

# CHAPTER 97-191

## House Bill No. 153

An act relating to taxation; amending s. 199.185, F.S.; exempting certain investments secured by liens on real property from taxation under ch. 199, F.S.; amending s. 201.02, F.S.; providing that the tax on instruments relating to real property does not apply to certain conveyances between spouses or former spouses pursuant to an action for dissolution of marriage; providing a documentary stamp tax exemption for certain merged entities; providing an effective date.

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

Section 1. Paragraph (k) is added to subsection (1) of section 199.185, Florida Statutes, 1996 Supplement, to read:

199.185 Property exempted from annual and nonrecurring taxes.—

(1) The following intangible personal property shall be exempt from the annual and nonrecurring taxes imposed by this chapter:

(k) Real estate mortgage investment conduits (REMIC) that are directly or indirectly secured by or payable from notes and obligations that are in turn secured by a mortgage, deed of trust, or other lien upon real property situated in or outside of the state, including but not limited to mortgage pools, participations, and derivatives and are held as investments by banks or savings associations in compliance with regulatory agency guidelines.

Section 2. Subsection (7) is added to section 201.02, Florida Statutes, to read:

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

(1) On deeds, instruments, or writings whereby any lands, tenements, or other real property, or any interest therein, shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or any other person by his or her direction, on each \$100 of the consideration therefor the tax shall be 70 cents. When the full amount of the consideration for the execution, assignment, transfer, or conveyance is not shown in the face of such deed, instrument, document, or writing, the tax shall be at the rate of 70 cents for each \$100 or fractional part thereof of the consideration therefor. For purposes of this section, consideration includes, 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. If the consideration paid or given in exchange for real property or any interest therein includes property other than money, it is presumed that the consideration is equal to the fair market value of the real property or interest therein.

(2) The tax imposed by subsection (1) shall also be payable upon documents by which the right is granted to a tenant-stockholder to occupy an apartment in a building owned by a cooperative apartment corporation or in a dwelling on real property owned by any other form of cooperative association as defined in s. 719.103.

(3) The tax imposed by subsection (2) shall be paid by the purchaser, and the document recorded in the office of the clerk of the circuit court as evidence of ownership.

(4) The tax imposed by subsection (1) shall also be payable upon documents which convey or transfer, pursuant to s. 689.071, any beneficial interest in lands, tenements, or other real property, or any interest therein, even though such interest may be designated as personal property, notwithstanding the provisions of s. 689.071(4). The tax shall be paid upon execution of any such document.

(5) All conveyances of real property to a partner from a partnership which property was conveyed to the partnership after July 1, 1986, are taxable if:

(a) The partner receiving the real property from the partnership is a partner other than the partner who conveyed the real property to the partnership; or

(b) The partner receiving the real property from the partnership is the partner who conveyed the real property to the partnership and there is a mortgage debt or other debt secured by such real property for which the partner was not personally liable prior to conveying the real property to the partnership.

For purposes of this subsection, the value of the consideration paid for the conveyance of the real property to the partner from the partnership includes, but is not limited to, the amount of any outstanding mortgage debt or other debt which the partner pays or agrees to pay in exchange for the real property, regardless of whether the partner was personally liable for the debts of the partnership prior to the conveyance to the partner from the partnership.

(6) Taxes imposed by this section shall not apply to any assignment, transfer, or other disposition, or any document, which arises out of a transfer of real property from a nonprofit organization to the Board of Trustees of the Internal Improvement Trust Fund, to any state agency, to any water management district, or to any local government. For purposes of this subsection, "nonprofit organization" means an organization whose purpose is the preservation of natural resources and which is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The Department of Revenue shall provide a form, or a place on an existing form, for the nonprofit organization to indicate its exempt status.

(7) Taxes imposed by this section do not apply to a deed, transfer, or conveyance between spouses or former spouses pursuant to an action for

dissolution of their marriage wherein the real property is or was their marital home or an interest therein. Taxes paid pursuant to this section shall be refunded in those cases in which a deed, transfer, or conveyance occurred 1 year before a dissolution of marriage. This subsection applies in spite of any consideration as defined in subsection (1). This subsection does not apply to a deed, transfer, or conveyance executed before July 1, 1997.

Section 3. In the event of a merger, consolidation, conversion, or acquisition by a financial institution as defined by section 655.05(1)(h), Florida Statutes, the tax imposed by section 201.02, Florida Statutes, shall not apply to any deed, instrument, writing, or other document transferring property between the financial institution and any subsidiary, provided that:

(1) The merger, consolidation, conversion, or acquisition occurred within the 3 years preceding the effective date of this act;

(2) The operations performed on the transferred property employ in excess of 1,000 persons;

(3) The transfer occurs within 1 year after the effective date of this act; and

(4) The subsidiary of the financial institution is 100-percent owned by the financial institution.

Section 4. This act shall take effect July 1, 1997.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.