

By Representative Melvin

1 A bill to be entitled
2 An act relating to the Department of Revenue;
3 providing for the relief of Ray Construction of
4 Okaloosa County, Ltd.; providing an
5 appropriation to compensate Ray Construction of
6 Okaloosa County, Ltd., for documentary stamp
7 tax assessments paid to the Department of
8 Revenue and for attorney's fees and court
9 costs; providing an effective date.

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11 WHEREAS, on December 6, 1994, the Circuit Court of the
12 First Judicial Circuit in and for Okaloosa County entered a
13 final judgment (Case No. 94-501-CA) pursuant to a complaint by
14 Ray Construction of Okaloosa County, Ltd., which sought a
15 declaratory judgment against the State of Florida, Department
16 of Revenue, relative to the legality of four contested
17 documentary stamp tax assessments made by the Department of
18 Revenue against Ray Construction, and relative to a refund
19 sought by Ray Construction against the Department of Revenue
20 for a tax warrant issued pursuant to an assessment which Ray
21 Construction contended was illegal and improper, and

22 WHEREAS, Ray Construction also sought a declaratory
23 judgment to determine its documentary stamp tax liability with
24 respect to other land transactions similar to those giving
25 rise to the contested assessments but not yet subjected to
26 audit and tax assessments by the department, and

27 WHEREAS, the Circuit Court ruled in favor of Ray
28 Construction and against the Department of Revenue, finding
29 that Ray Construction did not owe the department for the four
30 contested documentary stamp tax assessments or the contested
31 tax warrant, and that numerous other similar land transactions

1 by Ray Construction were not subject to audit and tax
2 assessments by the department, and
3 WHEREAS, the Department of Revenue appealed the Circuit
4 Court's decision in this matter, (Case No. 95-228), and
5 WHEREAS, in its opinion filed January 30, 1996, the
6 First District Court of Appeal found that the Department of
7 Revenue's notice of the contested assessments to Ray
8 Construction was sufficient and disagreed with Ray
9 Construction's assertion that the Department of Revenue's
10 failure to adopt a rule setting out specific procedure for
11 delivery of notice of proposed tax assessment voids such
12 notices, and
13 WHEREAS, the First District Court of Appeal found that,
14 because Ray Construction's challenge to the four disputed
15 assessments was untimely, the Circuit Court lacked subject
16 matter jurisdiction to entertain a challenge to the
17 assessments and subsequently reversed that portion of the
18 trial court's final judgment, and
19 WHEREAS, the First District Court of Appeal upheld that
20 portion of the final judgment awarding a declaratory judgment
21 in favor of Ray Construction in which the court declared that
22 the Department of Revenue had no right to impose an assessment
23 of additional documentary stamp taxes with respect to similar
24 land conveyances not yet subjected to audit and assessment by
25 the Department of Revenue, and
26 WHEREAS, given the First District Court of Appeal's
27 affirmative ruling on that portion of the trial court's final
28 judgment, Ray Construction would have prevailed with regard to
29 a challenge to the four contested assessments if their
30 challenge had been timely filed, and
31

1 WHEREAS, Ray Construction of Okaloosa County, Ltd.,
2 seeks to recover \$2,479.96 for four documentary stamp tax
3 assessments paid to the Department of Revenue and \$15,750.50
4 in attorney's fees and court costs, and

5 WHEREAS, the total amount of the claim against the
6 Department of Revenue is \$18,230.46, NOW, THEREFORE,

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

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10 Section 1. The facts stated in the preamble to this
11 act are found and declared to be true.

12 Section 2. The Executive Office of the Governor is
13 directed to transfer existing spending authority or establish
14 spending authority from the General Revenue Fund in the State
15 Treasury in the amount of \$18,230.46 to a new category titled
16 "Relief - Ray Construction of Okaloosa County, Ltd." as relief
17 for damages sustained.

18 Section 3. The Comptroller is directed to draw his
19 warrant in favor of Ray Construction of Okaloosa County, Ltd.,
20 in the sum of \$18,230.46 upon funds in the State Treasury and
21 the State Treasurer is directed to pay the same out of such
22 funds in the State Treasury.

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

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26 HOUSE SUMMARY

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28 Provides an appropriation of \$18,230.46 from funds of the
29 Department of Revenue to Ray Construction of Okaloosa
30 County, Ltd., as compensation for documentary stamp tax
31 assessments paid to the Department of Revenue and for
attorney's fees and court costs.