

Committee Substitute for Senate Bill No. 462

An act relating to the excise tax on documents; amending s. 201.08, F.S.; providing for the maximum tax that must be paid on unsecured obligations; conforming cross-references; amending s. 601.155, F.S.; revising an exemption from an equalizing excise tax on products made from certain citrus fruit; providing an effective date.

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

Section 1. Subsections (1), (2), (4), and (5) of section 201.08, Florida Statutes, are amended to read:

201.08 Tax on promissory or nonnegotiable notes, written obligations to pay money, or assignments of wages or other compensation; exception.—

(1)(a) On promissory notes, nonnegotiable notes, written obligations to pay money, or assignments of salaries, wages, or other compensation made, executed, delivered, sold, transferred, or assigned in the state, and for each renewal of the same, the tax shall be 35 cents on each \$100 or fraction thereof of the indebtedness or obligation evidenced thereby. The tax on any document described in this paragraph may not exceed \$2,450.

(b) On mortgages, trust deeds, security agreements, or other evidences of indebtedness filed or recorded in this state, and for each renewal of the same, the tax shall be 35 cents on each \$100 or fraction thereof of the indebtedness or obligation evidenced thereby. Mortgages, including, but not limited to, mortgages executed without 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 at the same rate. When there is both 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. If a mortgage, trust deed, security agreement, or other evidence of indebtedness is subsequently filed or recorded in this state to evidence an indebtedness or obligation upon which tax was paid under paragraph (a) or subsection (2), tax shall be paid on the mortgage, trust deed, security agreement, or other evidence of indebtedness on the amount of the indebtedness or obligation evidenced which exceeds the aggregate amount upon which tax was previously paid under this paragraph and under paragraph (a) or subsection (2). If the mortgage, trust deed, security agreement, or other evidence of indebtedness subject to the tax levied by this section secures future advances, as provided in s. 697.04, the tax shall be paid at the time of recordation on the initial debt or obligation secured, excluding future advances; at the time and so often as any future advance is made, the tax shall be paid on all sums then advanced regardless of where such advance is made. Notwithstanding the aforesaid general rule, any increase in the amount of original indebtedness caused by interest accruing under an adjustable rate note or mortgage

having an initial interest rate adjustment interval of not less than 6 months shall be taxable as a future advance only to the extent such increase is a computable sum certain when the document is executed. Failure to pay the tax shall not affect the lien for any such future advance given by s. 697.04, but any person who fails or refuses to pay such tax due by him or her is guilty of a misdemeanor of the first degree. The mortgage, trust deed, or other instrument shall not be enforceable in any court of this state as to any such advance unless and until the tax due thereon upon each advance that may have been made thereunder has been paid.

(2)(a) On promissory notes, nonnegotiable notes, written obligations to pay money, or other compensation, made, executed, delivered, sold, transferred, or assigned in the state, in connection with sales made under retail charge account services, incident to sales which are not conditional in character and which are not secured by mortgage or other pledge of purchaser, the tax shall be 35 cents on each \$100 or fraction thereof of the gross amount of the indebtedness evidenced by such instruments, payable quarterly on such forms and under such rules and regulations as may be promulgated by the Department of Revenue. The tax on any document described in this paragraph may not exceed \$2,450.

(b) Any receipt, charge slip, or other record of a transaction effected with the use of a credit card, charge card, or debit card shall be exempt from the tax imposed by this section.

(4) Notwithstanding ~~paragraph (1)(b) subsection (1)~~, a supplement or an amendment to a mortgage, deed of trust, indenture, or security agreement, which supplement or amendment is filed or recorded in this state in connection with a new issue of bonds, shall be subject to the tax imposed by paragraph (1)(b) subsection (1) only to the extent of the aggregate amount of the new issue of bonds or other evidence of indebtedness and not to the extent of the aggregate amount of bonds or other evidence of indebtedness previously issued under the instrument being supplemented or amended. In order to qualify for the tax treatment provided for in this subsection, the document which evidences the increase in indebtedness must show the official records book and page number in which, and the county in which, the original obligation and any prior increase in that obligation were recorded.

(5) For purposes of this section, a renewal shall only include modifications of an original document which change the terms of the indebtedness evidenced by the original document by adding one or more obligors, increasing the principal balance, or changing the interest rate, maturity date, or payment terms. Modifications to documents which do not modify the terms of the indebtedness evidenced such as those given or recorded to correct error; modify covenants, conditions, or terms unrelated to the debt; sever a lien into separate liens; provide for additional, substitute, or further security for the indebtedness; consolidate indebtedness or collateral; add, change, or delete guarantors; or which substitute a new mortgagee or payee are not renewals and are not subject to tax pursuant to this section. If the taxable amount of a mortgage is limited by language contained in the mortgage or by the application of rules limiting the tax base when there is collateral in

more than one state, then a modification which changes such limitation or tax base shall be taxable only to the extent of any increase in the limitation or tax base attributable to such modification. This subsection shall not be interpreted to exempt from taxation an original mortgage ~~that~~ which would otherwise be subject to tax pursuant to paragraph (1)(b) subsection (1).

Section 2. Subsection (5) of section 601.155, Florida Statutes, is amended to read:

601.155 Equalizing excise tax; credit; exemption.—

(5) All Products made subject to the taxable privileges under this section, ~~which products are produced~~ in whole or in part from citrus fruit on which an equivalent tax is levied pursuant to s. 601.15 grown within the United States, are exempt from the tax imposed by this section ~~to the extent that the products are derived from oranges or grapefruit grown within the United States.~~ In the case of products made in part from citrus fruit exempt from the tax imposed by this section grown within the United States, it shall be the burden of the persons liable for the excise tax to show the Department of Citrus, through competent evidence, proof of that part which is not subject to a taxable privilege.

Section 3. This act shall take effect July 1, 2002.

Approved by the Governor April 16, 2002.

Filed in Office Secretary of State April 16, 2002.