

CHAPTER 2017-163

Committee Substitute for Committee Substitute for House Bill No. 7043

An act relating to vessels; amending s. 253.0347, F.S.; authorizing certain grandfathered private residential multifamily docks to moor a number of boats that exceeds the number of units within the private multifamily development; amending s. 327.02, F.S.; providing and revising definitions; amending s. 327.391, F.S.; conforming a cross-reference; amending s. 327.4107, F.S.; providing a condition under which a vessel is at risk of becoming derelict; specifying the means by which an officer may provide certain telephonic or written notice to a vessel owner or operator; authorizing the Fish and Wildlife Conservation Commission to adopt rules; amending s. 327.4108, F.S.; removing the expiration of provisions relating to anchoring vessels in anchoring limitation areas; creating s. 327.4109, F.S.; prohibiting owners and operators of vessels and floating structures from anchoring or mooring in certain areas; providing exceptions and a penalty; amending s. 327.44, F.S.; prohibiting persons from mooring vessels in a manner that constitutes certain navigational hazards or interference; amending s. 327.46, F.S.; authorizing owners of certain privately submerged land to request that the commission establish boating-restricted areas to protect certain seagrass; authorizing the commission to adopt rules; providing a definition; amending s. 327.60, F.S.; authorizing a local government to enact and enforce certain regulations that prohibit or restrict mooring or anchoring of certain vessels, that require sewage disposal by certain vessels and floating structures, and that authorize the removal of certain vessels; requiring local governments to ensure that certain sewage pumpout services and facilities are available; requiring the commission to review and approve certain ordinances; providing applicability; authorizing the commission to adopt rules; amending s. 327.70, F.S.; providing for issuance of uniform boating citations for anchoring or mooring in prohibited areas; amending s. 327.73, F.S.; providing penalties for operating a vessel with an expired registration and anchoring or mooring in prohibited areas; amending s. 328.09, F.S.; prohibiting the issuance of certificates of title for derelict vessels unless certain documentation is provided; amending s. 328.70, F.S.; requiring commercial fishing vessels to be registered and classified as commercial vessels; amending s. 328.72, F.S.; revising the penalties for operation, use, or storage of vessels with expired registrations; amending s. 705.103, F.S.; exempting certain law enforcement officers from specified abandoned or lost property notice requirements; providing an effective date.

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

Section 1. Paragraph (f) of subsection (2) of section 253.0347, Florida Statutes, is amended to read:

253.0347 Lease of sovereignty submerged lands for private residential docks and piers.—

(2)

(f) A lessee of sovereignty submerged lands for a private residential multifamily dock designed to moor boats up to the number of units within the multifamily development is not required to pay lease fees for a preempted area equal to or less than 10 times the riparian shoreline along sovereignty submerged land on the affected waterbody times the number of units with docks in the private multifamily development. Private residential multifamily docks grandfathered-in to use sovereignty submerged lands by January 1, 1998, pursuant to former rule 18-21.00405, Florida Administrative Code, as it existed in rule on March 15, 1990, may moor a number of boats that exceeds the number of units within the private multifamily development as previously authorized under such rule.

Section 2. Subsections (3) and (4) of section 327.02, Florida Statutes, are renumbered as subsections (4) and (5), respectively, present subsection (5) is renumbered as subsection (7), present subsections (7) through (10) are renumbered as subsections (9) through (12), respectively, present subsections (11) through (13) are renumbered as subsections (14) through (16), respectively, present subsection (14) is renumbered as subsection (18), present subsection (15) is renumbered as subsection (17), present subsections (16) through (44) are renumbered as subsections (19) through (47), respectively, present subsections (6) and (19) are amended, and new subsections (3), (8), and (13) are added to that section, to read:

327.02 Definitions.—As used in this chapter and in chapter 328, unless the context clearly requires a different meaning, the term:

(3) “Barge” means a vessel that does not have living quarters, is not propelled by its own power, and is designed to be pushed or pulled by another vessel.

(6) “Commercial fishing vessel” means:

(a) a vessel primarily engaged in the taking or landing of saltwater fish or saltwater products or freshwater fish or freshwater products, or a vessel licensed pursuant to s. 379.361 from which commercial quantities of saltwater products are harvested, from within and without the waters of this state for sale to the consumer or to a retail or wholesale dealer.

~~(b) Any other vessel, except a recreational vessel as defined in this section.~~

(8) “Commercial vessel” means a vessel used as a place of business or a professional or other commercial enterprise.

(13) “Effective means of propulsion for safe navigation” means a vessel, other than a barge, that is equipped with:

(a) A functioning motor, controls, and steering system; or

(b) Rigging and sails that are present and in good working order, and a functioning steering system.

