

# 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.)

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Prepared By: Government Efficiency Appropriations Committee

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BILL: CS/SB 2578

SPONSOR: Government Efficiency Appropriations Committee and Senator Atwater

SUBJECT: Discretionary Surtax on Documents

DATE: April 21, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vickers</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable/1 amendment</b>
2.	<u>Fournier</u>	<u>Johansen</u>	<u>GE</u>	<b>Fav/CS</b>
3.	_____	_____	<u>TA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## 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 \$79.5 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, 201.0205, 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 201.0205, F.S., provides that any county that has implemented the provisions of ch. 83-220, Laws of Florida, is not subject to the 10-cent increase in the documentary stamp tax levied by s. 2, chapter 92-317, Laws of Florida. Such county and jurisdictions within such county are not eligible for funding under s. 210.15(9), F.S., which distributes tax revenue to the State Housing Trust Fund. Miami-Dade County is the only county to which this provision applies.

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 the surtax is not imposed on any document which grants, assigns, transfers, or conveys the interest in only a single-family residence. A 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 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. Broward and Palm Beach Counties currently satisfy the charter and population requirements, and Hillsborough County is expected to attain the needed population by 2008. Qualified 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** amends s. 201.02.5, F.S, to delete cross-references to repealed Laws of Florida.

**Section 4** 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 5** 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:

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 \$79.5 million on an annualized basis. Hillsborough and Orange Counties are expected to grow to the population threshold for the tax in the next 10 years, and Miami-Dade County will be able to extend its levy of the tax until 2016. The table, below, shows the maximum additional revenue authorized by this bill.

**Potential Additional Revenue from Discretionary Documentary Stamp Tax**

	Broward	Hillsborough	Miami-Dade	Orange	Palm Beach	Total
FY 04-05	\$39,484,188				\$40,054,701	\$79,538,889
FY 05-06	\$36,996,684				\$37,531,255	\$74,527,939
FY 06-07	\$34,073,946				\$34,566,286	\$68,640,232
FY 07-08	\$35,334,682				\$35,845,239	\$71,179,921
FY 08-09	\$37,631,436	\$16,914,481			\$38,175,179	\$92,721,096
FY 09-10	\$40,077,480	\$18,013,922			\$40,656,566	\$98,747,967
FY 10-11	\$41,921,044	\$18,842,562			\$42,526,768	\$103,290,374
FY 11-12	\$43,430,201	\$19,520,894	\$35,742,031		\$44,057,731	\$142,750,858
FY 12-13	\$45,645,142	\$20,516,460	\$50,086,500		\$46,304,676	\$162,552,777
FY 13-14	\$48,155,625	\$21,644,865	\$52,841,257	\$25,374,550	\$48,851,433	\$196,867,730

If Miami-Dade County extends its discretionary tax past 2011, it will continue to be subject to a lower general documentary stamp tax rate (60 cents) than the rest of the state, and will not be eligible for funding under s. 210.15(9), F.S., which distributes tax revenue to the State Housing Trust Fund.

B. Private Sector Impact:

In those counties that receive referendum approval and levy this discretionary documentary tax, purchases of property, other than single family residences, will be subject to a higher documentary stamp tax.

**C. Government Sector Impact:**

Any county that levies the discretionary surtax will be required to establish a Housing Assistance Loan Trust Fund to assist in the financing of construction, rehabilitation, or purchase of housing for low-income and moderate-income families.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

None.

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