

20092430e2

1                   A bill to be entitled  
2           An act relating to the taxation of documents; amending  
3           s. 3, ch. 83-220, Laws of Florida, as amended;  
4           extending a future repeal date of provisions  
5           authorizing counties to levy a discretionary surtax on  
6           documents; amending s. 125.0167, F.S.; limiting the  
7           percentage of surtax revenues that may be used for  
8           administrative costs; specifying a minimum amount of  
9           surtax revenues to be used for housing for certain  
10          low-income and moderate-income families; requiring an  
11          affirmative vote of a local government governing body  
12          to rehabilitate certain government-owned housing;  
13          authorizing certain counties to create by ordinance a  
14          housing choice assistance voucher program for the  
15          purpose of down payment assistance; providing  
16          definitions; providing eligibility requirements for  
17          such vouchers; authorizing purchasing employers to  
18          file for allocations for such vouchers; limiting  
19          allocations; requiring distribution of allocations to  
20          employees in the form of such vouchers; prohibiting  
21          use of allocations for such vouchers if not awarded  
22          within a certain period after certain documentary  
23          stamps taxes are collected; requiring the Office of  
24          Program Policy Analysis and Government Accountability  
25          to conduct a continuing review of the discretionary  
26          surtax program operated by counties; requiring reports  
27          to the Legislature; providing legislative intent to  
28          reverse a judicial opinion relating to the application  
29          of the excise tax on documents to certain transactions

20092430e2

30 involving legal entities; amending s. 201.02, F.S.;

31 defining terms; imposing the tax on certain transfers

32 to a conduit entity; providing for the tax to be

33 prorated when the interest transferred includes assets

34 other than real property; exempting the transfer of

35 shares or similar equity interests in a conduit entity

36 from the tax; exempting certain transfers for purposes

37 of estate planning; providing for liberal

38 construction; providing for payment of the tax when no

39 document is recorded; imposing the tax on deeds,

40 instruments, and other writings on the consideration

41 for a transfer of real property pursuant to a short

42 sale; providing that the consideration subject to the

43 tax does not include unpaid indebtedness that is

44 forgiven by a mortgagee; defining the term "short

45 sale"; authorizing the Department of Revenue to adopt

46 emergency rules relating to transfers of real property

47 interest involving conduit entities and transfers of

48 real property pursuant to short sales; amending s.

49 201.031, F.S.; expanding requirements for counties

50 levying the discretionary surtax to include housing

51 plan, affordable housing element, and annual reporting

52 requirements; amending s. 719.105, F.S.; conforming a

53 cross-reference; authorizing the issuance of Florida

54 Forever bonds; providing an appropriation for debt

55 service on such bonds; authorizing the issuance of

56 Everglades Restoration bonds; providing an

57 appropriation for debt service on such bonds;

58 providing an appropriation to the Department of

20092430e2

59 Environmental Protection for the design and  
60 construction of certain restoration and protection  
61 plans and for the acquisition of lands needed for  
62 these project components; providing an appropriation  
63 for the purpose of implementing agricultural nonpoint  
64 source controls in certain watersheds; amending s.  
65 201.15, F.S.; conforming provisions to changes made by  
66 the act; providing for application of specified  
67 provisions of the act; providing effective dates.

68  
69 Be It Enacted by the Legislature of the State of Florida:

70  
71 Section 1. Section 3 of chapter 83-220, Laws of Florida, as  
72 amended by section 1 of chapter 84-270, Laws of Florida, and  
73 section 1 of chapter 89-252, Laws of Florida, is amended to  
74 read:

75 Section 3. Sections 1 and 2 of chapter 83-220, Laws of  
76 Florida, as amended by this act, are repealed effective October  
77 1, 2031 ~~2011~~.

78 Section 2. Section 125.0167, Florida Statutes, is amended  
79 to read:

80 125.0167 Discretionary surtax on documents; adoption;  
81 application of revenue.—

82 (1) Pursuant to the provisions of s. 201.031, the governing  
83 authority in each county, as defined by s. 125.011(1), is  
84 authorized to levy a discretionary surtax on documents for the  
85 purpose of establishing and financing a Housing Assistance Loan  
86 Trust Fund to assist in the financing of construction,  
87 rehabilitation, or purchase of housing for low-income and

20092430e2

88 moderate-income families. No less than 50 percent of the funds  
89 used in each county to provide such housing assistance shall be  
90 for the benefit of low-income families. For the purpose of this  
91 section, "low-income family" means a family whose income does  
92 not exceed 80 percent of the median income for the area, and  
93 "moderate-income family" means a family whose income is in  
94 excess of 80 percent but less than 140 percent of the median  
95 income for the area. For purposes of this section, the term  
96 "housing" is not limited to single-family, detached dwellings.  
97 The rate of the surtax shall not exceed the rate of 45 cents for  
98 each \$100 or fractional part thereof of the consideration  
99 therefor. Such surtax shall apply only to those documents  
100 taxable under s. 201.02, except that there shall be no surtax on  
101 any document pursuant to which the interest granted, assigned,  
102 transferred, or conveyed involves only a single-family  
103 residence. Such single-family residence may be a condominium  
104 unit, a unit held through stock ownership or membership  
105 representing a proprietary interest in a corporation owning a  
106 fee or a leasehold initially in excess of 98 years, or a  
107 detached dwelling.