~~(22)(19)~~ “Live-aboard vessel” means:

(a) A vessel used solely as a residence and not for navigation;

~~(b) A vessel represented as a place of business or a professional or other commercial enterprise; or~~

(b)(e) A vessel for which a declaration of domicile has been filed pursuant to s. 222.17; or

(c) A vessel used as a residence that does not have an effective means of propulsion for safe navigation.

A commercial fishing vessel boat is expressly excluded from the term “live-aboard vessel.”

Section 3. Subsection (1) of section 327.391, Florida Statutes, is amended to read:

327.391 Airboats regulated.—

(1) The exhaust of every internal combustion engine used on any airboat operated on the waters of this state shall be provided with an automotive-style factory muffler, underwater exhaust, or other manufactured device capable of adequately muffling the sound of the exhaust of the engine as described in s. ~~327.02(30)~~ 327.02(27). The use of cutouts or flex pipe as the sole source of muffling is prohibited, except as provided in subsection (4). Any person who violates this subsection commits a noncriminal infraction punishable as provided in s. 327.73(1).

Section 4. Paragraph (e) is added to subsection (2) of section 327.4107, Florida Statutes, to read:

327.4107 Vessels at risk of becoming derelict on waters of this state.—

(2) An officer of the commission or of a law enforcement agency specified in s. 327.70 may determine that a vessel is at risk of becoming derelict if any of the following conditions exist:

(e) The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives telephonic or written notice, which may be provided by facsimile, electronic mail, or other electronic means, stating such from an officer, and the vessel owner or operator is unable to provide a receipt, proof of purchase, or other documentation of having ordered necessary parts for vessel repair. The commission may adopt rules to implement this paragraph.

Section 5. Subsection (7) of section 327.4108, Florida Statutes, is amended to read:

327.4108 Anchoring of vessels in anchoring limitation areas.—

(7) This section shall remain in effect notwithstanding expires upon the Legislature's adoption of the commission's recommendations for the regulation of mooring vessels outside of public mooring fields pursuant to s. 327.4105.

Section 6. Section 327.4109, Florida Statutes, is created to read:

327.4109 Anchoring or mooring prohibited; exceptions; penalties.—

(1)(a) The owner or operator of a vessel or floating structure may not anchor or moor such that the nearest approach of the anchored or moored vessel or floating structure is:

1. Within 150 feet of any marina, boat ramp, boatyard, or other vessel launching or loading facility;

2. Within 300 feet of a superyacht repair facility. For purposes of this subparagraph, the term "superyacht repair facility" means a facility that services or repairs a yacht with a water line of 120 feet or more in length; or

3. Within 100 feet outward from the marked boundary of a public mooring field or a lesser distance if approved by the commission upon request of a local government within which the mooring field is located. The commission may adopt rules to implement this subparagraph.

(b) This subsection does not apply to:

1. A vessel owned or operated by a governmental entity.

2. A construction or dredging vessel on an active job site.

3. A commercial fishing vessel actively engaged in commercial fishing.

4. A vessel actively engaged in recreational fishing if the persons onboard are actively tending hook and line fishing gear or nets.

(2) Notwithstanding subsection (1), an owner or operator of a vessel may anchor or moor within 150 feet of any marina, boat ramp, boatyard, or other vessel launching or loading facility; within 300 feet of a superyacht repair facility; or within 100 feet outward from the marked boundary of a public mooring field if:

(a) The vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor for 5 business days or until the vessel is repaired, whichever occurs first.

(b) Imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor until weather conditions no longer pose such risk. During a hurricane or tropical storm, weather conditions are deemed to no longer pose an unreasonable risk of harm when the hurricane or tropical storm warning affecting the area has expired.

(3) The owner or operator of a vessel or floating structure may not anchor or moor within the marked boundary of a public mooring field unless the owner or operator has a lawful right to do so by contractual agreement or other business arrangement.

(4) The owner or operator of a vessel or floating structure may not anchor, moor, tie, or otherwise affix or allow the vessel or floating structure to remain anchored, moored, tied, or otherwise affixed to an unpermitted, unauthorized, or otherwise unlawful object that is on or affixed to the bottom of the waters of this state. This subsection does not apply to a private mooring owned by the owner of privately owned submerged lands.

(5) A violation of this section is a noncriminal infraction, punishable as provided in s. 327.73(1)(bb).

Section 7. Subsection (2) of section 327.44, Florida Statutes, is amended to read:

327.44 Interference with navigation; relocation or removal; recovery of costs.—

~~(2) A No person may not shall anchor, moor operate, or allow permit to be anchored or moored, except in case of emergency, or operate operated a vessel or carry on any prohibited activity in a manner which shall unreasonably or unnecessarily constitutes constitute a navigational hazard or interference interfere with another vessel. Anchoring or mooring under bridges or in or adjacent to heavily traveled channels constitutes shall constitute interference if unreasonable under the prevailing circumstances.~~

Section 8. Subsection (1) of section 327.46, Florida Statutes, is amended to read:

327.46 Boating-restricted areas.—

(1) Boating-restricted areas, including, but not limited to, restrictions of vessel speeds and vessel traffic, may be established on the waters of this state for any purpose necessary to protect the safety of the public if such restrictions are necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards or to protect seagrasses on privately owned submerged lands.

(a) The commission may establish boating-restricted areas by rule pursuant to chapter 120.

(b) Municipalities and counties have the authority to establish the following boating-restricted areas by ordinance:

1. An ordinance establishing an idle speed, no wake boating-restricted area, if the area is:

a. Within 500 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways more than 300 feet in width or within 300 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways not exceeding 300 feet in width.

b. Within 500 feet of fuel pumps or dispensers at any marine fueling facility that sells motor fuel to the general boating public on waterways more than 300 feet in width or within 300 feet of the fuel pumps or dispensers at any licensed terminal facility that sells motor fuel to the general boating public on waterways not exceeding 300 feet in width.

c. Inside or within 300 feet of any lock structure.

2. An ordinance establishing a slow speed, minimum wake boating-restricted area if the area is:

a. Within 300 feet of any bridge fender system.

b. Within 300 feet of any bridge span presenting a vertical clearance of less than 25 feet or a horizontal clearance of less than 100 feet.

c. On a creek, stream, canal, or similar linear waterway if the waterway is less than 75 feet in width from shoreline to shoreline.

d. On a lake or pond of less than 10 acres in total surface area.

3. An ordinance establishing a vessel-exclusion zone if the area is:

a. Designated as a public bathing beach or swim area.

b. Within 300 feet of a dam, spillway, or flood control structure.

(c) Municipalities and counties have the authority to establish by ordinance the following other boating-restricted areas:

1. An ordinance establishing an idle speed, no wake boating-restricted area, if the area is within 300 feet of a confluence of water bodies presenting a blind corner, a bend in a narrow channel or fairway, or such other area if an intervening obstruction to visibility may obscure other vessels or other users of the waterway.

2. An ordinance establishing a slow speed, minimum wake, or numerical speed limit boating-restricted area if the area is:

- a. Within 300 feet of a confluence of water bodies presenting a blind corner, a bend in a narrow channel or fairway, or such other area if an intervening obstruction to visibility may obscure other vessels or other users of the waterway.
 - b. Subject to unsafe levels of vessel traffic congestion.
 - c. Subject to hazardous water levels or currents, or containing other navigational hazards.
 - d. An area that accident reports, uniform boating citations, vessel traffic studies, or other creditable data demonstrate to present a significant risk of collision or a significant threat to boating safety.
3. An ordinance establishing a vessel-exclusion zone if the area is reserved exclusively:
- a. As a canoe trail or otherwise limited to vessels under oars or under sail.
 - b. For a particular activity and user group separation must be imposed to protect the safety of those participating in such activity.

Any of the ordinances adopted pursuant to this paragraph shall not take effect until the commission has reviewed the ordinance and determined by substantial competent evidence that the ordinance is necessary to protect public safety pursuant to this paragraph. Any application for approval of an ordinance shall be reviewed and acted upon within 90 days after receipt of a completed application. Within 30 days after a municipality or county submits an application for approval to the commission, the commission shall advise the municipality or county as to what information, if any, is needed to deem the application complete. An application shall be considered complete upon receipt of all requested information and correction of any error or omission for which the applicant was timely notified or when the time for such notification has expired. The commission's action on the application shall be subject to review under chapter 120. The commission shall initiate rulemaking no later than January 1, 2010, to provide criteria and procedures for reviewing applications and procedures for providing for public notice and participation pursuant to this paragraph.

(d) Owners of private submerged lands that are adjacent to Outstanding Florida Waters, as defined in s. 403.061(27), or an aquatic preserve established under ss. 258.39-258.399 may request that the commission establish boating-restricted areas solely to protect any seagrass and contiguous seagrass habitat within their private property boundaries from seagrass scarring due to propeller dredging. Owners making a request pursuant to this paragraph must demonstrate to the commission clear ownership of the submerged lands. The commission shall adopt rules to implement this paragraph, including, but not limited to, establishing an application process and criteria for meeting the requirements of this

paragraph. Each approved boating-restricted area shall be established by commission rule. For marking boating-restricted zones established pursuant to this paragraph, owners of privately submerged lands shall apply to the commission for a uniform waterway marker permit in accordance with ss. 327.40 and 327.41, and shall be responsible for marking the boating-restricted zone in accordance with the terms of the permit.

(e) As used in this section, the term “seagrass” has the same meaning as in s. 253.04.

Section 9. Subsections (2) and (3) of section 327.60, Florida Statutes, are amended, and subsections (4) and (5) are added to that section, to read:

327.60 Local regulations; limitations.—

~~(2) Nothing in This chapter and or chapter 328 do not shall be construed to prevent the adoption of any ordinance or local regulation relating to operation of vessels, except that a county or municipality may shall not enact, continue in effect, or enforce any ordinance or local regulation:~~

(a) Establishing a vessel or associated equipment performance or other safety standard, imposing a requirement for associated equipment, or regulating the carrying or use of marine safety articles;

(b) Relating to the design, manufacture, or installation, or use of any marine sanitation device on any vessel, except as authorized in subsection (4);

(c) Regulating any vessel upon the Florida Intracoastal Waterway;

(d) Discriminating against personal watercraft;

(e) Discriminating against airboats, for ordinances adopted after July 1, 2006, unless adopted by a two-thirds vote of the governing body enacting such ordinance;

(f) Regulating the anchoring of vessels ~~other than live-aboard vessels~~ outside the marked boundaries of mooring fields permitted as provided in s. 327.40, except for:

1. Live-aboard vessels; and

2. Commercial vessels, excluding commercial fishing vessels;

(g) Regulating engine or exhaust noise, except as provided in s. 327.65; or

(h) That conflicts with any provisions of this chapter or any amendments thereto or rules adopted thereunder.

~~(3) Nothing in This section does not shall be construed to prohibit local governmental authorities from the enactment or enforcement of regulations that which prohibit or restrict the mooring or anchoring of floating~~

~~structures, or live-aboard vessels, or commercial vessels, excluding commercial fishing vessels, within their jurisdictions or of any vessels within the marked boundaries of mooring fields permitted as provided in s. 327.40. However, local governmental authorities are prohibited from regulating the anchoring outside of such mooring fields of vessels other than live-aboard vessels as defined in s. 327.02.~~

(4)(a) A local government may enact and enforce regulations that require owners or operators of vessels or floating structures subject to the marine sanitation requirements of s. 327.53 to provide proof of proper sewage disposal by means of an approved sewage pumpout service, approved sewage pumpout facility, or approved waste reception facility when anchored or moored for more than 10 consecutive days within the following areas:

1. Marked boundaries of a permitted mooring field under the jurisdiction of the local government;

2. No-discharge zones as published in Volume 53, No. 13 of the Federal Register, page 1678 (1988); Volume 64, No. 164 of the Federal Register, pages 46390-46391 (1999); and Volume 67, No. 98 of the Federal Register, pages 35735-35743 (2002); or

3. No-discharge zones established pursuant to 40 C.F.R. s. 1700.10.

(b) Before a local government may adopt an ordinance to enact and enforce such regulations, the local government must ensure that there are approved sewage pumpout services, approved sewage pumpout facilities, or approved waste reception facilities available within its jurisdiction. Any ordinance adopted pursuant to this subsection may not take effect until reviewed and approved as consistent with this subsection by the commission.

(c) This subsection does not prohibit a local government from enacting or enforcing such sewage pumpout requirements for live-aboard vessels, floating structures, and commercial vessels, excluding commercial fishing vessels, within any areas of its jurisdiction.

(d) The commission may adopt rules to implement this subsection.

(5) A local government may enact and enforce regulations to implement the procedures for abandoned or lost property that allow the local law enforcement agency to remove a vessel affixed to a public dock within its jurisdiction that is abandoned or lost property pursuant to s. 705.103(1). Such regulation must require the local law enforcement agency to post a written notice at least 24 hours before removing the vessel.

Section 10. Subsection (3) of section 327.70, Florida Statutes, is amended to read:

327.70 Enforcement of this chapter and chapter 328.—

(3)(a) Noncriminal violations of the following statutes may be enforced by a uniform boating citation mailed to the registered owner of an unattended vessel anchored, aground, or moored on the waters of this state:

1. Section 327.33(3)(b), relating to navigation rules.
2. Section 327.44, relating to interference with navigation.
3. Section 327.50(2), relating to required lights and shapes.
4. Section 327.53, relating to marine sanitation.
5. Section 328.48(5), relating to display of decal.
6. Section 328.52(2), relating to display of number.
7. Section 327.4107, relating to vessels at risk of becoming derelict.
8. Section 327.4109, relating to prohibited anchoring or mooring.

