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LEGISLATIVE ACTION

Senate . House

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04/27/2009 03:02 PM .

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Senator Gelber moved the following:

**Senate Amendment (with title amendment)**

Delete lines 252 - 308  
and insert:  
combination with transfers of ownership of, or distributions  
from, artificial entities.

Section 4. Subsection (1) of section 201.02, Florida  
Statutes, is amended, and subsection (11) is added to that  
section, to read:

201.02 Tax on deeds and other instruments relating to real  
property or interests in real property.—

(1) (a) On deeds, instruments, or writings whereby any



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13 lands, tenements, or other real property, or any interest  
14 therein, shall be granted, assigned, transferred, or otherwise  
15 conveyed to, or vested in, the purchaser or any other person by  
16 his or her direction, on each \$100 of the consideration therefor  
17 the tax shall be 70 cents. When the full amount of the  
18 consideration for the execution, assignment, transfer, or  
19 conveyance is not shown in the face of such deed, instrument,  
20 document, or writing, the tax shall be at the rate of 70 cents  
21 for each \$100 or fractional part thereof of the consideration  
22 therefor. For purposes of this section, consideration includes,  
23 but is not limited to, the money paid or agreed to be paid; the  
24 discharge of an obligation; and the amount of any mortgage,  
25 purchase money mortgage lien, or other encumbrance, whether or  
26 not the underlying indebtedness is assumed. If the consideration  
27 paid or given in exchange for real property or any interest  
28 therein includes property other than money, it is presumed that  
29 the consideration is equal to the fair market value of the real  
30 property or interest therein.

31 (b)1. For purposes of this paragraph the term:

32 a. "Conduit entity" means a legal entity to which real  
33 property is conveyed without full consideration by a grantor who  
34 owns a direct or indirect interest in the entity, or a successor  
35 entity.

36 b. "Full consideration" means the consideration that would  
37 be paid in an arm's length transaction between unrelated  
38 parties.

39 2. When real property is conveyed to a conduit entity and  
40 all or a portion of the grantor's direct or indirect ownership  
41 interest in the conduit entity is subsequently transferred for



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42 consideration within 3 years of such conveyance, tax is imposed  
43 on each such transfer of an interest in the conduit entity for  
44 consideration at the rate of 70 cents for each \$100 or fraction  
45 thereof of the consideration paid or given in exchange for the  
46 ownership interest in the conduit entity.

47 3. When the ownership interest in the conduit entity being  
48 transferred includes assets other than the real property  
49 conveyed to the conduit entity, the tax shall be prorated based  
50 on the percentage the value of such real property represents of  
51 the total value of all assets owned by the conduit entity.

52 4. A gift of an ownership interest in a conduit entity is  
53 not subject to tax to the extent there is no consideration. The  
54 transfer of shares or similar equity interests in a conduit  
55 entity which are dealt in or traded on public, regulated  
56 security exchanges or markets is not subject to tax under this  
57 paragraph.

58 5. The transfer for purposes of estate planning by a  
59 natural person of an interest in a conduit entity to an  
60 irrevocable grantor trust as described in subpart E of part I of  
61 subchapter J of chapter 1 of subtitle A of the United States  
62 Internal Revenue Code is not subject to tax under this  
63 paragraph.

64  
65 ===== T I T L E A M E N D M E N T =====

66 And the title is amended as follows:

67 Delete lines 32 - 38

68 and insert:

69 to a conduit entity; providing for the tax to be prorated when  
70 the interest transferred includes assets other than real



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71 property; exempting the transfer of shares or similar equity  
72 interests in a conduit entity from the tax; exempting certain  
73 transfers for purposes of estate planning; providing for liberal  
74 construction; providing for payment of the tax when no document  
75 is recorded; imposing the tax on deeds, instruments,