

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1459 Discretionary Surtax on Documents

SPONSOR(S): Lopez-Cantera

TIED BILLS: **IDEN./SIM. BILLS:** 1492

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Economic Expansion & Infrastructure Council	_____	Rojas	Tinker
2) Policy & Budget Council	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill repeals the 2011 sunset for Miami-Dade County to assess a discretionary surtax on documents. The bill repeals the surtax as established by Section 3 of ch.83-220, Laws of Florida, as amended by s. 1 of ch. 84-270 and s. 1 of ch. 89-252, Laws of Florida. This would allow Miami-Dade County to continue to assess the discretionary surtax on documents permanently.

This bill does not have a state fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower Families - The bill will allow continued funding of Miami-Dade's Home Ownership Assistance Loan Trust Fund, assisting families seeking assistance for affordable housing.

B. EFFECT OF PROPOSED CHANGES:

Background and Current Law

Discretionary Surtax on Documents

In 1983, the Legislature enacted chapter 83-220, Laws of Florida, creating s. 125.0167, F.S., to authorize the governing body of certain counties to levy a discretionary surtax on documents for the purpose of establishing and financing a Home Ownership Assistance Loan Trust Fund. Revenues in the fund were to be used to assist low and moderate income families in the purchase of a home or an apartment. Not less than 1/2 of the funds were to be used to assist low-income families, defined as families whose income did not exceed 80 percent of the median income for the area. The remaining funds could be used to assist families whose income was in excess of 80 percent, but not more than 140 percent, of the median income for the area. The surtax could not exceed the rate of \$0.45 per \$100 or fractional part thereof, and could apply only to documents taxable under s. 201.01, F.S., except that no surtax could be imposed on a deed conveying a single family residence, identified as a detached dwelling, a condominium unit, or a unit held through stock ownership or membership representing a proprietary interest in a corporation owning a fee or a leasehold initially in excess of 98 years.

The governing body was directed to adopt an ordinance to levy the discretionary surtax and create the trust fund. The ordinance was required to establish the policies and procedures of the assistance program. The county was directed to deposit revenues from the surtax into the trust fund to be used only for the purchase of a home or an apartment, or the rehabilitation of an existing home or apartment. The surtax could not be used for rent subsidies or grants.

Section 201.031, F.S., was created to establish the discretionary surtax and require counties levying the surtax to submit a financial report (under s. 218.32, F.S.) showing the revenues and expenses of the trust fund. The Department of Revenue was directed to distribute all surtaxes collected within each county to that county's governing authority. The act was scheduled to sunset on October 1, 1993.

In 1984, chapter 84-270, Laws of Florida, changed the name of the Home Ownership Trust Fund to the Housing Assistance Loan Trust Fund with a specified purpose of assisting in the financing of construction, rehabilitation, or purchase of housing for low and moderate income families. Funds could be used for first or second mortgages, and buying property to form housing cooperatives. Special consideration was to be given to neighborhood economic development programs of Community Development Corporations. Not more than 1/2 of the revenues collected each year could be used to finance new construction.

In 1989, the Legislature enacted chapter 89-252, Laws of Florida, to provide that the discretionary surtax program will sunset on October 1, 2011. In 1992, the Legislature enacted chapter 92-317, Laws of Florida, to provide that a portion of the discretionary surtax revenues deposited into the Housing Assistance Trust Fund could be deposited into the Home Investment Trust Fund of the county as defined by and created under the requirements of federal law. These set-aside funds are to be used to finance the construction,

rehabilitation, or purchase of housing for low-income and moderate-income families and to fund any local matching contributions required under federal law.

The income restrictions and the cap on the discretionary surtax remain unchanged since 1983.

Miami-Dade County Affordable Housing Documentary Surtax Program

The discretionary surtax imposed by Miami-Dade County is contained in section 29-7 of the Code of Miami-Dade County, and is known as the "Metropolitan Dade County Documentary Surtax Ordinance." The ordinance provides that the surtax be assessed at the full rate of \$.045 per \$100 of value on deeds and instruments transferring real property with the exception of documents transferring title to a single-family residence. The ordinance also contains the Miami-Dade County Housing Assistance Loan Trust Fund and establishes the purposes for which surtax revenues may be used. Miami-Dade County reports that over the past five years, the surtax program has provided more than \$179 million for the construction, rehabilitation, and purchase of housing for low-income and moderate-income families, including \$29 million for 652 homeownership loans.

Effect of Changes

Section 3 of chapter 83-220, Laws of Florida, as amended by chapter 84-270, Laws of Florida, and section 1 of chapter 89-252, Laws of Florida, is repealed. This would allow Miami-Dade County to continue to assess the discretionary surtax on documents permanently.

C. SECTION DIRECTORY:

Section 1 Section 3 of chapter 83-220, Laws of Florida, as amended by chapter 84-270, Laws of Florida, and section 1 of chapter 89-252, Laws of Florida, is repealed.

Section 2 Provides that the act shall take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill allows a local government to assess the discretionary surtax on documents.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons who sell and buy real estate will continue to pay the discretionary surtax on documents if assessed by the local government.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES