

RESOLUTION NO. 24 - 13

A RESOLUTION OF THE PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS SUPPORTING A STATE LEGISLATIVE PROPOSAL PREPARED COLLABORATIVELY BY CHARLOTTE, HILLSBOROUGH, LEE, MANATEE, MONROE, MIAMI-DADE, PINELLAS, AND SARASOTA COUNTIES FOR ADDRESSING CERTAIN DERELICT VESSEL REMOVAL ISSUES.

WHEREAS, F.S. § 823.11(1)(b) provides a detailed definition of “derelict vessel” (“DV”) which may be summarized as a vessel that is “in a wrecked, junked, or substantially dismantled condition upon any waters of this state” or “docked, grounded, or beached upon the property of another without the consent of the owner of the property;”

WHEREAS, F.S. § 705.103(b) provides the procedure that law enforcement must follow to remove a DV, which generally entails posting notice on the vessel for at least 21 days and attempting to locate the owner;

WHEREAS, F.S. § 378.72(1)(a) allocates a portion of recreational vessel registration fees to counties for certain uses enumerated at F.S. § 378.72(15), including DV removal;

WHEREAS, in 2019, the Legislature adopted Laws of Fla. Ch. 2019-54, which diverted approximately 30% of the county recreational vessel registration fee share into a new State DV Removal Grant Fund (the “State Grant Fund(s)”) pursuant to F.S. § 823.11(4)(c), for which all local governments are eligible;

WHEREAS, Laws of Fla. Ch. 2019-154 has adversely impacted the DV removal programs for counties, most obviously by forcing them to compete for State Grant Funds that they previously received as a matter of law;

WHEREAS, this impact is particularly high for Pinellas County, which trails only Miami-Dade County in registered recreation vessels, and thus has lost a significant sum of recreational vessel registration fees to State Grant Funds;

WHEREAS, less obviously, even where a county is awarded State Grant Funds, it must first go through a cumbersome and lengthy application process before removing the DV (i.e. pre-award costs are ineligible);

WHEREAS, Pinellas County Staff experiences significant frustration with the State Grant Fund Application process, which delays removal for many DVs in Pinellas County waters;

WHEREAS, in light of these and other concerns, staff from Charlotte, Hillsborough, Lee, Manatee, Monroe, Miami-Dade, Pinellas, and Sarasota counties have formed a “Coalition” that has concocted a legislative proposal (the “Proposal”) addressing same;

WHEREAS, the Proposal would, most pertinent to Pinellas County (a) require that recreational vessel registration fees diverted to the State Grant Fund be returned to, or used for DV removal in, counties where they were collected; (b) make *pre-award* DV removal costs eligible for State Grant Funds; and (c) require that State Grant Fund applications be processed in 15 days;

WHEREAS, on January 31, 2024, Monroe County adopted a resolution supporting the Proposal;

WHEREAS, since October 1, 2019, Pinellas County has paid over \$450,000 – approximately \$35,000 of which has been reimbursed via State Grant Funds – to remove 106 DVs (note: these figures do not account for DVs removed by Clearwater and St. Petersburg, which each have their own DV removal programs, nor do they account for one-time costs incurred by the Pinellas County Sheriff's Office in FY 22 to remove approximately 35 DVs);

WHEREAS, as of January 16, 2024, there were 16 known DVs in (all of) Pinellas County, 6 of which were under investigation and 10 of which were pending removal;

WHEREAS, DVs pose numerous environmental, safety, navigational, and aesthetic issues, which are exacerbated the longer that they remain in the water; and

WHEREAS, it follows that DVs remain prevalent in Pinellas County and their expeditious removal should be encouraged.

NOW THEREFORE, BE IT RESOLVED by the Pinellas County Board of County Commissioners, duly assembled on this 5th day of March 2024, that it supports the Proposal, which is attached hereto as Appendix A.

BE IT FURTHER RESOLVED that Pinellas County Staff is directed to provide any reasonable assistance requested by staff serving other Coalition members, as well as staff serving the State Legislature, to advance the Proposal.

This Resolution is effective immediately upon its adoption.

Commissioner Justice offered the foregoing resolution and moved its adoption, which was seconded by Commissioner Long and upon roll call the vote was:

AYES: Scott, Eggers, Flowers, Justice, Latvala, and Long.

NAYS: None.

ABSENT AND NOT VOTING: Peters.

APPROVED AS TO FORM

By: Brendan Mackesey
Office of the County Attorney

Collaborative Legislative Proposal for Addressing Derelict Vessel Issues in Florida

The West Coast Inland Navigation District (“District”), which represents Lee County, Charlotte County, Sarasota County, and Manatee County, along with Hillsborough County, Miami-Dade County, Monroe County, and Pinellas County have formed a coalition (“Coalition”) of similarly situated counties united to rectify longstanding and worsening issues that are obstructing our counties’ efforts to remove derelict vessels from Florida waters in a rational and practical manner that is administratively commonsense, financially cost-effective, and reasonably timely. This situation compels prompt legislative action to eliminate unreasonable bureaucratic excess and financial waste incident to the current State derelict vessel removal system. Notably, six counties within the Coalition rank in the top 10 for the number of vessel registrations in the entire state of Florida. Four of these counties rank in the top five in the state for the most derelict vessels per Florida Fish and Wildlife Commission’s (“FWC”) Derelict Vessel mapping application (<https://gis.myfwc.com/DerelictVessel/>).

Time is of the essence once a vessel is identified as derelict by law enforcement pursuant to Florida Statutes § 823.11 and requisite steps to satisfy due process are completed. The longer a derelict vessel remains in the water, the higher its potential for causing harm to the public and/or environment. This, in turn, significantly raises the costs borne by Florida residents and taxpayers to finance the removal and disposal of derelict vessels. Environmental conditions and adverse weather in conjunction with the deteriorated integrity of derelict vessels routinely cause derelict vessels to drift, sink, break apart, and release hazardous materials (“HAZMAT”) into Florida waters. Leaving a derelict vessel in the water for an extended period not only complicates the development of a removal plan due to myriad life-safety, navigational dangers, and decomposition issues, but also significantly amplifies the vessel's hazardous environmental impacts. This, in turn, dramatically escalates the costs borne by the public for the unnecessarily complex removal operation. The adage “time is money” aptly applies.

Members of the Coalition are concerned that certain State policies and procedures hinder, rather than help facilitate, the reasonably prompt and financially cost-effective removal of derelict vessels within the respective jurisdictions of the Coalition’s many counties. Despite bringing these concerns to the FWC Boating and Waterways leadership and staff, it seems that effective resolution requires legislative changes to resolve these problems. The counties’ central concerns which must be addressed involve:

- The State’s retention of vessel registration fees;
- FWC’s implementation of the Derelict Vessel Grant Program (“DVGP” or “DVGP Program”);
- The timely and cost-effective processing and removal of migrant vessels.

Vessel Registration Fee Retention by the State

Florida counties receive revenues from recreational vessel registration fees as outlined in Florida Statutes § 328.72. The collection and disbursement of these funds is managed by local tax collection agencies and the Florida Department of Highway Safety and Motor Vehicles (“DHSMV”). By statute, these monies may be spent at the discretion of the recipient county on a range of activities related to public boating and waterway access. These activities include the construction and maintenance of public boat launching and mooring facilities, installation and maintenance of aids to navigation, and the removal of marine debris, derelict vessels, and vessels and floating structures constituting a hazard to

navigation and/or public health and safety. These funds are commonly referred to as “State” Boating Improvement Funds (“BIF”).

In the 2019 Legislative Session, Senate Bill 1666 (“SB 1666”) was passed as session law Chapter 2019-54 Laws of Florida (“Ch. 2019-54, L.O.F.”). This legislation amended subsection (15) of Florida Statutes § 328.72 by redirecting approximately 30 percent of registration fees from individual counties into the State’s Marine Resources Conservation Trust Fund (“Conservation Trust Fund”) to fund the removal of derelict vessels.

