

CHAPTER 98-390

House Bill No. 4715

An act relating to trust funds; creating s. 20.2553, F.S.; creating the Federal Law Enforcement Trust Fund within the Department of Environmental Protection; providing for sources of funds; exempting the trust fund from various service charges; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; amending ss. 370.021, 370.061, and 932.7055, F.S., relating to duties of the department with respect to the deposit of certain moneys, to conform; providing an effective date.

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

Section 1. Section 20.2553, Florida Statutes, is created to read:

20.2553 Federal Law Enforcement Trust Fund.—

(1) The Federal Law Enforcement Trust Fund is created within the Department of Environmental Protection. The department may deposit into the trust fund receipts and revenues received as a result of federal criminal, administrative, or civil forfeiture proceedings and receipts and revenues received from federal asset-sharing programs. The trust fund is exempt from the service charges imposed by s. 215.20.

(2) Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purposes of the trust fund.

(3) Pursuant to the provisions of s. 19(f)(2), Art. III of the State Constitution, the trust fund shall, unless terminated sooner, be terminated on July 1, 2002. Prior to its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2).

Section 2. Paragraph (d) of subsection (2) of section 370.021, Florida Statutes, is amended to read:

370.021 Administration; rules, publications, records; penalty for violation of chapter; injunctions.—

(2) PENALTY FOR VIOLATION.—Unless otherwise provided by law, any person, firm, or corporation who is convicted for violating any provision of this chapter, any rule of the department adopted pursuant to this chapter, or any rule of the Marine Fisheries Commission, shall be punished:

(d) The proceeds from the penalties assessed pursuant to paragraph (c) shall be deposited into the Marine Resources Conservation Trust Fund to be used for marine fisheries research or into the department's Federal Law Enforcement Trust Fund as provided in s. 20.2553, as applicable.

Section 3. Subsections (1) and (2) of section 370.061, Florida Statutes, are amended to read:

370.061 Confiscation of property and products.—

(1) CONFISCATION; PROCEDURE.—In all cases of arrest and conviction for the illegal taking, or attempted taking, sale, possession, or transportation of saltwater fish or other saltwater products, such saltwater products and seines, nets, boats, motors, other fishing devices or equipment, and vehicles or other means of transportation used in connection with such illegal taking or attempted taking are hereby declared to be nuisances and may be seized and carried before the court having jurisdiction of such offense, and said court may order such nuisances forfeited to the Division of Marine Resources of the department immediately after trial and conviction of the person or persons in whose possession they were found, except that, if a motor vehicle is seized under the provisions of this act and is subject to any existing liens recorded under the provisions of s. 319.27, all further proceedings shall be governed by the expressed intent of the Legislature not to divest any innocent person, firm, or corporation holding such a recorded lien of any of its reversionary rights in such motor vehicle or of any of its rights as prescribed in s. 319.27, and that, upon any default by the violator purchaser, the said lienholder may foreclose its lien and take possession of the motor vehicle involved. When any illegal or illegally used seine, net, trap, or other fishing device or equipment or illegally taken, possessed, or transported saltwater products are found and taken into custody, and the owner thereof shall not be known to the officer finding the same, such officer shall immediately procure from the county court judge of the county wherein they were found an order forfeiting said saltwater products, seines, nets, traps, boats, motors, or other fishing devices to the division. All things forfeited under the provisions of this law may be destroyed, used by the division, disposed of by gift to charitable or state institutions, or sold and the proceeds derived from said sale deposited in the Marine Resources Conservation Trust Fund to be used for law enforcement purposes or into the department's Federal Law Enforcement Trust Fund as provided in s. 20.2553, as applicable. However, forfeited boats, motors, and legal fishing devices only, may be purchased from the division for \$1 by the person or persons holding title thereto at the time of the illegal act causing the forfeiture, if such person shall prove that he or she in no way participated in, gave consent to, or had knowledge of such act.

(2) CONFISCATION AND SALE OF PERISHABLE PRODUCTS; PROCEDURE.—When an arrest is made pursuant to the provisions of this chapter and illegal, perishable products or perishable products illegally taken or landed are apprehended, the defendant may post bond or cash deposit in an amount determined by the judge to be the fair value of such products, and said defendant shall have 24 hours to transport said products outside the limits of Florida for sale or other disposition. Should no bond or cash deposit be given within the time fixed by the judge, the judge shall order the sale of such products at the highest price obtainable, and, when feasible, at least three bids shall be requested. In either event, the amounts received by the judge shall be remitted to the division to be deposited into a special escrow account in the State Treasury and held in trust pending the outcome of the

trial of the accused. If a bond is posted by the defendant, it shall also be remitted to the division to be held in escrow pending the outcome of the trial of the accused. In the event of acquittal, the bond or cash deposit shall be returned to the defendant, or the proceeds of the sale shall be paid over to the defendant. In the event of conviction, the proceeds of the sale, or proceeds of the bond or cash deposit, shall be deposited by said division into the Marine Resources Conservation Trust Fund to be used for law enforcement purposes or into the department's Federal Law Enforcement Trust Fund as provided in s. 20.2553, as applicable. Such deposit into the Marine Resources Conservation Trust Fund or the department's Federal Law Enforcement Trust Fund shall constitute confiscation.

Section 4. Paragraph (b) of subsection (5) of section 932.7055, Florida Statutes, is amended to read:

932.7055 Disposition of liens and forfeited property.—

(5) If the seizing agency is a state agency, all remaining proceeds shall be deposited into the General Revenue Fund. However, if the seizing agency is:

(b) The Department of Environmental Protection, the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act shall be deposited into the Marine Resources Conservation Trust Fund to be used for law enforcement purposes as provided in ss. 370.021 and 370.061 or into the department's Federal Law Enforcement Trust Fund as provided in s. 20.2553, as applicable.

Section 5. This act shall take effect July 1 of the year in which enacted.

Became a law without the Governor's approval May 30, 1998.

Filed in Office Secretary of State May 29, 1998.