to a lawful investigation in the custody of the court or clerk of the court from a criminal proceeding or seized as evidence by and in the custody of a law enforcement agency shall vest permanently in the law enforcement agency 60 days after the conclusion of the proceeding.

(a) If the property is of appreciable value, the agency may elect to:

1. Retain the property for the agency's own use;
2. Transfer the property to another unit of state or local government;
3. Donate the property to a charitable organization;
4. Sell the property at public sale, pursuant to the provisions of s. 705.103.

(b) If the property is not of appreciable value, the law enforcement agency may elect to destroy it.

(2) Nothing in this section shall be construed to repeal or supersede the provisions of s. 790.08 relating to the disposition of weapons and firearms.

History.—s. 5, ch. 87-82; s. 5, ch. 90-113.

705.106 Recovery from person wrongfully in possession.—Whenever any property described in this chapter, chapter 706, or chapter 707 is ascertained to be wrongfully withheld and the person in possession refuses to give it up to the sheriff on demand, the county attorney of the county in which the property is situated, or the city attorney, if within a municipality, when required to do so by the sheriff, shall enter a suit for said property and prosecute it to a final recovery. All moneys derived from these sources shall be paid by the sheriff into the State Treasury for the benefit of the State School Fund.

History.—ss. 4, 5, ch. 344, 1850; RS 2015; GS 2537; RGS 3892; CGL 5799; s. 4, ch. 63-267.

Note.—Former s. 705.06.

705.17 Exceptions.—The provisions of ss. 705.101-705.106 of this chapter shall not be applied to any personal property lost or abandoned on the campus of any institution in the State University System or on premises owned or controlled by the operator of a public-use airport having regularly scheduled international passenger service.

History.—s. 1, ch. 71-75; s. 6, ch. 87-82; s. 22, ch. 91-110; s. 61, ch. 96-323.

705.18 Disposal of personal property lost or abandoned on university or community college campuses; disposition of proceeds from sale.—

(1) Whenever any lost or abandoned personal property shall be found on a campus of an institution in the State University System or a campus of a state-supported community college, the president of the institution or the president's designee shall take charge of the property and make a record of the date

10

such property was found. If, within 30 days after such property is found, or a longer period of time as may be deemed appropriate by the president under the circumstances, the property is not claimed by the owner, the president shall order it sold at public outcry after giving notice of the time and place of sale in a publication of general circulation on the campus of such institution and written notice to the owner if known. The rightful owner of such property may reclaim the same at any time prior to sale.

(2) All moneys realized from such institution's sale shall be placed in an appropriate fund and used solely for student scholarship and loan purposes.

History.—s. 1, ch. 71-75; s. 1, ch. 77-131; s. 62, ch. 96-323; s. 1762, ch. 97-102; s. 44, ch. 2010-225.

705.182 Disposal of personal property found on the premises of public-use airports.—

(1) Whenever any personal property, other than an aircraft or motor vehicle, is found on premises owned or controlled by the operator of a public-use airport, the director of the airport or the director's designee shall take charge of the property and make a record of the date such property was found.

(2) If, within 30 calendar days after such property is found or for a longer period of time as may be deemed appropriate by the director or the director's designee under the circumstances, the property is not claimed by the owner, the director or the director's designee may:

(a) Retain any or all of the property for use by the airport or for use by the state or the unit of local government owning or operating the airport;

(b) Trade such property to another unit of local government or a state agency;

(c) Donate the property to a charitable organization;

(d) Sell the property; or

(e) Dispose of the property through an appropriate refuse removal company or a company that provides salvage services for the type of personal property found or located on the airport premises.

(3) The airport shall notify the owner, if known, of the property found on the airport premises and that the airport intends to dispose of the property as provided in subsection (2).

