

**STORAGE NAME:** h0123a.frc.doc  
**DATE:** February 11, 2002

**HOUSE OF REPRESENTATIVES**  
**FISCAL RESPONSIBILITY COUNCIL**  
**ANALYSIS**

**BILL #:** HB 123  
**RELATING TO:** Excise Tax on Documents  
**SPONSOR(S):** Representative Baxley

**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) JUDICIAL OVERSIGHT YEAS 9 NAYS 0
  - (2) FISCAL RESPONSIBILITY COUNCIL YEAS 23 NAYS 0
  - (3)
  - (4)
  - (5)
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I. SUMMARY:

HB 123 provides that the documentary stamp tax shall not exceed \$2,450 on promissory notes, nonnegotiable notes, written obligations to pay money, and assignments of salaries, wages, or other compensation made, which are executed, delivered, sold, transferred, or assigned in the state, including those documents made in connection with sales made under retail charge account services. Under present law, \$2,450 is the amount of documentary stamp tax that would be owned on a promissory note or other unsecured obligation in the amount of \$700,000.

No fiscal impact on state and local revenues is expected to result from this legislation.

The bill shall take effect July 1, 2002.

The bill is traveling with two amendments adopted by the Fiscal Responsibility Council. Please see section VI. Amendments or Committee Substitute Changes.

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II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. <u>Individual Freedom</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Chapter 201, F.S., imposes an excise tax (documentary stamp tax) on promissory notes, nonnegotiable notes, written obligations to pay money, and assignments of salaries, wages, or other compensation made, which are executed, delivered, sold, transferred, or assigned in the state, including those documents made in connection with sales made under retail charge account services. Mortgages, including those mortgages executed outside the state and recorded in the state, which incorporate the certificate of indebtedness, not otherwise shown in separate instruments, are subject to the same tax. When there is a mortgage, trust deed, or security agreement and a note, certificate of indebtedness, or obligation, the tax shall be paid on the mortgage, trust deed, or security agreement at the time of recordation. A notation shall be made on the note, certificate of indebtedness, or obligation that the tax has been paid on the mortgage, trust deed, or security agreement. Section 201.08, F.S., provides that the tax rate shall be 35 cents on each \$100 or fraction thereof of the amount of indebtedness or obligation evidenced by the document.

Florida residents and companies can execute outside of the state of Florida promissory notes, nonnegotiable notes, and other unsecured obligations to pay money. When executed outside of Florida, these instruments are not subject to Florida documentary stamp tax. When the amount of tax that would be due on a Florida transaction is significantly greater than the cost of closing a business transaction outside of Florida, the parties to the transaction sometimes leave the state to conduct the transaction or hire out-of-state companies.

C. EFFECT OF PROPOSED CHANGES:

HB 123 amends 201.08, F.S., to provide that the documentary stamp tax shall not exceed \$2,450 on promissory notes, nonnegotiable notes, written obligations to pay money, and assignments of salaries, wages, or other compensation made, which are executed, delivered, sold, transferred, or assigned in the state, including those documents made in connection with sales made under retail charge account services.

Under present law, \$2,450 is the amount of documentary stamp tax that would be due on a promissory note or other unsecured obligation in the amount of \$700,000.

D. SECTION-BY-SECTION ANALYSIS:

See Effect of Proposed Changes.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

No fiscal impact on state revenues is expected.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals and businesses may conduct more financial transactions involving unsecured obligations in amounts larger than \$700,000 in Florida if the amount of documentary stamp tax due on a transaction is capped at \$2,450. Thirty-nine other states impose some form of documentary stamp tax<sup>1</sup>. Therefore, individuals and businesses may choose to come to Florida to conduct financial transactions involving unsecured obligations in amounts larger than \$700,000.

D. FISCAL COMMENTS:

None

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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<sup>1</sup> 2001 Florida Tax Handbook, Senate Finance and Taxation Committee, et. al.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 11, 2002, the Fiscal Responsibility Council adopted two amendments which are traveling with the bill. The first amendment clarifies that when there is a mortgage and a note, and the tax is paid solely based on the note, tax will apply if the mortgage is subsequently recorded in Florida. Such tax will be due on the mortgage to the extent that the amount evidenced by the mortgage exceeds the amount paid on the note. The second amendment is a technical amendment correcting references.

VII. SIGNATURES:

COMMITTEE ON JUDICIAL OVERSIGHT:

Prepared by:

Lynne Overton

Staff Director:

Lynne Overton

AS REVISED BY THE FISCAL RESPONSIBILITY COUNCIL:

Prepared by:

Joe McVaney

Staff Director:

David Coburn