

1                                   A bill to be entitled  
2           An act relating to the excise tax on documents;  
3           amending s. 201.08, F.S.; providing a limit on  
4           the amount of the tax on promissory or  
5           nonnegotiable notes, written obligations to pay  
6           money, and assignments of wages or other  
7           compensation and on certain promissory or  
8           nonnegotiable notes, written obligations to pay  
9           money, or other compensation made in connection  
10          with sales made under retail charge account  
11          services; providing an effective date.

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

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15           Section 1. Subsection (1), paragraph (a) of subsection  
16          (2), and subsections (4) and (5) of section 201.08, Florida  
17          Statutes, are amended to read:

18           201.08 Tax on promissory or nonnegotiable notes,  
19          written obligations to pay money, or assignments of wages or  
20          other compensation; exception.--

21           (1)(a) On promissory notes, nonnegotiable notes,  
22          written obligations to pay money, or assignments of salaries,  
23          wages, or other compensation made, executed, delivered, sold,  
24          transferred, or assigned in the state, and for each renewal of  
25          the same, the tax shall be 35 cents on each \$100 or fraction  
26          thereof of the indebtedness or obligation evidenced thereby.  
27          The tax on any document described in this paragraph shall not  
28          exceed \$2,450.

29           (b) On mortgages, trust deeds, security agreements, or  
30          other evidences of indebtedness filed or recorded in this  
31          state, and for each renewal of the same, the tax shall be 35

1 cents on each \$100 or fraction thereof of the indebtedness or  
 2 obligation evidenced thereby. Mortgages, including, but not  
 3 limited to, mortgages executed without the state and recorded  
 4 in the state, which incorporate the certificate of  
 5 indebtedness, not otherwise shown in separate instruments, are  
 6 subject to the same tax at the same rate. When there is both  
 7 a mortgage, trust deed, or security agreement and a note,  
 8 certificate of indebtedness, or obligation, the tax shall be  
 9 paid on the mortgage, trust deed, or security agreement at the  
 10 time of recordation. Where a mortgage, trust deed, security  
 11 agreement, or other evidence of indebtedness is subsequently  
 12 filed or recorded in Florida to evidence an indebtedness or  
 13 obligation upon which tax was paid pursuant to paragraph  
 14 (1)(a) or (2)(a) of this section, tax shall be paid on the  
 15 mortgage, trust deed, security agreement, or other evidence of  
 16 indebtedness on the amount of the indebtedness or obligation  
 17 evidenced which exceeds the aggregate amount upon which tax  
 18 was previously paid pursuant to this paragraph and paragraph  
 19 (1)(a) or (2)(a) of this section. A notation shall be made on  
 20 the note, certificate of indebtedness, or obligation that the  
 21 tax has been paid on the mortgage, trust deed, or security  
 22 agreement. If the mortgage, trust deed, security agreement,  
 23 or other evidence of indebtedness subject to the tax levied by  
 24 this section secures future advances, as provided in s.  
 25 697.04, the tax shall be paid at the time of recordation on  
 26 the initial debt or obligation secured, excluding future  
 27 advances; at the time and so often as any future advance is  
 28 made, the tax shall be paid on all sums then advanced  
 29 regardless of where such advance is made. Notwithstanding the  
 30 aforesaid general rule, any increase in the amount of  
 31 original indebtedness caused by interest accruing under an

1 adjustable rate note or mortgage having an initial interest  
 2 rate adjustment interval of not less than 6 months shall be  
 3 taxable as a future advance only to the extent such increase  
 4 is a computable sum certain when the document is executed.  
 5 Failure to pay the tax shall not affect the lien for any such  
 6 future advance given by s. 697.04, but any person who fails or  
 7 refuses to pay such tax due by him or her is guilty of a  
 8 misdemeanor of the first degree. The mortgage, trust deed, or  
 9 other instrument shall not be enforceable in any court of this  
 10 state as to any such advance unless and until the tax due  
 11 thereon upon each advance that may have been made thereunder  
 12 has been paid.

13 (2)(a) On promissory notes, nonnegotiable notes,  
 14 written obligations to pay money, or other compensation, made,  
 15 executed, delivered, sold, transferred, or assigned in the  
 16 state, in connection with sales made under retail charge  
 17 account services, incident to sales which are not conditional  
 18 in character and which are not secured by mortgage or other  
 19 pledge of purchaser, the tax shall be 35 cents on each \$100 or  
 20 fraction thereof of the gross amount of the indebtedness  
 21 evidenced by such instruments, payable quarterly on such forms  
 22 and under such rules and regulations as may be promulgated by  
 23 the Department of Revenue. The tax on any document described  
 24 in this paragraph shall not exceed \$2,450.

25 (4) Notwithstanding ~~paragraph subsection~~ (1)(b), a  
 26 supplement or an amendment to a mortgage, deed of trust,  
 27 indenture, or security agreement, which supplement or  
 28 amendment is filed or recorded in this state in connection  
 29 with a new issue of bonds, shall be subject to the tax imposed  
 30 by ~~paragraph subsection~~ (1)(b) only to the extent of the  
 31 aggregate amount of the new issue of bonds or other evidence

1 of indebtedness and not to the extent of the aggregate amount  
2 of bonds or other evidence of indebtedness previously issued  
3 under the instrument being supplemented or amended. In order  
4 to qualify for the tax treatment provided for in this  
5 subsection, the document which evidences the increase in  
6 indebtedness must show the official records book and page  
7 number in which, and the county in which, the original  
8 obligation and any prior increase in that obligation were  
9 recorded.

10 (5) For purposes of this section, a renewal shall only  
11 include modifications of an original document which change the  
12 terms of the indebtedness evidenced by the original document  
13 by adding one or more obligors, increasing the principal  
14 balance, or changing the interest rate, maturity date, or  
15 payment terms. Modifications to documents which do not modify  
16 the terms of the indebtedness evidenced such as those given or  
17 recorded to correct error; modify covenants, conditions, or  
18 terms unrelated to the debt; sever a lien into separate liens;  
19 provide for additional, substitute, or further security for  
20 the indebtedness; consolidate indebtedness or collateral; add,  
21 change, or delete guarantors; or which substitute a new  
22 mortgagee or payee are not renewals and are not subject to tax  
23 pursuant to this section. If the taxable amount of a mortgage  
24 is limited by language contained in the mortgage or by the  
25 application of rules limiting the tax base when there is  
26 collateral in more than one state, then a modification which  
27 changes such limitation or tax base shall be taxable only to  
28 the extent of any increase in the limitation or tax base  
29 attributable to such modification. This subsection shall not  
30 be interpreted to exempt from taxation an original mortgage  
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1 which would otherwise be subject to tax pursuant to paragraph  
2 ~~subsection~~ (1)(b).

3           Section 2. This act shall take effect July 1, 2002.  
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