108 (2) The levy of the discretionary surtax and the creation  
109 of a Housing Assistance Loan Trust Fund shall be by ordinance  
110 which shall set forth the policies and procedures of the  
111 assistance program. The ordinance shall be proposed at a regular  
112 meeting of the governing authority at least 2 weeks prior to  
113 formal adoption. Formal adoption shall not be effective unless  
114 approved on final vote by a majority of the total membership of  
115 the governing authority. The ordinance shall not take effect  
116 until 90 days after formal adoption.

20092430e2

117 (3) The county shall deposit revenues from the  
118 discretionary surtax in the Housing Assistance Loan Trust Fund  
119 of the county, except that a portion of such revenues may be  
120 deposited into the Home Investment Trust Fund of the county as  
121 defined by and created pursuant to the requirements of federal  
122 law. The county shall use the revenues only to help finance the  
123 construction, rehabilitation, or purchase of housing for low-  
124 income families and moderate-income families, to pay necessary  
125 costs of collection and enforcement of the surtax, and to fund  
126 any local matching contributions required pursuant to federal  
127 law. For purposes of this section, authorized uses of the  
128 revenues include, but are not limited to, providing funds for  
129 first and second mortgages and acquiring property for the  
130 purpose of forming housing cooperatives. Special consideration  
131 shall be given toward using the revenues in the neighborhood  
132 economic development programs of community development  
133 corporations. No more than 50 percent of the revenues collected  
134 each year pursuant to this section may be used to help finance  
135 new construction as provided herein. The proceeds of the surtax  
136 shall not be used for rent subsidies or grants.

137 (4) No more than 10 percent of surtax revenues collected  
138 under this section by the Department of Revenue and remitted to  
139 the county in any fiscal year may be used for administrative  
140 costs.

141 (5) (a) Notwithstanding the provisions of subsection (3), of  
142 the discretionary surtax revenues collected by the Department of  
143 Revenue remaining after any deduction for administrative costs  
144 as provided in subsection (4), no less than 35 percent shall be  
145 used to provide homeownership assistance for low-income and

20092430e2

146 moderate-income families, and no less than 35 percent shall be  
147 used for construction, rehabilitation, and purchase of rental  
148 housing units. The remaining amount may be allocated to provide  
149 for homeownership assistance or rental housing units, at the  
150 discretion of the county. Any funds allocated for homeownership  
151 assistance or rental housing units which are not committed at  
152 the end of the fiscal year shall be reallocated in subsequent  
153 years consistent with the provisions of this subsection, in that  
154 at least 35 percent shall be reallocated to provide  
155 homeownership assistance for low-income and moderate-income  
156 families, and at least 35 percent shall be reallocated for  
157 construction, rehabilitation, and purchase of rental housing  
158 units. The remaining amount of uncommitted funds may be  
159 reallocated at the discretion of the county within any of the  
160 categories established in this subsection.

161 (b) For purposes of this subsection, the term  
162 "homeownership assistance" means assisting low-income and  
163 moderate-income families in purchasing a home as their primary  
164 residence, including, but not limited to, reducing the cost of  
165 the home with below-market construction financing, the amount of  
166 down payment and closing costs paid by the borrower, or the  
167 mortgage payment to an affordable amount for the purchaser or  
168 using any other financial assistance measure set forth in s.  
169 420.5088.

170 (6) Rehabilitation of housing owned by a recipient  
171 government may be authorized only after a determination approved  
172 by a majority of the governing body that no other sources of  
173 funds are available.

174 (7) (a) The governing body of each county as defined in s.

20092430e2

175 125.011(1) may, by county ordinance and pursuant to procedures  
176 and requirements provided by such ordinance, create a housing  
177 choice assistance voucher program.

178 (b) For purposes of this subsection, the term:

179 1. "Housing choice assistance voucher" means the document  
180 used to access assistance paid by the county from the  
181 discretionary surtax balance in the Housing Assistance Trust  
182 Fund to a prospective purchaser of a single-family residence,  
183 which must be the purchaser's homestead.

184 2. "Purchasing employer" means a business or business  
185 entity that has acquired real property within the county and  
186 paid the surtax due as a result of the acquisition of that  
187 property pursuant to this section.

188 (c) Housing choice assistance vouchers shall be used for  
189 down payment assistance for the purchase of a single-family  
190 residence by low-income or moderate-income persons within the  
191 county and within a 5-mile radius of the purchasing employer who  
192 are:

193 1. Actively employed by the purchasing employer or by a  
194 business entity directly affiliated with the purchasing  
195 employer.

196 2. Prequalified for a mortgage loan by a certified lending  
197 institution.