As a consequence of this change, funds that were once readily available for counties to use to timely remove derelict vessels in these localities can now only be used after successfully wading through an administratively burdensome grant program administered by the FWC Boating and Waterways Section. This has given rise to significant and worsening delays and bureaucratic hurdles for counties to remove derelict vessels, impacting both grant applicants and the granting agency. These delays result in increased boating and navigational life-safety issues, harmful environmental impacts, and increasingly expensive vessel removal costs footed by the public fisc.

Furthermore, because these revenues are deposited into a statewide trust fund, the annual budgetary approval and spending authority for funding distribution is determined by the Florida Legislature. As a result, FWC has been challenged with inconsistent and/or significantly reduced spending authorization for this program. In addition, FWC has utilized these funds in response to hurricane-related derelict vessels rather than distribution through the grant program. We, the counties, do not believe that the intent of this funding was to address natural disaster response for derelict vessels. These added issues have created unpredictable and unreliable funding availability for local governments to remove derelict vessels in a timely fashion.

REQUESTED ACTIONS:

The Coalition requests either a reversal of the legislation that diverted funds from the counties, or an amendment to this legislation to ensure that funds collected in a particular county are prioritized for expenditure within that specific County. Furthermore, if the State intends to use the collected funds in a different county, permission must be obtained from the county of origin. Please refer to “Attachment A.”, appended hereto, for proposed modifications to Florida Statutes § 378.72(15)(c).

Implementation of the Derelict Vessel Grant Program by FWC

Each of the aforementioned counties and the District has applied for and received funding from the Derelict Vessel Grant Program (“DVGP” or “DVGP program”). While the intent of the grant program is commendable, the current process negatively affects derelict vessel removal operations, notably by significantly lengthening the timeline to remove a derelict vessel from Florida waters. Time is of the essence once a law enforcement investigation deems a vessel to be derelict, as prolonged exposure in the water and other structurally degrading marine environmental elements dramatically increases the costs of removal borne by the public, as well as the likelihood of the derelict vessel sinking or being shifted, repositioned, or relocated to an adverse or worse site due to weather and the elements of the marine environment. Moreover, these significant delays can render the original estimate from a contractor to price its projected cost to remove a derelict vessel invalid. Some counties have

experienced waiting periods exceeding sixteen (16) weeks for grant project approval. This is not acceptable.

To effectively improve the financial efficiency and real-world effectiveness of the DVGP program, and in furtherance of the DVGP program's ultimate goals of protecting public safety and the environment in a timely and cost-effective manner, we advocate for improvements via legislation. Allowing routine reimbursement of pre-award costs through the DVGP program would expedite the derelict vessel removal process and enable counties and the District to access entitled funds more readily. There appears to be no valid reason why derelict vessel removals, conducted in accordance with pre-determined grant eligibility requirements, state procurement processes, and supported by appropriate documentation, should not be eligible for reimbursement, even if carried out prior to grant application or agreement execution.

As an example, the derelict vessel removal grant program managed by the Florida Inland Navigation District ("FIND") permits reimbursement of removal costs within six (6) months before the application date. It appears that the DVGP program contemplates reimbursement of pre-award costs in the existing grant agreement language, however, it seems that FWC opts not to promote or exercise this option.

FFWCC Recipient/Subrecipient Agreement, Terms of the Agreement, Section 3.A

"the referenced grant programs may execute Agreements with a retroactive start date of no more than sixty (60) days, provided that approval is granted from the Executive Director or his/her designee and that it is in the best interest of the Commission and State to do so."

