

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Ways and Means Committee

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BILL: CS/CS/SB 1110

SPONSOR: Ways and Means Committee, Government Efficiency Appropriations Committee and Senator Atwater

SUBJECT: Documentary Stamp Tax Revenue

DATE: April 21, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Gilreath</u>	<u>Johansen</u>	<u>GE</u>	<u>Fav/CS</u>
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4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

This bill provides that, effective July 1, 2007, distributions of documentary stamp tax collections to various trust funds may not exceed amounts specified in the bill. Calculated distributions in excess of these amounts will be directed to the General Revenue Fund.

The bill includes a growth factor that will increase the cap for each fund based on growth in documentary stamp collections.

The bill provides that, if the payments required for bonds which were outstanding on July 1, 2007, exceed the specified limitations, distributions to the trust fund from which these bond payments are made will be increased to either the amount needed to pay bond obligations or the applicable percentage distribution under ss. 201.15(2) through (10), F.S., whichever is less. It also provides that the limit imposed on distributions to the State Housing Trust Fund shall not be construed to adversely affect the rights of holders of bonds or affordable housing guarantees.

The bill appropriates \$250 million to fund the recommendations of the Hurricane Housing Workgroup. The funds will be used primarily in the 28 counties that were hardest hit by the 2004 hurricanes.

This bill substantially amends section 201.15, Florida Statutes.

## II. Present Situation:

The documentary stamp tax levied under ch. 201, F.S., is actually two taxes imposed on different bases at different tax rates. The tax on deeds and other documents related to real property is at

the rate of 70 cents per \$100. Certificates of indebtedness, promissory notes, wage assignments and retail charge account agreements are taxed at 35 cents per \$100. Revenue from the documentary stamp tax is divided between the General Revenue Fund and various trust funds used mainly to acquire and manage public lands or support affordable housing.

**Disposition of Documentary Stamp Tax Revenue**

Seven percent of total collections is deducted as General Revenue Service Charge. Distributions are then made as follows:

- 62.63 percent to the General Revenue Fund
- Payments of debt service for Preservation 2000, Florida Forever, and Everglades Restoration bonds and distributions to the Ecosystem Management and Restoration Trust Fund and the Marine Resources Conservation Trust Fund are made out of the general revenue distribution.
- 9.5 percent to the Land Acquisition Trust Fund
- 4.2 percent to the Water Management Lands Trust Fund
- 3.801 percent to the Conservation and Recreation Lands Trust Fund
- 0.899 percent to the State Game Trust Fund
- 2.28 percent to Aquatic Plant Control Trust Fund
- 0.25 percent to Water Quality Assurance Trust Fund
- 0.25 percent to Department of Agriculture and Consumer Services General Inspection Trust Fund
- 4.8475 percent to the State Housing Trust Fund
- 11.3425 percent to the Local Government Housing Trust Fund

Current estimates of the statutory distributions are as follows:

<b>Documentary Stamp Tax</b>		
Forecast Distributions by Fund		
(Millions of Dollars)		
	<b>FY 2005-06</b>	<b>FY 2006-07</b>
Land Acquisition Trust Fund	\$263.1	\$242.2
Water Mgmt Lands Trust Fund	116.3	107.1
CARL Trust Fund	105.3	96.9
State Game Trust Fund	24.9	22.9
Invasive Plant Control Trust Fund	63.1	58.1
Water Quality Assurance Trust Fund	6.9	6.4
General Inspection Trust Fund	6.9	6.4
State Housing Trust Fund	134.3	123.6
Local Govt Housing Trust Fund	<u>314.1</u>	<u>289.1</u>
<b>Statutory Distributions</b>	<b>\$1,035.0</b>	<b>\$952.7</b>

**History of Documentary Stamp Tax Rates and Distributions**

Florida first enacted a documentary stamp tax in 1931, at the rate of 10 cents per \$100 of consideration. In 1957, the tax on documents relating to realty (mainly deeds) was raised to 20 cents, and the tax has been assessed at two separate rates on deeds and notes ever since. Major rate increases occurred in 1957, 1963, 1979, 1981, 1985, 1987, 1990, 1991, and 1992. In 1983, the Legislature authorized Dade County to levy a discretionary surtax on deeds of up to 45 cents for each \$100 except for deeds on single family residences.

