

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 623 Taxation of Real Property Platform Transactions

**SPONSOR(S):** Fischer

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1584

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ways & Means Committee		Curry	Aldridge
2) Appropriations Committee			
3) Commerce Committee			

### SUMMARY ANALYSIS

Online marketplaces exist where buyers and sellers can view listings of real property. In addition to listing properties, some real property platform companies purchase real property with the intent to sell.

Deeds and other documents that transfer an interest in Florida real property are subject to documentary stamp tax. Florida imposes a documentary stamp tax on tax deeds and other documents related to real property at the rate of 70 cents per \$100 of the consideration paid therefor. Consideration is defined to include, but is not limited to, the money paid or agreed to be paid; the discharge of an obligation; and the amount of any mortgage, purchase money mortgage lien, or other encumbrance, whether or not the underlying indebtedness is assumed.

The bill defines the term “real property platform” and sets the parameters under which documentary stamp taxes will be assessed if a real property platform, or its affiliate, purchases a residential property without taking residence and with the intent to sell to a third party.

The Revenue Estimating Conference has not estimated the potential revenue impacts of the bill.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

##### Real Property Platform

Current law does not define a “real property platform.” However, a real property platform is essentially an online marketplace of sorts, where buyers and sellers can view listings of real property. Some platforms operate with the goal of enabling aspiring or existing property owners to buy and sell real property by streamlining some of the steps in the buying and selling process.<sup>1</sup> In addition to listing properties, some real property platform companies offer home-buying programs where buyers sell their homes to the company.<sup>2</sup>

In such cases, the real property platform purchases the residential property with the intent to sell to a third-party at a later date. To facilitate a sale, the homeowner contacts the real property platform to request a cash offer on their home. If the offer is accepted, the sales transaction is completed and ownership of the property is transferred to the real property platform who ultimately sells the property and transfers ownership to a third-party.

##### Documentary Stamp Tax

Deeds and other documents that transfer an interest in Florida real property are subject to documentary stamp tax. Regardless of where the deed or other document is signed and delivered, documentary stamp tax is due.

Florida imposes a documentary stamp tax on tax deeds and other documents related to real property at the rate of 70 cents per \$100 of the consideration paid therefor.<sup>3</sup> Consideration is defined to include, but is not limited to, the money paid or agreed to be paid; the discharge of an obligation; and the amount of any mortgage, purchase money mortgage lien, or other encumbrance, whether or not the underlying indebtedness is assumed.<sup>4</sup>

Section 201.02, F.S., provides various exemptions and limitations to imposition of the documentary stamp tax. However, under current law, there are no documentary stamp tax exemptions for real property purchased and sold by real property platforms.

#### **Effect of the Bill**

The bill defines the term “real property platform” to mean a company that operates an Internet website application that:

- Disseminates residential property information to consumers through the platform;
- Facilitates real property transactions by enabling consumers to purchase, sell, or rent residential property; and
- Purchases and assumes title itself, or through an affiliate, to residential property without taking residence to the property, with the intent to sell the property to a third party.

The bill also sets the parameters under which documentary stamp taxes will be assessed if a real property platform, or its affiliate, purchases residential property without taking residence and with the

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<sup>1</sup> These platform are also referred to as online listing platforms. Some of the most popular real property platforms are companies like Zillow, Trulia, and Realtor.com.

<sup>2</sup> See Zillow home-buying program at, <https://www.zillow.com/offers/> (last visited March 29, 2021).

<sup>3</sup> Section 201.02(1)(a), F.S.

<sup>4</sup> Section 201.02(1)(a), F.S.

intent to sale. If a real property platform purchases residential property and sells said property within 180 calendar days immediately following the date of purchase and:

- The difference between the recorded purchase price and the recorded sales price is greater than the original purchase price of the property but does not exceed 10 percent of the original purchase price, then documentary stamp taxes will be assessed only on the difference between the recorded purchase price the real property platform paid and the recorded sales price paid by the subsequent purchaser; or
- The recorded sales price paid by the subsequent purchaser is equal to or less than the recorded price paid by the real property platform, then documentary stamp taxes will not be assessed on the sale of the property.

**B. SECTION DIRECTORY:**

Section 1: Amends s. 201.02, F.S., defining the term “real property platform”; providing the parameters under which documentary stamp tax is due if a real property platform purchases and sells residential property within a specified time period.

Section 2: Providing an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

The Revenue Estimating Conference has not estimated the potential impacts of the bill on state revenues.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The Revenue Estimating Conference has not estimated the potential impacts of the bill on local government revenues.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**