



Sen. Terry Link

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1 AMENDMENT TO HOUSE BILL 867

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 867 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Property Tax Code is amended by changing  
5 Sections 31-5, 31-10, and 31-20 as follows:

6 (35 ILCS 200/31-5)

7 (Text of Section after amendment by P.A. 93-657)

8 Sec. 31-5. Definitions.

9 "Recordation" includes the issuance of certificates of  
10 title by Registrars of Title under the Registered Titles  
11 (Torrens) Act pursuant to the filing of deeds or trust  
12 documents for that purpose, as well as the recording of deeds  
13 or trust documents by recorders.

14 "Department" means the Department of Revenue.

15 "Person" means any natural individual, firm, partnership,  
16 association, joint stock company, joint adventure, public or  
17 private corporation, limited liability company, or a receiver,  
18 executor, trustee, guardian or other representative appointed  
19 by order of any court.

20 "Value" means the amount of the full actual consideration  
21 for the real property or the beneficial interest in real  
22 property located in Illinois, including the amount of any lien  
23 on the real property assumed by the transferee ~~buyer~~.

24 "Trust document" means a document required to be recorded

1 under the Land Trust Recordation and Transfer Tax Act and,  
2 beginning June 1, 2005, also means any document relating to the  
3 transfer of a taxable beneficial interest under this Article.

4 "Beneficial interest" includes, but is not limited to:

5 (1) the beneficial interest in an Illinois land trust;

6 (2) the lessee interest in a ground lease (including  
7 any interest of the lessee in the related improvements)  
8 that provides for a term of 30 or more years when all  
9 options to renew or extend are included, whether or not any  
10 portion of the term has expired; or

11 (3) the indirect interest in real property as reflected  
12 by a controlling interest in a real estate entity.

13 "Controlling interest" means more than 50% of the fair  
14 market value of all ownership interests or beneficial interests  
15 in a real estate entity.

16 "Real estate entity" means any person including, but not  
17 limited to, any partnership, corporation, limited liability  
18 company, trust, other entity, or multi-tiered entity, that  
19 exists or acts substantially for the purpose of holding  
20 directly or indirectly title to or beneficial interest in real  
21 property. There is a rebuttable presumption that an entity is a  
22 real estate entity if it owns, directly or indirectly, real  
23 property having a fair market value greater than 75% of the  
24 total fair market value of all of the entity's assets,  
25 determined without deduction for any mortgage, lien, or  
26 encumbrance.

27 (Source: P.A. 92-651, eff. 7-11-02; 93-657, eff. 6-1-04.)

28 (35 ILCS 200/31-10)

29 (Text of Section after amendment by P.A. 93-657)

30 Sec. 31-10. Imposition of tax. A tax is imposed on the  
31 privilege of transferring title to real estate located in  
32 Illinois, on the privilege of transferring a beneficial  
33 interest in real property located in Illinois, and on the

1 privilege of transferring a controlling interest in a real  
2 estate entity owning property located in Illinois, at the rate  
3 of 50¢ for each \$500 of value or fraction of \$500 stated in the  
4 declaration required by Section 31-25. If, however, the  
5 transferring document states that the real estate, beneficial  
6 interest, or controlling interest is transferred subject to a  
7 mortgage, the amount of the mortgage remaining outstanding at  
8 the time of transfer shall not be included in the basis of  
9 computing the tax. The tax is due if the transfer is made by  
10 one or more related transactions or involves one or more  
11 persons or entities and whether or not a document is recorded.  
12 (Source: P.A. 93-657, eff. 6-1-04.)

13 (35 ILCS 200/31-20)

14 (Text of Section after amendment by P.A. 93-657)

15 Sec. 31-20. Affixing of stamps. Payment of the tax shall  
16 be evidenced by revenue stamps in the amount required to show  
17 full payment of the tax imposed by Section 31-10. Except as  
18 provided in Section 31-45, a deed, document transferring a  
19 controlling interest in real property, or trust document shall  
20 not be accepted for filing by any recorder or registrar of  
21 titles unless revenue stamps in the required amount have been  
22 purchased from the recorder or registrar of titles of the  
23 county where the deed, document transferring a controlling  
24 interest in real property, or trust document is being filed for  
25 recordation. The revenue stamps shall be affixed to the deed,  
26 document transferring a controlling interest in real property,  
27 or trust document by the recorder or the registrar of titles  
28 either before or after recording as requested by the grantee.  
29 The Department may prescribe a form to which stamps must be  
30 affixed that a transferee must file for recordation at the time  
31 a declaration is presented if a transferring document is not  
32 presented for recordation within 3 business days after the  
33 transfer is effected. A person using or affixing a revenue

