

1 A bill to be entitled
2 An act relating to the discretionary surtax on documents;
3 amending s. 3, ch. 83-220, Laws of Florida, as amended;
4 extending a future repeal date of provisions authorizing
5 counties to levy a discretionary surtax on documents;
6 amending s. 125.0167, F.S.; limiting the percentage of
7 surtax revenues that may be used for administrative costs;
8 specifying a minimum amount of surtax revenues to be used
9 for housing for certain low-income and moderate-income
10 families; requiring an affirmative vote of a local
11 government governing body to rehabilitate certain
12 governmentally owned housing; authorizing certain counties
13 to create by ordinance a housing choice assistance voucher
14 program for the purpose of down payment assistance;
15 providing definitions; providing eligibility requirements
16 for such vouchers; authorizing purchasing employers to
17 file for allocations for such vouchers; limiting
18 allocations; requiring distribution of allocations to
19 employees in the form of such vouchers; prohibiting use of
20 allocations for such vouchers if not awarded within a
21 certain period after certain documentary stamps taxes are
22 collected; requiring the Office of Program Policy Analysis
23 and Government Accountability to conduct a continuing
24 review of the discretionary surtax program operated by
25 counties; requiring reports to the Legislature; amending
26 s. 201.02, F.S.; revising criteria determining liability
27 for payment of the tax; providing requirements and methods
28 for making an election regarding payment of tax under

29 | specified circumstances; amending s. 201.031, F.S.;

30 | expanding requirements for counties levying the

31 | discretionary surtax to include housing plan, affordable

32 | housing element, and annual reporting requirements;

33 | providing for application; providing an effective date.

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35 | Be It Enacted by the Legislature of the State of Florida:

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37 | Section 1. Section 3 of chapter 83-220, Laws of Florida,

38 | as amended by section 1 of chapter 84-270, Laws of Florida, and

39 | section 1 of chapter 89-252, Laws of Florida, is amended to

40 | read:

41 | Section 3. Sections 1 and 2 of chapter 83-220, Laws of

42 | Florida, as amended by this act, are repealed effective October

43 | 1, 2031 ~~2011~~.

44 | Section 2. Section 125.0167, Florida Statutes, is amended

45 | to read:

46 | 125.0167 Discretionary surtax on documents; adoption;

47 | application of revenue.--

48 | (1) Pursuant to the provisions of s. 201.031, the

49 | governing authority in each county, as defined by s. 125.011(1),

50 | is authorized to levy a discretionary surtax on documents for

51 | the purpose of establishing and financing a Housing Assistance

52 | Loan Trust Fund to assist in the financing of construction,

53 | rehabilitation, or purchase of housing for low-income and

54 | moderate-income families. No less than 50 percent of the funds

55 | used in each county to provide such housing assistance shall be

56 | for the benefit of low-income families. For the purpose of this

57 section, "low-income family" means a family whose income does
58 not exceed 80 percent of the median income for the area, and
59 "moderate-income family" means a family whose income is in
60 excess of 80 percent but less than 140 percent of the median
61 income for the area. For purposes of this section, the term
62 "housing" is not limited to single-family, detached dwellings.
63 The rate of the surtax shall not exceed the rate of 45 cents for
64 each \$100 or fractional part thereof of the consideration
65 therefor. Such surtax shall apply only to those documents
66 taxable under s. 201.02, except that there shall be no surtax on
67 any document pursuant to which the interest granted, assigned,
68 transferred, or conveyed involves only a single-family
69 residence. Such single-family residence may be a condominium
70 unit, a unit held through stock ownership or membership
71 representing a proprietary interest in a corporation owning a
72 fee or a leasehold initially in excess of 98 years, or a
73 detached dwelling.

74 (2) The levy of the discretionary surtax and the creation
75 of a Housing Assistance Loan Trust Fund shall be by ordinance
76 which shall set forth the policies and procedures of the
77 assistance program. The ordinance shall be proposed at a regular
78 meeting of the governing authority at least 2 weeks prior to
79 formal adoption. Formal adoption shall not be effective unless
80 approved on final vote by a majority of the total membership of
81 the governing authority. The ordinance shall not take effect
82 until 90 days after formal adoption.

