

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

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

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

13 201.02 Tax on deeds and other instruments relating to real
 14 property or interests in real property.--

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

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

41 | (b) If:

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

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

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

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

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

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