(b) Citations issued to livery vessels under this subsection are ~~shall be~~ the responsibility of the lessee of the vessel if the livery has included a warning of this responsibility as a part of the rental agreement and has provided to the agency issuing the citation the name, address, and date of birth of the lessee when requested by that agency. The livery is not responsible for the payment of citations if the livery provides the required warning and lessee information.

(c) A noncriminal violation of s. 327.4108 may be enforced by a uniform boating citation issued to the operator of a vessel unlawfully anchored in an anchoring limitation area.

(d) A noncriminal violation of s. 327.4109 may be enforced by a uniform boating citation issued to the owner or operator of a vessel or floating structure unlawfully anchored or moored in a prohibited area.

Section 11. Paragraph (g) of subsection (1) of section 327.73, Florida Statutes, is amended, and paragraph (bb) is added to that subsection, to read:

327.73 Noncriminal infractions.—

(1) Violations of the following provisions of the vessel laws of this state are noncriminal infractions:

(g) Section 328.72(13), relating to operation with an expired registration, for which the penalty is:

1. For a first or subsequent offense of s. 328.72(13)(a), up to a maximum of \$50.
2. For a first offense of s. 328.72(13)(b), up to a maximum of \$250.

3. For a second or subsequent offense of s. 328.72(13)(b), up to a maximum of \$500. Any person cited for a noncriminal infraction under this subparagraph may not have the provisions of paragraph (4)(a) available to him or her but must appear before the designated official at the time and location of the scheduled hearing.

(bb) Section 327.4109, relating to anchoring or mooring in a prohibited area, for which the penalty is:

1. For a first offense, up to a maximum of \$50.
2. For a second offense, up to a maximum of \$100.
3. For a third or subsequent offense, up to a maximum of \$250.

Any person cited for a violation of any provision of this subsection shall be deemed to be charged with a noncriminal infraction, shall be cited for such an infraction, and shall be cited to appear before the county court. The civil penalty for any such infraction is \$50, except as otherwise provided in this section. Any person who fails to appear or otherwise properly respond to a uniform boating citation shall, in addition to the charge relating to the violation of the boating laws of this state, be charged with the offense of failing to respond to such citation and, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A written warning to this effect shall be provided at the time such uniform boating citation is issued.

Section 12. Subsection (4) is added to section 328.09, Florida Statutes, to read:

328.09 Refusal to issue and authority to cancel a certificate of title or registration.—

(4) The department may not issue a certificate of title to any applicant for any vessel that has been deemed derelict by a law enforcement officer under s. 823.11. A law enforcement officer must inform the department in writing, which may be provided by facsimile, electronic mail, or other electronic means, of the vessel's derelict status and supply the department with the vessel title number or vessel identification number. The department may issue a certificate of title once a law enforcement officer has verified in writing, which may be provided by facsimile, electronic mail, or other electronic means, that the vessel is no longer a derelict vessel.

Section 13. Subsection (2) of section 328.70, Florida Statutes, is amended to read:

328.70 Legislative intent with respect to uniform registration fee, classification of vessels.—

(2) Any vessel ~~that which~~ is required to be registered and ~~that~~ meets the definition of a commercial fishing vessel or a commercial vessel shall be classified and registered as a “commercial vessel.”

Section 14. Subsection (13) of section 328.72, Florida Statutes, is amended to read:

328.72 Classification; registration; fees and charges; surcharge; disposition of fees; fines; marine turtle stickers.—

(13) EXPIRED REGISTRATION.—The operation, use, or storage on the waters of this state of a previously registered vessel is subject to the following penalties:

(a) The owner or operator of a vessel with an expired registration of 6 months or less commits a noncriminal infraction, punishable as provided in s. 327.73(1)(g)1.

(b) The owner or operator of a vessel with an expired registration of more than 6 months commits a noncriminal infraction, punishable as provided in s. 327.73(1)(g)2. or (1)(g)3. after the expiration of the registration period is a noncriminal violation, as defined in s. 327.73.

This subsection does not apply to vessels lawfully stored at a dock or in a marina.

Section 15. Subsection (2) of section 705.103, Florida Statutes, is amended to read:

705.103 Procedure for abandoned or lost property.—

(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:

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, 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. 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 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.

Section 16. This act shall take effect July 1, 2017.

Approved by the Governor June 23, 2017.

Filed in Office Secretary of State June 23, 2017.