

**STORAGE NAME:** h1915s1z.rpp  
**DATE:** May 19, 2000

**\*\*FAILED TO PASS THE LEGISLATURE\*\***

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
REAL PROPERTY & PROBATE  
FINAL ANALYSIS**

**BILL #:** CS/HB 1915

**RELATING TO:** Excise Tax on Documents

**SPONSOR(S):** Committee on Finance & Taxation and Representative Bilirakis

**TIED BILL(S):** none

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) REAL PROPERTY & PROBATE YEAS 7 NAYS 0
  - (2) FINANCE & TAXATION YEAS 15 NAYS 0
  - (3) GENERAL GOVERNMENT APPROPRIATIONS (W/D)
  - (4)
  - (5)
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**I. SUMMARY:**

This bill requires that the documentary stamps affixed to a deed or writing reflect the correct amount of the sales price or other consideration for the interest in the property; prohibits the seller or conveyor of the interest in the property from deliberately affixing or causing to be affixed excess documentary stamps with the intent of implying a higher sale price than the actual sale price; and provides that violation is a first degree misdemeanor.

Additionally, this bill removes the requirement that a recording officer sign each document recorded to certify that the documentary stamp tax has been paid.

The Revenue Estimating Conference has assigned this bill an indeterminate fiscal impact.

**On May 5, 2000, this bill died on the House calendar.**

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |  |   |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

This bill specifies that the deliberate use of excess documentary stamps is a first degree misdemeanor.

B. PRESENT SITUATION:

It is unlawful to pay less than the required amount of documentary stamp taxes on a deed or other instrument,<sup>1</sup> but paying an excess documentary stamp tax is not prohibited. Some persons intentionally pay excess documentary stamp taxes on deeds in order to make it appear that a property sold for more than it really did, which in turn may affect the value of other nearby homes.<sup>2</sup>

C. EFFECT OF PROPOSED CHANGES:

This bill creates s. 201.205, F.S., which requires that the documentary stamps affixed to a deed or writing reflect the correct amount of the sales price or other consideration for the interest in the property; prohibits the seller or conveyor of the interest in the property from deliberately affixing or causing to be affixed excess documentary stamps with the intent to imply a higher sale price than the actual sale price; provides that violation is a first degree misdemeanor; and provides punishment.

Additionally, this bill removes the provision in s. 201.132, F.S., requiring a recording officer to sign each document recorded to certify that the documentary stamp tax has been paid on that document.

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<sup>1</sup> Section 201.17, F.S.

<sup>2</sup> Statements by the sponsor of the amendment Representative Bilirakis, at the meeting of the Committee on Real Property & Probate, March 29, 2000. The amount of documentary stamp tax affixed to a deed is often used to determine the amount for which a property sold. A comparison of recent sales of similar nearby properties, known as the sales comparison approach, is the most common appraisal technique.

D. SECTION-BY-SECTION ANALYSIS:

See "Present Situation" and "Effect of Proposed Changes".

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has assigned this bill an indeterminate fiscal impact to the state.

This bill may cause an insignificant decrease in documentary stamp tax revenue due to the requirement that the documentary stamp tax must reflect the true and actual sales price of the interest in the property. Although it is unknown how widespread this practice is, revenues may decrease.<sup>3</sup>

2. Expenditures:

none

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

none

2. Expenditures:

none

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

none

D. FISCAL COMMENTS:

This bill may have an indirect economic impact on the private sector. Eliminating the ability of persons to artificially inflate the value of recent sales may lead to more accurate appraisals and estimations of the value of real property.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

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<sup>3</sup> Analysis of HB 105 by the Committee on Finance & Tax, February 1, 2000, at 6.

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

none

B. RULE-MAKING AUTHORITY:

none

C. OTHER COMMENTS:

The prohibition against excess documentary stamps is taken from a proposal which was recommended by a 1990 statewide grand jury after it investigated a state land purchase on St. George Island. As a result of the use of increased documentary stamps, the State purchased land, the value of which had been artificially inflated.<sup>4</sup>

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

As originally filed, HB 1915 exempted a transfer of real property between spouses from the documentary stamp tax.

On March 29, 2000, the Committee on Real Property & Probate adopted two amendments to HB 1915, as follows:

1. The bill as filed provides that any transfer of real property between spouses is exempt from the documentary stamp tax. The first amendment narrows the exemption from documentary stamp tax to a transfer of homestead real property to create a tenancy by the entireties. A tenancy by the entireties is the form of real property ownership whereby a husband and wife hold title to real property in joint ownership.
2. The second amendment creates s. 201.205, F.S., which requires that the documentary stamps affixed to a deed or writing reflect the correct amount of the sales price or other

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<sup>4</sup> *Id.* at 7.

consideration for the interest in the property; prohibits the seller or conveyer of the interest in the property from deliberately affixing or causing to be affixed excess documentary stamps with the intent to imply a higher sale price than the actual sale price; provides that a violation is a first degree misdemeanor; and provides punishment.

On April 24, 2000, the Committee on Finance & Taxation adopted two amendments to HB 1915, as follows:

1. The first amendment removes from HB 1915 all provisions regarding the documentary stamp tax on transfers of real property between spouses.
2. The second amendment removes the provision in s. 201.132, F.S., which requires a recording officer to sign each document recorded to certify that the documentary stamp tax has been paid on that document.

This bill was then reported favorably as a committee substitute.

VII. SIGNATURES:

**COMMITTEE ON REAL PROPERTY & PROBATE:**

Prepared by:

Staff Director:

Nathan L. Bond, J.D.

J. Marleen Ahearn, Ph.D., J.D.

**AS REVISED BY THE COMMITTEE ON FINANCE & TAXATION:**

Prepared by:

Staff Director:

Kama D.S. Monroe

Alan Johansen

**FINAL ANALYSIS PREPARED BY THE COMMITTEE ON REAL PROPERTY & PROBATE:**

Prepared by:

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