Until 1967 all proceeds from documentary stamps went to the General Revenue Fund. In that year a surtax was imposed on documents relating to realty with the proceeds going to the Land Acquisition Trust Fund. The surtax was repealed in 1979 and replaced with an increase in the documentary stamp tax on deeds, and the Land Acquisition Trust Fund was given a distribution from this tax. Since 1979 increases in the documentary stamp tax rate have been used to fund several programs, including acquisition of environmentally sensitive land, funding state infrastructure, and funding affordable housing. In 1990 the General Revenue Service Charge was extended to the Documentary Stamp Clearing Trust Fund, among other trust funds, which reduced all distributions from this fund by seven percent on a recurring basis. Chapter 90-217, L.O.F., authorized a portion of documentary stamp tax proceeds which had been allocated to general revenue to be used for Preservation 2000 debt service. By 2000, nine P2000 bond series were authorized by the Legislature. Pursuant to ch. 92-317, L.O.F., effective July 1, 1995, the distribution to the General Revenue Fund was reduced by 8.66 percentage points and the distribution to the State Housing Trust Fund was increased by 8.66 percentage points. Chapter 98-311, L.O.F., provided that documentary stamp tax receipts shall be deposited in the Ecosystem Management and Restoration Trust Fund for the purpose of funding erosion control; beach preservation, restoration, and renourishment; and storm and hurricane protection. This money would otherwise have been deposited in the General Revenue Fund.

In 1999, the Legislature authorized a portion of documentary stamp tax proceeds which had been allocated to general revenue to be used for Florida Forever debt service. Additional debt service is limited to \$30 million in each fiscal year for ten years, and total annual debt service may not exceed \$300 million. The 1999 legislation also reduced the documentary stamp distribution to the Water Management Lands Trust Fund and the Conservation and Recreation Lands Trust Fund and created distributions to the State Game Trust Fund, the Aquatic Plant Control Trust Fund, the Department of Environmental Protection Water Quality Assurance Trust Fund, and the Department of Agriculture and Consumer Services General Inspection Trust Fund. In 2000, the Legislature provided that \$2 million shall be paid into the Marine Resources Conservation Trust Fund annually from the documentary stamp general revenue distribution. Chapter 2002-261, L.O.F., provided for a portion of the documentary stamp tax collections to be used to pay the debt service on Everglades Restoration Bonds.

In the 2003 and 2004 General Appropriations Acts, appropriations for the various programs supported by statutory distributions of documentary stamp tax revenues were held well below the amounts estimated to be available. Unappropriated distributions were redirected to the working capital fund and became available for appropriation from the General Revenue Fund.

Section 259.032(11)(b), F.S., provides that up to 1.5 percent of the cumulative total of funds ever deposited into the Florida Preservation 2000 Trust Fund and the Florida Forever Trust Fund may be made available for the purposes of management, maintenance, and capital improvements for

lands acquired through the Conservation and Recreation Lands Trust Fund, the Florida Preservation 2000 Act, the Florida Forever Act, or previous land acquisition programs.

**III. Effect of Proposed Changes:**

This bill amends s. 201.15, F.S., to provide that, effective July 1, 2007, the amounts distributed from documentary stamp tax collections to various trust funds may not exceed amounts specified in the bill. The bill amends ss. 201.15(2), (3), (4), (6), (7), (9), and (10), F.S., to limit the distribution from documentary stamp collections to the Land Acquisition Trust Fund, Water Management Lands Trust Fund, Invasive Plant Control Trust Fund, State Game Trust Fund, State Housing Trust Fund, and Local Government Housing Trust Fund.

