

By the Committee on Finance and Taxation; and Senator Pruitt

314-1880-02

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A bill to be entitled  
An act relating to the excise tax on documents;  
amending s. 201.08, F.S.; providing for the  
maximum tax that must be paid on unsecured  
obligations; conforming cross-references;  
providing an effective date.

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

Section 1. Subsections (1), (2), (4), and (5) of  
section 201.08, Florida Statutes, are amended to read:

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

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

(b) On mortgages, trust deeds, security agreements, or  
other evidences of indebtedness filed or recorded in this  
state, and for each renewal of the same, the tax shall be 35  
cents on each \$100 or fraction thereof of the indebtedness or  
obligation evidenced thereby. Mortgages, including, but not  
limited to, mortgages executed without the state and recorded  
in the state, which incorporate the certificate of  
indebtedness, not otherwise shown in separate instruments, are  
subject to the same tax at the same rate. When there is both

1 a mortgage, trust deed, or security agreement and a note,  
2 certificate of indebtedness, or obligation, the tax shall be  
3 paid on the mortgage, trust deed, or security agreement at the  
4 time of recordation. A notation shall be made on the note,  
5 certificate of indebtedness, or obligation that the tax has  
6 been paid on the mortgage, trust deed, or security agreement.  
7 If a mortgage, trust deed, security agreement, or other  
8 evidence of indebtedness is subsequently filed or recorded in  
9 this state to evidence an indebtedness or obligation upon  
10 which tax was paid under paragraph (a) or subsection (2), tax  
11 shall be paid on the mortgage, trust deed, security agreement,  
12 or other evidence of indebtedness on the amount of the  
13 indebtedness or obligation evidenced which exceeds the  
14 aggregate amount upon which tax was previously paid under this  
15 paragraph and under paragraph (a) or subsection (2). If the  
16 mortgage, trust deed, security agreement, or other evidence of  
17 indebtedness subject to the tax levied by this section secures  
18 future advances, as provided in s. 697.04, the tax shall be  
19 paid at the time of recordation on the initial debt or  
20 obligation secured, excluding future advances; at the time and  
21 so often as any future advance is made, the tax shall be paid  
22 on all sums then advanced regardless of where such advance is  
23 made. Notwithstanding the aforestated general rule, any  
24 increase in the amount of original indebtedness caused by  
25 interest accruing under an adjustable rate note or mortgage  
26 having an initial interest rate adjustment interval of not  
27 less than 6 months shall be taxable as a future advance only  
28 to the extent such increase is a computable sum certain when  
29 the document is executed. Failure to pay the tax shall not  
30 affect the lien for any such future advance given by s.  
31 697.04, but any person who fails or refuses to pay such tax

1 due by him or her is guilty of a misdemeanor of the first  
2 degree. The mortgage, trust deed, or other instrument shall  
3 not be enforceable in any court of this state as to any such  
4 advance unless and until the tax due thereon upon each advance  
5 that may have been made thereunder has been paid.

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

18 (b) Any receipt, charge slip, or other record of a  
19 transaction effected with the use of a credit card, charge  
20 card, or debit card shall be exempt from the tax imposed by  
21 this section.

22 (4) Notwithstanding paragraph (1)(b)~~subsection (1)~~, a  
23 supplement or an amendment to a mortgage, deed of trust,  
24 indenture, or security agreement, which supplement or  
25 amendment is filed or recorded in this state in connection  
26 with a new issue of bonds, shall be subject to the tax imposed  
27 by paragraph (1)(b)~~subsection (1)~~ only to the extent of the  
28 aggregate amount of the new issue of bonds or other evidence  
29 of indebtedness and not to the extent of the aggregate amount  
30 of bonds or other evidence of indebtedness previously issued  
31 under the instrument being supplemented or amended. In order

1 to qualify for the tax treatment provided for in this  
2 subsection, the document which evidences the increase in  
3 indebtedness must show the official records book and page  
4 number in which, and the county in which, the original  
5 obligation and any prior increase in that obligation were  
6 recorded.

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

30 Section 2. This act shall take effect July 1, 2002.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
SB 462

This committee substitute provides that if a mortgage, trust deed, security agreement, or other evidence of indebtedness is subsequently filed in Florida to secure a transaction upon which tax was capped, tax is due on the subsequent transaction on the amount of indebtedness shown on the document which exceeds the aggregate amount upon which tax was previously paid.