

By the Committee on Judiciary; and Senator Lawson

590-03466A-09

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1 A bill to be entitled

2 An act relating to the excise tax on documents;  
3 amending s. 210.02, F.S.; revising criteria  
4 determining liability for payment of the tax;  
5 providing requirements and methods for making an  
6 election regarding payment of tax under specified  
7 circumstances; providing requirements; providing for  
8 an application; providing an effective date.

9  
10 Be It Enacted by the Legislature of the State of Florida:

11  
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) On deeds, instruments, documents, or writings  
17 whereby any lands, tenements, or other real property, or any  
18 interest therein, shall be granted, assigned, transferred, or  
19 otherwise conveyed to, or vested in, the purchaser or any other  
20 person by his or her direction, on each \$100 of the  
21 consideration therefor the tax shall be 70 cents except as  
22 otherwise provided herein. When the full amount of the  
23 consideration for the execution, assignment, transfer, or  
24 conveyance is not shown in the face of such deed, instrument,  
25 document, or writing, the tax shall be at the rate of 70 cents  
26 for each \$100 or fractional part thereof of the consideration  
27 therefor except as otherwise provided herein. For purposes of  
28 this section, consideration includes, but is not limited to, the  
29 money paid or agreed to be paid; the discharge of an obligation;

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

38 (b) If:

39 1. A deed, instrument, document, or writing grants,  
40 assigns, transfers, or conveys, any interest in real property;  
41 2. There is a mere change in form of ownership without  
42 effecting any change in any beneficial ownership interests; and  
43 3. The only consideration given is an increase in the value  
44 of any ownership interests in the grantee entity or any other  
45 entity,  
46  
47 in lieu of paying the tax due on such deed, instrument, document  
48 or writing, the parties to the grant, assignment, transfer, or  
49 conveyance may make an election, on or before the date of the  
50 grant, assignment, transfer, or conveyance, on a form issued by  
51 the department, to not make payment of the tax due on such deed,  
52 instrument, document or writing and instead to pay tax on the  
53 fair market value of the real property upon the subsequent  
54 change in any ownership interest in the real property, or the  
55 subsequent transfer of any interest in the real property. The  
56 form on which such election is made shall be attached to and  
57 recorded with the deed, instrument, document, or writing that  
58 grants, assigns, conveys, or otherwise transfers any interest in

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

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