83 (3) The county shall deposit revenues from the
84 discretionary surtax in the Housing Assistance Loan Trust Fund

85 of the county, except that a portion of such revenues may be
86 deposited into the Home Investment Trust Fund of the county as
87 defined by and created pursuant to the requirements of federal
88 law. The county shall use the revenues only to help finance the
89 construction, rehabilitation, or purchase of housing for low-
90 income families and moderate-income families, to pay necessary
91 costs of collection and enforcement of the surtax, and to fund
92 any local matching contributions required pursuant to federal
93 law. For purposes of this section, authorized uses of the
94 revenues include, but are not limited to, providing funds for
95 first and second mortgages and acquiring property for the
96 purpose of forming housing cooperatives. Special consideration
97 shall be given toward using the revenues in the neighborhood
98 economic development programs of community development
99 corporations. No more than 50 percent of the revenues collected
100 each year pursuant to this section may be used to help finance
101 new construction as provided herein. The proceeds of the surtax
102 shall not be used for rent subsidies or grants.

103 (4) No more than 10 percent of surtax revenues collected
104 under this section by the Department of Revenue and remitted to
105 the county in any fiscal year may be used for administrative
106 costs.

107 (5) (a) Notwithstanding the provisions of subsection (3),
108 of the discretionary surtax revenues collected by the Department
109 of Revenue remaining after any deduction for administrative
110 costs as provided in subsection (4), no less than 35 percent
111 shall be used to provide homeownership assistance for low-income
112 and moderate-income families, and no less than 35 percent shall

113 be used for construction, rehabilitation, and purchase of rental
 114 housing units. The remaining amount may be allocated to provide
 115 for homeownership assistance or rental housing units, at the
 116 discretion of the county. Any funds allocated for homeownership
 117 assistance or rental housing units that are not committed at the
 118 end of the fiscal year shall be available for homeownership
 119 assistance or construction, rehabilitation, and purchase of
 120 rental housing units in subsequent years.

121 (b) For purposes of this subsection, the term
 122 "homeownership assistance" means assisting low-income and
 123 moderate-income families in purchasing a home as their primary
 124 residence, including, but not limited to, reducing the cost of
 125 the home with below-market construction financing, the amount of
 126 down payment and closing costs paid by the borrower, or the
 127 mortgage payment to an affordable amount for the purchaser or
 128 using any other financial assistance measure set forth in s.
 129 420.5088.

130 (6) Rehabilitation of housing owned by a recipient
 131 government may be authorized only after a determination approved
 132 by a majority of the governing body that no other sources of
 133 funds are available.

134 (7) (a) The governing body of each county as defined in s.
 135 125.011(1) may, by county ordinance and pursuant to procedures
 136 and requirements provided by such ordinance, create a housing
 137 choice assistance voucher program.

138 (b) For purposes of this subsection, the term:
 139 1. "Housing choice assistance voucher" means the document
 140 used to access assistance paid by the county from the

141 discretionary surtax balance in the Housing Assistance Trust
142 Fund to a prospective purchaser of a single-family residence
143 which must be the purchaser's homestead.

144 2. "Purchasing employer" means a business or business
145 entity that has acquired real property within the county and
146 paid the surtax due as a result of the acquisition of that
147 property pursuant to this section.

148 (c) Housing choice assistance vouchers shall be used for
149 down payment assistance for the purchase of a single-family
150 residence by low-income or moderate-income persons within the
151 county and within a 5-mile radius of the purchasing employer who
152 are:

153 1. Actively employed by the purchasing employer or by a
154 business entity directly affiliated with the purchasing
155 employer.

156 2. Prequalified for a mortgage loan by a certified lending
157 institution.

158 (d) Upon payment of the discretionary surtax pursuant to
159 this section, the purchasing employer may file for an allocation
160 for housing choice assistance vouchers from the county in an
161 amount not to exceed 50 percent of the amount of the
162 discretionary surtax paid. The purchasing employer shall
163 distribute the allocation to employees in the form of housing
164 choice assistance vouchers pursuant to rules and procedures
165 established for the program.

166 (e) Any housing choice assistance voucher allocation not
167 distributed to employees and redeemed by an employee within 1
168 year after the date the discretionary surtax is paid may not be

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169 used for housing choice assistance vouchers under this
170 subsection.

171 (f) Any housing assistance paid pursuant to the housing
172 choice assistance voucher program shall be included in the
173 calculation determining the percentage of discretionary surtax
174 funds used for homeownership purposes during the year in which
175 the surtax funds for such purposes are expended.

176 (8) By June 30, 2012, and every 5 years thereafter, the
177 Office of Program Policy Analysis and Government Accountability
178 shall review the discretionary surtax program operated by
179 counties under this section and shall provide a report to the
180 President of the Senate and the Speaker of the House of
181 Representatives.