(4) If the airport elects to sell the property under paragraph (2)(d), the property must be sold at a public auction either on the Internet or at a specified physical location after giving notice of the time and place of sale, at least 10 calendar days prior to the date of sale, in a publication of general circulation within the county where the airport is located and after written notice, via certified mail, return receipt requested, is provided to the owner, if known. Any such notice shall be sufficient if the notice refers to the airport's intention to sell all then-accumulated found property, and there is no requirement that the notice identify each item to be sold. The rightful owner of such property may reclaim the property at any time prior to sale by presenting acceptable evidence of ownership to the airport director or the director's designee. All proceeds from the sale of the property shall be retained by the airport for use by the airport in any lawfully authorized manner.

(5) Nothing in this section shall preclude the airport from allowing a domestic or international air carrier or other tenant, on premises owned or controlled by the operator of a public-use airport, to establish its own lost and found procedures for personal property and to dispose of such personal property.

(6) A purchaser or recipient in good faith of personal property sold or obtained under this section shall take the property free of the rights of persons then holding any legal or equitable interest thereto, whether or not recorded.

History.—s. 45, ch. 2010-225.

705.183 Disposal of derelict or abandoned aircraft on the premises of public-use airports.—

11

(1)(a) Whenever any derelict or abandoned aircraft is found or located on premises owned or controlled by the operator of a public-use airport, whether or not such premises are under a lease or license to a third party, the director of the airport or the director's designee shall make a record of the date the aircraft was found or determined to be present on the airport premises.

(b) For purposes of this section, the term:

1. "Abandoned aircraft" means an aircraft that has been disposed of on a public-use airport in a wrecked, inoperative, or partially dismantled condition or an aircraft that has remained in an idle state on premises owned or controlled by the operator of a public-use airport for 45 consecutive calendar days.

2. "Derelict aircraft" means any aircraft that is not in a flyable condition, does not have a current certificate of air worthiness issued by the Federal Aviation Administration, and is not in the process of actively being repaired.

(2) The director or the director's designee shall contact the Federal Aviation Administration, Aircraft Registration Branch, to determine the name and address of the last registered owner of the aircraft and shall make a diligent personal search of the appropriate records, or contact an aircraft title search company, to determine the name and address of any person having an equitable or legal interest in the aircraft. Within 10 business days after receipt of the information, the director or the director's designee shall notify the owner and all persons having an equitable or legal interest in the aircraft by certified mail, return receipt requested, of the location of the derelict or abandoned aircraft on the airport premises, that fees and charges for the use of the airport by the aircraft have accrued and the amount thereof, that the aircraft is subject to a lien under subsection (5) for the accrued fees and charges for the use of the airport and for the transportation, storage, and removal of the aircraft, that the lien is subject to enforcement pursuant to law, and that the airport may cause the use, trade, sale, or removal of the aircraft as described in s. 705.182(2)(a), (b), (d), or (e) if, within 30 calendar days after the date of receipt of such notice, the aircraft has not been removed from the airport upon payment in full of all accrued fees and charges for the use of the airport and for the transportation, storage, and removal of the aircraft. Such notice may require removal of the aircraft in less than 30 calendar days if the aircraft poses a danger to the health or safety of users of the airport, as determined by the director or the director's designee.

(3) If the owner of the aircraft is unknown or cannot be found, the director or the director's designee shall cause a laminated notice to be placed upon such aircraft in substantially the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY. This property, to wit: _(setting forth brief description)_ is unlawfully upon public property known as _(setting forth brief description of location)_ and has accrued fees and charges for the use of the _(same description of location as above)_ and for the transportation, storage, and removal of the property. These accrued fees and charges must be paid in full and the property must be removed within 30 calendar days after the date of this notice; otherwise, the property will be removed and disposed of pursuant to chapter 705, Florida Statutes. The property is subject to a lien for all accrued fees and charges for the use of the public property known as _(same description of location as above)_ by such property and for all fees and charges incurred by the public property known as _(same description of location as above)_ for the transportation, storage, and removal of the property. This lien is subject to enforcement pursuant to law. The owner will be liable for such fees and charges, as well as the cost for publication of this notice. Dated this: _(setting forth the date of posting of notice)_, signed:

12

(setting forth name, title, address, and telephone number of law enforcement officer) .

