

By the Committee on Judiciary; and Senator Ring

590-01394-10

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

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

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

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

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

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

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

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

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

34 (d) The releasing mortgagee, grantor, and grantee are
35 dealing with each other at arm's length. For purposes of this
36 subsection, the fact that the parties are related or controlled
37 by one another is not, alone, sufficient evidence that the
38 parties are not dealing with each other at arm's length. The
39 department may adopt rules pursuant to ss. 120.536 and 120.54
40 establishing criteria that indicate when the parties to a short
41 sale are not dealing with each other at arm's length.

42 Section 2. This act shall take effect July 1, 2010.