

# 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.)

BILL: CS/SB 2496

SPONSOR: Fiscal Resource Committee and Senator Horne

SUBJECT: Intangible Personal Property Tax

DATE: March 31, 1999 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fournier</u>	<u>Wood</u>	<u>FR</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

This committee substitute provides that lines of credit secured by mortgages on Florida property will be taxed at the maximum amount of the line of credit without additional tax due at the time of each subsequent borrowing under the line of credit.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: s. 199.143.

## II. Present Situation:

Florida's intangible tax was enacted in 1931 and is a tax on "all personal property which is not in itself intrinsically valuable, but which derives its chief value from that which it represents." (s. 199.023, F.S.) Taxable intangible personal property includes, among other things, stocks, bonds, notes, other obligations to pay money, and accounts receivable. (s. 199.023, F.S.)

Section 199.133, F.S., imposes a nonrecurring tax of 2 mills on each dollar of the just value of all notes, bonds, and other obligations for payment of money which are secured by mortgage, deed, or other lien upon real property in Florida.

Section 199.143, F.S., applies the nonrecurring tax to lines of credit and future advances secured by mortgages upon real property. If the line of credit is secured by a mortgage on the residence of the borrower, including a vacation or secondary home, the tax is applied to the maximum amount of the line of credit and no additional tax is due upon any future borrowing under the line of credit. For example, if a homeowner has a \$100,000 line of credit with a bank secured by the primary residence of the homeowner, even if only \$5,000 is advanced at the time of the execution of the line of credit, the tax is applied to the maximum amount of the line of credit (\$100,000).

If the line of credit is secured by a mortgage on any other property, the tax is applied to the original indebtedness and each time an additional amount is borrowed under the line of credit.

For example, if a borrower has a \$100,000 line of credit with a bank secured by the property in the state and \$5,000 is advanced at the time of execution of the line of credit, the tax is applied to only the amount advanced (\$5,000) but is also applied to each future borrowing under the line of credit. After a series of borrowings and repayments, the tax on this type of line of credit may exceed the tax on the maximum amount of the line of credit.

**III. Effect of Proposed Changes:**

Section 199.143, Florida Statutes, is amended. Lines of credit secured by mortgages on Florida property will be taxed at the maximum amount of the line of credit without additional tax due at the time of each subsequent borrowing under the line of credit. The maximum nonrecurring tax is limited by the provisions of s. 199.133, which limits the portion of the note, bond, or other obligation subject to the tax to the value of the real property which is the security for the bond or note.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

This bill is exempt from the provisions under subsection (b) of section 18 of Article VII, Florida Constitution, which require a two-thirds vote of the membership of each house in order to enact a general law if the anticipated effect of doing so would be to reduce the percentage of a state tax shared with counties and municipalities as an aggregate on February 1, 1989. Although the expanded exemption from the state intangibles taxes provided by this bill reduces the base of state revenues shared with local government, the bill does not reduce the percentage of the revenues shared with counties and municipalities as an aggregate on February 1, 1989.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

General Revenue	Trust	Local	Total
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Issue/Fund	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
One time payment for revolving lines of credit	2.4	(2.1)	0	0	1.5	(1.3)	3.9	(3.4)

- \* Insignificant
- \*\* Indeterminate

**B. Private Sector Impact:**

This change would make it easier to administer the nonrecurring tax on lines of credit.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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