

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – Citizens of Florida will benefit by the elimination of a form that has been determined to be duplicative and unnecessary. Each year approximately 1.7 million DR-219s are submitted by closing agents, or in some cases, the county clerks.

Ensure Lower Taxes – The bill eliminates the 1.0 percent commission from documentary stamp tax revenue pertaining to the deeds proportion. Consequently, there will be a positive impact on the General Revenue Fund.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

In 1986, the Legislature created s. 201.022, F.S., to require sellers, buyers, or agents to file a return containing certain information when submitting a deed to county clerks to transfer interest in real property. To carry out the law, the Department of Revenue (department) developed the Return for Transfers of Interest in Real Property Form (DR-219). The form was created to include information relating to transactions that may not have been, at that time, readily available from public sources, including the sale price of the property, the date of the sale, the type of property, whether the sale included any tangible personal property, if mineral rights were involved, and whether the sale was due to foreclosure.

In 1992, the Legislature amended the law to allow county clerks to retain 1.0 percent of the documentary stamp tax revenue pertaining to the deeds proportion on each property to cover the cost of processing the forms.

The information obtained from the DR-219 form was originally intended to be used for several purposes: for state and local officials to accurately collect information on real property transfers and for department and county officials to verify that appropriate documentary stamp taxes have been paid. It also was intended to be used to create an independent database of sales information to help ascertain if the county property appraisers were appropriately establishing market value for property tax purposes.

However, the information on the DR-219 is frequently incomplete, inaccurate, or illegible, therefore making it unreliable. According to the Office of Program Policy Analysis and Government Accountability (OPPAGA), the quality of this information is further degraded by data entry errors by closing agents, the Clerk of Court staff, and the department staff as it is transferred from paper forms to the electronic database.

A May 2007 survey conducted by the Property Tax Administration Program within the Department of Revenue, found that 90 percent of Property Appraisers determined that the DR-219 data is insufficient, incomplete or too inaccurate to provide a reliable and credible source of information on real property transactions.¹

There are other reasons that the DR-219 form has not met its original intent, such as no uniform parcel number systems throughout the State of Florida creating further data entry problems. Moreover, the forms are not often submitted timely and are sometimes received by the department months after the deed has been recorded. In many instances, the DR-219 form may never be submitted. If this is the case, the only penalty authorized by law is a \$25 fine to be paid by the seller, buyer, or buyer's agent.²

¹ Department of Revenue – Property Tax Appraisers – DR-219 Survey – May, 2007

² Section 201.022(2), F.S.

Other than the DR-219 form, there are currently other and more reliable resources that the county property appraisers are able to use. For example, property appraisers use a copy of the deed with the affixed documentary stamps to compute an estimated sales price. They may also contact the buyer or seller directly to gather details such as whether the sale included the transfer of personal property. Information from state-level databases such as Sunbiz (the Florida Division of Corporations website) is also helpful to the property appraisers. Another option for obtaining much of the information included on the DR-219 is to use services such as the Multiple Listing Service.

Currently, when the forms are submitted to the clerks, they are then forwarded to the property appraisers and to the department. As of July 1, 2007, the department stopped processing the forms due to their lack of complete and accurate information. The department also determined that the form does not effectively serve as an independent source of reliable information for its analysis of county property tax roles. Another reason the department stopped processing the form is that it is not the best source of information for identifying underpayment of documentary stamp taxes. Currently, the forms are not being inputted by the department nor are they being imaged. The department estimates that there are approximately 1.7 million forms that are submitted on an annual basis and are being stored in approximately 900-1000 boxes.³

Effect of Proposed Changes

The bill eliminates the DR-219 form. Property appraisers will not have the specific information that they would have received from the DR-219. Even though the form is being eliminated, other online and data sources are already being utilized and available for the county clerks and appraisers. For example, property appraisers use a copy of the deed with the affixed documentary stamps to compute an estimated sales price. The copies of the deeds are available online and therefore easy to access. They may also contact the buyer or seller directly to gather details such as whether the sale included the transfer of personal property. Information from state-level databases such as Sunbiz is also helpful to the property appraisers. Another option for obtaining much of the information included on the DR-219 is to use services such as the Multiple Listing Service.

The county clerks will not be compensated the 1.0 percent of documentary stamp tax revenue pertaining to the deeds proportion that they receive when processing the forms. Officials with the Florida Association of Court Clerks and Comptrollers report that this loss of revenue to their individual counties and offices would be insignificant.⁴

The Department of Revenue will have a reduced workload by not having to receive and store the forms.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) published a research memorandum on February 15, 2008 regarding the elimination of the DR-219 form. They concluded their report with this statement:

“Overall... the state’s cost to process the DR-219 form (\$16 million in Fiscal Year 2006-2007), far outweigh the limited benefit gained by the county property appraisers. When the form is complete and accurate, property appraisers find it very useful; however, more often, the form is incomplete, inaccurate or otherwise illegible. The Department of Revenue has stopped using the form and representatives of the county clerks and property appraisers report that elimination of the form is reasonable given its lack of reliable information”⁵

C. SECTION DIRECTORY:

³ Correspondence by Department of Revenue - received by email February 20, 2008 on file with the Government Efficiency & Accountability Council

⁴ OPPAGA Research Memorandum – February 15, 2008 on file with the Government Efficiency & Accountability Council

⁵ OPPAGA Research Memorandum – February 15, 2008 on file with the Government Efficiency & Accountability Council

Section 1 repeals s.201.022, F.S., relating to consideration for realty; filing of return condition precedent to recordation; penalty; compensation of clerks; failure to file does not impair validity.

Section 2 provides an effective date of June 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference, on February 8, 2008, determined an increase in state revenues of approximately \$11.5 million during Fiscal Year 2008-2009 by eliminating the DR-219 effective July 1, 2008 (revenue that is currently retained by the County Clerks of Court as a commission for processing the DR-219 based on 1.0 percent of documentary stamp tax revenue pertaining to the deeds proportion).

Increase in state revenues are as follows:

	FY 2008-09	FY2009-10	FY 2010-11
General Revenue	\$10.7 million	\$12.6 million	\$15.2 million
State Trust Funds	<u>\$.8 million</u>	<u>\$.5 million</u>	<u>\$.7 million</u>
Total	\$11.5 million	\$13.1 million	\$15.9 million

2. Expenditures:

There will be a positive recurring fiscal impact to the General Revenue Fund of \$35,000 due to reduced expenditures by the department for printing, postage, and storage of the DR-219.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

By repealing s. 201.022, F.S., County Clerks will no longer retain the 1.0 percent of the deeds proportion of documentary stamp tax collections as a commission for processing the DR-219. The Revenue Estimating Conference, on February 8, 2008, determined the amount to be approximately \$11.5 million for Fiscal Year 2008-2009, which allowances vary by county.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

The department stopped processing and imaging the DR-219 as of July 1, 2007. During Special Session 2007C, the department's General Revenue budget was reduced by \$140,000 in the General Tax Administration Program.

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

None

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None