

HB3826



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3826

by Rep. Mike Fortner

SYNOPSIS AS INTRODUCED:

65 ILCS 5/8-3-19

Amends the Illinois Municipal Code. Provides that a subdivider who has been assessed and paid impact fees on real estate in a municipality may not be assessed or charged real estate transfer taxes or fees on that same real estate. Limits home rule powers.

LRB100 10685 AWJ 20909 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Municipal Code is amended by
5 changing Section 8-3-19 as follows:

6 (65 ILCS 5/8-3-19)

7 Sec. 8-3-19. Home rule real estate transfer taxes.

8 (a) After the effective date of this amendatory Act of the
9 93rd General Assembly and subject to this Section, a home rule
10 municipality may impose or increase a tax or other fee on the
11 privilege of transferring title to real estate, on the
12 privilege of transferring a beneficial interest in real
13 property, and on the privilege of transferring a controlling
14 interest in a real estate entity, as the terms "beneficial
15 interest", "controlling interest", and "real estate entity"
16 are defined in Article 31 of the Property Tax Code. Such a tax
17 or other fee shall hereafter be referred to as a real estate
18 transfer tax.

19 (b) Before adopting a resolution to submit the question of
20 imposing or increasing a real estate transfer tax to
21 referendum, the corporate authorities shall give public notice
22 of and hold a public hearing on the intent to submit the
23 question to referendum. This hearing may be part of a regularly

1 scheduled meeting of the corporate authorities. The notice
2 shall be published not more than 30 nor less than 10 days prior
3 to the hearing in a newspaper of general circulation within the
4 municipality. The notice shall be published in the following
5 form:

6 Notice of Proposed (Increased) Real Estate Transfer
7 Tax for (commonly known name of municipality).

8 A public hearing on a resolution to submit to
9 referendum the question of a proposed (increased) real
10 estate transfer tax for (legal name of the municipality) in
11 an amount of (rate) to be paid by the buyer (seller) of the
12 real estate transferred will be held on (date) at (time) at
13 (location). The current rate of real estate transfer tax
14 imposed by (name of municipality) is (rate).

15 Any person desiring to appear at the public hearing and
16 present testimony to the taxing district may do so.

17 (c) A notice that includes any information not specified
18 and required by this Section is an invalid notice. All hearings
19 shall be open to the public. At the public hearing, the
20 corporate authorities of the municipality shall explain the
21 reasons for the proposed or increased real estate transfer tax
22 and shall permit persons desiring to be heard an opportunity to
23 present testimony within reasonable time limits determined by
24 the corporate authorities. A copy of the proposed ordinance
25 shall be made available to the general public for inspection
26 before the public hearing.

1 (d) Except as provided in subsection (i), no home rule
2 municipality shall impose a new real estate transfer tax after
3 the effective date of this amendatory Act of 1996 without prior
4 approval by referendum. Except as provided in subsection (i),
5 no home rule municipality shall impose an increase of the rate
6 of a current real estate transfer tax without prior approval by
7 referendum. A home rule municipality may impose a new real
8 estate transfer tax or may increase an existing real estate
9 transfer tax with prior referendum approval. The referendum
10 shall be conducted as provided in subsection (e). An existing
11 ordinance or resolution imposing a real estate transfer tax may
12 be amended without approval by referendum if the amendment does
13 not increase the rate of the tax or add transactions on which
14 the tax is imposed.

15 (e) The home rule municipality shall, by resolution,
16 provide for submission of the proposition to the voters. The
17 home rule municipality shall certify the resolution and the
18 proposition to the proper election officials in accordance with
19 the general election law. If the proposition is to impose a new
20 real estate transfer tax, it shall be in substantially the
21 following form: "Shall (name of municipality) impose a real
22 estate transfer tax at a rate of (rate) to be paid by the buyer
23 (seller) of the real estate transferred, with the revenue of
24 the proposed transfer tax to be used for (purpose)?" If the
25 proposition is to increase an existing real estate transfer
26 tax, it shall be in the following form: "Shall (name of

1 municipality) impose a real estate transfer tax increase of
2 (percent increase) to establish a new transfer tax rate of
3 (rate) to be paid by the buyer (seller) of the real estate
4 transferred? The current rate of the real estate transfer tax
5 is (rate), and the revenue is used for (purpose). The revenue
6 from the increase is to be used for (purpose).".

7 If a majority of the electors voting on the proposition
8 vote in favor of it, the municipality may impose or increase
9 the municipal real estate transfer tax or fee.

10 (f) Nothing in this amendatory Act of 1996 shall limit the
11 purposes for which real estate transfer tax revenues may be
12 collected or expended.

13 (g) A home rule municipality may not impose real estate
14 transfer taxes other than as authorized by this Section. This
15 Section is a denial and limitation of home rule powers and
16 functions under subsection (g) of Section 6 of Article VII of
17 the Illinois Constitution.

18 (h) Notwithstanding subsection (g) of this Section, any
19 real estate transfer taxes adopted by a municipality at any
20 time prior to January 17, 1997 (the effective date of Public
21 Act 89-701) and any amendments to any existing real estate
22 transfer tax ordinance adopted after that date, in accordance
23 with the law in effect at the time of the adoption of the
24 amendments, are not preempted by this amendatory Act of the
25 93rd General Assembly.

26 (i) Within 6 months after the effective date of this

1 amendatory Act of the 95th General Assembly, by ordinance
2 adopted without a referendum, a home rule municipality with a
3 population in excess of 1,000,000 may increase the rate of an
4 existing real estate transfer tax by a rate of up to \$1.50 for
5 each \$500 of value or fraction thereof, or in the alternative
6 may impose a real estate transfer tax at a rate of up to \$1.50
7 for each \$500 of value or fraction thereof, which may be on the
8 buyer or seller of real estate, or jointly and severally on
9 both, for the sole purpose of providing financial assistance to
10 the Chicago Transit Authority. All amounts collected under such
11 supplemental tax, after fees for costs of collection, shall be
12 provided to the Chicago Transit Authority pursuant to an
13 intergovernmental agreement as promptly as practicable upon
14 their receipt. Such municipality shall file a copy of any
15 ordinance imposing or increasing such tax with the Illinois
16 Department of Revenue and shall file a report with the
17 Department each month certifying the amount paid to the Chicago
18 Transit Authority in the previous month from the proceeds of
19 such tax.

20 (j) A subdivider who has been assessed and paid impact fees
21 on real estate in a municipality under Section 11-12-5 of this
22 Code or any other law may not be assessed or charged real
23 estate transfer taxes or fees on that same real estate.

24 (Source: P.A. 95-708, eff. 1-18-08.)