182 Section 3. Subsection (1) of section 201.02, Florida
183 Statutes, is amended to read:

184 201.02 Tax on deeds and other instruments relating to real
185 property or interests in real property.--

186 (1)(a) On deeds, instruments, documents, or writings
187 whereby any lands, tenements, or other real property, or any
188 interest therein, shall be granted, assigned, transferred, or
189 otherwise conveyed to, or vested in, the purchaser or any other
190 person by his or her direction, on each \$100 of the
191 consideration therefor the tax shall be 70 cents except as
192 provided in paragraph (b). When the full amount of the
193 consideration for the execution, assignment, transfer, or
194 conveyance is not shown in the face of such deed, instrument,
195 document, or writing, the tax shall be at the rate of 70 cents
196 for each \$100 or fractional part thereof of the consideration

197 therefor except as provided in paragraph (b). For purposes of
 198 this section, consideration includes, but is not limited to, the
 199 money paid or agreed to be paid; the discharge of an obligation;
 200 ~~and~~ the amount of any mortgage, purchase money mortgage lien, or
 201 other encumbrance, whether or not the underlying indebtedness is
 202 assumed; and any increase in the value of any ownership interest
 203 in a grantee entity or any other entity. If the consideration
 204 paid or given in exchange for real property or any interest
 205 therein includes property other than money, it is presumed that
 206 there is a purchaser and that the consideration is equal to the
 207 fair market value of the real property or interest therein.

208 (b) If:

- 209 1. A deed, instrument, document, or writing grants,
- 210 assigns, transfers, or conveys any interest in real property;
- 211 2. There is a mere change in form of ownership without
- 212 effecting any change in any beneficial ownership interests; and
- 213 3. The only consideration given is an increase in the
- 214 value of any ownership interests in the grantee entity or any
- 215 other entity,

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217 in lieu of paying the tax due on such deed, instrument,

218 document, or writing, the parties to the grant, assignment,

219 transfer, or conveyance may make an election, on or before the

220 date of the grant, assignment, transfer, or conveyance, on a

221 form issued by the department, to not make payment of the tax

222 due on such deed, instrument, document, or writing but instead

223 to pay a tax on the fair market value of the real property upon

224 the subsequent change in any ownership interest in the real

225 property or the subsequent transfer of any interest in the real
 226 property. The form on which such election is made shall be
 227 attached to and recorded with the deed, instrument, document, or
 228 writing that grants, assigns, conveys, or otherwise transfers
 229 any interest in the real property. However, when such an
 230 election has been made, no tax shall apply to the subsequent
 231 transfer of the ownership interest in the legal entity, or the
 232 subsequent transfer of an interest in the real property, when
 233 the subsequent transfer is limited to a return of the identical
 234 interest in the real property by the grantee legal entity to the
 235 identical grantor or grantors resulting in no change in the
 236 beneficial ownership interests originally held in the real
 237 property.

238 Section 4. Section 201.031, Florida Statutes, is amended
 239 to read:

240 201.031 Discretionary surtax; administration and
 241 collection; Housing Assistance Loan Trust Fund; reporting
 242 requirements.--

243 (1) Each county, as defined by s. 125.011(1), may levy,
 244 subject to the provisions of s. 125.0167, a discretionary surtax
 245 on documents taxable under the provisions of s. 201.02, except
 246 that there shall be no surtax on any document pursuant to which
 247 the interest granted, assigned, transferred, or conveyed
 248 involves only a single-family residence. The ~~Such~~ single-family
 249 residence may be a condominium unit, a unit held through stock
 250 ownership or membership representing a proprietary interest in a
 251 corporation owning a fee or a leasehold initially in excess of
 252 98 years, or a detached dwelling.

253 (2) All provisions of chapter 201, except s. 201.15, ~~shall~~
 254 apply to the surtax. The Department of Revenue shall pay to the
 255 governing authority of the county which levies the surtax all
 256 taxes, penalties, and interest collected under this section less
 257 any costs of administration.

258 (3) Each county that ~~which~~ levies the surtax shall:

259 (a) Include in the financial report required under s.
 260 218.32 information showing the revenues and the expenses of the
 261 trust fund for the fiscal year.

262 (b) Adopt a housing plan every 3 years that includes
 263 provisions substantially similar to the plans required in s.
 264 420.9075(1).

265 (c) Have adopted an affordable housing element of its
 266 comprehensive land use plan that complies with s.
 267 163.3177(6)(f).

268 (d) Require by resolution that the staff or entity that
 269 has administrative authority for implementing the housing plan
 270 prepare and submit to the county's governing body an annual
 271 report substantially similar to the annual report required in s.
 272 420.9075(10).

273 Section 5. This act shall take effect July 1, 2009, and
 274 the amendment to s. 201.02, Florida Statutes, made by this act
 275 shall apply to transfers of property for which the first
 276 transfer to an artificial entity occurs after such date.