

By the Committee on Judiciary; and Senator Geller

590-07008-08

20082040c1

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 the deposit of revenues into a specified
8 trust fund; providing for application; providing an
9 effective date.

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

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13 Section 1. Subsection (1) of section 201.02, Florida
14 Statutes, is amended to read:

15 201.02 Tax on deeds and other instruments relating to real
16 property or interests in real property.--

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

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

43 (b) If:

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

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

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

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55 in lieu of paying any tax due on that document the parties to the
56 transfer may make an election on or before the date of the
57 transfer on a form issued by the department to not make payment
58 of the tax due on that document and instead pay the tax that

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

84 Section 2. This act shall take effect upon becoming a law
85 and shall apply to transfers of property for which the first
86 transfer to an artificial entity occurs after the effective date
87 of this act.