

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 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,  
 20           or any interest therein, shall be granted, assigned,  
 21           transferred, or otherwise conveyed to, or vested in, the  
 22           purchaser or any other person by his or her direction, on each  
 23           \$100 of the consideration therefor the tax shall be 70 cents.  
 24           When the full amount of the consideration for the execution,  
 25           assignment, transfer, or conveyance is not shown in the face of  
 26           such deed, instrument, document, or writing, the tax shall be at  
 27           the rate of 70 cents for each \$100 or fractional part thereof of  
 28           the consideration therefor. For purposes of this section,

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

52  
 53 in lieu of paying any tax due on that document the parties to  
 54 the 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

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57 becomes due upon a transfer of an ownership interest in the  
58 grantee artificial legal entity or pursuant to a subsequent  
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  
73 real property at the time of the transfer. However, this  
74 provision shall not apply if the transfer of an ownership  
75 interest in the artificial legal entity or subsequent transfer  
76 of an interest in the real property is a return of the interest  
77 in the real property from the artificial legal entity to the  
78 original owner or owners resulting in no change in the  
79 beneficial ownership interests previously held in the real  
80 property.

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