

STORAGE NAME: h0941a.cjc

DATE: March 17, 1998

**Florida House of Representatives
Committee on Civil Justice & Claims
Summary Claim Bill Report**

Bill #: HB 941
Sponspr(s): Rep. Melvin
Reference: Civil Justice and Claims
Companion Bill(s): SB 20 by Senator Clary

A. Basic Information

- 1. Claimant:** Ray Construction of Okaloosa County
- 2. Respondent:** Department of Revenue (DOR)
- 3. Amount Requested:** \$18,230.46 - \$2,479.96 of the claim is for documentary stamp tax refund and \$15,750.50 for attorneys fees and court costs
- 4. Type of Claim:** Equitable Claim
- 5. Respondent's Posture:** Unknown
- 6. Collateral Sources:** None
- 7. Prior Legislative History:** None

- B. Procedural Summary:** This is an equitable claim arising from the case of Dept. Of Revenue v. Ray Construction of Okaloosa County, Inc., 667 So.2d 859 (Fla. 1st DCA 1996), where the First District Court of Appeal reversed, in part, a circuit court decision in favor of Ray Construction regarding a refund of documentary stamp tax assessments. The appellate court reversed the refund of four documentary tax assessments for claimants' failure to bring a timely tax challenge; however the court affirmed the trial court's declaratory judgment in favor of Ray Construction finding that the Department of Revenue had no right to impose an assessment of additional documentary stamp taxes upon certain deeds.
- C. Facts of the Case:** Ray Construction, a residential construction business, purchased multiple subdivision lots for \$6,000 per lot. Under the purchase agreement, the sale was not complete until Ray Construction built a home on the lot and sold the lot and home. DOR audited four of the transactions and determined that \$6,000 was not the appropriate amount of consideration for documentary stamps assessments and assessed additional taxes. Ray Construction appealed the additional assessment as set forth above.