

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.

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

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 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

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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, 2010.