198 (d) Upon payment of the discretionary surtax pursuant to  
199 this section, the purchasing employer may file for an allocation  
200 for housing choice assistance vouchers from the county in an  
201 amount not to exceed 50 percent of the amount of the  
202 discretionary surtax paid. The purchasing employer shall  
203 distribute the allocation to employees in the form of housing

20092430e2

204 choice assistance vouchers pursuant to rules and procedures  
205 established for the program.

206 (e) Any housing choice assistance voucher allocation not  
207 distributed to employees and redeemed by an employee within 1  
208 year after the date the discretionary surtax is paid may not be  
209 used for housing choice assistance vouchers under this  
210 subsection.

211 (f) Any housing assistance paid pursuant to the housing  
212 choice assistance voucher program shall be included in the  
213 calculation determining the percentage of discretionary surtax  
214 funds used for homeownership purposes during the year in which  
215 the surtax funds for such purposes are expended.

216 (8) By June 30, 2012, and every 5 years thereafter, the  
217 Office of Program Policy Analysis and Government Accountability  
218 shall review the discretionary surtax program operated by  
219 counties under this section and shall provide a report to the  
220 President of the Senate and the Speaker of the House of  
221 Representatives.

222 Section 3. (1) The Legislature finds that the Florida  
223 Supreme Court opinion in Crescent Miami Center, LLC v. Florida  
224 Department of Revenue, 903 So. 2d 913 (Fla. 2005), interprets s.  
225 201.02, Florida Statutes, in a manner that permits tax avoidance  
226 inconsistent with the intent of the Legislature at the time the  
227 statute was amended in 1990.

228 (2) The Legislature finds that the opinion of the District  
229 Court of Appeal for the Third District of Florida in Crescent  
230 Miami Center, LLC v. Florida Department of Revenue, 857 So. 2d  
231 904 (Fla. 3d D.C.A. 2003), interprets s. 201.02, Florida  
232 Statutes, in a manner that prevents tax avoidance consistent



20092430e2

233 with the intent of the Legislature at the time the statute was  
234 amended in 1990.

235 (3) The Legislature recognizes that the Supreme Court's  
236 opinion in Crescent is limited to the facts of the case and  
237 accepts the court's interpretation of s. 201.02, Florida  
238 Statutes, that no consideration exists when owners of real  
239 property unencumbered by a mortgage convey an interest in such  
240 property to an artificial entity whose ownership is identical to  
241 the ownership of the real property before conveyance. The  
242 Legislature expressly rejects any application of the court's  
243 interpretation where the facts are not comparable to the facts  
244 in Crescent. However, because the Supreme Court's  
245 interpretation, combined with other settled law regarding the  
246 application of s. 201.02, Florida Statutes, allows for the tax-  
247 free transfer of ownership interests in real property from one  
248 owner to another through the use of artificial entities, it is  
249 the Legislature's intent by this act to impose the documentary  
250 stamp tax when the beneficial ownership of real property is  
251 transferred to a new owner or owners by the use of techniques  
252 that apply the Supreme Court's decision in Crescent in  
253 combination with transfers of ownership of, or distributions  
254 from, artificial entities.

255 Section 4. Subsection (1) of section 201.02, Florida  
256 Statutes, is amended, and subsection (11) is added to that  
257 section, to read:

258 201.02 Tax on deeds and other instruments relating to real  
259 property or interests in real property.—

260 (1) (a) On deeds, instruments, or writings whereby any  
261 lands, tenements, or other real property, or any interest

20092430e2

262 therein, shall be granted, assigned, transferred, or otherwise  
263 conveyed to, or vested in, the purchaser or any other person by  
264 his or her direction, on each \$100 of the consideration therefor  
265 the tax shall be 70 cents. When the full amount of the  
266 consideration for the execution, assignment, transfer, or  
267 conveyance is not shown in the face of such deed, instrument,  
268 document, or writing, the tax shall be at the rate of 70 cents  
269 for each \$100 or fractional part thereof of the consideration  
270 therefor. For purposes of this section, consideration includes,  
271 but is not limited to, the money paid or agreed to be paid; the  
272 discharge of an obligation; and the amount of any mortgage,  
273 purchase money mortgage lien, or other encumbrance, whether or  
274 not the underlying indebtedness is assumed. If the consideration  
275 paid or given in exchange for real property or any interest  
276 therein includes property other than money, it is presumed that  
277 the consideration is equal to the fair market value of the real  
278 property or interest therein.

279 (b)1. For purposes of this paragraph the term:

280 a. "Conduit entity" means a legal entity to which real  
281 property is conveyed without full consideration by a grantor who  
282 owns a direct or indirect interest in the entity, or a successor  
283 entity.

284 b. "Full consideration" means the consideration that would  
285 be paid in an arm's length transaction between unrelated  
286 parties.

287 2. When real property is conveyed to a conduit entity and  
288 all or a portion of the grantor's direct or indirect ownership  
289 interest in the conduit entity is subsequently transferred for  
290 consideration within 3 years of such conveyance, tax is imposed

20092430e2

291 on each such transfer of an interest in the conduit entity for  
292 consideration at the rate of 70 cents for each \$100 or fraction  
293 thereof of the consideration paid or given in exchange for the  
294 ownership interest in the conduit entity.