The following distributions are not changed by the bill: CARL Trust Fund, including a distribution to the State Game Trust Fund for land management; Water Quality Assurance Trust Fund; and General Inspection Trust Fund. The impact of the redirection is shown below:

<b>Documentary Stamp Tax</b> Redistribution Pursuant to SB 1110 (Millions of Dollars)							
Florida Statutes	Trust Fund	Fiscal Year 2007-08			Fiscal Year 2008-09		
		Current Law	SB 1110	Redirect to GR	Current Law	SB 1110	Redirect to GR
s. 201.15(2)	Land Acquisition TF	\$199.9	84.9	115.0	213.0	86.2	126.8
s. 201.15(3)	Land Acquisition TF	51.3	26.0	25.3	54.7	26.3	28.3
s. 201.15(4)	Water Mgmt Lands TF	111.1	60.5	50.6	118.3	61.2	57.1
s. 201.15(5)	CARL TF	100.5	100.5	None	107.1	107.1	None
s. 201.15(5)	State Game TF (CARL)	10.6	10.6	None	11.2	11.2	None
s. 201.15(6)	Invasive Plant Control TF	60.3	36.1	24.2	64.2	36.5	27.7
s. 201.15(7)	State Game TF	13.2	9.3	3.9	14.1	9.4	4.7
s. 201.15(8)	Water Quality Assurance TF	6.6	6.6	None	7.0	7.0	None
s. 201.15(8)	General Inspection TF	6.6	6.6	None	7.0	7.0	None
s. 201.15(9)	State Housing TF	99.6	53.5	46.1	106.1	54.2	51.9
s. 201.15(9)	Local Govt Housing TF	99.6	53.5	46.1	106.1	54.2	51.9
s. 201.15(10)	State Housing TF	28.6	17.0	11.6	30.5	17.2	13.3
s. 201.15(10)	Local Govt Housing TF	<u>200.4</u>	<u>119.0</u>	<u>81.4</u>	<u>213.5</u>	<u>120.3</u>	<u>93.2</u>
<b>Total Statutory Distributions</b>		988.3	584.1	404.2	<b>1,052.9</b>	<b>597.9</b>	<b>455.0</b>

For funds receiving more than one distribution, the combined distributions under current law and under the bill are shown below.

<b>Funds with Multiple Distributions</b> (Millions of Dollars)						
<b>Trust Fund</b>	<b>Fiscal Year 2007-08</b>			<b>Fiscal Year 2008-09</b>		
	<b>Current Law</b>	<b>SB 1110</b>	<b>Redirect to GR</b>	<b>Current Law</b>	<b>SB 1110</b>	<b>Redirect to GR</b>
Total Land Acquisition TF	251.2	110.9	140.3	267.7	112.5	155.1
Total State Game TF	23.8	19.9	3.9	25.3	20.6	4.7
Total State Housing TF	128.2	70.5	57.7	136.6	71.3	65.2
Total Local Govt. Housing TF	300.0	172.5	127.5	319.6	174.5	145.1

The bill includes a growth factor which will increase the cap for each fund based on growth in documentary stamp collections. Beginning July 1, 2008, in each fiscal year that the remaining taxes collected exceed collections in the prior fiscal year, the maximum dollar amounts for those funds capped by the bill will be increased by an amount equal to 10 percent of the increase in the remaining taxes collected multiplied by the applicable percentage provided for those funds.

The bill provides that, if the payment requirements in any year for bonds that were outstanding on July 1, 2007, exceed the distribution amounts provided by this bill, distributions to the trust fund from which the bond payments are made will be increased to either the amount needed to pay bond obligations or the applicable percentage distribution under ss. 201.15(1) through (12), F.S., whichever is less.

The bill also includes language to protect the Florida Housing Guarantee Program’s annual debt service reserve and guarantee fund.

Calculated distributions in excess of the limits specified in the bill are to be paid into the State Treasury to the credit of the General Revenue Fund.

The bill provides that the recurring impact of the bill will first be recognized in Fiscal Year 2007-08.

The bill appropriates \$250 million to fund the recommendations of the Hurricane Housing Workgroup that was chaired by Lt. Governor Jennings. These funds are surplus non-recurring balances in the State Housing and Local Government Housing Trust Funds and will be used for housing recovery, affordable rental housing recovery, farm worker housing recovery, special housing assistance, and other efforts with a focus on assisting citizens with low incomes. The funds will be used primarily in the 28 counties that were hardest hit by the 2004 hurricanes.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill may affect the owners of environmentally sensitive lands who are interested in selling the land to the state or other agencies funded through this source. It may also affect the number of new affordable housing units developed in the state.

C. Government Sector Impact:

This bill shifts documentary stamp tax revenue from various trust funds to the General Revenue Fund by capping the amount that is distributed to these funds at the levels specified in the bill. See "Effect of Proposed Changes" above.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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