Moreover, facilitating funding access, particularly for counties with established derelict vessel removal programs, would result in a more administratively efficient and cost-effective process compared to the FWC's "direct removal" program. Local programs typically have procurement procedures already in place and work with pre-qualified contractors familiar with local waters and the expectations of local programs, law enforcement, and regulatory agencies. In sharp contrast, derelict vessels earmarked for direct removal by the FWC remain in the water for many months and, in some cases, years. This is unreasonable and much longer than rationally necessary, and local programs are often uninformed about these removal timelines, which makes making planning and budgeting insensibly unpredictable and difficult.

REQUESTED ACTIONS:

Amend language to Florida Statutes §376.15(d) and (e), as outlined in "Attachment B.", appended hereto, to achieve the following:

- 1) Establish a timeline for approving or denying DVGP program applications.
- 2) Define criteria for selecting vessels for FWC Direct Removal.
- 3) Grant FWC the authority to approve pre-agreement costs for removal operations.
- 4) Grant FWC the authority to approve pre-agreement cost reimbursement for vessels that pose an 'imminent threat to public safety' between application submittal and contract execution.
- 5) Empower FWC to enter into annual lump-sum derelict vessel removal grant agreements with qualified municipal entities, disbursable/payable upon submittal of eligible vessel documentation of investigation, determination, removal, and ultimate destruction.

Processing of Migrant Vessels

Florida's coastal counties have experienced a significant increase in the number of migrant vessel landings over the past several years, including but not limited to from 2017 to present. Undocumented immigrants transported by water are typically situated in unregistered, undocumented, makeshift vessels designed for a one-way voyage. Once these migrant vessels make landfall or are intercepted at sea by federal agencies, the migrant vessel itself is abandoned. These vessels pose **significant navigational safety and environmental impacts** and are often laden with debris, hazardous materials ("HAZMAT") such as human waste and improperly contained petroleum products. Additionally, the motors on these vessels frequently leak fuel, oil, and coolant. There is a critical need to streamline the process for swift removal of migrant vessels.

Currently, these migrant vessels lack a distinct legal definition and are treated by law enforcement officers as non-migrant derelict vessels as defined in Florida Statutes § 823.11. This approach requires compliance with Florida Statutes § 705.103(2)(b), which imposes a minimum twenty-one day (21-day) posting period, even though the likelihood of an undocumented immigrant claiming ownership of a migrant vessel is practically non-existent. This unnecessary delay obstructs the counties' ability to mitigate all of these hazards associated with migrant vessels and, as these migrant vessels rapidly deteriorate or disintegrate and release debris and pollutants into the environment, consequently exacerbates the environmental and safety impacts of migrant vessels on the residents of and visitors to coastal Florida counties.

REQUESTED ACTIONS:

The Coalition is advocating for the Florida Legislature to pass amendments to Florida Statutes § 705.103 and Florida Statutes § 823.11 **to establish a distinct definition and classification** for migrant vessels, streamlining their **prompt removal and timely disposal**. Refer to "Attachments C." and "D." for the Coalition's proposed language modifications.

ATTACHMENT A

Vessel Registration Fee Retention by the State: §378.72(15)(c) F.S.

Proposed additions underlined, deletions ~~struck through~~

Option #1 Strike Existing Language

~~**Florida Statutes § 378.72(15)(c):** From the vessel registration fees designated for use by the counties in subsection (1), the following amounts shall be remitted to the state for deposit into the Marine Resources Conservation Trust Fund to fund derelict vessel removal grants, as appropriated by the Legislature pursuant to s. 823.11(4)(c):~~

- ~~1. Class A-2: \$0.25 for each 12-month period registered.~~
- ~~2. Class 1: \$2.06 for each 12-month period registered.~~
- ~~3. Class 2: \$9.26 for each 12-month period registered.~~
- ~~4. Class 3: \$16.45 for each 12-month period registered.~~
- ~~5. Class 4: \$20.06 for each 12-month period registered.~~
- ~~6. Class 5: \$25.46 for each 12-month period registered.~~

