

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 27, 1998 Revised: \_\_\_\_\_

Subject: Excise Tax on Documents

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Fournier</u>	<u>Beggs</u>	<u>WME</u>	<u>Favorable</u>
2.	<u>_____</u>	<u>_____</u>	<u>WM</u>	<u>Withdrawn</u>
3.	<u>_____</u>	<u>_____</u>	<u>CM</u>	<u>Withdrawn</u>
4.	<u>Fournier</u>	<u>Smith</u>	<u>WM</u>	<u>Favorable/CS</u>
5.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

**I. Summary:**

This committee substitute provides that when a loan or revolving line of credit is renewed and the amount of the loan is increased, documentary stamp tax is imposed only on the amount of the increase. It also provides a retroactive tax exemption for renewal of any promissory note evidencing a revolving line obligation enacted on or after January 1, 1990, for which tax under s. 201.09, F.S., has not been paid and which is the subject of a pending protest that was initiated prior to January 1, 1998.

This committee substitute amends section 201.09 of the Florida Statutes.

**II. Present Situation:**

Section 210.08, F.S., imposes a tax on promissory notes of 35 cents per \$100 of indebtedness. Section 201.09(1), F.S., provides that when any promissory note is given in renewal of an existing note the renewal is not subject to documentary stamp tax if the renewal only extends the original note and is executed by the original obligor, and tax was paid on the original note. Under the conditions of this section, the renewal may not increase the value of the outstanding balance of a term obligation or the original face value of a revolving obligation. Any increase makes the entire note subject to documentary stamp tax.

It is common practice to avoid tax on the original amount of the note by creating a new "side note" in the amount of the increase and consolidating the two notes. Documentary stamp tax is paid on the "side note"; consolidation does not create any additional documentary stamp tax liability.

According to the Department of Revenue Office of General Counsel, there is one court case over an assessment on revolving lines of credit of \$313, 041 that was in protest prior to January 1, 1998.

**III. Effect of Proposed Changes:**

This committee substitute would allow the renewal of promissory notes at an increased level of obligation without making the entire note subject to documentary stamp tax. Tax would be imposed only on the amount of the increase.

It also provides a retroactive tax exemption for renewal of any promissory note evidencing a revolving line obligation enacted on or after January 1, 1990, for which tax under s. 201.09, F.S., has not been paid and which is the subject of a pending protest that was initiated prior to January 1, 1998.

**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:

Issue/Fund	General Revenue		Trust		Local		Total	
	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
Tax on increase only	(\$0.1)	(\$0.2)	(\$0.1)	(\$0.1)	( * )	( * )	(\$0.2)	(\$0.3)
Retroactive exemption	(\$0.2)	0	(\$0.1)	0	( * )	0	(\$0.3)	0

\* Insignificant

**B. Private Sector Impact:**

This committee substitute will allow loan transactions to be made more efficiently, doing away with the need to create a new obligation and then consolidate the new and old loans. It also provides a retroactive exemption for a taxpayer with a pending protest of an assessment.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.