

Committee Substitute for Committee Substitute for
Committee Substitute for Senate Bill Nos. 2430 and 1960

An act relating to the taxation of documents; amending s. 3, ch. 83-220, Laws of Florida, as amended; extending a future repeal date of provisions authorizing counties to levy a discretionary surtax on documents; amending s. 125.0167, F.S.; limiting the percentage of surtax revenues that may be used for administrative costs; specifying a minimum amount of surtax revenues to be used for housing for certain low-income and moderate-income families; requiring an affirmative vote of a local government governing body to rehabilitate certain government-owned housing; authorizing certain counties to create by ordinance a housing choice assistance voucher program for the purpose of down payment assistance; providing definitions; providing eligibility requirements for such vouchers; authorizing purchasing employers to file for allocations for such vouchers; limiting allocations; requiring distribution of allocations to employees in the form of such vouchers; prohibiting use of allocations for such vouchers if not awarded within a certain period after certain documentary stamps taxes are collected; requiring the Office of Program Policy Analysis and Government Accountability to conduct a continuing review of the discretionary surtax program operated by counties; requiring reports to the Legislature; providing legislative intent to reverse a judicial opinion relating to the application of the excise tax on documents to certain transactions involving legal entities; amending s. 201.02, F.S.; defining terms; imposing the tax on certain transfers of ownership interests in a conduit entity; providing for the tax to be prorated when the conduit entity owns assets other than real property; exempting the transfer of shares or similar equity interests in a conduit entity from the tax; exempting certain transfers for purposes of estate planning; providing for liberal construction; providing for payment of the tax when no document is recorded; authorizing the Department of Revenue to adopt emergency rules relating to transfers of real property interest involving conduit entities and transfers of real property pursuant to short sales; amending s. 201.031, F.S.; expanding requirements for counties levying the discretionary surtax to include housing plan, affordable housing element, and annual reporting requirements; amending s. 201.15, F.S.; requiring certain costs to be available and transferred to the extent necessary to pay certain debt service and other amounts relating to certain bonds; providing for the availability of certain distributable moneys for certain obligations and transfer certain amounts to pay such obligations; providing exceptions; providing for application of specified provisions of the act; providing effective dates.

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

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

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

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

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

(1) Pursuant to the provisions of s. 201.031, the governing authority in each county, as defined by s. 125.011(1), is authorized to levy a discretionary surtax on documents for the purpose of establishing and financing a Housing Assistance Loan Trust Fund to assist in the financing of construction, rehabilitation, or purchase of housing for low-income and moderate-income families. No less than 50 percent of the funds used in each county to provide such housing assistance shall be for the benefit of low-income families. For the purpose of this section, “low-income family” means a family whose income does not exceed 80 percent of the median income for the area, and “moderate-income family” means a family whose income is in excess of 80 percent but less than 140 percent of the median income for the area. For purposes of this section, the term “housing” is not limited to single-family, detached dwellings. The rate of the surtax shall not exceed the rate of 45 cents for each \$100 or fractional part thereof of the consideration therefor. Such surtax shall apply only to those documents taxable under s. 201.02, except that there shall be no surtax on any document pursuant to which the interest granted, assigned, transferred, or conveyed involves only a single-family residence. Such single-family residence may be a condominium unit, a unit held through stock ownership or membership representing a proprietary interest in a corporation owning a fee or a leasehold initially in excess of 98 years, or a detached dwelling.

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

(3) The county shall deposit revenues from the discretionary surtax in the Housing Assistance Loan Trust Fund of the county, except that a portion of such revenues may be deposited into the Home Investment Trust Fund of the county as defined by and created pursuant to the requirements of federal law. The county shall use the revenues only to help finance the construction, rehabilitation, or purchase of housing for low-income families and moderate-income families, to pay necessary costs of collection and enforcement of the surtax, and to fund any local matching contributions required pursuant to federal law. For purposes of this section, authorized uses of the revenues include, but are not limited to, providing funds for first and second mortgages and acquiring property for the purpose of forming housing cooperatives. Special consideration shall be given toward using the revenues in the neighborhood economic development programs of community development corporations. No more than 50 percent of the revenues collected each

year pursuant to this section may be used to help finance new construction as provided herein. The proceeds of the surtax shall not be used for rent subsidies or grants.

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

(5)(a) Notwithstanding the provisions of subsection (3), of the discretionary surtax revenues collected by the Department of Revenue remaining after any deduction for administrative costs as provided in subsection (4), no less than 35 percent shall be used to provide homeownership assistance for low-income and moderate-income families, and no less than 35 percent shall be used for construction, rehabilitation, and purchase of rental housing units. The remaining amount may be allocated to provide for homeownership assistance or rental housing units, at the discretion of the county. Any funds allocated for homeownership assistance or rental housing units that are not committed at the end of the fiscal year shall be reallocated in subsequent years consistent with the provisions of this subsection, in that no less than 35 percent shall be reallocated to provide homeownership assistance for low-income and moderate-income families, and no less than 35 percent shall be reallocated for construction, rehabilitation, and purchase of rental housing units. The remaining amount of uncommitted funds may be reallocated at the discretion of the county within any of the categories established in this subsection.

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

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

(7)(a) The governing body of each county as defined in s. 125.011(1) may, by county ordinance and pursuant to procedures and requirements provided by such ordinance, create a housing choice assistance voucher program.

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

1. “Housing choice assistance voucher” means the document used to access assistance paid by the county from the discretionary surtax balance in the Housing Assistance Trust Fund to a prospective purchaser of a single-family residence, which must be the purchaser’s homestead.

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

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

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

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

(d) Upon payment of the discretionary surtax pursuant to this section, the purchasing employer may file for an allocation for housing choice assistance vouchers from the county in an amount not to exceed 50 percent of the amount of the discretionary surtax paid. The purchasing employer shall distribute the allocation to employees in the form of housing choice assistance vouchers pursuant to rules and procedures established for the program.

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

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

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

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

(2) The Legislature finds that the opinion of the District Court of Appeal for the Third District of Florida in Crescent Miami Center, LLC v. Florida Department of Revenue, 857 So. 2d 904 (Fla. 3d D.C.A. 2003), interprets s. 201.02, Florida Statutes, in a manner that prevents tax avoidance consistent with the intent of the Legislature at the time the statute was amended in 1990.

(3) The Legislature recognizes that the Supreme Court's opinion in Crescent is limited to the facts of the case and accepts the court's interpretation of s. 201.02, Florida Statutes, that no consideration exists when owners of real property unencumbered by a mortgage convey an interest in such property to an artificial entity whose ownership is identical to the ownership of the real property before conveyance. The Legislature expressly rejects any

application of the court's interpretation where the facts are not comparable to the facts in Crescent. However, because the Supreme Court's interpretation, combined with other settled law regarding the application of s. 201.02, Florida Statutes, allows for the tax-free transfer of ownership interests in real property from one owner to another through the use of artificial entities, it is the Legislature's intent by this act to impose the documentary stamp tax when the beneficial ownership of real property is transferred to a new owner or owners by the use of techniques that apply the Supreme Court's decision in Crescent in combination with transfers of ownership of, or distributions from, artificial entities.

Section 4. Subsection (1) of section 201.02, Florida Statutes, is amended to read:

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

(1)(a) On deeds, instruments, or writings whereby any lands, tenements, or other real property, or any interest therein, shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or any other person by his or her direction, on each \$100 of the consideration therefor the tax shall be 70 cents. When the full amount of the consideration for the execution, assignment, transfer, or conveyance is not shown in the face of such deed, instrument, document, or writing, the tax shall be at the rate of 70 cents for each \$100 or fractional part thereof of the consideration therefor. For purposes of this section, consideration includes, but is not limited to, the money paid or agreed to be paid; the discharge of an obligation; and the amount of any mortgage, purchase money mortgage lien, or other encumbrance, whether or not the underlying indebtedness is assumed. If the consideration paid or given in exchange for real property or any interest therein includes property other than money, it is presumed that the consideration is equal to the fair market value of the real property or interest therein.

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

a. “Conduit entity” means a legal entity to which real property is conveyed without full consideration by a grantor who owns a direct or indirect interest in the entity, or a successor entity.

b. “Full consideration” means the consideration that would be paid in an arm's length transaction between unrelated parties.

2. When real property is conveyed to a conduit entity and all or a portion of the grantor's direct or indirect ownership interest in the conduit entity is subsequently transferred for consideration within 3 years of such conveyance, tax is imposed on each such transfer of an interest in the conduit entity for consideration at the rate of 70 cents for each \$100 or fraction thereof of the consideration paid or given in exchange for the ownership interest in the conduit entity.

3. When an ownership interest is transferred in a conduit entity that owns assets other than the real property conveyed to the conduit entity, the

tax shall be prorated based on the percentage the value of such real property represents of the total value of all assets owned by the conduit entity.

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

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

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

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

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

Section 5. The amendment to subsection (1) of s. 201.02, Florida Statutes, made by this act and the provisions of section 3 of this act are intended to be clarifying and remedial in nature, but do not provide a basis for assessments of tax, or refunds of tax, for periods before July 1, 2009.

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

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

201.031 Discretionary surtax; administration and collection; Housing Assistance Loan Trust Fund; reporting requirements.—

(1) Each county, as defined by s. 125.011(1), may levy, subject to the provisions of s. 125.0167, a discretionary surtax on documents taxable under the provisions of s. 201.02, except that there shall be no surtax on any document pursuant to which the interest granted, assigned, transferred, or conveyed involves only a single-family residence. ~~The~~ Such single-family residence may be a condominium unit, a unit held through stock ownership

or membership representing a proprietary interest in a corporation owning a fee or a leasehold initially in excess of 98 years, or a detached dwelling.

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

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

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

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

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

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

Section 8. Section 201.15, Florida Statutes, as amended by section 1 of chapter 2009-17, Laws of Florida, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter are subject to the service charge imposed in s. 215.20(1). Prior to distribution under this section, the Department of Revenue shall deduct amounts necessary to pay the costs of the collection and enforcement of the tax levied by this chapter. Such costs and the service charge may not be levied against any portion of taxes pledged to debt service on bonds to the extent that the costs and service charge are required to pay any amounts relating to the bonds. After distributions are made pursuant to subsection (1), all of the costs of the collection and enforcement of the tax levied by this chapter and the service charge shall be available and transferred to the extent necessary to pay debt service and any other amounts payable with respect to bonds authorized before July 1, 2009, secured by revenues distributed pursuant to subsection (1). All taxes remaining after deduction of costs and the service charge shall be distributed as follows:

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

(a) Amounts necessary to pay the debt service on, or fund debt service reserve funds, rebate obligations, or other amounts payable with respect to Preservation 2000 bonds issued pursuant to s. 375.051 and Florida Forever bonds issued pursuant to s. 215.618, shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund to be used for such purposes. The amount transferred to the Land Acquisition Trust Fund may not exceed \$300 million in fiscal year 1999-2000 and thereafter for Preservation 2000 bonds and bonds issued to refund Preservation 2000 bonds, and \$300

million in fiscal year 2000-2001 and thereafter for Florida Forever bonds. The annual amount transferred to the Land Acquisition Trust Fund for Florida Forever bonds may not exceed \$30 million in the first fiscal year in which bonds are issued. The limitation on the amount transferred shall be increased by an additional \$30 million in each subsequent fiscal year, but may not exceed a total of \$300 million in any fiscal year for all bonds issued. It is the intent of the Legislature that all bonds issued to fund the Florida Forever Act be retired by December 31, 2040. Except for bonds issued to refund previously issued bonds, no series of bonds may be issued pursuant to this paragraph unless such bonds are approved and the debt service for the remainder of the fiscal year in which the bonds are issued is specifically appropriated in the General Appropriations Act. For purposes of refunding Preservation 2000 bonds, amounts designated within this section for Preservation 2000 and Florida Forever bonds may be transferred between the two programs to the extent provided for in the documents authorizing the issuance of the bonds. The Preservation 2000 bonds and Florida Forever bonds shall be equally and ratably secured by moneys distributable to the Land Acquisition Trust Fund pursuant to this section, except to the extent specifically provided otherwise by the documents authorizing the issuance of the bonds. No moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph, or earnings thereon, shall be used or made available to pay debt service on the Save Our Coast revenue bonds.

