

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Agriculture Committee

BILL: SB 1622

INTRODUCER: Senator Deutch

SUBJECT: Nonprofit Cooperative Associations

DATE: March 27, 2008

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Poole	AG	Pre-meeting
2.			CM	
3.			JU	
4.			FT	
5.			GA	
6.				

I. Summary:

This bill requires the disclosure of consideration paid on documents transferring an ownership interest in nonprofit cooperative associations formed under Chapter 619, F.S. It also imposes a documentary stamp tax on the true consideration of such a transfer.

This bill creates s. 619.10 of the Florida Statutes and substantially amends s. 201.02 of the Florida Statutes.

II. Present Situation:

Nonprofit cooperative associations may be formed under Chapter 619, F.S., for the purpose of manufacturing, processing, and marketing of certain agricultural products and byproducts. These associations do not have capital stock and are authorized to issue non-assignable certificates of membership, unless assignment is consented to by the board of directors or provided for in the bylaws, instead of capital stock. Chapter 619, F.S., currently does not have language requiring the recording of documents transferring ownership interests or regarding the disclosure of consideration paid on such transfers.

Section 201.02, F.S., imposes a documentary stamp tax on deeds and other instruments relating to the transfer of real property or an interest in real property. There is no specific provision relating to the transfer of ownership interests in a Chapter 619, F.S., nonprofit cooperative association.

III. Effect of Proposed Changes:

Section 1 creates s. 619.10, F.S., to require that the full consideration must be stated in the recorded documents that transfer an ownership interest in a nonprofit cooperative association which is engaged in the business of manufacturing, processing, and marketing of certain agricultural products and byproducts. This includes transfers of cooperative property, assignments of proprietary leases, transfers of cooperative stock, and cooperative certificates of occupancy and lease.

Section 2 amends s. 201.02, F.S., to impose a documentary stamp tax on a transfer of an ownership interest described in s. 619.10, F.S. on the true amount of consideration paid.

Section 3 provides that this act shall take effect July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None

B. Private Sector Impact:

Transferors of an ownership interest in a Chapter 619, F.S., nonprofit cooperative association would be subject to an indeterminate amount of documentary stamp taxes.

C. Government Sector Impact:

The government would be entitled to collect a documentary stamp tax on transferors of an ownership interest in a Chapter 619, F.S., nonprofit cooperative association. The Revenue Estimating Conference has not yet reviewed the impact of this bill.

VI. Technical Deficiencies:

Section 1 of the bill requires disclosure of “full consideration” and Section 2 imposes a tax on “true consideration”. This inconsistency could present difficulties in the implementation of the bill.

The bill refers to recorded documents but there is no language in the bill that requires documents transferring an ownership interest in a Chapter 619, F.S., nonprofit cooperative association to be recorded.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.