

By Senator Lawson

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1 A bill to be entitled
2 An act relating to the excise tax on documents;
3 amending s. 201.02, F.S.; revising criteria
4 determining liability for payment of the tax;
5 providing an alternative methodology for payment of
6 the tax under certain circumstances; providing
7 requirements and procedures; providing for
8 application; providing an effective date.

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

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

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

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

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

42 (b) If:

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

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

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

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

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

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