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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
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Floor: 1/AD/3R 4/29/2008 10:16 AM	.	Floor: RC 5/1/2008 3:44 PM

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1 Senator Margolis moved the following **amendment**:

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3 **Senate Amendment (with title amendment)**

4 Delete everything after the enacting clause  
5 and insert:

6 Section 1. Section 3 of chapter 83-220, Laws of Florida, as  
7 amended by section 1 of chapter 84-270, Laws of Florida, and  
8 section 1 of chapter 89-252, Laws of Florida, is amended to read:

9 Section 3. Sections 1 and 2 of chapter 83-220, Laws of  
10 Florida, as amended by this act, are repealed effective October  
11 1, 2031 ~~2011~~.

12 Section 2. Subsections (4), (5), (6), (7), and (8) are  
13 added to section 125.0167, Florida Statutes, to read:

14 125.0167 Discretionary surtax on documents; adoption;  
15 application of revenue.--



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16       (4) No more than 10 percent of surtax revenues collected by  
17 the Department of Revenue and remitted to the county in any  
18 fiscal year may be used for administrative costs.

19       (5) (a) Notwithstanding the provisions of subsection (3), no  
20 less than 50 percent of the revenues collected in the Housing  
21 Assistance Loan Trust Fund shall be used to provide homeownership  
22 assistance for low-income and moderate-income families. At least  
23 10 percent of the funds specified in this paragraph shall be used  
24 for down payment assistance.

25       (b) For purposes of this subsection, the term  
26 "homeownership assistance" means assisting low-income and  
27 moderate-income families in purchasing a home as their primary  
28 residence, including, but not limited to, reducing the cost of  
29 the home with below-market construction financing, the amount of  
30 down payment and closing costs paid by the borrower, or the  
31 mortgage payment to an affordable amount for the purchaser or  
32 using any other financial assistance measure set forth in s.  
33 420.5088.

34       (6) Rehabilitation of housing owned by a recipient  
35 government shall only be authorized after an affirmative vote of  
36 the governing body that no other sources of funds are available.

37       (7) (a) The governing body of each county as defined in s.  
38 125.011(1) may by county ordinance and pursuant to procedures and  
39 requirements provided by such ordinance create a housing choice  
40 assistance voucher program.

41       (b) For purposes of this subsection, the term:

42       1. "Housing choice assistance voucher" means the document  
43 used to access assistance paid by the county from the  
44 discretionary surtax balance in the Housing Assistance Trust Fund



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45 to a prospective purchaser of a single-family residence which  
46 must be the purchaser's homestead.

47 2. "Purchasing employer" means a business or business  
48 entity that has acquired real property within the county and paid  
49 the surtax due as a result of the acquisition of that property  
50 pursuant to this section.

51 (c) Housing choice assistance vouchers shall be used for  
52 down payment assistance for the purchase of a single-family  
53 residence within the county by low-income or moderate-income  
54 persons who are:

55 1. Actively employed by the purchasing employer or by a  
56 business entity directly affiliated with the purchasing employer;  
57 and

58 2. Prequalified for a mortgage loan by a certified lending  
59 institution.

60 (d) Upon payment of the discretionary surtax pursuant to  
61 this section, the purchasing employer may file for an allocation  
62 for housing choice assistance vouchers from the county in an  
63 amount not to exceed 50 percent of the amount of the  
64 discretionary surtax paid. The purchasing employer shall  
65 distribute the allocation to employees in the form of housing  
66 choice assistance vouchers pursuant to rules and procedures  
67 established for the program.

68 (e) Any housing choice assistance voucher allocation not  
69 distributed to employees and redeemed by an employee within 1  
70 year after the date the discretionary surtax is paid may not be  
71 used for housing choice assistance vouchers under this  
72 subsection.

73 (f) Any housing assistance paid pursuant to the housing  
74 choice assistance voucher program shall be included in the



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75 calculation determining the percentage of discretionary surtax  
76 funds used for homeownership purposes during the year in which  
77 the surtax funds for such purposes are expended.

78 Section 3. Section 201.031, Florida Statutes, is amended to  
79 read:

80 201.031 Discretionary surtax; administration and  
81 collection; Housing Assistance Loan Trust Fund; reporting  
82 requirements.--

83 (1) Each county, as defined by s. 125.011(1), may levy,  
84 subject to the provisions of s. 125.0167, a discretionary surtax  
85 on documents taxable under the provisions of s. 201.02, except  
86 that there shall be no surtax on any document pursuant to which  
87 the interest granted, assigned, transferred, or conveyed involves  
88 only a single-family residence. The ~~Such~~ single-family residence  
89 may be a condominium unit, a unit held through stock ownership or  
90 membership representing a proprietary interest in a corporation  
91 owning a fee or a leasehold initially in excess of 98 years, or a  
92 detached dwelling.

93 (2) All provisions of chapter 201, except s. 201.15, ~~shall~~  
94 apply to the surtax. The Department of Revenue shall pay to the  
95 governing authority of the county which levies the surtax all  
96 taxes, penalties, and interest collected under this section less  
97 any costs of administration.

98 (3) Each county that ~~which~~ levies the surtax shall:

99 (a) Include in the financial report required under s.  
100 218.32 information showing the revenues and the expenses of the  
101 trust fund for the fiscal year.

102 (b) Adopt a housing plan every 3 years that includes  
103 provisions substantially similar to the plans required in s.  
104 420.9075(1).



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105        (c) Have adopted an affordable housing element of its  
106 comprehensive land use plan that complies with s. 163.3177(6)(f).