Such notice shall be not less than 8 inches by 10 inches and shall be sufficiently weatherproof to withstand normal exposure to the weather. If, at the end of 30 calendar days after posting the notice, the owner or any person interested in the described derelict or abandoned aircraft has not removed the aircraft from the airport upon payment in full of all accrued fees and charges for the use of the airport and for the transportation, storage, and removal of the aircraft, or shown reasonable cause for failure to do so, the director or the director's designee may cause the use, trade, sale, or removal of the aircraft as described in s. 705.182(2)(a), (b), (d), or (e).

(4) Such aircraft shall be removed within the time period specified in the notice provided under subsection (2) or subsection (3). If, at the end of such period of time, the owner or any person interested in the described derelict or abandoned aircraft has not removed the aircraft from the airport upon payment in full of all accrued fees and charges for the use of the airport and for the transportation, storage, and removal of the aircraft, or shown reasonable cause for the failure to do so, the director or the director's designee may cause the use, trade, sale, or removal of the aircraft as described in s. 705.182(2)(a), (b), (d), or (e).

(a) If the airport elects to sell the aircraft in accordance with s. 705.182(2)(d), the aircraft must be sold at public auction after giving notice of the time and place of sale, at least 10 calendar days prior to the date of sale, in a publication of general circulation within the county where the airport is located and after providing written notice of the intended sale to all parties known to have an interest in the aircraft.

(b) If the airport elects to dispose of the aircraft in accordance with s. 705.182(2)(e), the airport shall be entitled to negotiate with the company for a price to be received from such company in payment for the aircraft, or, if circumstances so warrant, a price to be paid to such company by the airport for the costs of disposing of the aircraft. All information pertaining to the establishment of such price and the justification for the amount of such price shall be prepared and maintained by the airport, and such negotiated price shall be deemed to be a commercially reasonable price.

(c) If the sale price or the negotiated price is less than the airport's then current charges and costs against the aircraft, or if the airport is required to pay the salvage company for its services, the owner of the aircraft shall remain liable to the airport for the airport's costs that are not offset by the sale price or negotiated price, in addition to the owner's liability for payment to the airport of the price the airport was required to pay any salvage company. All costs incurred by the airport in the removal, storage, and sale of any aircraft shall be recoverable against the owner of the aircraft.

(5) The airport shall have a lien on a derelict or abandoned aircraft for all fees and charges for the use of the airport by such aircraft and for all fees and charges incurred by the airport for the transportation, storage, and removal of the aircraft. As a prerequisite to perfecting a lien under this section, the airport director or the director's designee must serve a notice in accordance with subsection (2) on the last registered owner and all persons having an equitable or legal interest in the aircraft. Serving the notice does not dispense with recording the claim of lien.

(6)(a) For the purpose of perfecting its lien under this section, the airport shall record a claim of lien which shall state:

1. The name and address of the airport.
2. The name of the last registered owner of the aircraft and all persons having a legal or equitable interest in the aircraft.

3. The fees and charges incurred by the aircraft for the use of the airport and the fees and charges for the transportation, storage, and removal of the aircraft.

4. A description of the aircraft sufficient for identification.

(b) The claim of lien shall be signed and sworn to or affirmed by the airport director or the director's designee.

(c) The claim of lien shall be sufficient if it is in substantially the following form:

CLAIM OF LIEN

State of _____

County of _____

Before me, the undersigned notary public, personally appeared _____, who was duly sworn and says that he/she is the _____ of _____, whose address is _____; and that the following described aircraft:

(Description of aircraft)

owned by _____, whose address is _____, has accrued $_____ in fees and charges for the use by the aircraft of _____ and for the transportation, storage, and removal of the aircraft from _____; that the lienor served its notice to the last registered owner and all persons having a legal or equitable interest in the aircraft on ____, (year), by_____.

(Signature)

Sworn to (or affirmed) and subscribed before me this ____ day of ____, (year), by (name of person making statement).

(Signature of Notary Public) (Print, Type, or Stamp Commissioned name of Notary Public)

Personally Known____ OR Produced____ as identification.