295 3. When the ownership interest in the conduit entity being  
296 transferred includes assets other than the real property  
297 conveyed to the conduit entity, the tax shall be prorated based  
298 on the percentage the value of such real property represents of  
299 the total value of all assets owned by the conduit entity.

300 4. A gift of an ownership interest in a conduit entity is  
301 not subject to tax to the extent there is no consideration. The  
302 transfer of shares or similar equity interests in a conduit  
303 entity which are dealt in or traded on public, regulated  
304 security exchanges or markets is not subject to tax under this  
305 paragraph.

306 5. The transfer for purposes of estate planning by a  
307 natural person of an interest in a conduit entity to an  
308 irrevocable grantor trust as described in subpart E of part I of  
309 subchapter J of chapter 1 of subtitle A of the United States  
310 Internal Revenue Code is not subject to tax under this  
311 paragraph.

312 6. The purpose of this paragraph is to impose the  
313 documentary stamp tax on the transfer for consideration of a  
314 beneficial interest in real property. The provisions of this  
315 paragraph are to be construed liberally to effectuate this  
316 purpose.

317 (c) Conversion or merger of a trust that is not a legal  
318 entity that owns real property in this state into a legal entity  
319 shall be treated as a conveyance of the real property for the

20092430e2

320 purposes of this section.

321 (d) Taxes imposed by this subsection shall be paid pursuant  
322 to s. 201.133 when no document is recorded. If a document is  
323 recorded, taxes imposed by the paragraph shall be paid as  
324 required for all other taxable documents that are recorded.

325 (11) The documentary stamp tax imposed by this section  
326 applies to a deed, instrument, or writing that transfers any  
327 interest in real property pursuant to a short sale, as defined  
328 in this subsection. The taxable consideration for a short sale  
329 transfer does not include unpaid indebtedness that is forgiven  
330 or released by a mortgagee holding a mortgage on the grantor's  
331 interest in the property. A short sale is a purchase and sale of  
332 real property in which:

333 (a) The grantor's interest in the real property is  
334 encumbered by a mortgage or mortgages securing indebtedness in  
335 an aggregate amount greater than the purchase price paid by the  
336 grantee;

337 (b) A mortgagee releases the real property from its  
338 mortgage in exchange for a partial payment of less than all of  
339 the outstanding mortgage indebtedness owing to the releasing  
340 mortgagee;

341 (c) The releasing mortgagee does not receive, directly or  
342 indirectly, any interest in the property transferred; and

343 (d) The releasing mortgagee, grantor, and grantee are  
344 dealing with each other at arm's length.

345 Section 5. The amendments to subsections (1) and (11) of s.  
346 201.02, Florida Statutes, made by this act and the provisions of  
347 section 3 of this act are intended to be clarifying and remedial  
348 in nature, but do not provide a basis for assessments of tax, or

20092430e2

349 refunds of tax, for periods before July 1, 2009.

350 Section 6. Effective upon this act becoming a law, the  
351 Department of Revenue is authorized, and all conditions are  
352 deemed met, to adopt emergency rules pursuant to ss. 120.536(1)  
353 and 120.54(4), Florida Statutes, to implement s. 201.02, Florida  
354 Statutes, as amended by section 4 of this act. Notwithstanding  
355 any other provision of law, such emergency rules shall remain  
356 effective for 6 months after the date of adoption and may be  
357 renewed during the pendency of procedures to adopt rules  
358 addressing the subject of the emergency rules.

359 Section 7. Section 201.031, Florida Statutes, is amended to  
360 read:

361 201.031 Discretionary surtax; administration and  
362 collection; Housing Assistance Loan Trust Fund; reporting  
363 requirements.-

364 (1) Each county, as defined by s. 125.011(1), may levy,  
365 subject to the provisions of s. 125.0167, a discretionary surtax  
366 on documents taxable under the provisions of s. 201.02, except  
367 that there shall be no surtax on any document pursuant to which  
368 the interest granted, assigned, transferred, or conveyed  
369 involves only a single-family residence. The ~~Such~~ single-family  
370 residence may be a condominium unit, a unit held through stock  
371 ownership or membership representing a proprietary interest in a  
372 corporation owning a fee or a leasehold initially in excess of  
373 98 years, or a detached dwelling.

374 (2) All provisions of chapter 201, except s. 201.15, ~~shall~~  
375 apply to the surtax. The Department of Revenue shall pay to the  
376 governing authority of the county which levies the surtax all  
377 taxes, penalties, and interest collected under this section less

20092430e2

378 any costs of administration.

379 (3) Each county that ~~which~~ levies the surtax shall:

380 (a) Include in the financial report required under s.  
381 218.32 information showing the revenues and the expenses of the  
382 trust fund for the fiscal year.

383 (b) Adopt a housing plan every 3 years which includes  
384 provisions substantially similar to the plans required in s.  
385 420.9075(1).

