

By Senator Geller

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1 A bill to be entitled

2 An act relating to the excise tax on documents; amending
3 s. 201.02, F.S.; revising criteria determining liability
4 for payment of the tax; providing an alternative
5 methodology for payment of the tax under certain
6 circumstances; providing requirements and procedures;
7 providing for application; providing an effective date.
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9 Be It Enacted by the Legislature of the State of Florida:
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11 Section 1. Subsection (1) of section 201.02, Florida
12 Statutes, is amended to read:

13 201.02 Tax on deeds and other instruments relating to real
14 property or interests in real property.--

15 (1) (a) Except as otherwise expressly exempted by this
16 chapter, all deeds, instruments, writings, or other documents
17 that transfer an interest in real property shall be subject to
18 the tax imposed by this section. On deeds, instruments, or
19 writings whereby any lands, tenements, or other real property, or
20 any interest therein, shall be granted, assigned, transferred, or
21 otherwise conveyed to, or vested in, the purchaser or any other
22 person by his or her direction, on each \$100 of the consideration
23 therefor the tax shall be 70 cents. When the full amount of the
24 consideration for the execution, assignment, transfer, or
25 conveyance is not shown in the face of such deed, instrument,
26 document, or writing, the tax shall be at the rate of 70 cents
27 for each \$100 or fractional part thereof of the consideration
28 therefor. For purposes of this section, consideration includes,
29 but is not limited to, the money paid or agreed to be paid; the

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30 discharge of an obligation; ~~and~~ the amount of any mortgage,
31 purchase money mortgage lien, or other encumbrance, whether or
32 not the underlying indebtedness is assumed; and any increase in
33 the value of any ownership interest in a grantee entity or any
34 other entity. If the consideration paid or given in exchange for
35 real property or any interest therein includes property other
36 than money or is not determinable at the time of transfer, it is
37 presumed that the consideration is equal to the fair market value
38 of the real property or interest therein and the burden of
39 proving the contrary shall be on a person liable for payment of
40 the tax.

41 (b) If:

42 1. A deed, instrument, writing, or other document grants,
43 assigns, conveys, or otherwise transfers any interest in real
44 property between an owner or owners of an artificial legal entity
45 and that entity, or between two artificial legal entities if
46 those entities are owned by the same person or persons;

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

49 3. The only consideration given is an increase in the value
50 of any ownership interests in the grantee entity or any other
51 entity,

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53 in lieu of paying any tax due on that document the parties to the
54 transfer may make an election on or before the date of the
55 transfer on a form issued by the department to not make payment
56 of the tax due on that document and instead pay the tax that
57 becomes due upon a transfer of an ownership interest in the
58 grantee artificial legal entity or pursuant to a subsequent

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59 document that transfers an interest in the real property,
60 whichever occurs first. The form on which such election is made
61 shall be attached to and recorded with the deed, instrument,
62 writing, or other document that grants, assigns, conveys, or
63 otherwise transfers any interest in the real property. If such
64 election has been timely made, the tax shall be due only once
65 upon the transfer of an ownership interest in the grantee
66 artificial legal entity or a subsequent transfer of an interest
67 in the real property, whichever occurs first. Upon the transfer
68 of ownership interest in the artificial legal entity or a
69 subsequent transfer of an interest in the real property, the
70 amount of the consideration shall be the greater of the
71 consideration as determined under paragraph (a) at the time of
72 the transfer or the fair market value of the interest in the real
73 property at the time of the transfer. However, this provision
74 shall not apply if the transfer of an ownership interest in the
75 artificial legal entity or subsequent transfer of an interest in
76 the real property is a return of the interest in the real
77 property from the artificial legal entity to the original owner
78 or owners resulting in no change in the beneficial ownership
79 interests previously held in the real property.

80 Section 2. This act shall take effect upon becoming a law
81 and shall apply to transfers of property for which the first
82 transfer to an artificial entity occurs after the effective date
83 of this act.