

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 2514

SPONSOR: Appropriations Committee, Finance and Taxation Committee and Senator Lee

SUBJECT: Excise Tax/Documents/Proceeds

DATE: March 26, 2004

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fournier</u>	<u>Johansen</u>	<u>FT</u>	<u>Fav/CS</u>
2.	<u>Herring</u>	<u>Coburn</u>	<u>AP</u>	<u>Fav/CS</u>
3.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
4.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

This committee substitute provides that, effective July 1, 2005, the amounts distributed from documentary stamp tax collections to various trust funds may not exceed amounts specified in the bill. Calculated distributions in excess of these amounts will be directed to the General Revenue Fund.

The committee substitute provides that, if the payments required for bonds which were outstanding on July 1, 2005, exceed the specified limitations, distributions to the trust fund from which these bond payments are made will be increased to either the amount needed to pay bond obligations or the applicable percentage distribution under ss. 201.15(2) through (10), F.S., whichever is less. It also provides that the limit imposed on distributions to the State Housing Trust Fund shall not be construed to adversely affect the rights of holders of bonds or affordable housing guarantees.

This bill substantially amends section 201.15, Florida Statutes.

II. Present Situation:

The documentary stamp tax levied under ch. 201, F.S., is actually two taxes imposed on different bases at different tax rates. The tax on deeds and other documents related to real property is at the rate of 70 cents per \$100. Certificates of indebtedness, promissory notes, wage assignments and retail charge account agreements are taxed at 35 cents per \$100. Revenue from the documentary stamp tax is divided between the General Revenue Fund and various trust funds used mainly to acquire and manage public lands or support affordable housing.

Disposition of Documentary Stamp Tax Revenue

Seven percent of total collections is deducted as General Revenue service charge. Distributions are then made as follows:

- 62.63 percent to the General Revenue Fund
- Payments of debt service for Preservation 2000, Florida Forever, and Everglades Restoration bonds and distributions to the Ecosystem Management and Restoration Trust Fund and the Marine Resources Conservation Trust Fund are made out of the general revenue distribution.
- 9.5 percent to the Land Acquisition Trust Fund
- 4.2 percent to the Water Management Lands Trust Fund
- 3.801 percent to the Conservation and Recreation Lands Trust Fund
- 0.899 percent to the State Game Trust Fund
- 2.28 percent to Aquatic Plant Control Trust Fund
- 0.25 percent to Water Quality Assurance Trust Fund
- 0.25 percent to DACS General Inspection Trust Fund
- 4.8475 percent to the State Housing Trust Fund
- 11.3425 percent to the Local Government Housing Trust Fund

Current estimates of the statutory distributions are as follows:

Documentary Stamp Tax Forecast Distributions by Fund (Millions of Dollars)			
	2003-04	2004-05	2005-06
Total Collections	2310.5	1902.5	1807.2
General Revenue	987.0	730.1	663.8
Service Charge - GR	161.7	133.2	126.5
Distributions to Service Debt	358.8	378.0	388.8
State Housing Trust Fund	103.1	84.7	80.4
Local Government Housing Trust Fund	241.2	198.2	188.1
Land Acquisition Trust Fund	202.1	166.0	157.7
CARL Trust Fund	80.8	66.4	63.0
Water Management Lands Trust Fund	89.3	73.4	69.7
Invasive Plant Control Trust Fund	48.5	39.8	37.8
State Game Trust Fund	19.1	15.7	14.9
DEP Water Quality Assurance Trust Fund	5.3	4.4	4.1
DACS General Inspection Trust Fund	5.3	4.4	4.1
Total Trust Funds	794.7	653.0	619.8

History of Documentary Stamp Tax Rates and Distributions

Florida first enacted a documentary stamp tax in 1931, at the rate of 10 cents per \$100 of consideration. In 1957, the tax on documents relating to realty (mainly deeds) was raised to 20 cents, and the tax has been assessed at two separate rates on deeds and notes ever since. Major rate increases occurred in 1957, 1963, 1979, 1981, 1985, 1987, 1990, 1991, and 1992. In 1983,

the Legislature authorized Dade County to levy a discretionary surtax on deeds of up to 45 cents for each \$100 except for deeds on single family residences.

Until 1967 all proceeds from documentary stamps went to the General Revenue Fund. In that year a surtax was imposed on documents relating to realty with the proceeds going to the Land Acquisition Trust Fund. The surtax was repealed in 1979 and replaced with an increase in the documentary stamp tax on deeds, and the Land Acquisition Trust Fund was given a distribution from this tax. Since 1979 increases in the documentary stamp tax rate have been used to fund several programs, including acquisition of environmentally sensitive land, funding state infrastructure, and funding affordable housing. In 1990 the General Revenue Service Charge was extended to the Documentary Stamp Clearing Trust Fund, among other trust funds, which reduced all distributions from this fund by seven percent on a recurring basis. Chapter 90-217, L.O.F., authorized a portion of documentary stamp tax proceeds which had been allocated to general revenue to be used for Preservation 2000 debt services. By 2000, nine P2000 bond series were authorized by the Legislature. Pursuant to ch. 92-317, L.O.F., effective July 1, 1995, the distribution to the General Revenue Fund was reduced by 8.66 percentage points and the distribution to the State Housing Trust Fund was increased by 8.66 percentage points. Chapter 98-311, L.O.F., provided that documentary stamp tax receipts shall be deposited in the Ecosystem Management and Restoration Trust Fund for the purpose of funding erosion control; beach preservation, restoration, and renourishment; and storm and hurricane protection. This money would otherwise have been deposited in the General Revenue Fund.

