

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 623 Taxation of Real Property Platform Transactions

SPONSOR(S): Ways & Means Committee, Fischer

TIED BILLS: **IDEN./SIM. BILLS:** SB 1584

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ways & Means Committee	12 Y, 4 N, As CS	Curry	Aldridge
2) Appropriations Committee			
3) Commerce Committee			

SUMMARY ANALYSIS

Online marketplaces exist where buyers and sellers can view listings of real property. In addition to listing properties, some real property platform companies purchase real property with the intent to sell.

Deeds and other documents that transfer an interest in Florida real property are subject to documentary stamp tax. Florida imposes a documentary stamp tax on tax deeds and other documents related to real property at the rate of 70 cents per \$100 of the consideration paid therefor. Consideration is defined to include, but is not limited to, the money paid or agreed to be paid; the discharge of an obligation; and the amount of any mortgage, purchase money mortgage lien, or other encumbrance, whether or not the underlying indebtedness is assumed.

The bill defines the term “real property platform” and limits the consideration under which documentary stamp taxes are imposed to the difference between the consideration paid by the real property platform, itself or through an affiliated group of corporations, for the residential property and the consideration paid to the real property platform for the residential property by a subsequent purchaser of the property if the real property platform, or an affiliated group of corporations, meet certain specified requirements.

The Revenue Estimating Conference (REC) estimated that the provisions of the bill would have a negative recurring impact on General Revenue of \$0.1 million in FY 2021-22 growing to \$0.3 million in FY 2025-26. The estimated negative recurring impact on state trust funds is \$0.1 million in FY 2021-22 growing to \$0.3 million in FY 2025-26. The REC estimated that the provisions of the bill do not impact local government revenues.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Real Property Platform

Current law does not define a “real property platform.” However, a real property platform is essentially an online marketplace of sorts, where buyers and sellers can view listings of real property. Some platforms operate with the goal of enabling aspiring or existing property owners to buy and sell real property by streamlining some of the steps in the buying and selling process.¹ In addition to listing properties, some real property platform companies offer home-buying programs where buyers sell their homes to the company.²

In such cases, the real property platform purchases the residential property with the intent to sell to a third-party at a later date. To facilitate a sale, the homeowner contacts the real property platform to request a cash offer on their home. If the offer is accepted, the sales transaction is completed and ownership of the property is transferred to the real property platform who ultimately sells the property and transfers ownership to a third-party.

Documentary Stamp Tax

Deeds and other documents that transfer an interest in Florida real property are subject to documentary stamp tax. Regardless of where the deed or other document is signed and delivered, documentary stamp tax is due.

Florida imposes a documentary stamp tax on tax deeds and other documents related to real property at the rate of 70 cents per \$100 of the consideration paid therefor.³ Consideration is defined to include, but is not limited to, the money paid or agreed to be paid; the discharge of an obligation; and the amount of any mortgage, purchase money mortgage lien, or other encumbrance, whether or not the underlying indebtedness is assumed.⁴

Section 201.02, F.S., provides various exemptions and limitations to imposition of the documentary stamp tax. However, under current law, there are no documentary stamp tax exemptions for real property purchased and sold by real property platforms.

Effect of the Bill

The bill defines the term “real property platform” to mean a corporation or any affiliated group of corporations as defined under s. 220.03(1)(b), F.S., whether or not such affiliated group of corporations elects to file a consolidated return pursuant to s. 220.131, F.S., whose shares are publicly traded on a recognized stock exchange located in the United States and that operates an Internet website or Internet application that:

- Disseminates residential property information to consumers through the website or application; and
- Facilitates real property transactions to enable consumers to purchase and sell residential property.

¹ These platform are also referred to as online listing platforms. Some of the most popular real property platforms are companies like Zillow, Trulia, and Realtor.com.

² See Zillow home-buying program at, <https://www.zillow.com/offers/> (last visited March 29, 2021).

³ Section 201.02(1)(a), F.S.

⁴ Section 201.02(1)(a), F.S.

The bill also limits the consideration for the documentary stamp tax imposed to the difference between the consideration paid by the real property platform, itself or through an affiliated group of corporations, for the residential property and the consideration paid to the real property platform for such residential property by a subsequent purchaser of the property if the real property platform, or an affiliated group of corporations, does the following:

- Conveys or vests an interest in the residential property classified as single family or condominium pursuant to s. 195.073(1)(a)1. and 4., F.S., that is a single dwelling unit.
- Conveys or vests an interest in the residential property to an unrelated subsequent purchaser within 180 calendar days immediately following the date on which the property was conveyed to, or interest in such property was vested in, the real property platform, itself or an affiliated group of corporations.
- Does not use the residential property as a home, residence, or sleeping place or as a dwelling unit while it owns the real property other than to allow a short-term seller holdover arrangement incidental to the sale of the residential property.
- Receives consideration for conveyance of, or vesting of interest in, the residential property from the unrelated subsequent purchaser in an amount no greater than 110 percent of the amount of the consideration paid by the real property platform or an affiliated group of corporations of the real property platform for the residential property.

B. SECTION DIRECTORY:

Section 1: Amends s. 201.02, F.S., defining the term “real property platform”; providing the parameters under which documentary stamp tax is due if a real property platform purchases and sells residential property within a specified time period.

Section 2: Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference (REC) estimated that the provisions of the bill would have a negative recurring impact on General Revenue of \$0.1 million in FY 2021-22 growing to \$0.3 million in FY 2025-26. The estimated negative recurring impact on state trust funds is \$0.1 million in FY 2021-22 growing to \$0.3 million in FY 2025-26.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The REC estimated that the provisions of the bill do not impact local government revenues.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 31, 2021, the Ways and Means Committee adopted an amendment and reported the bill favorably. The amendment:

- Redefines “real property platform” to mean a corporation or any affiliated group of corporations as defined under s. 220.03(1)(b), F.S., whether or not the affiliated group of corporations elects to file a consolidated return pursuant to s. 220.131, F.S., whose shares are publicly traded on a recognized stock exchange located in the United States and operates an Internet website application that; disseminates residential property information to consumers through the website or application; and facilitates real property transactions to enable consumers to purchase and sell residential property.
- Limits the consideration of the documentary stamp tax imposed to the difference between the consideration the real property platform paid, itself or through an affiliated group of corporations, to purchase the residential property and the consideration paid to the real property platform, itself or through an affiliated group, by the subsequent purchaser for the property if the real property platform or, itself or through an affiliated group of corporations, certain specified requirements are met.

This analysis is drawn to the bill as amended by the Ways and Means Committee.