

By the Committees on Finance and Tax; Judiciary; and Senator
Geller

593-08349-08

20082040c2

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 requirements and methods
5 for making an election regarding payment of tax under
6 specified circumstances; providing requirements; providing
7 for application of the act; 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) On deeds, instruments, documents, or writings
16 whereby any lands, tenements, or other real property, or any
17 interest therein, shall be granted, assigned, transferred, or
18 otherwise conveyed to, or vested in, the purchaser or any other
19 person by his or her direction, on each \$100 of the consideration
20 therefor the tax shall be 70 cents except as otherwise provided
21 in this subsection. When the full amount of the consideration for
22 the execution, assignment, transfer, or conveyance is not shown
23 in the face of such deed, instrument, document, or writing, the
24 tax shall be at the rate of 70 cents for each \$100 or fractional
25 part thereof of the consideration therefor except as otherwise
26 provided in this subsection. For purposes of this section,
27 consideration includes, but is not limited to, the money paid or
28 agreed to be paid; the discharge of an obligation; ~~and~~ the amount
29 of any mortgage, purchase money mortgage lien, or other

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30 encumbrance, whether or not the underlying indebtedness is
31 assumed; and any increase in the value of any ownership interest
32 in a grantee entity or any other entity. If the consideration
33 paid or given in exchange for real property or any interest
34 therein includes property other than money, it is presumed that
35 there is a purchaser and that the consideration is equal to the
36 fair market value of the real property or interest therein.

37 (b) If:

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

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

42 3. The only consideration given is an increase in the value
43 of any ownership interests in the grantee entity or any other
44 entity,

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46 in lieu of paying the tax due on such deed, instrument, document,
47 or writing, the parties to the grant, assignment, transfer, or
48 conveyance may make an election, on or before the date of the
49 grant, assignment, transfer, or conveyance, on a form issued by
50 the department, to not make payment of the tax due on such deed,
51 instrument, document, or writing but instead to pay tax on the
52 fair market value of the real property upon the subsequent change
53 in any ownership interest in the real property or the subsequent
54 transfer of any interest in the real property. The form on which
55 such election is made shall be attached to and recorded with the
56 deed, instrument, document, or writing that grants, assigns,
57 conveys, or otherwise transfers any interest in the real
58 property. However, when an election has been made, no tax shall

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59 apply to the subsequent transfer of the ownership interest in the
60 legal entity, or the subsequent transfer of an interest in the
61 real property, when the subsequent transfer is limited to a
62 return of the identical interest in the real property by the
63 grantee legal entity to the identical grantor or grantors
64 resulting in no change in the beneficial ownership interests
65 originally held in the real property.

66 Section 2. This act shall take effect upon becoming a law
67 and applies to transfers of property for which the first transfer
68 to an artificial entity occurs after that date.