

By Representative Thrasher

1 A bill to be entitled
2 An act relating to excise tax on documents;
3 amending s. 201.02, F.S.; providing that the
4 tax on instruments relating to real property
5 does not apply to certain conveyances between
6 spouses or former spouses pursuant to an action
7 for dissolution of marriage; providing an
8 effective date.

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

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12 Section 1. Subsection (7) is added to section 201.02,
13 Florida Statutes, to read:

14 201.02 Tax on deeds and other instruments relating to
15 real property or interests in real property.--

16 (1) On deeds, instruments, or writings whereby any
17 lands, tenements, or other real property, or any interest
18 therein, shall be granted, assigned, transferred, or otherwise
19 conveyed to, or vested in, the purchaser or any other person
20 by his or her direction, on each \$100 of the consideration
21 therefor the tax shall be 70 cents. When the full amount of
22 the consideration for the execution, assignment, transfer, or
23 conveyance is not shown in the face of such deed, instrument,
24 document, or writing, the tax shall be at the rate of 70 cents
25 for each \$100 or fractional part thereof of the consideration
26 therefor. For purposes of this section, consideration
27 includes, but is not limited to, the money paid or agreed to
28 be paid; the discharge of an obligation; and the amount of any
29 mortgage, purchase money mortgage lien, or other encumbrance,
30 whether or not the underlying indebtedness is assumed. If the
31 consideration paid or given in exchange for real property or

1 any interest therein includes property other than money, it is
2 presumed that the consideration is equal to the fair market
3 value of the real property or interest therein.

4 (2) The tax imposed by subsection (1) shall also be
5 payable upon documents by which the right is granted to a
6 tenant-stockholder to occupy an apartment in a building owned
7 by a cooperative apartment corporation or in a dwelling on
8 real property owned by any other form of cooperative
9 association as defined in s. 719.103.

10 (3) The tax imposed by subsection (2) shall be paid by
11 the purchaser, and the document recorded in the office of the
12 clerk of the circuit court as evidence of ownership.

13 (4) The tax imposed by subsection (1) shall also be
14 payable upon documents which convey or transfer, pursuant to
15 s. 689.071, any beneficial interest in lands, tenements, or
16 other real property, or any interest therein, even though such
17 interest may be designated as personal property,
18 notwithstanding the provisions of s. 689.071(4). The tax
19 shall be paid upon execution of any such document.

20 (5) All conveyances of real property to a partner from
21 a partnership which property was conveyed to the partnership
22 after July 1, 1986, are taxable if:

23 (a) The partner receiving the real property from the
24 partnership is a partner other than the partner who conveyed
25 the real property to the partnership; or

26 (b) The partner receiving the real property from the
27 partnership is the partner who conveyed the real property to
28 the partnership and there is a mortgage debt or other debt
29 secured by such real property for which the partner was not
30 personally liable prior to conveying the real property to the
31 partnership.

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2 For purposes of this subsection, the value of the
3 consideration paid for the conveyance of the real property to
4 the partner from the partnership includes, but is not limited
5 to, the amount of any outstanding mortgage debt or other debt
6 which the partner pays or agrees to pay in exchange for the
7 real property, regardless of whether the partner was
8 personally liable for the debts of the partnership prior to
9 the conveyance to the partner from the partnership.

10 (6) Taxes imposed by this section shall not apply to
11 any assignment, transfer, or other disposition, or any
12 document, which arises out of a transfer of real property from
13 a nonprofit organization to the Board of Trustees of the
14 Internal Improvement Trust Fund, to any state agency, to any
15 water management district, or to any local government. For
16 purposes of this subsection, "nonprofit organization" means an
17 organization whose purpose is the preservation of natural
18 resources and which is exempt from federal income tax under s.
19 501(c)(3) of the Internal Revenue Code. The Department of
20 Revenue shall provide a form, or a place on an existing form,
21 for the nonprofit organization to indicate its exempt status.

22 (7) Taxes imposed by this section shall not apply to a
23 deed, transfer, or conveyance between spouses or former
24 spouses pursuant to an action for dissolution of their
25 marriage, wherein the real property is or was their marital
26 home or an interest therein. This includes any such deed,
27 transfer, or conveyance in anticipation of the dissolution of
28 marriage by not more than 1 year. Taxes paid pursuant to this
29 section shall be refunded in those cases in which the deed,
30 transfer, or conveyance occurred 1 year or less prior to the
31 dissolution of marriage. This subsection applies in spite of

1 any consideration as defined in subsection (1). This
2 subsection does not apply to a deed, transfer, or conveyance
3 executed prior to the effective date of this act.

4 Section 2. This act shall take effect July 1, 1997.

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7 HOUSE SUMMARY

8 Provides that the documentary stamp tax on instruments
9 relating to real property does not apply to certain
10 conveyances between spouses or former spouses pursuant to
11 an action for dissolution of marriage.

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