Option #2 Modify Existing Language

Florida Statutes § 378.72(15)(c): From the vessel registration fees designated for use by the counties in subsection (1), the following amounts shall be remitted to the state for deposit into the Marine Resources Conservation Trust Fund to fund derelict vessel removal grants, as appropriated by the Legislature pursuant to s. 823.11(4)(c). Funds shall be given priority use for derelict vessel removals in the specific County in which they were collected. Funds may not be used for removals outside of the County in which they were collected without that County's approved permission granted to use said funds for removals outside of that County:

1. Class A-2: \$0.25 for each 12-month period registered.
2. Class 1: \$2.06 for each 12-month period registered.
3. Class 2: \$9.26 for each 12-month period registered.
4. Class 3: \$16.45 for each 12-month period registered.
5. Class 4: \$20.06 for each 12-month period registered.
6. Class 5: \$25.46 for each 12-month period registered.

ATTACHMENT B

Implementation of the Derelict Vessel Grant Program by FWC: Florida Statutes § 376.15(d) and Florida Statutes § 376.15(e).

Proposed additions underlined, deletions ~~struck through~~

(d) The commission may establish a program to provide grants to reimburse eligible costs to local governments for the removal, storage, destruction, and disposal of derelict vessels from the waters of this state as defined in s. 327.02, whether such work is conducted prior to or after execution of an approved grant agreement, provided grant criteria and time limits are met by the grantee. The program shall be funded from the Marine Resources Conservation Trust Fund or the Florida Coastal Protection Trust Fund. Notwithstanding s. 216.181(11), funds available for grants may only be authorized by appropriations acts of the Legislature. In a given fiscal year, if all funds appropriated pursuant to this paragraph are not requested by and granted to local governments for the removal, storage, destruction, and disposal of derelict vessels by the end of the third quarter, the Fish and Wildlife Conservation Commission may use the remainder of the funds to remove, store, destroy, and dispose of, or to pay private contractors to remove, store, destroy, and dispose of, derelict vessels.

(e) The commission shall adopt by rule procedures for the derelict vessel removal grant program, including application requirements, vessel eligibility requirements, a 15-day application decision timeframe, and criteria for allocating available funds. Such criteria shall include, but not be limited to, the following:

1. The number of derelict vessels within the jurisdiction of the applicant.
2. The threat posed by such vessels to public health or safety, the environment, navigation, or the aesthetic condition of the general vicinity.
3. The degree of commitment of the local government to maintain waters free of abandoned and derelict vessels and to seek legal action against those who abandon vessels in the waters of this state as defined in s. 327.02.

(f) This section constitutes the authority for such removal but is not intended to be in contravention of any applicable federal act.

ATTACHMENT C

Processing of Migrant Vessels: § 823 F.S.

Proposed additions underlined, deletions ~~struck through~~

823.11 Derelict and migrant vessels; relocation or removal; penalty.—

(1) As used in this section, the term:

(a) "Commission" means the Fish and Wildlife Conservation Commission.

(b) "Derelict vessel" means a vessel, as defined in s. 327.02, that is:

1. In a wrecked, junked, or substantially dismantled condition upon any waters of this state.

a. A vessel is wrecked if it is sunken or sinking; aground without the ability to extricate itself absent mechanical assistance; or remaining after a marine casualty, including, but not limited to, a boating accident, extreme weather, or a fire.

b. A vessel is junked if it has been substantially stripped of vessel components, if vessel components have substantially degraded or been destroyed, or if the vessel has been discarded by the owner or operator. Attaching an outboard motor to a vessel that is otherwise junked will not cause the vessel to no longer be junked if such motor is not an effective means of propulsion as required by s. 327.4107(2)(e) and associated rules.

c. A vessel is substantially dismantled if at least two of the three following vessel systems or components are missing, compromised, incomplete, inoperable, or broken:

(I) The steering system;

(II) The propulsion system; or

(III) The exterior hull integrity.

Attaching an outboard motor to a vessel that is otherwise substantially dismantled will not cause the vessel to no longer be substantially dismantled if such motor is not an effective means of propulsion as required by s. 327.4107(2)(e) and associated rules.

