

1 A bill to be entitled
 2 An act relating to the excise tax on documents; amending
 3 s. 201.02, F.S.; imposing the tax on the consideration for
 4 short sale transfers of real property; excluding certain
 5 unpaid indebtedness from such consideration; defining the
 6 term "short sale"; authorizing the Department of Revenue
 7 to adopt rules establishing arm's length criteria for
 8 short sale purposes; providing an effective date.

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

11
 12 Section 1. Subsection (11) is added to section 201.02,
 13 Florida Statutes, to read:

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

16 (11) The tax imposed by this section applies to any deed,
 17 instrument, or writing that transfers any interest in real
 18 property pursuant to a short sale. The taxable consideration for
 19 a short sale transfer does not include unpaid indebtedness that
 20 is forgiven or released by a mortgagee holding a mortgage on the
 21 grantor's interest in the property. For purposes of this
 22 subsection, the term "short sale" means a purchase and sale of
 23 real property in which all of the following apply:

24 (a) The grantor's interest is encumbered by a mortgage or
 25 mortgages securing indebtedness in an aggregate amount greater
 26 than the purchase price paid by the grantee.

27 (b) A mortgagee releases the real property from its
 28 mortgage in exchange for a partial payment of less than the

29 total of the outstanding mortgage indebtedness owed to the
30 releasing mortgagee.

31 (c) The releasing mortgagee does not receive, directly or
32 indirectly, any interest in the property transferred.

33 (d) The releasing mortgagee, grantor, and grantee are
34 dealing with each other at arm's length. For purposes of this
35 subsection, the fact that the parties are related or controlled
36 by one another is not, alone, sufficient evidence that the
37 parties are not dealing with each other at arm's length.

38 Section 2. The Department of Revenue may adopt rules
39 establishing criteria that indicate when the parties to a short
40 sale are not dealing with each other at arm's length.

41 Section 3. This act shall take effect July 1, 2009.