

The Florida Senate
PROFESSIONAL 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: General Government Appropriations Committee

BILL: CS/SB 1814

INTRODUCER: General Government Appropriations Committee and Senator Alexander

SUBJECT: Transfer of Interest Return/Clerk of the Court

DATE: April 2, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Blizzard/Matthews	DeLoach	GA	Fav/CS
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:	
A. COMMITTEE SUBSTITUTE.....	<input checked="" type="checkbox"/> Statement of Substantial Changes
B. AMENDMENTS.....	<input type="checkbox"/> Technical amendments were recommended
	<input type="checkbox"/> Amendments were recommended
	<input type="checkbox"/> Significant amendments were recommended

I. Summary:

This bill eliminates the information form DR-219 relating to the transfer of an interest in real property within the Department of Revenue (department). Chapter 201, F.S., requires sellers, buyers, or agents to file a return containing certain information when submitting a deed to the county clerks of court to transfer interest in real property. The form includes information related to these transactions, including sales price of the property, the date of sale, the type of property and whether the sale included any tangible personal property.

The bill eliminates the one percent commission retained by the county clerks from the deeds portion of the documentary stamp tax collections.

In March 2008, the revenue estimating conference determined that eliminating the DR-219, effective July 1, 2008, would increase state revenues during Fiscal Year 2008-2009 by approximately \$8.8 million. In addition, the change will result in a \$35,000 cost savings based on reductions in printing, postage, and storage of the form.

This bill repeals section 201.022, Florida Statutes.

II. Present Situation:

In 1986, the Legislature created s. 201.022, F.S., to require sellers, buyers, or agents to file a return containing certain information when submitting a deed to county clerks to transfer interest in real property. The department developed the Return for Transfers of Interest in Real Property Form (DR-219) to include information relating to transactions that may not have been readily available from public sources. The form includes sale price of the property, date of sale, type of property, and whether any tangible personal property is involved. In 1992, the Legislature amended s. 202.022, F.S., to allow county clerks to retain one percent of the documentary stamp tax revenue pertaining to the deeds portion on each property, to cover the cost of processing the forms. Additionally, the DR-219 form is included in the Florida Taxpayer's Bill of Rights regarding confidentiality pursuant to s. 195.0105, F.S.

The original intent of the DR-219 form was for state and local officials to accurately collect information on real property transfers and to verify that appropriate documentary stamp taxes have been paid. In addition, the form was used to create an independent database of sales information to assist county property appraisers in establishing accurate market value for property tax purposes.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) concluded that the state's cost to produce the DR-219 outweighs any benefit gained by the property appraisers. The information on the form is frequently incomplete, inaccurate, or illegible, therefore making it unreliable. According to OPPAGA, the quality of this information is further degraded by data entry errors by closing agents, staff of the clerks of court, and department staff, as it is transferred from paper forms to the electronic database.

A May 2007 survey conducted by the Property Tax Administration Program within the department found that 90 percent of property appraisers determined the DR-219 data to be insufficient, incomplete, or too inaccurate to provide a reliable and credible source of information on real property transactions.

Among other factors that reduce the effectiveness of the DR-219 form is the lack of uniform parcel number systems throughout the state, which contributes to data entry problems. The forms are not often submitted timely and are sometimes received by the department months after the deed has been recorded. In many instances, the DR-219 form may never be submitted and the only penalty authorized by law is a \$25 fine to be paid by the seller, buyer, or buyer's agent.

Currently, the forms are submitted to the clerks of court, forwarded to the property appraisers, and finally sent to the department. As of July 1, 2007, the department stopped processing the forms due to the lack of complete and accurate information. The department also determined that the form does not effectively serve as an independent source of reliable information for its analysis of county property tax roles. According to the department, the form is not the best source of information for identifying underpayment of documentary stamp taxes.

III. Effect of Proposed Changes:

Section 1 repeals s. 201.022, F.S., to eliminate the DR-219 form and the one percent commission retained by the county clerks from the deeds portion of the documentary stamp tax collections.

Section 2 provides that this act shall take effect June 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Section 18(a), Art. VII of the State Constitution provides that a city or county is not bound by any general law requiring the city or county to spend funds or to take an action to expend funds unless the Legislature has determined that the law fulfills an important state interest and unless, for purposes relevant to this bill, the law requiring the expenditure is approved by two-thirds of the membership of each house of the Legislature.

Section 18(c), Art. VII of the State Constitution provides that, except upon a two-thirds vote of the membership of each house, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the percentage of a state tax shared with counties and municipalities, as an aggregate on February 1, 1989.

The State Constitution exempts from the requirements of Section 18, Art. VII, those laws having an insignificant fiscal impact on cities and counties. By long-standing policy, "insignificant fiscal impact" has been deemed to mean an impact costing less than ten cents per capita. Based on the recent population estimates, the threshold would be \$2 million for Fiscal Year 2008-2009.

This bill eliminates the duties of the clerks of court related to the processing of the DR-219 forms and eliminates the ability of the clerks to retain one percent of the excise tax on deeds. Since the retention of the one percent of the taxes paid was intended to offset the costs incurred by the clerks in processing the DR-219 form, the net fiscal impact on the counties should be insignificant.

In terms of the analysis under paragraph (c), the authority of the clerk to retain one percent of the tax on deeds was enacted in 1992. Thus, the elimination of this authority does not reduce the percentage of a state tax shared with counties on February 1, 1989.

The bill appears to be exempt from the constitutional mandate restrictions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

County clerks of court may be concerned about the forfeiture of their processing fee that is based on one percent of the documentary stamp tax paid on deeds (s. 201.22(3), F.S.). This fee currently generates approximately \$8.8 million annually for the clerks of court.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Revenue Estimating Conference, in March 2008, determined an increase in state revenues of approximately \$8.8 million during Fiscal Year 2008-2009 by eliminating the DR-219 form effective July 1, 2008 (revenue that is currently retained by the county clerks of court as a commission for processing the DR-219 based on one percent of documentary stamp tax revenue pertaining to the deeds proportion).

Increase in state revenues are as follows.

	FY 2008-09	FY 2009-10	FY 2010-11
General Revenue	\$ 3.4 million	\$ 9.3 million	\$11.2 million
State Trust Funds	<u>\$ 5.4 million</u>	<u>\$.5 million</u>	<u>\$.5 million</u>
Total	\$ 8.8 million	\$ 9.8 million	\$11.7 million

There will be a positive recurring fiscal impact to the General Revenue Fund of \$35,000 due to reduced expenditures by the department for printing, postage, and storage of the DR-219 form.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by General Government Appropriations on April 2, 2008:

Senate Bill 1814 was originally filed as a shell bill expressing legislative intent to revise laws relating to governmental operations. The General Government Appropriations Committee adopted the committee substitute as described in this bill analysis. This bill eliminates the form relating to the transfer of interest in real property within the Department of Revenue.

The bill eliminates the one percent commission retained by the county clerks from the deeds portion of the documentary stamp tax collections.

- B. **Amendments:**

None.