2. At a port in this state without the consent of the agency having jurisdiction thereof.

3. Docked, grounded, or beached upon the property of another without the consent of the owner of the property.

(c) "Gross negligence" means conduct so reckless or wanting in care that it constitutes a conscious disregard or indifference to the safety of the property exposed to such conduct.

(d) "Willful misconduct" means conduct evidencing carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design or to show an intentional and substantial disregard of the interests of the vessel owner.

(e) "Migrant vessel" means an irregularly constructed and equipped maritime vessel designed, intended, or used for the purpose of undocumented immigrant transportation. To constitute an

irregularly constructed and equipped maritime vessel under this provision a vessel must meet the definition of “irregularly constructed vessel” and at least one of the following three construction-related criteria:

1. To constitute an “irregularly constructed vessel” a vessel must be built or assembled using or combining makeshift or improvised materials or material components;

2. The vessel was not constructed by a boat manufacturer;

3. The vessel is not assigned a Hull Identification Number (HIN);

(2)(a) A person, firm, or corporation may not leave any derelict vessel or migrant vessel upon waters of this state. For purposes of this paragraph, the term “leave” means to allow a vessel to remain occupied or unoccupied on the waters of this state for more than 24 hours.

(b) Notwithstanding paragraph (a), a person who owns or operates a vessel that becomes derelict upon the waters of this state solely as a result of a boating accident that is reported to law enforcement in accordance with s. 327.301 or otherwise reported to law enforcement; a hurricane; or another sudden event outside of his or her control may not be charged with a violation if:

1. The individual documents for law enforcement the specific event that led to the vessel being derelict upon the waters of this state; and

2. The vessel has been removed from the waters of this state or has been repaired or addressed such that it is no longer derelict upon the waters of this state:

a. For a vessel that has become derelict as a result of a boating accident or other sudden event outside of his or her control, within 7 days after such accident or event; or

b. Within 45 days after the hurricane has passed over the state.

(c) The additional time provided in subparagraph (b)2. for an owner or responsible party to remove a derelict vessel from the waters of this state or to repair and remedy the vessel’s derelict condition does not apply to a vessel that was derelict upon the waters of this state before the stated accident or event.

(d) Notwithstanding the additional 45 days provided in sub-subparagraph (b)2.b. during which an owner or a responsible party may not be charged for a violation of this section, the commission, an officer of the commission, a law enforcement agency or officer specified in s. 327.70, or, during a state of emergency declared by the Governor, the Division of Emergency Management or its designee, may immediately begin the process set forth in s. 705.103(2)(a) and, once that process has been completed and the 45 days provided herein have passed, any vessel that has not been removed or repaired such that it is no longer derelict upon the waters of this state may be removed and destroyed as provided therein.

(3) The commission, an officer of the commission, or a law enforcement agency or officer specified in s. 327.70 may relocate, remove, and store or cause to be relocated, removed, and stored a derelict vessel from waters of this state as defined in s. 327.02 if the derelict vessel

obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons. The commission, an officer of the commission, or any other law enforcement agency or officer acting pursuant to this subsection to relocate, remove, and store or cause to be relocated, removed, and stored a derelict vessel from waters of this state shall be held harmless for all damages to the derelict vessel resulting from such action unless the damage results from gross negligence or willful misconduct.

