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1 A bill to be entitled
2 An act relating to the excise tax on documents; amending
3 s. 3, ch. 83-220, Laws of Florida, as amended; extending a
4 future repeal date of provisions authorizing counties to
5 levy a discretionary surtax on documents; amending s.
6 125.0167, F.S.; limiting the percentage of surtax revenues
7 that may be used for administrative costs; specifying a
8 minimum amount of surtax revenues to be used for housing
9 for certain low-income and moderate-income families;
10 requiring an affirmative vote of a local government
11 governing body to rehabilitate certain governmentally
12 owned housing; requiring certain remaining revenues to be
13 used for down payment assistance; authorizing certain
14 counties to create by ordinance a housing choice
15 assistance voucher program; providing definitions;
16 providing eligibility requirements for such vouchers;
17 authorizing purchasing employers to file for allocations
18 for such vouchers; limiting allocations; requiring
19 distribution of allocations to employees in the form of
20 such vouchers; prohibiting use of allocations for such
21 vouchers if not awarded within a certain period after
22 certain documentary stamps taxes are collected; amending
23 s. 201.031, F.S.; expanding requirements for counties
24 levying the discretionary surtax to include housing plan,
25 affordable housing element, and annual reporting
26 requirements; requiring the Auditor General to conduct a
27 biennial operational audit of the discretionary surtax
28 program operated by counties; requiring a report; amending
29 s. 201.02, F.S.; revising criteria determining liability

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30 for payment of the tax; providing requirements and methods
31 for making an election regarding payment of tax under
32 specified circumstances; providing requirements; providing
33 for application of the act; providing an effective date.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

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

40 Section 3. Sections 1 and 2 of chapter 83-220, Laws of
41 Florida, as amended by this act, are repealed effective October
42 1, 2031 ~~2011~~.

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

45 125.0167 Discretionary surtax on documents; adoption;
46 application of revenue.--

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

50 (5) (a) Notwithstanding the provisions of subsection (3), no
51 less than 50 percent of the revenues collected in the Housing
52 Assistance Loan Trust Fund shall be used to provide homeownership
53 assistance for low-income and moderate-income families. At least
54 10 percent of the funds specified in this paragraph shall be used
55 for down payment assistance.

56 (b) For purposes of this subsection, the term
57 "homeownership assistance" means assisting low-income and
58 moderate-income families in purchasing a home as their primary

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59 residence, including, but not limited to, reducing the cost of
60 the home with below-market construction financing, the amount of
61 down payment and closing costs paid by the borrower, or the
62 mortgage payment to an affordable amount for the purchaser or
63 using any other financial assistance measure set forth in s.
64 420.5088.

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

68 (7) (a) The governing body of each county as defined in s.
69 125.011(1) may by county ordinance and pursuant to procedures and
70 requirements provided by such ordinance create a housing choice
71 assistance voucher program.

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

73 1. "Housing choice assistance voucher" means the document
74 used to access assistance paid by the county from the
75 discretionary surtax balance in the Housing Assistance Trust Fund
76 to a prospective purchaser of a single-family residence which
77 must be the purchaser's homestead.

78 2. "Purchasing employer" means a business or business
79 entity that has acquired real property within the county and paid
80 the surtax due as a result of the acquisition of that property
81 pursuant to this section.

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

86 1. Actively employed by the purchasing employer or by a
87 business entity directly affiliated with the purchasing employer;

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88 and

89 2. Prequalified for a mortgage loan by a certified lending
90 institution.

91 (d) Upon payment of the discretionary surtax pursuant to
92 this section, the purchasing employer may file for an allocation
93 for housing choice assistance vouchers from the county in an
94 amount not to exceed 50 percent of the amount of the
95 discretionary surtax paid. The purchasing employer shall
96 distribute the allocation to employees in the form of housing
97 choice assistance vouchers pursuant to rules and procedures
98 established for the program.

99 (e) Any housing choice assistance voucher allocation not
100 distributed to employees and redeemed by an employee within 1
101 year after the date the discretionary surtax is paid may not be
102 used for housing choice assistance vouchers under this
103 subsection.

104 (f) Any housing assistance paid pursuant to the housing
105 choice assistance voucher program shall be included in the
106 calculation determining the percentage of discretionary surtax
107 funds used for homeownership purposes during the year in which
108 the surtax funds for such purposes are expended.