386 (c) Have adopted an affordable housing element of its  
387 comprehensive land use plan which complies with s.  
388 163.3177(6) (f).

389 (d) Require by resolution that the staff or entity that has  
390 administrative authority for implementing the housing plan  
391 prepare and submit to the county's governing body an annual  
392 report substantially similar to the annual report required in s.  
393 420.9075(10).

394 Section 8. Paragraph (a) of subsection (1) of section  
395 719.105, Florida Statutes, is amended to read:

396 719.105 Cooperative parcels; appurtenances; possession and  
397 enjoyment.—

398 (1) Each cooperative parcel has, as appurtenances thereto:

399 (a) Evidence of membership, ownership of shares, or other  
400 interest in the association with the full voting rights  
401 appertaining thereto. Such evidence must include a legal  
402 description of each dwelling unit and must be recorded in the  
403 office of the clerk of the circuit court as required by s.  
404 201.02(4) ~~s. 201.02(3)~~.

405 Section 9. Pursuant to s. 201.15(1)(a), Florida Statutes,  
406 the issuance of \$50 million of Florida Forever bonds is

20092430e2

407 authorized, in addition to any previously authorized bonds. For  
408 the 2009-2010 fiscal year, the sum of \$3,502,005 is appropriated  
409 from the Land Acquisition Trust Fund to the Department of  
410 Environmental Protection for debt service on the new bonds. The  
411 proceeds of such bonds shall be distributed in accordance with  
412 s. 259.105(3), Florida Statutes. The Department of Environmental  
413 Protection and the agencies receiving such bond proceeds are  
414 appropriated budget authority necessary to transfer and expend  
415 the respective amounts of the distributed bond proceeds.

416 Section 10. (1) Pursuant to s. 215.619(1), Florida  
417 Statutes, the issuance of \$50 million of Everglades Restoration  
418 bonds is authorized, in addition to any previously authorized  
419 bonds. For the 2009-2010 fiscal year, the sum of \$4,991,600 is  
420 appropriated from the Save Our Everglades Trust Fund to the  
421 Department of Environmental Protection for debt service on the  
422 new bonds.

423 (2) The sum of \$47 million is appropriated from the Save  
424 Our Everglades Trust Fund to the Department of Environmental  
425 Protection for the design and construction of Comprehensive  
426 Everglades Restoration Plan components, Lake Okeechobee  
427 Protection Plan components, and Caloosahatchee and St. Lucie  
428 River Watershed Protection Plan components, and for the  
429 acquisition of lands needed for these project components. The  
430 sum of \$3 million is appropriated from the Save Our Everglades  
431 Trust Fund to the Department of Environmental Protection for  
432 transfer to the Department of Agriculture and Consumer Services  
433 into the General Inspection Trust Fund to fund activities  
434 authorized in subsection (3).

435 (3) The sum of \$3 million is appropriated from the General

20092430e2

436 Inspections Trust Fund to the Department of Agriculture and  
437 Consumer Services for the purpose of implementing agricultural  
438 nonpoint source controls in the Okeechobee, Caloosahatchee, and  
439 St. Lucie River watersheds.

440 Section 11. Section 201.15, Florida Statutes, as amended by  
441 section 1 of chapter 2009-17, Laws of Florida, is amended to  
442 read:

443 201.15 Distribution of taxes collected.—All taxes collected  
444 under this chapter are subject to the service charge imposed in  
445 s. 215.20(1). Prior to distribution under this section, the  
446 Department of Revenue shall deduct amounts necessary to pay the  
447 costs of the collection and enforcement of the tax levied by  
448 this chapter. Such costs and the service charge may not be  
449 levied against any portion of taxes pledged to debt service on  
450 bonds to the extent that the costs and service charge are  
451 required to pay any amounts relating to the bonds. After  
452 distributions are made pursuant to subsection (1), all of the  
453 costs of the collection and enforcement of the tax levied by  
454 this chapter and the service charge shall be available and  
455 transferred to the extent necessary to pay debt service and any  
456 other amounts payable with respect to bonds authorized before  
457 January 1, 2010, secured by revenues distributed pursuant to  
458 subsection (1). All taxes remaining after deduction of costs and  
459 the service charge shall be distributed as follows:

460 (1) Sixty-three and thirty-one hundredths percent of the  
461 remaining taxes collected under this chapter shall be used for  
462 the following purposes:

463 (a) Amounts necessary to pay the debt service on, or fund  
464 debt service reserve funds, rebate obligations, or other amounts



