

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 89
Written Obligations to Pay Money

Documentary Stamp Tax on Promissory or Nonnegotiable Notes and

SPONSOR(S): Evers

TIED BILLS:

IDEN./SIM. BILLS: SB 556

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture Committee	_____	Kaiser	Reese
2) Finance & Tax Committee	_____	_____	_____
3) Civil Justice Committee	_____	_____	_____
4) State Resources Council	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 89 eliminates the excise tax on documents, currently payable at the rate of 35 cents on each \$100, on debt obligations of agricultural producers to the federal Commodity Credit Corporation (CCC). The CCC is a federal corporation within the United States Department of Agriculture that was created to stabilize, support and protect farm income and prices and to help maintain a balanced and adequate supply of agricultural commodities.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes: The bill exempts agriculture producers of certain commodities in the state from paying documentary stamp tax on notes or debt obligations and related security instruments to the Commodity Credit Corporation (CCC).

Safeguard individual liberty: The bill protects farmers at a time when they are the most vulnerable financially by exempting them from paying taxes on the loans they receive from the USDA's CCC.

Empower families: The bill empowers families by providing an exemption on paying documentary stamp tax on loans they receive from the USDA's CCC.

B. EFFECT OF PROPOSED CHANGES:

The Commodity Credit Corporation (CCC) is a federal corporation within the United States Department of Agriculture that was created in 1933 to stabilize, support and protect farm income and prices and to help maintain a balanced and adequate supply of agricultural commodities. The CCC aids producers of crops, such as cotton, peanuts, sugar, corn, honey, soya and wheat, who participate under the program through loans, purchases and payment programs. If the producer does not redeem the commodity by loan repayment time, the CCC takes title and possession, without recourse. This means that the producers have the option of either repaying the principal and interest or forfeiting the commodity to the CCC in full settlement of the loan.

Section 201.08, F.S., currently requires that a tax be paid on promissory notes, nonnegotiable notes, and written obligations at the rate of 35 cents on each \$100 or fraction thereof, with a maximum of \$2,450 per document. An identical tax is due on mortgages or other security instruments except that there is no cap. If there is both a debt instrument and a security instrument, the tax must be paid on the security instrument with a notation being made on the debt instrument to that effect. The only exclusion is for debts on student loans. Accordingly, CCC loans are taxed in the same manner as all other loans.

HB 89 exempts agriculture producers of certain commodities in the state from paying documentary stamp tax on notes or debt obligations and related security instruments to the CCC.

C. SECTION DIRECTORY:

Section 1: Amends s. 201.08, F.S., exempting agriculture producers of certain commodities in the state from paying documentary stamp tax on notes or debt obligations and related security instruments to the Community Credit Corporation.

Section 2: Providing an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

When reviewed in 2004, the Revenue Estimating Conference projected that this documentary stamp exemption would result in a loss of \$300,000 in General Revenue and \$100,000 in state trust fund revenues on an annualized basis for FY 2004-05 and FY 2005-06. The estimating conference anticipates reviewing the proposed exemption in the near future, allowing time to update this information if there is any change.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Agricultural producers that obtain CCC loans would benefit from the tax exemption on these transactions.

D. FISCAL COMMENTS:

For the five year period ending in 2004, data from the Farm Service Agency, which administers the CCC loans, shows that 4,308 CCC loans were made totaling \$613.8 million, which had a tax impact of \$2,148,300. A 2004 loan summary county report prepared by the Farm Service Agency shows that loans for 2004 were made to the following producers:

Commodity	Number of Loans	Amount of Loans	Documentary Stamp Tax Paid
Peanut	1181	\$55,263,394	\$193,422
Upland cotton	48	786,254	2,752
Honey	12	120,657	422
Sugar cane	9	79,297,000	277,540
Soya	9	224,781	786
Corn	3	34,408	120
Wheat	3	86,138	301
Total	1,265	\$135,812,632	\$475,343

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

Proponents of the bill argue that the Commodity Credit Corporation, as a governmental corporation, is exempt from taxation by the federal, state or local government. Their position being that the transaction was tantamount to shifting the tax burden to the borrower from the government, but it is still unconstitutional.

The proponents rely upon the U.S. Supreme Court case of *Federal Land Bank of New Orleans v. Crosland*, 261 U.S. 374, (U.S. Supreme Ct. 1923). In this case, the court held that states could not tax mortgages executed to Federal Land Banks as the Federal Farm Loan Act of July 17, 1916 deemed such mortgages to be instrumentalities of the government. The proponents acknowledge that the Florida Supreme Court considered the foregoing case in *Plymouth Citrus Growers Ass'n v. Lee*, 27 So.2d 415 (Florida 1946). In *Plymouth*, it was contended that a note under the Farm Credit Act of 1933 was exempt because it was an instrumentality of the United States. The Florida

Supreme Court examined the terms of the Farm Credit Act and the ruling in *Crosland* and found nothing to support the position that such notes should be exempt or that the federal law forbids such a tax. There does not appear to be any different judicial guidance for CCC loans made in the state of Florida at this time.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES