

CHAPTER 2012-145

House Bill No. 5701

An act relating to taxation; amending s. 201.15, F.S.; requiring that deductions for the cost of collecting and enforcing the documentary stamp tax and for a specified service charge be available for payment of certain obligations secured by such tax revenues with respect to bonds authorized before a specified date; requiring under certain circumstances that documentary stamp tax revenues be available to pay debt service or other obligations relating to certain bonds authorized before a specified date; amending s. 212.12, F.S.; providing for the collection of allowances of the amount of tax due by persons who file returns only by electronic means and pay the amount due on such returns only by electronic means; deleting provisions that provide for the collection of such allowances by persons who file paper returns; defining the term “electronic means” for purposes of collecting allowances of the amount of tax due by persons who file sales and use tax returns; providing for applicability; amending s. 220.03, F.S.; adopting the 2012 version of the Internal Revenue Code for purposes of ch. 220, F.S.; providing for retroactive operation; amending s. 220.33, F.S.; changing the filing date for estimated tax under certain circumstances; providing for future expiration; authorizing the Department of Revenue to adopt emergency rules; reenacting s. 723.008, F.S., relating to certain fees, penalties, and fines applicable to the “Florida Mobile Home Act,” to incorporate the amendment made to s. 212.12, F.S., in a reference thereto; requiring the Department of Revenue to provide adequate notice to affected taxpayers relating to earlier due dates for making an estimated payment; providing effective dates.

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

Section 1. Section 201.15, Florida Statutes, 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 January 1, 2013 ~~2010~~, 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 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 are equally and ratably secured by moneys distributable to the Land Acquisition Trust Fund pursuant to this section, except as specifically provided otherwise by the documents authorizing the issuance of the bonds. Moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph, or earnings thereon, may not 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) After the required payments under paragraphs (a) and (b), the remainder 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. Out of such funds, the first \$50 million for the 2012-2013 fiscal year; \$65 million for the 2013-2014 fiscal year; and \$75 million for the 2014-2015 fiscal year and all subsequent years, shall be

transferred to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. The remainder is 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. Effective July 1, 2014, the percentage allocated under this sub-subparagraph shall be increased to 10 percent;

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. Effective July 1, 2014, the first \$60 million of the funds allocated pursuant to this sub-subparagraph shall be allocated annually to the Florida Rail Enterprise for the purposes established in s. 341.303(5).

2. The Grants and Donations Trust Fund in the Department of Economic Opportunity in the amount of the lesser of .23 percent of the remainder or \$3.25 million in each fiscal year to fund technical assistance to local governments and school boards on the requirements and implementation of this act.

3. 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.

4. 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) After the required payments under paragraphs (a), (b), and (c), the remainder 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 or \$84.9 million in each fiscal year shall be distributed as follows:

(a) Six million and three hundred thousand dollars shall be paid into the State Treasury to the credit of the General Revenue Fund.

(b) The remainder 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) The lesser of 1.94 percent of the remaining taxes 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.

(b) 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 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) Of the remaining taxes, 3.52 percent 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 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 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 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 must 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) Seven and fifty-three hundredths percent of the remaining taxes in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund. Out of such funds, beginning in the 2012-2013 fiscal year, the first \$35 million shall be transferred annually, subject to any distribution required under subsection (15), to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. The remainder 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 used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.

(10) Eight and sixty-six hundredths percent of the remaining taxes in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund. Out of such funds, beginning in the 2012-2013 fiscal year, the first \$40 million shall be transferred annually, subject to any distribution required under subsection (15), to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. The remainder 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 Economic Opportunity 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 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) In each fiscal year that the remaining taxes exceed collections in the prior fiscal year, the stated maximum dollar amounts provided in subsections (2), (4), (6), and (7) 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 must 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) must 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 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 January 1, 2013 ~~2010~~, 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) After the distributions provided in the preceding subsections, any remaining taxes shall be paid into the State Treasury to the credit of the General Revenue Fund.

Section 2. Effective July 1, 2012, and applicative to returns due on or after that date, subsection (1) of section 212.12, Florida Statutes, is amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(1)(a)1. Notwithstanding any other ~~provision of law~~ and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records, filing timely tax returns, and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, owner, and remitter (except dealers who make mail order sales) who files the return required pursuant to s. 212.11 only by electronic means and who pays the amount due on such return only by electronic means shall be allowed 2.5 percent of the amount of the tax due, ~~and accounted for, and remitted to the department, in the form of a deduction in submitting his or her report and paying the amount due by him or her; the department shall allow such deduction of 2.5 percent of the amount of the tax to the person paying the same for remitting the tax and making of tax returns in the manner herein provided, for paying the amount due to be paid by him or her, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and for collection of taxes and remitting the same.~~ However, if the amount of the tax due and remitted to the department by electronic means for the reporting period exceeds \$1,200, ~~an allowance is not shall be allowed for all amounts in excess of \$1,200. For purposes of this subparagraph, the term "electronic means" has the same meaning as provided in s. 213.755(2)(c).~~

2. The executive director of the department is authorized to negotiate a collection allowance, pursuant to rules promulgated by the department, with a dealer who makes mail order sales. The rules of the department shall provide guidelines for establishing the collection allowance based upon the dealer's estimated costs of collecting the tax, the volume and value of the dealer's mail order sales to purchasers in this state, and the administrative and legal costs and likelihood of achieving collection of the tax absent the cooperation of the dealer. However, in no event shall the collection allowance

negotiated by the executive director exceed 10 percent of the tax remitted for a reporting period.