(a) All costs, including costs owed to a third party, incurred by the commission, another law enforcement agency, or a governmental subdivision, when the governmental subdivision has received authorization from a law enforcement officer or agency, in the relocation, removal, storage, destruction, or disposal of a derelict vessel are recoverable against the vessel owner or the party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition. The Department of Legal Affairs shall represent the commission in actions to recover such costs. As provided in s. 705.103(4), a person who neglects or refuses to pay such costs may not be issued a certificate of registration for such vessel or for any other vessel or motor vehicle until such costs have been paid. A person who has neglected or refused to pay all costs of removal, storage, destruction, or disposal of a derelict vessel as provided in this section, after having been provided written notice via certified mail that such costs are owed, and who applies for and is issued a registration for a vessel or motor vehicle before such costs have been paid in full commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A contractor performing such activities at the direction of the commission, an officer of the commission, a law enforcement agency or officer, or a governmental subdivision, when the governmental subdivision has received authorization for the relocation or removal from a law enforcement officer or agency, pursuant to this section must be licensed in accordance with applicable United States Coast Guard regulations where required; obtain and carry in full force and effect a policy from a licensed insurance carrier in this state to insure against any accident, loss, injury, property damage, or other casualty caused by or resulting from the contractor's actions; and be properly equipped to perform the services to be provided.

(4)(a) Removal of derelict vessels or migrant vessels under this subsection may be funded by grants provided in s. 206.606.

(b) The commission may implement a plan for the procurement of any available federal disaster funds and use such funds for the removal of derelict vessels or migrant vessels.

(c) The commission may establish a program to provide grants to local governments for the removal, storage, destruction, and disposal of derelict vessels or migrant vessels from the waters of this state within 60 days retroactively from the date of the application. This grant funding may also be used for the removal, storage, destruction, and disposal of vessels declared a public nuisance pursuant to s. 327.73(1)(aa). The program must be funded from the Marine Resources Conservation

Trust Fund or the Florida Coastal Protection Trust Fund. Notwithstanding s. 216.181(11), funds available for these grants may only be authorized by appropriations acts of the Legislature. In a given fiscal year, if all funds appropriated pursuant to this paragraph are not requested by and granted to local governments for the removal, storage, destruction, and disposal of derelict vessels, migrant vessels, or vessels declared a public nuisance pursuant to s. 327.73(1)(aa) by the end of the third quarter, the Fish and Wildlife Conservation Commission may use the remainder of the funds to remove, store, destroy, and dispose of, or to pay private contractors to remove, store, destroy, and dispose of, derelict vessels, migrant vessels, or vessels declared a public nuisance pursuant to s. 327.73(1)(aa). The commission shall adopt by rule procedures for local governments to submit a grant application and criteria for allocating available funds. Such criteria must include, at a minimum, the following:

1. The number of derelict vessels within the jurisdiction of the applicant.
2. The threat posed by such vessels to public health or safety, the environment, navigation, or the aesthetic condition of the general vicinity.
3. The degree of commitment of the local government to maintain waters free of abandoned and derelict vessels and to seek legal action against those who abandon vessels in the waters of this state as defined in s. 327.02.

(5) When a derelict vessel is docked, grounded, or beached upon private property without the consent of the owner of the property, the owner of the property may remove the vessel at the vessel owner's expense 60 days after compliance with the notice requirements specified in s. 328.17(5). The private property owner may not hinder reasonable efforts by the vessel owner or the vessel owner's agent to remove the vessel. Notice given pursuant to this subsection is presumed to be delivered when it is deposited with the United States Postal Service, certified, and properly addressed with prepaid postage.

(6) A person, firm, or corporation violating this section commits a misdemeanor of the first degree and shall be punished as provided by law. A conviction under this section does not bar the assessment and collection of a civil penalty. The court having jurisdiction over the criminal offense, notwithstanding any jurisdictional limitations on the amount in controversy, may order the imposition of such civil penalty in addition to any sentence imposed for the first criminal offense.

(7) If an owner or a responsible party of a vessel determined to be derelict through an administrative or criminal proceeding has been charged by an officer of the commission or any law enforcement agency or officer as specified in s. 327.70 under subsection (6) for a violation of subsection (2), a person may not reside or dwell on such vessel until the vessel is removed from the waters of the state permanently or returned to the waters of the state in a condition that is no longer derelict.

Attachment D

Processing of Migrant Vessels: § 705.103 F.S.

