

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1221 CS Discretionary Surtax on Documents  
**SPONSOR(S):** Smith and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 2578

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee	5 Y, 0 N, w/CS	Monroe	Diez-Arguelles
2) Local Government Council	8 Y, 0 N	Nelson	Hamby
3) Fiscal Council			
4) _____	_____	_____	_____
5) _____	_____	_____	_____

### SUMMARY ANALYSIS

Currently, ss.125.0167 and 201.031, F.S., authorize counties as defined by s. 125.011(1), F.S, (specifically, Monroe, Miami-Dade and Hillsborough Counties) to levy a discretionary tax on documents conveying an interest in real property, other than documents conveying an interest in a single family residence. The tax rate is limited to 45 cents for each \$100 of consideration or fractional part thereof. The revenue generated by this tax must be used to establish and finance a Housing Assistance Loan Trust Fund, and at least 50 percent of the funds must be used to provide housing assistance for low income families. The authority for levying this discretionary documentary tax is set for repeal on October 1, 2011.

Under this bill, charter counties with populations over 1.2 million also would be allowed to levy this discretionary documentary tax for the same purposes, subject to approval by referendum. Currently, two counties, Broward and Palm Beach, meet these criteria. If both of these counties were to levy the discretionary documentary surtax at the full rate of 45 cents per \$100 dollars of consideration or fraction thereof, the Revenue Estimating Conference has projected the generation of \$62.5 million on an annualized basis.

In addition, this bill extends the repeal date of the discretionary documentary tax to October 1, 2016, and updates references in s. 201.0205, F.S.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Lower Taxes—This bill would allow the counties of Palm Beach and Broward, subject to referendum approval, to levy a discretionary documentary tax of up to 45 cents on each \$100 of consideration or fraction thereof.

#### B. EFFECT OF PROPOSED CHANGES:

Currently, ss. 25.0167 and 201.031, F.S., authorize counties as defined by s. 125.011(1), F.S.,<sup>1</sup> (specifically, Monroe, Miami-Dade and Hillsborough Counties) to levy a discretionary tax on documents,<sup>2</sup> other than documents conveying an interest in a single family residence. The tax rate is limited to 45 cents for each \$100 of consideration or fractional part thereof. The revenue generated by this tax must be used to establish and finance a Housing Assistance Loan Trust Fund to assist in the financing of construction, rehabilitation or purchase of housing<sup>3</sup> for low-income and moderate-income families. At least 50 percent of the funds must be used to provide housing assistance for low income families. The authority for levying this discretionary documentary tax is set for repeal on October 1, 2011, under s. 3 of ch. 83-220, L.O.F., as amended by s. 1 of ch. 84-270, L.O.F., and s. 1, of ch. 89-252, L.O.F.

Under this bill, charter counties with populations over 1.2 million would be allowed to levy this discretionary documentary tax by ordinance, subject to approval by referendum. Currently two counties, Broward and Palm Beach, meet these criteria. Based on current growth projections, Orange County also should be able to levy this tax beginning in 2011.

This bill also extends the repeal date of the discretionary documentary tax to October 1, 2016, and incorporates the repeal provision into the Florida Statutes. Accordingly, the bill also repeals the local laws which previously set the repeal date.

Finally, this bill amends s. 201.0205, F.S., to remove references to the chapter laws being repealed by this bill. In addition, the cross references in s. 201.0205, F.S., to s. 201.15, F.S., which have not been updated since 1992, are also updated.

This bill takes effect upon becoming law.

#### C. SECTION DIRECTORY:

Section 1: Amends s. 125.0167, F.S., to specify that certain charter counties may levy a discretionary documentary tax. Specifies that the section is repealed effective October 1, 2016.

Section 2: Amends s. 201.031, F.S., to conform with the changes made in s. 125.0167, F.S. Specifies that the section is repealed effective October 1, 2016.

Section 3: Amends s. 201.0205, F.S., to remove references to the chapter laws being repealed by the bill and to update statutory cross-references.

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<sup>1</sup> Section 125.011(1), F.S., provides that the term "county," as used in ss. 125.011-125.019, F.S., means "any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred."

<sup>2</sup> The tax only applies to documents which are taxable under s. 201.02, F.S. (i.e., deeds and other instruments relating to real property and interests in real property).

<sup>3</sup> For purposes of this tax, the term "housing" is not limited to single-family, detached dwellings.

Section 4: Repeals s. 3 of ch. 83-220, L.O.F., as amended by s. 1 of ch. 84-270, L.O.F., and s. 1, of ch. 89-252, L.O.F.

Section 5: Provides that the bill shall take effect upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

If both Broward and Palm Beach County were to levy this discretionary documentary tax at the maximum allowable rate, local governments would collect an additional \$62.5 million on an annualized basis.

2. Expenditures:

None

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If either Palm Beach or Broward receive referendum approval and levy this discretionary documentary tax, purchasers of property, other than single family residences, in that county will see an increase in their tax burden.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

On April 7, 2005, the Committee on Finance and Tax adopted one amendment to this bill. The amendment amends s. 201.0205, F.S., to remove references to the chapter laws being repealed by the bill, and to update statutory cross-references.