

By the Committee on Finance and Taxation; and Senator Sebesta

314-1967-01

1 A bill to be entitled
2 An act relating to the excise tax on documents;
3 amending s. 201.02, F.S.; exempting certain
4 transfers of homestead real property that
5 involve spouses and that create a tenancy by
6 the entireties from the tax on deeds and other
7 instruments relating to real property or
8 interests therein; providing that a certificate
9 of title issued by a clerk of court in a
10 judicial sale of real property pursuant to
11 foreclosure proceedings shall be subject to
12 said tax; providing for the method of
13 computation of the tax when the certificate of
14 title is issued to the party in whose favor a
15 judgment of foreclosure is granted; providing
16 for retroactive application; clarifying that
17 said tax does not apply to contracts and
18 related documents for selling the residence of
19 an employee relocating at the employer's
20 direction; providing an effective date.

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22 Be It Enacted by the Legislature of the State of Florida:
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24 Section 1. Subsection (7) of section 201.02, Florida
25 Statutes, is amended, and subsections (8) and (9) are added to
26 that section, to read:

27 201.02 Tax on deeds and other instruments relating to
28 real property or interests in real property.--

29 (7)(a) Taxes imposed by this section do not apply to a
30 deed, transfer, or conveyance from an individual to that
31 individual and that individual's spouse that creates a tenancy

1 by the entireties in real property to which the homestead tax
2 exemption provided by s. 196.031 is applicable.

3 (b) Taxes imposed by this section do not apply to a
4 deed, transfer, or conveyance between spouses or former
5 spouses pursuant to an action for dissolution of their
6 marriage wherein the real property is or was their marital
7 home or an interest therein. Taxes paid pursuant to this
8 section shall be refunded in those cases in which a deed,
9 transfer, or conveyance occurred 1 year before a dissolution
10 of marriage. This ~~paragraph subsection~~ applies in spite of any
11 consideration as defined in subsection (1). This ~~paragraph~~
12 ~~subsection~~ does not apply to a deed, transfer, or conveyance
13 executed before July 1, 1997.

14 (8) A certificate of title issued by the clerk of
15 court in a judicial sale of real property under an order or
16 final judgment issued pursuant to a foreclosure proceeding
17 under chapter 702 shall be subject to the tax imposed by
18 subsection (1); however, if the certificate of title is issued
19 to the party in whose favor the judgment of foreclosure is
20 granted in the foreclosure proceeding, the amount of tax shall
21 be computed based solely on the amount of the highest and best
22 bid received for the property at the foreclosure sale.

23 (9) Taxes imposed by this section do not apply to a
24 contract to sell the residence of an employee relocating at
25 his or her employer's direction or documents related to the
26 contract, which contract is between the employee and the
27 employer or between the employee and a person in the business
28 of providing employee relocation services. Taxes on such
29 transactions apply only to the transfer of the real property
30 comprising the residence by deed that names the grantee.

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1 Section 2. The method of computation of tax provided
2 by section 201.02(8), Florida Statutes, as created by this
3 act, on a certificate of title which is issued to the party in
4 whose favor a judgment of foreclosure is granted in a
5 foreclosure proceeding shall apply retroactively, except that
6 all taxes that have been collected must be remitted, and taxes
7 that have been remitted before July 1, 2001, on transactions
8 that are subject to the method of computation provided by this
9 act are not subject to refund. It is further the intent of the
10 Legislature that section 201.02(9), Florida Statutes, as
11 created by this act, confirms and clarifies existing law.

12 Section 3. This act shall take effect July 1, 2001.

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14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
15 COMMITTEE SUBSTITUTE FOR
16 SB 1542

17 This committee substitute amends the documentary stamp tax
18 provisions regarding deeds to provide that:

19 The documentary stamp tax is not chargeable as to a
20 deed, transfer, or conveyance of homestead real property
21 between spouses for the purpose of creating a tenancy by
22 the entireties.

23 The documentary stamp tax does not apply to a contract
24 to sell the residence of an employee relocating at his
25 or her employer's direction or documents related to the
26 contract.

27 The documentary stamp tax on a certificate of title is
28 calculated solely on the final bid amount if the
29 certificate of title is issued to the party in whose
30 favor the judgment of foreclosure is granted in the
31 foreclosure proceeding, notwithstanding the amount of
any underlying indebtedness.

This committee substitute further provides that this provision
applies retroactively, except that all taxes that have been
collected must be remitted and taxes remitted before the
effective date are not subject to refund.