

By Senator Bennett

21-308D-07

1 A bill to be entitled
2 An act relating to a surtax on the transfer of
3 real property; creating s. 201.032, F.S.;
4 providing legislative intent; authorizing the
5 governing body of certain counties and
6 municipalities to levy, pursuant to an
7 ordinance or referendum, a surtax on documents
8 that are subject to the excise tax levied under
9 s. 201.02, F.S.; establishing the maximum rate
10 of the surtax; requiring that the grantor pay
11 the surtax; requiring the governing body to
12 notify the Department of Revenue of an
13 imposition, termination, or rate change of the
14 surtax; restricting the effective date for
15 imposing the surtax or changing the rate of the
16 surtax; providing for the use of surtax
17 proceeds; requiring the Department of Revenue
18 to administer the surtax and providing for the
19 administrative costs of the department;
20 exempting the surtax from s. 201.15, F.S.,
21 relating to distribution of tax proceeds;
22 providing certain restrictions on the
23 imposition and increase of impact fees if the
24 governing body of a county or municipality also
25 levies the surtax; requiring the Department of
26 Revenue to adopt rules and forms; requiring the
27 use of such forms when the surtax is paid;
28 authorizing the clerk of the court to retain a
29 portion of the surtax as a service charge;
30 providing that the surtax does not apply when
31 there is a dissolution of marriage; authorizing

1 the Department of Revenue to adopt emergency
2 rules; providing a contingent effective date.

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

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6 Section 1. Section 201.032, Florida Statutes, is
7 created to read:

8 201.032 Local option surtax on the transfer of real
9 property; conditions of levy; use of proceeds.--

10 (1) The Legislature intends to encourage the governing
11 body of a county to limit the annual increases in the property
12 tax for nonhomestead real property and to provide for the
13 portability of the limitation on increases in the property tax
14 for homestead property by authorizing a county or municipality
15 to levy, by a majority vote of the governing body or by
16 referendum, a surtax on the transfer of real property.
17 Therefore, this section applies only if a county has enacted
18 the provisions of s. 4(c)(8) and (f), Art. VII of the State
19 Constitution.

20 (2) Subject to subsections (7) and (8), the governing
21 body of a county or municipality may levy, by a majority vote
22 of the governing body or by referendum, a surtax on documents
23 that are taxed under s. 201.02 at a rate not exceeding 25
24 cents on each \$100, or fractional part thereof, of the
25 consideration for the execution, assignment, transfer, or
26 conveyance of real property or interest therein. The grantor
27 of the real property or interest therein shall pay the surtax.

28 (3) The governing body of the county or municipality
29 shall notify the Department of Revenue within 10 days after
30 final adoption by ordinance or referendum of an imposition,
31 termination, or rate change of the surtax. The notice must

1 specify the period during which the surtax will be in effect
2 and the rate of the surtax and must include a copy of the
3 ordinance and any other information that the department
4 requires by rule. Failure to timely provide the notification
5 to the department shall result in a 1-year delay in the
6 effective date of the surtax. A surtax or an increase or
7 decrease in the rate of the surtax must take effect on January
8 1 and must terminate on December 31.

9 (4) The governing body of the county or municipality
10 where the transfer of real property occurs shall receive the
11 proceeds of a surtax levied under this section and those
12 proceeds may be used for any public purpose within the county
13 or municipality.

14 (5) The proceeds of a surtax may be pledged by the
15 governing body of the county or municipality to pay the
16 principal and interest on bonds that are issued for the
17 provision of infrastructure, and the pledge constitutes a
18 valid and legally binding contract between the governing body
19 of the county or municipality and the bondholders. The
20 governing body of the county or municipality must continue to
21 levy the surtax as long as any bonds are outstanding.

22 (6) The Department of Revenue shall administer the
23 surtax pursuant to s. 201.11. Section 201.15 does not apply to
24 this surtax. A portion of the tax proceeds, not to exceed 1
25 percent, may be used to pay the department's cost of
26 collecting and enforcing the surtax.

27 (7) If the governing body of a county or municipality
28 imposes an impact fee and levies a surtax pursuant to this
29 section, the impact fee may not exceed \$3 per square foot for
30 residential property or \$5 per square foot for commercial
31 property except as provided in subsection (8).

1 (8) An impact fee imposed by the governing body of a
2 county or municipality that levies a surtax under this section
3 may be increased annually by an amount that does not exceed
4 the percentage change in the Consumer Price Index for All
5 Urban Consumers, U.S. City Average, all items 1967=100, or
6 successor reports for the preceding calendar year as initially
7 reported by the Bureau of Labor Statistics of the United
8 States Department of Labor.

9 (9) The Department of Revenue shall adopt rules under
10 ss. 120.536(1) and 120.54 to design, prepare, print, and adopt
11 forms to administer and enforce this section. The forms must
12 be used and recorded on any document that conveys a specific
13 interest in real property, pursuant to the requirements of
14 this section, in the county or municipality imposing the
15 surtax. At the time of recording, the surtax must be paid to
16 the clerk of the court. The clerk shall collect and remit the
17 surtax to the Department of Revenue for distribution to the
18 county or municipality levying the surtax. The clerk may
19 retain 1 percent of the surtax paid as a service charge of the
20 clerk's office.

21 (10) The surtax imposed by this section does not apply
22 to a deed, transfer, or conveyance between spouses or former
23 spouses pursuant to an action for dissolution of marriage
24 wherein the real property is or was their marital home or an
25 interest therein. The surtax paid under this section shall be
26 refunded in each case in which a deed, transfer, or conveyance
27 occurred 1 year before a dissolution of marriage. This
28 subsection applies notwithstanding any payment of
29 consideration.

30 Section 2. The Department of Revenue may adopt
31 emergency rules under ss. 120.536(1) and 120.54(4), Florida

1 Statutes, to implement and enforce the provisions of s.
2 201.032, Florida Statutes. The emergency rules shall remain in
3 effect until the adoption of permanent rules as provided in s.
4 201.032, Florida Statutes.

5 Section 3. This act shall take effect on the effective
6 date of the amendment to the State Constitution contained in
7 Senate Joint Resolution ____, or a similar constitutional
8 amendment, relating to limitations on ad valorem tax
9 assessments, but this act shall not take effect unless Senate
10 Joint Resolution ____, or a similar constitutional amendment,
11 is approved by a majority of the electors of this state.

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14 SENATE SUMMARY

15 Authorizes the governing body of a county or municipality
16 to levy by ordinance or referendum a surtax on documents
17 subject to the excise tax if the county has enacted
18 certain limitations on ad valorem tax assessments. Limits
19 the rate of the surtax. Provides for levying and
20 administering the surtax. Provides for the use of surtax
21 revenues. Limits the imposition and increase of impact
22 fees that may be imposed by a county or municipality that
23 imposes the surtax. Requires the Department of Revenue to
24 adopt rules. Authorizes the clerk of the court to retain
25 a portion of the surtax as a service charge. Exempts from
26 the surtax transfers involving a dissolution of marriage.
27 (See bill for details.)
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