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TAMPA BAY Business Journal

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Law requires disclosure of commercial real estate transfers

Measure expected to increase property tax revenue with businesses impacted

Tampa Bay Business Journal - by [Janet Leiser](#) Staff Writer

TAMPA -- A state law that took effect July 1 requires companies to notify county property appraisers of commercial real estate transfers, closing what some consider a tax loophole.

Tampa real estate lawyers said they expect the new provision, part of Senate Bill 1588, to increase property tax revenue for counties at the expense of business.

"This is not a tax loophole they're closing," said Rob Stern of Trenam Kemker. "This is aggressive government regulation looking to raise tax revenue in a down year."

But Pinellas County Property Appraiser Jim Smith said reassessments only trigger higher taxes if property values increase. "If the values are going down it could result in lower appraisals," Smith said.

Buyers can still acquire property through what's called an "entity sale," which saves them thousands of dollars on a multimillion-dollar property primarily through the avoidance of documentary stamp tax.

Buyers of property, not using an entity transfer, pay \$7 on every \$1,000.

Last year, **Prudential Financial Inc.** acquired 100 North Tampa, a 42-story downtown office tower reportedly for more than \$100 million. By using an entity transfer, Prudential acquired the stock of the company that owned the building and avoided documentary tax stamps of more than \$700,000 on the acquisition.

Orange County Property Appraiser Bill Donegan told the **Orlando Business Journal**, a sister publication, that the law change allows county officials to track property sales. "Up to this point, when you had an entity transferring real estate, there was no way to track it," Donegan said.

'Half the loaf'



KATHLEEN CABBLE

Attorney Rob Stern represents landlords at the Gandy Hooters, the type of entity the new law impacts.

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In the recent session, legislators talked about requiring documentary stamp taxes on entity transfers, said Stern, a member of the **Florida Bar Real Property Probate and Trust Law Section's** executive council. But legislators met stiff opposition from businesses. Instead, the Legislature included the disclosure provision in S.B. 1588, Stern said, adding, "They chose to take half of the loaf rather than all of the loaf."

It's sure to become a much talked about issue in the development community, said attorney Ron Weaver. "This is huge," he said.

Penalties are harsh for those who fail to notify the local property appraiser.

Buyers face 150 percent of taxes avoided, plus 15 percent annual interest. Liens can be placed on all of the buyer's property in the county, even properties not involved in the entity transfer.

"It's excessive and aggressive government regulation," Stern said.

Will Shepherd, an attorney for the **Hillsborough County Property Appraiser's Office**, said the disclosure provision was needed because Amendment One places a 10 percent cap on annual increases in commercial property value, beginning in 2009. But the cap is removed for the initial assessment on commercial properties that are sold.

jlaiser@bizjournals.com / 813.342.2468

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