

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1842

SPONSOR: Fiscal Resource Committee and Senator Sebesta

SUBJECT: Excise Tax on Documents

DATE: April 13, 2000 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fournier</u>	<u>Wood</u>	<u>FR</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

This committee substitute makes it illegal to buy excess documentary stamps with the intent to imply a sales price for a piece of property in excess of the actual sales price. It addresses a real estate fraud problem that has occurred in parts of the state. It also deletes obsolete language about the county comptroller or clerk of court signing documents, under certain conditions.

This bill creates s. 201.205, F.S., and amends s. 201.132, F.S.

**II. Present Situation:**

S. 201.02, F.S., imposes a tax upon deeds, instruments, or writing whereby any lands, tenements, or other real property, or any interest therein, shall be granted, assigned, transferred, or otherwise conveyed. The tax is based upon the value of the consideration, at a rate of 70 cents for each \$100 or fractional part thereof. Section 201.17, F.S., imposes penalties for failure to pay the proper amount of tax. Paying an excessive documentary stamp tax is not prohibited by law. Some persons intentionally pay excessive documentary stamp taxes on deeds in order to make it appear that a property sold for more than it really did, which in turn may affect the value of other nearby properties. A 1989 Grand Jury recommended that penalties should be imposed for providing false information on real estate transaction documents filed with the Clerk of Court, in order to protect public and private land purchasers from paying inflated prices based upon excessive documentary stamp taxes paid.

Section 201.132, F.S., allows that documentary stamp tax may be collected without affixing stamps to the document to be recorded. It provides that a notation be placed on the document showing the amount of tax paid, and requiring the county comptroller or the clerk of the circuit court, or a designated agent to sign the notation. Under current practice, however, the notation is placed on the documents by a validator print machine, and the clerk processing the transaction, the amount of money received, and the type of document are noted by computer. There is no actual writing on the document.

**III. Effect of Proposed Changes:**

CS for SB 1842 creates s. 201.205, which requires that the documentary stamps affixed to a deed or writing reflect the correct amount of the sales price or other consideration for the interest in the property; prohibits the seller or conveyor of the interest in the property to deliberately affix or cause to affix excess documentary stamps with the intent to imply a higher sale price than the actual sale price; provides that a violation is a first degree misdemeanor; and provides punishment.

This committee substitute deletes obsolete language requiring a signature by the county comptroller or the clerk of the circuit court, or a designated agent.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

The prohibition against purchasing excess documentary stamps may result in a small decrease in revenue.

**B. Private Sector Impact:**

This committee substitute will help protect property purchasers from paying excessive prices for property because appraisals were based upon inflated documentary stamp purchases, and may prevent overassessment for ad valorem tax purposes.

**C. Government Sector Impact:**

This committee substitute will help prevent state and local governments from paying inflated prices for land because appraisals were based upon inflated documentary stamp purchases.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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