1 stamp shall cancel it and so deface it as to render it unfit  
2 for reuse by marking it with his or her initials and the day,  
3 month and year when the affixing occurs. The marking shall be  
4 made by writing or stamping in indelible ink or by perforating  
5 with a machine or punch. However, the revenue stamp shall not  
6 be so defaced as to prevent ready determination of its  
7 denomination and genuineness.

8 (Source: P.A. 93-657, eff. 6-1-04.)

9 Section 10. The Stock, Commodity, or Options Transaction  
10 Tax Exemption Act is amended by changing Section 3 as follows:

11 (35 ILCS 820/3)

12 (This Section may contain text from a Public Act with a  
13 delayed effective date)

14 Sec. 3. Construction of Act. Nothing in this Act shall be  
15 construed as prohibiting or otherwise invalidating any real  
16 estate transfer tax or fee authorized or permitted by Section  
17 31-10 of the Property Tax Code, Sections 5-1031 and Section  
18 5-1031.1 of the Counties Code, or Section 8-3-19 of the  
19 Illinois Municipal Code. This Section is intended as a  
20 clarification and not as a change to existing law.

21 (Source: P.A. 93-657, eff. 6-1-04.)

22 Section 15. The Counties Code is amended by changing  
23 Section 5-1031 as follows:

24 (55 ILCS 5/5-1031) (from Ch. 34, par. 5-1031)

25 Sec. 5-1031. County real estate transfer tax.

26 (a) The county board of a county may impose a tax upon the  
27 privilege of transferring title to real estate, as represented  
28 by the deed that is filed for recordation, and upon the  
29 privilege of transferring a beneficial interest in a land trust  
30 holding legal title to real estate located in such county as

1 represented by the trust document that is filed for  
2 recordation, at the rate of 25 cents for each \$500 of value or  
3 fraction thereof stated in the declaration required by Section  
4 31-25 of the Property Tax Code. If, however, the real estate is  
5 transferred subject to a mortgage, the amount of the mortgage  
6 remaining outstanding at the time of transfer shall not be  
7 included in the basis of computing the tax.

8 A tax imposed pursuant to this Section shall be collected  
9 by the recorder or registrar of titles of the county prior to  
10 recording the deed or trust document or registering the title  
11 subject to the tax. All deeds or trust documents exempted in  
12 Section 31-45 of the Property Tax Code shall also be exempt  
13 from any tax imposed pursuant to this Section. A tax imposed  
14 pursuant to this Section shall be in addition to all other  
15 occupation and privilege taxes imposed by the State of Illinois  
16 or any municipal corporation or political subdivision thereof.

17 (b) The county board may impose a tax at the same rate on  
18 the transfer of a beneficial interest, as defined in Section  
19 31-5 of the Property Tax Code. If, however, the transferring  
20 document states that the real estate or beneficial interest is  
21 transferred subject to a mortgage, then the amount of the  
22 mortgage remaining outstanding at the time of transfer shall  
23 not be included in the basis of computing the tax.

24 The tax must be paid at the time of recordation or, if a  
25 document is not recorded, at the time of presentation of the  
26 transfer declaration to the recorder, as provided in Section  
27 31-25 of the Property Tax Code. All deeds or documents relating  
28 to the transfer of a beneficial interest exempted in Sections  
29 31-45 or 31-46 of the Property Tax Code are also exempt from  
30 any tax imposed under this Section. A tax imposed under this  
31 Section is in addition to all other occupation and privilege  
32 taxes imposed by the State of Illinois or any municipal  
33 corporation or political subdivision thereof.

34 (c) Beginning June 1, 2005, a tax imposed under this

1 Section is due if the transfer is made by one or more related  
2 transactions or involves one or more persons or entities,  
3 regardless of whether a document is recorded.

4 (Source: P.A. 89-626, eff. 8-9-96.)

5 Section 99. Effective date. This Act takes effect June 1,  
6 2005.".