107        (d) Require by resolution that the staff or entity that has  
108 administrative authority for implementing the housing plan  
109 prepare and submit to the county's governing body an annual  
110 report substantially similar to the annual report required in s.  
111 420.9075(10).

112        (4) Every 2 years after the effective date of this act, the  
113 Auditor General shall conduct an operational audit as defined in  
114 s. 11.45 of the discretionary surtax program operated by counties  
115 under s. 125.0167. The Auditor General shall provide a report of  
116 such audit to the President of the Senate and the Speaker of the  
117 House of Representatives.

118        Section 4. Subsection (1) of section 201.02, Florida  
119 Statutes, is amended to read:

120        201.02 Tax on deeds and other instruments relating to real  
121 property or interests in real property.--

122        (1)(a) On deeds, instruments, documents, or writings  
123 whereby any lands, tenements, or other real property, or any  
124 interest therein, shall be granted, assigned, transferred, or  
125 otherwise conveyed to, or vested in, the purchaser or any other  
126 person by his or her direction, on each \$100 of the consideration  
127 therefor the tax shall be 70 cents except as otherwise provided  
128 in this subsection. When the full amount of the consideration for  
129 the execution, assignment, transfer, or conveyance is not shown  
130 in the face of such deed, instrument, document, or writing, the  
131 tax shall be at the rate of 70 cents for each \$100 or fractional  
132 part thereof of the consideration therefor except as otherwise  
133 provided in this subsection. For purposes of this section,  
134 consideration includes, but is not limited to, the money paid or



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135 | agreed to be paid; the discharge of an obligation; ~~and~~ the amount  
136 | of any mortgage, purchase money mortgage lien, or other  
137 | encumbrance, whether or not the underlying indebtedness is  
138 | assumed; and any increase in the value of any ownership interest  
139 | in a grantee entity or any other entity. If the consideration  
140 | paid or given in exchange for real property or any interest  
141 | therein includes property other than money, it is presumed that  
142 | there is a purchaser and that the consideration is equal to the  
143 | fair market value of the real property or interest therein.

144 | (b) If:

145 | 1. A deed, instrument, document, or writing grants,  
146 | assigns, transfers, or conveys any interest in real property;

147 | 2. There is a mere change in form of ownership without  
148 | effecting any change in any beneficial ownership interests; and

149 | 3. The only consideration given is an increase in the value  
150 | of any ownership interests in the grantee entity or any other  
151 | entity,

152 |  
153 | in lieu of paying the tax due on such deed, instrument, document,  
154 | or writing, the parties to the grant, assignment, transfer, or  
155 | conveyance may make an election, on or before the date of the  
156 | grant, assignment, transfer, or conveyance, on a form issued by  
157 | the department, to not make payment of the tax due on such deed,  
158 | instrument, document, or writing but instead to pay tax on the  
159 | fair market value of the real property upon the subsequent change  
160 | in any ownership interest in the real property or the subsequent  
161 | transfer of any interest in the real property. The form on which  
162 | such election is made shall be attached to and recorded with the  
163 | deed, instrument, document, or writing that grants, assigns,  
164 | conveys, or otherwise transfers any interest in the real



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165 property. However, when an election has been made, no tax shall  
166 apply to the subsequent transfer of the ownership interest in the  
167 legal entity, or the subsequent transfer of an interest in the  
168 real property, when the subsequent transfer is limited to a  
169 return of the identical interest in the real property by the  
170 grantee legal entity to the identical grantor or grantors  
171 resulting in no change in the beneficial ownership interests  
172 originally held in the real property.

173 Section 5. This act shall take effect upon becoming a law  
174 and section 4 of this act applies to transfers of property for  
175 which the first transfer to an artificial entity occurs after  
176 that date.

177  
178 ===== T I T L E A M E N D M E N T =====

179 And the title is amended as follows:

180 Delete everything before the enacting clause  
181 and insert:

182 A bill to be entitled  
183 An act relating to the excise tax on documents; amending  
184 s. 3, ch. 83-220, Laws of Florida, as amended; extending a  
185 future repeal date of provisions authorizing counties to  
186 levy a discretionary surtax on documents; amending s.  
187 125.0167, F.S.; limiting the percentage of surtax revenues  
188 that may be used for administrative costs; specifying a  
189 minimum amount of surtax revenues to be used for housing  
190 for certain low-income and moderate-income families;  
191 requiring an affirmative vote of a local government  
192 governing body to rehabilitate certain governmentally  
193 owned housing; requiring certain remaining revenues to be  
194 used for down payment assistance; authorizing certain



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195 | counties to create by ordinance a housing choice  
196 | assistance voucher program; providing definitions;  
197 | providing eligibility requirements for such vouchers;  
198 | authorizing purchasing employers to file for allocations  
199 | for such vouchers; limiting allocations; requiring  
200 | distribution of allocations to employees in the form of  
201 | such vouchers; prohibiting use of allocations for such  
202 | vouchers if not awarded within a certain period after  
203 | certain documentary stamps taxes are collected; amending  
204 | s. 201.031, F.S.; expanding requirements for counties  
205 | levying the discretionary surtax to include housing plan,  
206 | affordable housing element, and annual reporting  
207 | requirements; requiring the Auditor General to conduct a  
208 | biennial operational audit of the discretionary surtax  
209 | program operated by counties; requiring a report; amending  
210 | s. 201.02, F.S.; revising criteria determining liability  
211 | for payment of the tax; providing requirements and methods  
212 | for making an election regarding payment of tax under  
213 | specified circumstances; providing requirements; providing  
214 | for application of the act; providing an effective date.