

By Senator Posey

15-571-01

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A bill to be entitled
An act relating to the documents excise tax on
instruments relating to real property; amending
s. 201.02, F.S.; providing an exemption for
certain transfers to a limited liability
corporation if the owners of the transferee are
immediate family members of the transferor;
providing an effective date.

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

Section 1. Section 201.02, Florida Statutes, is
amended to read:

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

(1) On deeds, instruments, or writings whereby any
lands, tenements, or other real property, or any interest
therein, shall be granted, assigned, transferred, or otherwise
conveyed to, or vested in, the purchaser or any other person
by his or her direction, on each \$100 of the consideration
therefor the tax shall be 70 cents. When the full amount of
the consideration for the execution, assignment, transfer, or
conveyance is not shown in the face of such deed, instrument,
document, or writing, the tax shall be at the rate of 70 cents
for each \$100 or fractional part thereof of the consideration
therefor. For purposes of this section, consideration
includes, but is not limited to, the money paid or agreed to
be paid; the discharge of an obligation; and the amount of any
mortgage, purchase money mortgage lien, or other encumbrance,
whether or not the underlying indebtedness is assumed. If the
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 do 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. Taxes paid pursuant to this
27 section shall be refunded in those cases in which a deed,
28 transfer, or conveyance occurred 1 year before a dissolution
29 of marriage. This subsection applies in spite of any
30 consideration as defined in subsection (1). This subsection

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1 does not apply to a deed, transfer, or conveyance executed
2 before July 1, 1997.
3 (8) Taxes imposed by this section do not apply to any
4 document that arises out of the transfer of real property from
5 a proprietorship or partnership to a limited liability
6 corporation if the owners of the transferee limited liability
7 corporation are members of the transferor's immediate family.
8 As used in this subsection, the term "immediate family"
9 includes a transferor's spouse or the parent, child,
10 grandparent, or sibling of the transferor or of the
11 transferor's spouse.

12 Section 2. This act shall take effect July 1, 2001.

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SENATE SUMMARY

Exempts from the documents excise tax on instruments relating to real property those documents relating to a transfer of real property from a proprietorship or partnership to a limited liability corporation if the owners of the transferee are members of the transferor's immediate family.