

Committee Substitute for Senate Bill No. 1320

An act relating to trust funds; terminating specified trust funds within the Department of Revenue; providing for disposition of balances in and revenues of such trust funds; prescribing procedures for the termination of such trust funds; amending s. 17.43, F.S.; redesignating the Federal Equitable Sharing Trust Fund within the Department of Financial Services; amending s. 215.20, F.S., relating to the service charge on income of trust funds; conforming provisions to changes made by the act; amending ss. 538.09 and 538.25, F.S., relating to the deposit of registration fees from secondhand dealers and secondary metals recyclers; conforming provisions to changes made by the act; amending ss. 626.9893 and 932.7055, F.S.; redesignating the Federal Equitable Sharing Trust Fund within the Department of Financial Services; providing effective dates.

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

Section 1. (1) The following trust funds within the Department of Revenue are terminated:

(a) The Apalachicola Bay Oyster Surcharge Clearing Trust Fund, FLAIR number 73-2-028. All current balances remaining in the Apalachicola Bay Oyster Surcharge Clearing Trust Fund, FLAIR number 73-2-028 shall be transferred to the General Inspection Trust Fund within the Department of Agriculture and Consumer Services, FLAIR number 42-2-321.

(b) Effective July 1, 2008, the Secondhand Dealer and Secondary Metals Recycler Trust Fund, FLAIR number 73-2-617. All current balances remaining in the trust fund on the date of termination shall be transferred to the Operations Trust Fund within the Department of Revenue.

(c) The Fuel Tax Refund Payments Clearing Trust Fund, FLAIR number 73-2-317.

(2) The Department of Revenue shall pay any outstanding debts and obligations of the terminated funds as soon as practicable, and the Chief Financial Officer shall close out and remove the terminated funds from various state accounting systems using generally accepted accounting principles concerning warrants outstanding, assets, and liabilities.

Section 2. Subsection (1) of section 17.43, Florida Statutes, is amended to read:

17.43 Federal Equitable Sharing Trust Fund.—

(1) The Federal ~~Law Enforcement~~ Equitable Sharing Trust Fund is created within the Department of Financial Services. 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.

Section 3. Effective July 1, 2008, paragraph (p) of subsection (4) of section 215.20, Florida Statutes, is amended to read:

215.20 Certain income and certain trust funds to contribute to the General Revenue Fund.—

(4) The income of a revenue nature deposited in the following described trust funds, by whatever name designated, is that from which the appropriations authorized by subsection (3) shall be made:

(p) Within the Department of Revenue:

1. The Additional Court Cost Clearing Trust Fund.
2. The Administrative Trust Fund.
- ~~3. The Apalachicola Bay Oyster Surcharge Clearing Trust Fund.~~
- 3.4. The Certification Program Trust Fund.
- ~~4.5.~~ The Fuel Tax Collection Trust Fund.
- ~~6. The Land Reclamation Trust Fund.~~
- 5.7. The Local Alternative Fuel User Fee Clearing Trust Fund.
- 6.8. The Local Option Fuel Tax Trust Fund.
- 7.9. The Motor Vehicle Rental Surcharge Clearing Trust Fund.
- ~~8.10.~~ The Motor Vehicle Warranty Trust Fund.
- 9.11. The Oil and Gas Tax Trust Fund.
10. The Operations Trust Fund.
- ~~12. The Secondhand Dealer and Secondary Metals Recycler Clearing Trust Fund.~~
- 11.13. The Severance Tax Solid Mineral Trust Fund.
- 12.14. The State Alternative Fuel User Fee Clearing Trust Fund.
- ~~13.15.~~ All taxes levied on motor fuels other than gasoline levied pursuant to the provisions of s. 206.87(1)(a).

The enumeration of the foregoing moneys or trust funds shall not prohibit the applicability thereto of s. 215.24 should the Governor determine that for the reasons mentioned in s. 215.24 the money or trust funds should be exempt herefrom, as it is the purpose of this law to exempt income from its force and effect when, by the operation of this law, federal matching funds or contributions or private grants to any trust fund would be lost to the state.