20092430e2

465 payable with respect to Preservation 2000 bonds issued pursuant  
466 to s. 375.051 and Florida Forever bonds issued pursuant to s.  
467 215.618, shall be paid into the State Treasury to the credit of  
468 the Land Acquisition Trust Fund to be used for such purposes.  
469 The amount transferred to the Land Acquisition Trust Fund may  
470 not exceed \$300 million in fiscal year 1999-2000 and thereafter  
471 for Preservation 2000 bonds and bonds issued to refund  
472 Preservation 2000 bonds, and \$300 million in fiscal year 2000-  
473 2001 and thereafter for Florida Forever bonds. The annual amount  
474 transferred to the Land Acquisition Trust Fund for Florida  
475 Forever bonds may not exceed \$30 million in the first fiscal  
476 year in which bonds are issued. The limitation on the amount  
477 transferred shall be increased by an additional \$30 million in  
478 each subsequent fiscal year, but may not exceed a total of \$300  
479 million in any fiscal year for all bonds issued. It is the  
480 intent of the Legislature that all bonds issued to fund the  
481 Florida Forever Act be retired by December 31, 2040. Except for  
482 bonds issued to refund previously issued bonds, no series of  
483 bonds may be issued pursuant to this paragraph unless such bonds  
484 are approved and the debt service for the remainder of the  
485 fiscal year in which the bonds are issued is specifically  
486 appropriated in the General Appropriations Act. For purposes of  
487 refunding Preservation 2000 bonds, amounts designated within  
488 this section for Preservation 2000 and Florida Forever bonds may  
489 be transferred between the two programs to the extent provided  
490 for in the documents authorizing the issuance of the bonds. The  
491 Preservation 2000 bonds and Florida Forever bonds shall be  
492 equally and ratably secured by moneys distributable to the Land  
493 Acquisition Trust Fund pursuant to this section, except to the

20092430e2

494 extent specifically provided otherwise by the documents  
495 authorizing the issuance of the bonds. No moneys transferred to  
496 the Land Acquisition Trust Fund pursuant to this paragraph, or  
497 earnings thereon, shall be used or made available to pay debt  
498 service on the Save Our Coast revenue bonds.

499 (b) Moneys shall be paid into the State Treasury to the  
500 credit of the Save Our Everglades Trust Fund in amounts  
501 necessary to pay debt service, provide reserves, and pay rebate  
502 obligations and other amounts due with respect to bonds issued  
503 under s. 215.619. Taxes distributed under paragraph (a) and this  
504 paragraph must be collectively distributed on a pro rata basis  
505 when the available moneys under this subsection are not  
506 sufficient to cover the amounts required under paragraph (a) and  
507 this paragraph.

508 (c) The remainder of the moneys distributed under this  
509 subsection, after the required payments under paragraphs (a) and  
510 (b), shall be paid into the State Treasury to the credit of:

511 1. The State Transportation Trust Fund in the Department of  
512 Transportation in the amount of the lesser of 38.2 percent of  
513 the remainder or \$541.75 million in each fiscal year, to be used  
514 for the following specified purposes, notwithstanding any other  
515 law to the contrary:

516 a. For the purposes of capital funding for the New Starts  
517 Transit Program, authorized by Title 49, U.S.C. s. 5309 and  
518 specified in s. 341.051, 10 percent of these funds;

519 b. For the purposes of the Small County Outreach Program  
520 specified in s. 339.2818, 5 percent of these funds;

521 c. For the purposes of the Strategic Intermodal System  
522 specified in ss. 339.61, 339.62, 339.63, and 339.64, 75 percent

20092430e2

523 of these funds after allocating for the New Starts Transit  
524 Program described in sub-subparagraph a. and the Small County  
525 Outreach Program described in sub-subparagraph b.; and

526 d. For the purposes of the Transportation Regional  
527 Incentive Program specified in s. 339.2819, 25 percent of these  
528 funds after allocating for the New Starts Transit Program  
529 described in sub-subparagraph a. and the Small County Outreach  
530 Program described in sub-subparagraph b.

531 2. The Water Protection and Sustainability Program Trust  
532 Fund in the Department of Environmental Protection in the amount  
533 of the lesser of 5.64 percent of the remainder or \$80 million in  
534 each fiscal year, to be used as required by s. 403.890.

535 3. The Grants and Donations Trust Fund in the Department of  
536 Community Affairs in the amount of the lesser of .23 percent of  
537 the remainder or \$3.25 million in each fiscal year, with 92  
538 percent to be used to fund technical assistance to local  
539 governments and school boards on the requirements and  
540 implementation of this act and the remaining amount to be used  
541 to fund the Century Commission established in s. 163.3247.

542 4. The Ecosystem Management and Restoration Trust Fund in  
543 the amount of the lesser of 2.12 percent of the remainder or \$30  
544 million in each fiscal year, to be used for the preservation and  
545 repair of the state's beaches as provided in ss. 161.091-  
546 161.212.

547 5. The Marine Resources Conservation Trust Fund in the  
548 amount of the lesser of .14 percent of the remainder or \$2  
549 million in each fiscal year, to be used for marine mammal care  
550 as provided in s. 379.208(3).

551 6. General Inspection Trust Fund in the amount of the

20092430e2

552 lesser of .02 percent of the remainder or \$300,000 in each  
553 fiscal year to be used to fund oyster management and restoration  
554 programs as provided in s. 379.362(3).  
555

556 Moneys distributed pursuant to this paragraph may not be pledged  
557 for debt service unless such pledge is approved by referendum of  
558 the voters.