However, the negligent inclusion or omission of any information in this claim of lien which does not prejudice the last registered owner does not constitute a default that operates to defeat an otherwise valid lien.

(d) The claim of lien shall be served on the last registered owner of the aircraft and all persons having an equitable or legal interest in the aircraft. The claim of lien shall be so served before recordation.

(e) The claim of lien shall be recorded with the clerk of court in the county where the airport is located. The recording of the claim of lien shall be constructive notice to all persons of the contents and effect of such claim. The lien shall attach at the time of recordation and shall take priority as of that time.

(7) A purchaser or recipient in good faith of an aircraft sold or obtained under this section takes the property free of the rights of persons then holding any legal or equitable interest to the aircraft, whether or not recorded. The purchaser or recipient is required to notify the appropriate Federal Aviation Administration office of such change in the registered owner of the aircraft.

(8) If the aircraft is sold at public sale, the airport shall deduct from the proceeds of sale the costs of transportation, storage, publication of notice, and all other costs reasonably incurred by the airport, and any balance of the proceeds shall be deposited into an interest-bearing account not later than 30 calendar days after the airport's receipt of the proceeds and held there for 1 year. The rightful owner of the aircraft may claim the balance of the proceeds within 1 year after the date of the deposit by making application to the airport and presenting acceptable written evidence of ownership to the airport's director or the director's designee. If no rightful owner claims the proceeds within the 1-year period,

14

the balance of the proceeds shall be retained by the airport to be used in any manner authorized by law.

(9) Any person acquiring a legal interest in an aircraft that is sold by an airport under this section or s. 705.182 shall be the lawful owner of such aircraft and all other legal or equitable interests in such aircraft shall be divested and of no further force and effect, provided that the holder of any such legal or equitable interests was notified of the intended disposal of the aircraft to the extent required in this section. The airport may issue documents of disposition to the purchaser or recipient of an aircraft disposed of under this section.

History.—s. 46, ch. 2010-225.

705.184 Derelict or abandoned motor vehicles on the premises of public-use airports.—

(1)(a) Whenever any derelict or abandoned motor vehicle is found on premises owned or controlled by the operator of a public-use airport, including airport premises leased to a third party, the director of the airport or the director's designee may take charge of the motor vehicle and make a record of the date such motor vehicle was found.

(b) For purposes of this section, the term:

1. "Abandoned motor vehicle" means a motor vehicle that has been disposed of on a public-use airport in a wrecked, inoperative, or partially dismantled condition or a motor vehicle that has remained in an idle state on the premises of a public-use airport for 45 consecutive calendar days.

2. "Derelict motor vehicle" means any motor vehicle that is not in a drivable condition.

(c) After the information relating to the abandoned or derelict motor vehicle is recorded in the airport's records, the director or the director's designee may cause the motor vehicle to be removed from airport premises by the airport's wrecker or by a licensed independent wrecker company to be stored at a suitable location on or off the airport premises. If the motor vehicle is to be removed from airport premises by the airport's wrecker, the airport must follow the procedures in subsections (2)-(8). The procedures in subsections (2)-(8) do not apply if the motor vehicle is removed from the airport premises by a licensed independent wrecker company, and the licensed wrecking company shall comply with s. 713.78.

(2) The airport director or the director's designee shall contact the Department of Highway Safety and Motor Vehicles to notify that department that the airport has possession of the abandoned or derelict motor vehicle and to determine the name and address of the owner of the motor vehicle, the insurance company insuring the motor vehicle, notwithstanding the provisions of s. 627.736, and any person who has filed a lien on the motor vehicle. Within 7 business days after receipt of the information, the director or the director's designee shall send notice by certified mail, return receipt requested, to the owner of the motor vehicle, the insurance company insuring the motor vehicle, notwithstanding the provisions of s. 627.736, and all persons of record claiming a lien against the motor vehicle. The notice shall state the fact of possession of the motor vehicle, that charges for reasonable towing, storage, and parking fees, if any, have accrued and the amount thereof, that a lien as provided in subsection (6) will be claimed, that the lien is subject to enforcement pursuant to law, that the owner or lienholder, if any, has the right to a hearing as set forth in subsection (4), and that any motor vehicle which, at the end of 30 calendar days after receipt of the notice, has not been removed from the airport upon payment in full of all accrued charges for reasonable towing, storage, and parking fees, if any, may be disposed of as provided in s. 705.182(2)(a), (b), (d), or (e), including, but not limited to, the motor vehicle being sold free of all prior liens after 35 calendar days after the time the motor

vehicle is stored if any prior liens on the motor vehicle are more than 5 years of age or after 50 calendar days after the time the motor vehicle is stored if any prior liens on the motor vehicle are 5 years of age or less.

