

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Community Affairs Committee

BILL: SB 2578

SPONSOR: Senator Atwater

SUBJECT: Discretionary Surtax on Documents

DATE: April 7, 2005

REVISED: 04/12/05

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vickers	Yeatman	CA	Favorable/1 amendment
2.			GE	
3.			TA	
4.				
5.				
6.				

## Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

### I. Summary:

This bill authorizes charter counties with populations over 1.2 million to levy a discretionary documentary tax for the purpose of providing housing assistance for low- and moderate-income families, 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 of consideration, the Revenue Estimating Conference has projected that this discretionary documentary tax could generate an additional \$62.5 million on an annualized basis. In addition, the bill extends the repeal date of the discretionary documentary tax to October 1, 2016.

This bill substantially amends sections 125.0167 and 201.031 of the Florida Statutes. This bill provides for the repeal of chapter 83-220, Laws of Florida.

### II. Present Situation:

Section 125.0167, F.S., authorizes certain counties as defined by s. 125.011(1), F.S. (specifically, Miami-Dade County) to levy a discretionary tax on documents, 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. For the purpose of this section, "low-income family" means a family whose income does not exceed 80 percent of the median income for the area, and "moderate-income family" means a family whose income is in excess of 80 percent but less than 140 percent of the median income for the area.

This section also provides that the levy of the discretionary surtax and the creation of a Housing Assistance Loan Trust Fund must be by an ordinance which sets forth the policies and procedures of the assistance program.

Section 201.031, F.S., provides that the county specified in s. 125.011(1), F.S., may levy the discretionary surtax on documents taxable under the provisions of s. 201.02, F.S., except that there shall be no surtax on any document pursuant to which the interest granted, assigned, transferred, or conveyed involves only a single-family residence. Such single-family residence may be a condominium unit, a unit held through stock ownership or membership representing a proprietary interest in a corporation owning a fee or a leasehold initially in excess of 98 years, or a detached dwelling. The Department of Revenue is directed to pay to the governing authority of the county which levies the surtax all taxes, penalties, and interest collected under this section less any costs of administration.

The authority for levying this discretionary documentary tax is set for repeal on October 1, 2011, under section 3 of chapter 83-220, L.O.F., as amended by section 1 of chapter 84-270, L.O.F., and section 1, of chapter 89-252, L.O.F.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 125.0167, F.S., to specify that charter counties with populations of 1.2 million or more may levy the discretionary documentary tax by ordinance with referendum approval. Applicable counties would be authorized to levy the discretionary documentary surtax at the full rate of 45 cents per \$100 of consideration. In addition, the bill specifies that this 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., and to specify that this section shall be repealed effective October 1, 2016.

**Section 3** repeals section 3 of chapter 83-220, L.O.F., as amended by section 1 of chapter 84-270, L.O.F., and section 1, of chapter 89-252, L.O.F. This provision repeals the local laws which set the previous repeal date (October 1, 2011).

**Section 4** provides that this bill shall take effect upon becoming law.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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

C. Government Sector Impact:

The Revenue Estimating Conference has projected that if both Broward and Palm Beach counties were to levy this discretionary documentary tax at the maximum allowable rate, these local governments would collect an additional \$62.5 million on an annualized basis.

Currently, Miami-Dade County, by virtue of its levy of a discretionary tax on documents, receives a reduced share of revenue generated through the State Housing Initiatives Program (SHIP). To the extent that other eligible counties elect to implement a similar discretionary documentary tax, those counties would receive less SHIP funding. These funds would be reallocated to the remaining counties pursuant to the funding formula established in s. 420.972, F.S.

**VI. Technical Deficiencies:**

Section 201.0205, F.S., includes references to “the provisions of chapter 83-220, Laws of Florida, as amended.” Since the provisions of chapter 83-220, Laws of Florida, are being repealed in this bill, those references should be updated. In addition, the cross references in s. 201.0205, F.S., have not been updated since 1992 and are now erroneous.

**VII. Related Issues:**

None.



## **VIII. Summary of Amendments:**

### **Barcode 944094 by Community Affairs:**

This amendment corrects cross-references in s. 201.0205, F.S., which are rendered obsolete by this bill.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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