109 Section 3. Section 201.031, Florida Statutes, is amended to
110 read:

111 201.031 Discretionary surtax; administration and
112 collection; Housing Assistance Loan Trust Fund; reporting
113 requirements.--

114 (1) Each county, as defined by s. 125.011(1), may levy,
115 subject to the provisions of s. 125.0167, a discretionary surtax
116 on documents taxable under the provisions of s. 201.02, except

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117 that there shall be no surtax on any document pursuant to which
118 the interest granted, assigned, transferred, or conveyed involves
119 only a single-family residence. The ~~Such~~ single-family residence
120 may be a condominium unit, a unit held through stock ownership or
121 membership representing a proprietary interest in a corporation
122 owning a fee or a leasehold initially in excess of 98 years, or a
123 detached dwelling.

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

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

130 (a) Include in the financial report required under s.
131 218.32 information showing the revenues and the expenses of the
132 trust fund for the fiscal year.

133 (b) Adopt a housing plan every 3 years that includes
134 provisions substantially similar to the plans required in s.
135 420.9075(1).

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

138 (d) Require by resolution that the staff or entity that has
139 administrative authority for implementing the housing plan
140 prepare and submit to the county's governing body an annual
141 report substantially similar to the annual report required in s.
142 420.9075(10).

143 (4) Every 2 years after the effective date of this act, the
144 Auditor General shall conduct an operational audit as defined in
145 s. 11.45 of the discretionary surtax program operated by counties

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146 under s. 125.0167. The Auditor General shall provide a report of
147 such audit to the President of the Senate and the Speaker of the
148 House of Representatives.

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

151 201.02 Tax on deeds and other instruments relating to real
152 property or interests in real property.--

153 (1) (a) On deeds, instruments, documents, or writings
154 whereby any lands, tenements, or other real property, or any
155 interest therein, shall be granted, assigned, transferred, or
156 otherwise conveyed to, or vested in, the purchaser or any other
157 person by his or her direction, on each \$100 of the consideration
158 therefor the tax shall be 70 cents except as otherwise provided
159 in this subsection. When the full amount of the consideration for
160 the execution, assignment, transfer, or conveyance is not shown
161 in the face of such deed, instrument, document, or writing, the
162 tax shall be at the rate of 70 cents for each \$100 or fractional
163 part thereof of the consideration therefor except as otherwise
164 provided in this subsection. For purposes of this section,
165 consideration includes, but is not limited to, the money paid or
166 agreed to be paid; the discharge of an obligation; ~~and~~ the amount
167 of any mortgage, purchase money mortgage lien, or other
168 encumbrance, whether or not the underlying indebtedness is
169 assumed; and any increase in the value of any ownership interest
170 in a grantee entity or any other entity. If the consideration
171 paid or given in exchange for real property or any interest
172 therein includes property other than money, it is presumed that
173 there is a purchaser and that the consideration is equal to the
174 fair market value of the real property or interest therein.

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175 (b) If:

176 1. A deed, instrument, document, or writing grants,
177 assigns, transfers, or conveys any interest in real property;

178 2. There is a mere change in form of ownership without
179 effecting any change in any beneficial ownership interests; and

180 3. The only consideration given is an increase in the value
181 of any ownership interests in the grantee entity or any other
182 entity,

183
184 in lieu of paying the tax due on such deed, instrument, document,
185 or writing, the parties to the grant, assignment, transfer, or
186 conveyance may make an election, on or before the date of the
187 grant, assignment, transfer, or conveyance, on a form issued by
188 the department, to not make payment of the tax due on such deed,
189 instrument, document, or writing but instead to pay tax on the
190 fair market value of the real property upon the subsequent change
191 in any ownership interest in the real property or the subsequent
192 transfer of any interest in the real property. The form on which
193 such election is made shall be attached to and recorded with the
194 deed, instrument, document, or writing that grants, assigns,
195 conveys, or otherwise transfers any interest in the real
196 property. However, when an election has been made, no tax shall
197 apply to the subsequent transfer of the ownership interest in the
198 legal entity, or the subsequent transfer of an interest in the
199 real property, when the subsequent transfer is limited to a
200 return of the identical interest in the real property by the
201 grantee legal entity to the identical grantor or grantors
202 resulting in no change in the beneficial ownership interests
203 originally held in the real property.

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