(3) If attempts to notify the owner or lienholder pursuant to subsection (2) are not successful, the requirement of notice by mail shall be considered met and the director or the director's designee, in accordance with subsection (5), may cause the motor vehicle to be disposed of as provided in s. 705.182 (2)(a), (b), (d), or (e), including, but not limited to, the motor vehicle being sold free of all prior liens after 35 calendar days after the time the motor vehicle is stored if any prior liens on the motor vehicle are more than 5 years of age or after 50 calendar days after the time the motor vehicle is stored if any prior liens on the motor vehicle are 5 years of age or less.

(4)(a) The owner of, or any person with a lien on, a motor vehicle removed pursuant to subsection (1), may, within 10 calendar days after the time he or she has knowledge of the location of the motor vehicle, file a complaint in the county court of the county in which the motor vehicle is stored to determine if his or her property was wrongfully taken or withheld.

(b) Upon filing a complaint, an owner or lienholder may have his or her motor vehicle released upon posting with the court a cash or surety bond or other adequate security equal to the amount of the fees for towing, storage, and accrued parking, if any, to ensure the payment of such fees in the event he or she does not prevail. Upon the posting of the bond or other adequate security and the payment of any applicable fee, the clerk of the court shall issue a certificate notifying the airport of the posting of the bond or other adequate security and directing the airport to release the motor vehicle. At the time of such release, after reasonable inspection, the owner or lienholder shall give a receipt to the airport reciting any claims he or she has for loss or damage to the motor vehicle or the contents of the motor vehicle.

(5) If, after 30 calendar days after receipt of the notice, the owner or any person claiming a lien has not removed the motor vehicle from its storage location upon payment in full of all accrued charges for reasonable towing, storage, and parking fees, if any, or shown reasonable cause for the failure to do so, the airport director or the director's designee may dispose of the motor vehicle as provided in s. 705.182(2)(a), (b), (d), or (e). If the airport elects to sell the motor vehicle pursuant to s. 705.182(2)(d), the motor vehicle may be sold free of all prior liens after 35 calendar days after the time the motor vehicle is stored if any prior liens on the motor vehicle are more than 5 years of age or after 50 calendar days after the time the motor vehicle is stored if any prior liens on the motor vehicle are 5 years of age or less. The sale shall be a public auction either on the Internet or at a specified physical location. If the date of the sale was not included in the notice required in subsection (2), notice of the sale, sent by certified mail, return receipt requested, shall be given to the owner of the motor vehicle and to all persons claiming a lien on the motor vehicle. Such notice shall be mailed not less than 10 calendar days before the date of the sale. In addition to the notice by mail, public notice of the time and place of the sale at auction shall be made by publishing a notice of the sale at auction one time, at least 10 calendar days prior to the date of sale, in a newspaper of general circulation in the county in which the sale is to be held. All costs incurred by the airport for the towing, storage, and sale of the motor vehicle, as well as all accrued parking fees, if any, shall be recovered by the airport from the proceeds of the sale, and any proceeds of the sale in excess of such costs shall be retained by the airport for use by the airport in any manner authorized by law.