Section 4. Effective July 1, 2008, subsection (1) of section 538.09, Florida Statutes, is amended to read:

538.09 Registration.—

(1) A secondhand dealer shall not engage in the business of purchasing, consigning, or trading secondhand goods from any location without registering with the Department of Revenue. A fee equal to the federal and state costs for processing required fingerprints must be submitted to the department with each application for registration. One application is required for each dealer. If a secondhand dealer is the owner of more than one secondhand store location, the application must list each location, and the department shall issue a duplicate registration for each location. For purposes of subsections (4) and (5) of this section, these duplicate registrations shall be deemed individual registrations. A dealer shall pay a fee of \$6 per location at the time of registration and an annual renewal fee of \$6 per location on October 1 of each year. All fees collected, less costs of administration, shall be transferred into the ~~Operations a trust fund to be established and entitled the Secondhand Dealer and Secondary Metals Recycler Clearing Trust~~ Fund. The Department of Revenue shall forward the full set of fingerprints to the Department of Law Enforcement for state and federal processing, provided the federal service is available, to be processed for any criminal justice information as defined in s. 943.045. The cost of processing such fingerprints shall be payable to the Department of Law Enforcement by the Department of Revenue. The department may issue a temporary registration to each location pending completion of the background check by state and federal law enforcement agencies, but shall revoke such temporary registration if the completed background check reveals a prohibited criminal background. An applicant for a secondhand dealer registration must be a natural person who has reached the age of 18 years.

(a) If the applicant is a partnership, all the partners must apply.

(b) If the applicant is a joint venture, association, or other noncorporate entity, all members of such joint venture, association, or other noncorporate entity must make application for registration as natural persons.

(c) If the applicant is a corporation, the registration must include the name and address of such corporation's registered agent for service of process in the state and a certified copy of statement from the Secretary of State that the corporation is duly organized in the state or, if the corporation is organized in a state other than Florida, a certified copy of statement from the Secretary of State that the corporation is duly qualified to do business in this state. If the dealer has more than one location, the application must list each location owned by the same legal entity and the department shall issue a duplicate registration for each location.

Section 5. Effective July 1, 2008, paragraph (a) of subsection (1) of section 538.25, Florida Statutes, is amended to read:

538.25 Registration.—

(1) No person shall engage in business as a secondary metals recycler at any location without registering with the department.

(a) A fee equal to the federal and state costs for processing required fingerprints must be submitted to the department with each application for registration. One application is required for each secondary metals recycler. If a secondary metals recycler is the owner of more than one secondary metals recycling location, the application must list each location, and the department shall issue a duplicate registration for each location. For purposes of subsections (3), (4), and (5), these duplicate registrations shall be deemed individual registrations. A secondary metals recycler shall pay a fee of \$6 per location at the time of registration and an annual renewal fee of \$6 per location on October 1 of each year. All fees collected, less costs of administration, shall be transferred into the Operations Trust Fund Second-hand Dealer and Secondary Metals Recycler Clearing Trust Fund established pursuant to s. 538.09.

Section 6. Subsection (1) of section 626.9893, Florida Statutes, is amended to read:

626.9893 Disposition of revenues; criminal or forfeiture proceedings.—

(1) The Division of Insurance Fraud of the Department of Financial Services may deposit revenues received as a result of criminal proceedings or forfeiture proceedings, other than revenues deposited into the Department of Financial Services' Federal Law Enforcement Equitable Sharing Trust Fund under s. 17.43, into the Insurance Regulatory Trust Fund. Moneys deposited pursuant to this section shall be separately accounted for and shall be used solely for the division to carry out its duties and responsibilities.

Section 7. Paragraph (n) of subsection (6) of section 932.7055, Florida Statutes, is amended to read:

932.7055 Disposition of liens and forfeited property.—

(6) 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:

(n) The Division of Insurance Fraud of the Department of Financial Services, the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act shall be deposited into the Insurance Regulatory Trust Fund as provided in s. 626.9893 or into the Department of Financial Services' Federal Law Enforcement Equitable Sharing Trust Fund as provided in s. 17.43, as applicable.

Section 8. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2007.

Approved by the Governor April 18, 2007.

Filed in Office Secretary of State April 18, 2007.