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

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

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

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

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

c. For the purposes of the Strategic Intermodal System specified in ss. 339.61, 339.62, 339.63, and 339.64, 75 percent of these funds after allocating for the New Starts Transit Program described in sub-subparagraph a. and the Small County Outreach Program described in sub-subparagraph b.; and

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

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

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

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

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

6. General Inspection Trust Fund in the amount of the lesser of .02 percent of the remainder or \$300,000 in each fiscal year to be used to fund oyster management and restoration programs as provided in s. 379.362(3).

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

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

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

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

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

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

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

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

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

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

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

(b) Beginning July 1, 2008, 3.52 percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the Conservation and Recreation Lands Trust Fund to carry out the purposes set forth in s. 259.032. Eleven and fifteen hundredths percent of the amount credited to the Conservation and Recreation Lands Trust Fund pursuant to this subsection shall be transferred to the State Game Trust Fund and used for land management activities.

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

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

(8) One-half of one percent of the remaining taxes collected under this chapter shall be paid into the State Treasury and divided equally to the credit of the Department of Environmental Protection Water Quality Assurance Trust Fund to address water quality impacts associated with nonagricultural nonpoint sources and to the credit of the Department of Agriculture and Consumer Services General Inspection Trust Fund to address water

quality impacts associated with agricultural nonpoint sources, respectively. These funds shall be used for research, development, demonstration, and implementation of suitable best management practices or other measures used to achieve water quality standards in surface waters and water segments identified pursuant to ss. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. Implementation of best management practices and other measures may include cost-share grants, technical assistance, implementation tracking, and conservation leases or other agreements for water quality improvement. The Department of Environmental Protection and the Department of Agriculture and Consumer Services may adopt rules governing the distribution of funds for implementation of best management practices. The unobligated balance of funds received from the distribution of taxes collected under this chapter to address water quality impacts associated with nonagricultural nonpoint sources will be excluded when calculating the unobligated balance of the Water Quality Assurance Trust Fund as it relates to the determination of the applicable excise tax rate.

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

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

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

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

(a) Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and be expended by the Department of Community Affairs and by the Florida Housing Finance Corporation for the purposes for which the State Housing Trust Fund was created and exists by law.

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

(11) The distribution of proceeds deposited into the Water Management Lands Trust Fund and the Conservation and Recreation Lands Trust Fund, pursuant to subsections (4) and (5), may not be used for land acquisition but may be used for preacquisition costs associated with land purchases. The

Legislature intends that the Florida Forever program supplant the acquisition programs formerly authorized under ss. 259.032 and 373.59.

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

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

(14) If the payment requirements in any year for bonds outstanding on July 1, 2007, or bonds issued to refund such bonds, exceed the limitations of this section, distributions to the trust fund from which the bond payments are made shall be increased to the lesser of the amount needed to pay bond obligations or the limit of the applicable percentage distribution provided in subsections (1)-(10).

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

(16) If amounts necessary to pay debt service or any other amounts payable with respect to Preservation 2000 bonds, Florida Forever bonds, or Everglades Restoration bonds authorized before July 1, 2009, exceed the amounts distributable pursuant to subsection (1), all moneys distributable pursuant to this section are available for such obligations and transferred in the amounts necessary to pay such obligations when due. However, amounts distributable pursuant to subsection (2), subsection (3), subsection (4), subsection (5), paragraph (9)(a), or paragraph (10)(a) are not available to pay such obligations to the extent that such moneys are necessary to pay debt service on bonds secured by revenues pursuant to those provisions.

~~(17)~~(16) The remaining taxes collected under this chapter, after the distributions provided in the preceding subsections, shall be paid into the State Treasury to the credit of the General Revenue Fund.

Section 9. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon becoming law, this act shall take effect on July 1, 2009, and the amendment to s. 201.02(1), Florida Statutes, made by this act, applies to transfers for which the first transfer to a conduit entity occurs after July 1, 2009.

Approved by the Governor June 10, 2009.

Filed in Office Secretary of State June 10, 2009.