(6) The airport pursuant to this section or, if used, a licensed independent wrecker company pursuant to s. 713.78 shall have a lien on an abandoned or derelict motor vehicle for all reasonable

16

towing, storage, and accrued parking fees, if any, except that no storage fee shall be charged if the motor vehicle is stored less than 6 hours. As a prerequisite to perfecting a lien under this section, the airport director or the director's designee must serve a notice in accordance with subsection (2) on the owner of the motor vehicle, the insurance company insuring the motor vehicle, notwithstanding the provisions of s. 627.736, and all persons of record claiming a lien against the motor vehicle. If attempts to notify the owner, the insurance company insuring the motor vehicle, notwithstanding the provisions of s. 627.736, or lienholders are not successful, the requirement of notice by mail shall be considered met. Serving of the notice does not dispense with recording the claim of lien.

(7)(a) For the purpose of perfecting its lien under this section, the airport shall record a claim of lien which shall state:

1. The name and address of the airport.
2. The name of the owner of the motor vehicle, the insurance company insuring the motor vehicle, notwithstanding the provisions of s. 627.736, and all persons of record claiming a lien against the motor vehicle.
3. The costs incurred from reasonable towing, storage, and parking fees, if any.
4. A description of the motor vehicle sufficient for identification.

(b) The claim of lien shall be signed and sworn to or affirmed by the airport director or the director's designee.

(c) The claim of lien shall be sufficient if it is in substantially the following form:

CLAIM OF LIEN

State of _____

County of _____

Before me, the undersigned notary public, personally appeared _____, who was duly sworn and says that he/she is the _____ of _____, whose address is_____; and that the following described motor vehicle:

(Description of motor vehicle)

owned by _____, whose address is _____, has accrued $_____ in fees for a reasonable tow, for storage, and for parking, if applicable; that the lienor served its notice to the owner, the insurance company insuring the motor vehicle notwithstanding the provisions of s. 627.736, Florida Statutes, and all persons of record claiming a lien against the motor vehicle on ____, (year), by_____.

(Signature)

Sworn to (or affirmed) and subscribed before me this ____ day of ____, (year), by (name of person making statement).

(Signature of Notary Public) (Print, Type, or Stamp Commissioned name of Notary Public)

Personally Known____OR Produced____as identification.

However, the negligent inclusion or omission of any information in this claim of lien which does not prejudice the owner does not constitute a default that operates to defeat an otherwise valid lien.

(d) The claim of lien shall be served on the owner of the motor vehicle, the insurance company insuring the motor vehicle, notwithstanding the provisions of s. 627.736, and all persons of record claiming a lien against the motor vehicle. If attempts to notify the owner, the insurance company insuring the motor vehicle notwithstanding the provisions of s. 627.736, or lienholders are not successful, the requirement of notice by mail shall be considered met. The claim of lien shall be so served before recordation.

17

(e) The claim of lien shall be recorded with the clerk of court in the county where the airport is located. The recording of the claim of lien shall be constructive notice to all persons of the contents and effect of such claim. The lien shall attach at the time of recordation and shall take priority as of that time.

(8) A purchaser or recipient in good faith of a motor vehicle sold or obtained under this section takes the property free of the rights of persons then holding any legal or equitable interest thereto, whether or not recorded.

History.—s. 47, ch. 2010-225.

705.19 Abandonment of animals by owner; procedure for handling.—

(1) Any animal placed in the custody of a licensed veterinarian or bona fide boarding kennel for treatment, boarding, or other care, which shall be abandoned by its owner or the owner's agent for a period of more than 10 days after written notice is given to the owner or the owner's agent at her or his last known address may be turned over to the custody of the nearest humane society or dog pound in the area for disposal as such custodian may deem proper.

(2) The giving of notice to the owner, or the agent of the owner, of such animal by the licensed veterinarian or kennel operator as provided in subsection (1) shall relieve the veterinarian or kennel operator and any custodian to whom such animal may be given of any further liability for disposal. Such procedure by a licensed veterinarian shall not constitute grounds for disciplinary procedure under chapter 474.

(3) For the purpose of this section, the term "abandonment" means to forsake entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner or the owner's agent. Such abandonment shall constitute the relinquishment of all rights and claim by the owner to such animal.

History.—ss. 1, 2, ch. 79-228; ss. 1, 2, ch. 81-157; s. 3, ch. 81-318; s. 792, ch. 97-102.

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18