Proposed additions underlined, deletions ~~struck through~~

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)(a)1. Whenever a law enforcement officer ascertains that:

a. An A migrant vessel or an article of lost or abandoned property other than a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa) 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:

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).

b. A derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa) is present on the waters of this state, the officer shall cause a notice to be placed upon such vessel in substantially the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED VESSEL. This vessel, to wit: (setting forth brief description of location) has been determined to be (derelict or a public nuisance) and is unlawfully upon the waters of this state (setting forth brief description of location) and must be removed within 21 days; otherwise, it will be removed and disposed of pursuant to chapter 705, Florida Statutes. The owner and other interested parties have the right to a hearing to challenge the determination that this vessel is derelict or otherwise in violation of the law. Please contact (contact information for person who can arrange for a hearing in accordance with this section). The owner or the party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition or as a public nuisance will be liable for the costs of removal, destruction, and disposal if this vessel is not removed by the owner. Dated this: (setting forth the date of posting of notice), signed: (setting forth name, title, address, and telephone number of law enforcement officer).

2. The notices required under subparagraph 1. may not be less than 8 inches by 10 inches and must 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, except a migrant vessel as defined in s. 823.11, 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. 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, except that a law enforcement officer who has issued a citation for a violation of s. 823.11 to the owner of a derelict vessel is not required to mail a copy of the notice by certified mail, return receipt requested, to the owner. For a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), the mailed notice must inform the owner or responsible party that he or she has a right to a hearing to dispute the determination that the vessel is derelict or otherwise in violation of the law. If a request for a hearing is made, a state agency shall follow the processes as set forth in s. 120.569. Local governmental entities shall follow the processes set forth in s. 120.569, except that a local judge, magistrate, or code enforcement officer may be designated to conduct such a hearing. If, at the end of 5 days after posting the notice in sub-subparagraph 1.a., or at the end of 21 days after posting the notice in sub-subparagraph 1.b., 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, and, in the case of a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), has not requested a hearing in accordance with this section, the following shall apply:

a. For abandoned property other than a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), 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 a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), the law enforcement agency or its designee may:

(I) Remove the vessel from the waters of this state and destroy and dispose of the vessel or authorize another governmental entity or its designee to do so; or

(II) Authorize the vessel's use as an artificial reef in accordance with s. 379.249 if all necessary federal, state, and local authorizations are received.

c. For a migrant vessel pursuant to s. 823.11, the law enforcement agency or its designee may remove the vessel from the waters of this state and destroy and dispose of the vessel or authorize another governmental entity or its designee to do so.

A law enforcement agency or its designee may also take action as described in this sub-subparagraph if, following a hearing pursuant to this section, the judge, magistrate, administrative law judge, or hearing officer has determined the vessel to be derelict as provided in s. 823.11 or otherwise in violation of the law in accordance with s. 327.73(1)(aa) and a final order has been entered or the case is otherwise closed.

(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 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, or in the case of a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), the owner or other party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition or as a public nuisance, who, after notice as provided in this section, does not remove such property within the specified period is liable to the law enforcement agency, other governmental entity, or the agency's or entity's designee for all costs of removal, storage, destruction, and disposal of such property, less any salvage value obtained by disposal of the property. Upon final disposition of the property, the law enforcement officer or representative of the law enforcement agency or other governmental entity shall notify the owner, or in the case of a derelict vessel or vessel declared a public nuisance pursuant to s. 327.73(1)(aa), the owner or other party determined to be legally responsible, 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. A person who has neglected or refused to pay all costs of removal, storage, disposal, and destruction of a vessel or motor vehicle as provided in this section, after having been provided written notice via certified mail that such costs are owed, and who applies for and is issued a registration for a vessel or motor vehicle before such costs have been paid in full commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The law enforcement officer or representative of the law enforcement agency or other governmental entity shall supply the Department of Highway Safety and Motor Vehicles with a list of persons whose vessel registration privileges and motor vehicle privileges have been revoked under this subsection. The department or a person acting as an agent of the department may not issue a certificate of registration to a person whose vessel and 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.