(b)(a) The Department of Revenue may deny the collection allowance if a taxpayer files an incomplete return or if the required tax return or tax is delinquent at the time of payment.

1. An “incomplete return” is, for purposes of this chapter, a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, review of the return, or determination of other taxes and fees reported on the return may not be readily accomplished.

2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, reported, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer’s collection allowance; the amount of penalty and interest; the amount due with the return; and such other information as the Department of Revenue may specify. The department shall require that transient rentals and agricultural equipment transactions be separately shown. Sales made through vending machines as defined in s. 212.0515 must be separately shown on the return. Sales made through coin-operated amusement machines as defined by s. 212.02 and the number of machines operated must be separately shown on the return or on a form prescribed by the department. If a separate form is required, the same penalties for late filing, incomplete filing, or failure to file as provided for the sales tax return shall apply to the said form.

(c)(b) The collection allowance and other credits or deductions provided in this chapter shall be applied proportionally to any taxes or fees reported on the same documents used for the sales and use tax.

(d)(e)1. A dealer entitled to the collection allowance provided in this section may elect to forego the collection allowance and direct that the said amount be transferred into the Educational Enhancement Trust Fund. Such an election must be made with the timely filing of a return and may not be rescinded once made. If a dealer who makes such an election files a delinquent return, underpays the tax, or files an incomplete return, the amount transferred into the Educational Enhancement Trust Fund shall be the amount of the collection allowance remaining after resolution of liability for all of the tax, interest, and penalty due on that return or underpayment of tax. The Department of Education shall distribute the remaining amount from the trust fund to the school districts that have adopted resolutions stating that those funds will be used to ensure that up-to-date technology is purchased for the classrooms in the district and that teachers are trained in the use of that technology. Revenues collected in districts that do not adopt such a resolution shall be equally distributed to districts that have adopted such resolutions.

2. This paragraph applies to all taxes, surtaxes, and any local option taxes administered under this chapter and remitted directly to the department. This paragraph does not apply to ~~a any~~ locally imposed and self-administered convention development tax, tourist development tax, or tourist impact tax administered under this chapter.

3. Revenues from the dealer-collection allowances shall be transferred quarterly from the General Revenue Fund to the Educational Enhancement Trust Fund. The Department of Revenue shall provide to the Department of Education quarterly information about such revenues by county to which the collection allowance was attributed.

Notwithstanding any provision of chapter 120 to the contrary, the Department of Revenue may adopt rules to carry out the amendment made by chapter 2006-52, Laws of Florida, to this section.

Section 3. Effective upon this act becoming a law and operating retroactively to January 1, 2012, paragraph (n) of subsection (1) and subsection (2) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(n) “Internal Revenue Code” means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2012 ~~2011~~, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(a) The word “corporation” or “taxpayer” shall be deemed to include the words “and its successors and assigns” as if these words, or words of similar import, were expressed;

(b) Any term used in any section of this code with respect to the application of, or in connection with, the provisions of any other section of this code shall have the same meaning as in such other section; and

(c) Any term used in this code shall have the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, 2012 ~~2011~~. However, if subsection (3) is implemented, the meaning of any term shall be taken at the time the term is applied under this code.

Section 4. Present subsection (7) of section 220.33, Florida Statutes, is renumbered as subsection (8), and a new subsection (7) is added to that section, to read:

220.33 Payments of estimated tax.—A taxpayer required to file a declaration of estimated tax pursuant to s. 220.24 shall pay such estimated tax as follows:

(7) Notwithstanding any administrative rule or determination of the department which allows estimated payments otherwise due on a Saturday, Sunday, or legal holiday to be paid on the next succeeding day that is not a Saturday, Sunday, or legal holiday, any estimated tax payment required under this section which would otherwise be due no later than Sunday, June 30, 2013, shall be paid on or before June 28, 2013. This subsection expires July 1, 2014.

Section 5. (1) The executive director of 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, for the purpose of implementing section 4 of this act.

(2) Notwithstanding any other law, the emergency rules adopted pursuant to this section shall remain in effect for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

Section 6. For the purpose of incorporating the amendments made by this act to section 212.12, Florida Statutes, in a reference thereto, section 723.008, Florida Statutes, is reenacted to read:

723.008 Applicability of chapter 212 to fees, penalties, and fines under this chapter.—The same duties and privileges imposed by chapter 212 upon dealers in tangible property respecting the collection and remission of tax; the making of returns; the keeping of books, records, and accounts; and the compliance with the rules of the enforcing agency in the administration of that chapter apply to and are binding upon all persons who are subject to the fee, penalty, and fine provisions of this chapter. However, the provisions of s. 212.12(1) do not apply to this chapter.

Section 7. The Department of Revenue shall provide adequate notice to affected taxpayers of the earlier due date for making an estimated payment established by this act. The department may satisfy this requirement by revising its corporate income tax return forms, creating a Tax Information Publication, and revising the due dates provided on its electronic filing calendar.

Section 8. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2012.

Approved by the Governor April 20, 2012.

Filed in Office Secretary of State April 20, 2012.