559 (d) The remainder of the moneys distributed under this  
560 subsection, after the required payments under paragraphs (a),  
561 (b), and (c), shall be paid into the State Treasury to the  
562 credit of the General Revenue Fund to be used and expended for  
563 the purposes for which the General Revenue Fund was created and  
564 exists by law.

565 (2) The lesser of 7.56 percent of the remaining taxes  
566 collected under this chapter or \$84.9 million in each fiscal  
567 year shall be paid into the State Treasury to the credit of the  
568 Land Acquisition Trust Fund. Sums deposited in the fund pursuant  
569 to this subsection may be used for any purpose for which funds  
570 deposited in the Land Acquisition Trust Fund may lawfully be  
571 used.

572 (3) (a) Through the 2008-2009 fiscal year, the lesser of  
573 1.94 percent of the remaining taxes collected under this chapter  
574 or \$26 million in each fiscal year shall be paid into the State  
575 Treasury to the credit of the Land Acquisition Trust Fund.

576 (b) Beginning with the 2009-2010 fiscal year, the lesser of  
577 1.94 percent of the remaining taxes collected under this chapter  
578 or \$26 million in each fiscal year shall be distributed in the  
579 following order:

580 1. Amounts necessary to pay debt service or to fund debt

20092430e2

581 service reserve funds, rebate obligations, or other amounts  
582 payable with respect to bonds issued before February 1, 2009,  
583 pursuant to this subsection shall be paid into the State  
584 Treasury to the credit of the Land Acquisition Trust Fund.

585 2. Eleven million dollars shall be paid into the State  
586 Treasury to the credit of the General Revenue Fund.

587 3. The remainder shall be paid into the State Treasury to  
588 the credit of the Land Acquisition Trust Fund.

589 (c) Moneys deposited in the Land Acquisition Trust Fund  
590 pursuant to this subsection shall be used to acquire coastal  
591 lands or to pay debt service on bonds issued to acquire coastal  
592 lands and to develop and manage lands acquired with moneys from  
593 the trust fund.

594 (4) The lesser of 4.2 percent of the remaining taxes  
595 collected under this chapter or \$60.5 million in each fiscal  
596 year shall be paid into the State Treasury to the credit of the  
597 Water Management Lands Trust Fund. Sums deposited in that fund  
598 may be used for any purpose authorized in s. 373.59.

599 (5) (a) For the 2007-2008 fiscal year, 3.96 percent of the  
600 remaining taxes collected under this chapter shall be paid into  
601 the State Treasury to the credit of the Conservation and  
602 Recreation Lands Trust Fund to carry out the purposes set forth  
603 in s. 259.032. Ten and five-hundredths percent of the amount  
604 credited to the Conservation and Recreation Lands Trust Fund  
605 pursuant to this subsection shall be transferred to the State  
606 Game Trust Fund and used for land management activities.

607 (b) Beginning July 1, 2008, 3.52 percent of the remaining  
608 taxes collected under this chapter shall be paid into the State  
609 Treasury to the credit of the Conservation and Recreation Lands

20092430e2

610 Trust Fund to carry out the purposes set forth in s. 259.032.  
611 Eleven and fifteen hundredths percent of the amount credited to  
612 the Conservation and Recreation Lands Trust Fund pursuant to  
613 this subsection shall be transferred to the State Game Trust  
614 Fund and used for land management activities.

615 (6) The lesser of 2.28 percent of the remaining taxes  
616 collected under this chapter or \$34.1 million in each fiscal  
617 year shall be paid into the State Treasury to the credit of the  
618 Invasive Plant Control Trust Fund to carry out the purposes set  
619 forth in ss. 369.22 and 369.252.

620 (7) The lesser of .5 percent of the remaining taxes  
621 collected under this chapter or \$9.3 million in each fiscal year  
622 shall be paid into the State Treasury to the credit of the State  
623 Game Trust Fund to be used exclusively for the purpose of  
624 implementing the Lake Restoration 2020 Program.

625 (8) One-half of one percent of the remaining taxes  
626 collected under this chapter shall be paid into the State  
627 Treasury and divided equally to the credit of the Department of  
628 Environmental Protection Water Quality Assurance Trust Fund to  
629 address water quality impacts associated with nonagricultural  
630 nonpoint sources and to the credit of the Department of  
631 Agriculture and Consumer Services General Inspection Trust Fund  
632 to address water quality impacts associated with agricultural  
633 nonpoint sources, respectively. These funds shall be used for  
634 research, development, demonstration, and implementation of  
635 suitable best management practices or other measures used to  
636 achieve water quality standards in surface waters and water  
637 segments identified pursuant to ss. 303(d) of the Clean Water  
638 Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq.

20092430e2

639 Implementation of best management practices and other measures  
640 may include cost-share grants, technical assistance,  
641 implementation tracking, and conservation leases or other  
642 agreements for water quality improvement. The Department of  
643 Environmental Protection and the Department of Agriculture and  
644 Consumer Services may adopt rules governing the distribution of  
645 funds for implementation of best management practices. The  
646 unobligated balance of funds received from the distribution of  
647 taxes collected under this chapter to address water quality  
648 impacts associated with nonagricultural nonpoint sources will be  
649 excluded when calculating the unobligated balance of the Water  
650 Quality Assurance Trust Fund as it relates to the determination  
651 of the applicable excise tax rate.