In 1999, the Legislature authorized a portion of documentary stamp tax proceeds which had been allocated to general revenue to be used for Florida Forever debt services. Additional debt service is limited to \$30 million in each fiscal year for ten years, and total annual debt service may not exceed \$300 million. This bill also reduced the documentary stamp distribution to the Water Management Lands Trust Fund and the Conservation and Recreation Lands Trust Fund and provided for distributions to the State Game Trust Fund, the Aquatic Plant Control Trust Fund, the Department of Environmental Protection Water Quality Assurance Trust Fund and the Department of Agriculture and Consumer Affairs General Inspection Trust Fund. In 2000, the Legislature provided that \$2 million shall be paid into the Marine Resources Conservation Trust Fund annually from the documentary stamp general revenue distribution. Chapter 2002-261, L.O.F., provided for a portion of the documentary stamp tax collections to be used to pay the debt service on Everglades Restoration Bonds.

In the 2003 General Appropriations Act, appropriations for the various programs supported by statutory distributions of documentary stamp tax revenues were held well below the amounts estimated to be available. The bill was expected to affect funding for these programs by the amounts shown below, based on the documentary stamp tax revenue estimate as of March 2003. Unappropriated distributions were redirected to the working capital fund and became available for appropriation from the General Revenue Fund.

	Current Law FY 03-04	Appropriation FY 03-04	Change FY 03-04
Land Acquisition Trust Fund	141.0	84.1	-56.9
Water Mgmt. Lands Trust Fund	62.4	59.1	-3.3
CARL Trust Fund	56.4	63.8	7.4

State Game Trust Fund	13.3	13.3	0.0
Invasive Plant Control Trust Fund	33.8	34.9	1.1
Water Quality Assurance TF	3.7	3.7	0.0
General Inspection Trust Fund	3.7	3.7	0.0
State Housing Trust Fund	72.0	56.0	-16.0
Local Govt. Housing Trust Fund	168.4	137.0	-31.4
Statutory Distributions	554.8	455.6	-99.2

Section 259.032(11)(b), F.S., provides for an amount up to 1.5 percent of the cumulative total of funds ever deposited into the Florida Preservation 2000 Trust fund and the Florida Forever Trust Fund to be made available for the purposes of management, maintenance, and capital improvements for lands acquired through the Conservation and Recreation Lands Trust Fund, the Florida Preservation 2000 Act, the Florida Forever Act, or previous programs for the acquisition of lands for conservation and recreation, including state forests, to which title is vested in the board of trustees and other conservation and recreation lands managed by a state agency.

III. Effect of Proposed Changes:

CS/CS/SB 2514 amends s. 201.15, F.S., to provide that, effective July 1, 2005, the amounts distributed from documentary stamp tax collections to various trust funds may not exceed amounts specified in the bill. Calculated distributions in excess of these amounts shall be directed to the General Revenue Fund. The impact of this redirection is shown below:

	Current Law FY 05-06	CS/CS/SB 2514 Cap	Change FY 05-06
Land Acquisition Trust Fund	157.6	84.1	-73.5
Water Mgmt. Lands Trust Fund	69.7	59.1	-10.6
CARL Trust Fund	63.0	63.8	0.8
State Game Trust Fund	14.9	13.3	-1.6
Invasive Plant Control Trust Fund	37.8	34.9	-2.9
Water Quality Assurance TF	4.1	3.7	-0.4
General Inspection Trust Fund	4.1	3.7	-0.4
State Housing Trust Fund	80.4	56.0	-24.4
Local Govt. Housing Trust Fund	188.1	137.0	-51.1
Statutory Distributions	619.8	455.6	-164.2

The bill includes language to protect the rights of holders of bonds issued pursuant to s. 420.5092(2), F.S., or bonds issued to refund such bonds, and holders of affordable housing guarantees given or to be given pursuant to s. 420.5092, F.S. It ensures that the limitation on distributions to the State Housing Trust Fund shall not be construed to adversely affect their rights.

The bill also provides that, if the payment requirements in any year for bonds that were outstanding on July 1, 2005, exceed the distribution amounts provided by this bill, distributions to the trust fund from which the bond payments are made will be increased to either the amount needed to pay bond obligations or the applicable percentage distribution under ss. 201.15(2) through (10), F.S., whichever is less.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

This bill may affect the owners of environmentally sensitive lands who are interested in selling the land to the state or other agencies funded through this source. It may also affect the number of new affordable housing units developed in the state.

C. Government Sector Impact:

This bill shifts documentary stamp tax revenue from various trust funds to the General Revenue Fund by capping the amount that is distributed to these funds at the levels specified in the bill. See "Effect of Proposed Changes" above.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.