652 (9) The lesser of 7.53 percent of the remaining taxes  
653 collected under this chapter or \$107 million in each fiscal year  
654 shall be paid into the State Treasury to the credit of the State  
655 Housing Trust Fund and shall be used as follows:

656 (a) Half of that amount shall be used for the purposes for  
657 which the State Housing Trust Fund was created and exists by  
658 law.

659 (b) Half of that amount shall be paid into the State  
660 Treasury to the credit of the Local Government Housing Trust  
661 Fund and shall be used for the purposes for which the Local  
662 Government Housing Trust Fund was created and exists by law.

663 (10) The lesser of 8.66 percent of the remaining taxes  
664 collected under this chapter or \$136 million in each fiscal year  
665 shall be paid into the State Treasury to the credit of the State  
666 Housing Trust Fund and shall be used as follows:

667 (a) Twelve and one-half percent of that amount shall be

20092430e2

668 deposited into the State Housing Trust Fund and be expended by  
669 the Department of Community Affairs and by the Florida Housing  
670 Finance Corporation for the purposes for which the State Housing  
671 Trust Fund was created and exists by law.

672 (b) Eighty-seven and one-half percent of that amount shall  
673 be distributed to the Local Government Housing Trust Fund and  
674 shall be used for the purposes for which the Local Government  
675 Housing Trust Fund was created and exists by law. Funds from  
676 this category may also be used to provide for state and local  
677 services to assist the homeless.

678 (11) The distribution of proceeds deposited into the Water  
679 Management Lands Trust Fund and the Conservation and Recreation  
680 Lands Trust Fund, pursuant to subsections (4) and (5), may not  
681 be used for land acquisition but may be used for preacquisition  
682 costs associated with land purchases. The Legislature intends  
683 that the Florida Forever program supplant the acquisition  
684 programs formerly authorized under ss. 259.032 and 373.59.

685 (12) Amounts distributed pursuant to subsections (5), (6),  
686 (7), and (8) are subject to the payment of debt service on  
687 outstanding Conservation and Recreation Lands revenue bonds.

688 (13) Beginning July 1, 2008, in each fiscal year that the  
689 remaining taxes collected under this chapter exceed collections  
690 in the prior fiscal year, the stated maximum dollar amounts  
691 provided in subsections (2), (4), (6), (7), (9), and (10) shall  
692 each be increased by an amount equal to 10 percent of the  
693 increase in the remaining taxes collected under this chapter  
694 multiplied by the applicable percentage provided in those  
695 subsections.

696 (14) If the payment requirements in any year for bonds



20092430e2

697 outstanding on July 1, 2007, or bonds issued to refund such  
698 bonds, exceed the limitations of this section, distributions to  
699 the trust fund from which the bond payments are made shall be  
700 increased to the lesser of the amount needed to pay bond  
701 obligations or the limit of the applicable percentage  
702 distribution provided in subsections (1)-(10).

703 (15) Distributions to the State Housing Trust Fund pursuant  
704 to subsections (9) and (10) shall be sufficient to cover amounts  
705 required to be transferred to the Florida Affordable Housing  
706 Guarantee Program's annual debt service reserve and guarantee  
707 fund pursuant to s. 420.5092(6)(a) and (b) up to but not  
708 exceeding the amount required to be transferred to such reserve  
709 and fund based on the percentage distribution of documentary  
710 stamp tax revenues to the State Housing Trust Fund which is in  
711 effect in the 2004-2005 fiscal year.

712 (16) If amounts necessary to pay debt service or any other  
713 amounts payable with respect to Preservation 2000 bonds, Florida  
714 Forever bonds, or Everglades Restoration bonds authorized before  
715 January 1, 2010, exceed the amounts distributable pursuant to  
716 subsection (1), all moneys distributable pursuant to this  
717 section are available for such obligations and transferred in  
718 the amounts necessary to pay such obligations when due. However,  
719 amounts distributable pursuant to subsection (2), subsection  
720 (3), subsection (4), subsection (5), paragraph (9)(a), or  
721 paragraph (10)(a) are not available to pay such obligations to  
722 the extent that such moneys are necessary to pay debt service on  
723 bonds secured by revenues pursuant to those provisions.

724 (17)~~(16)~~ The remaining taxes collected under this chapter,  
725 after the distributions provided in the preceding subsections,

20092430e2

726 shall be paid into the State Treasury to the credit of the  
727 General Revenue Fund.

728 Section 12. Except as otherwise expressly provided in this  
729 act and except for this section, which shall take effect upon  
730 becoming law, this act shall take effect on July 1, 2009, and  
731 the amendment to s. 201.02(1), Florida Statutes, made by this  
732 act, applies to transfers for which the first transfer to a  
733 conduit entity occurs after July 1, 2009.