



Rep. Travis Weaver

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10400HB1878ham002

LRB104 09697 HLH 24386 a

1 AMENDMENT TO HOUSE BILL 1878

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1878 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Local Governmental Acceptance of Credit  
5 Cards Act is amended by changing Section 25 as follows:

6 (50 ILCS 345/25)

7 Sec. 25. Payment of fees by cardholders.

8 (a) The governing body of a local governmental entity  
9 authorizing acceptance of payment by credit card may, but is  
10 not required to, impose a convenience fee or surcharge upon a  
11 cardholder making payment by credit card in an amount to  
12 wholly or partially offset, but in no event exceed, the amount  
13 of any discount or processing fee incurred by the local  
14 governmental entity. This convenience fee or surcharge may be  
15 applied only when allowed under the operating rules and  
16 regulations of the credit card involved. When a cardholder

1       elects to make a payment by credit card to a local governmental  
2       entity and a convenience fee or surcharge is imposed, the  
3       payment of the convenience fee or surcharge shall be deemed  
4       voluntary by the person and shall not be refundable.

5               (b) No fee, or accumulation of fees, that exceeds the  
6       lesser of \$20 or 5% of the principal amount charged may be  
7       imposed in connection with the issuance of any license,  
8       sticker, or permit, or with respect to any other similar  
9       transaction. No fee, or accumulation of fees, that exceeds the  
10      lesser of \$5 or 5% of the transaction involved may be imposed  
11      in connection with the payment of any fine. No fee, or  
12      accumulation of fees, in excess of 5% ~~the lesser of \$40 or 3%~~  
13      of the principal amount charged may be imposed in connection  
14      with the payment of any real estate or other tax.

15               (c) Notwithstanding the provisions of subsection (b), a  
16       minimum fee of \$1 may be imposed with respect to any  
17       transaction.

18               Notwithstanding the provisions of subsection (b), a fee in  
19       excess of the limits in subsection (b) may be imposed by a  
20       local governmental entity on a transaction if (i) the fee  
21       imposed by the local governmental entity is no greater than a  
22       fee charged by the financial institution or service provider  
23       accepting and processing credit card payments on behalf of the  
24       local governmental entity; (ii) the financial institution or  
25       service provider accepting and processing the credit card  
26       payments was selected by competitive bid and, when applicable,

1       in accordance with the provisions of the Illinois Procurement  
2       Code; and (iii) the local governmental entity fully discloses  
3       the amount of the fee to the cardholder.

4       (Source: P.A. 92-114, eff. 1-1-02.)

5           Section 10. The Counties Code is amended by changing  
6       Sections 5-1031 and 5-1031.1 as follows:

7           (55 ILCS 5/5-1031) (from Ch. 34, par. 5-1031)

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

9           (a) The county board of a county may impose a tax upon the  
10       privilege of transferring title to real estate, as represented  
11       by the deed that is filed for recordation, and upon the  
12       privilege of transferring a beneficial interest in a land  
13       trust holding legal title to real estate located in such  
14       county as represented by the trust document that is filed for  
15       recordation, at the rate of 25 cents for each \$500 of value or  
16       fraction thereof stated in the declaration required by Section  
17       31-25 of the Property Tax Code. If, however, the real estate is  
18       transferred subject to a mortgage, the amount of the mortgage  
19       remaining outstanding at the time of transfer shall not be  
20       included in the basis of computing the tax.

21           A tax imposed pursuant to this Section shall be collected  
22       by the recorder or registrar of titles of the county prior to  
23       recording the deed or trust document or registering the title  
24       subject to the tax. All deeds or trust documents exempted in

1       Section 31-45 of the Property Tax Code shall also be exempt  
2       from any tax imposed pursuant to this Section. A tax imposed  
3       pursuant to this Section shall be in addition to all other  
4       occupation and privilege taxes imposed by the State of  
5       Illinois or any municipal corporation or political subdivision  
6       thereof.

7               (b) The county board may impose a tax at the same rate on  
8       the transfer of a beneficial interest, as defined in Section  
9       31-5 of the Property Tax Code. If, however, the transferring  
10      document states that the real estate or beneficial interest is  
11      transferred subject to a mortgage, then the amount of the  
12      mortgage remaining outstanding at the time of transfer shall  
13      not be included in the basis of computing the tax.

14       The tax must be paid at the time of recordation or, if a  
15      document is not recorded, at the time of presentation of the  
16      transfer declaration to the recorder, as provided in Section  
17      31-25 of the Property Tax Code. All deeds or documents  
18      relating to the transfer of a beneficial interest exempted in  
19      Sections 31-45 or 31-46 of the Property Tax Code are also  
20      exempt from any tax imposed under this Section. A tax imposed  
21      under this Section is in addition to all other occupation and  
22      privilege taxes imposed by the State of Illinois or any  
23      municipal corporation or political subdivision thereof.

24               (c) Beginning June 1, 2005, a tax imposed under this  
25      Section is due if the transfer is made by one or more related  
26      transactions or involves one or more persons or entities,

1 regardless of whether a document is recorded.

2       (d) Notwithstanding any other provision of law, each  
3 county recorder or registrar of titles shall, at the request  
4 of the taxpayer, accept payment by credit card for all  
5 recording fees and for the tax imposed under this Section;  
6 however, all service charges or fees associated with the  
7 processing or accepting of such a credit card payment shall be  
8 paid by the taxpayer if the taxpayer chooses this method of  
9 payment. Payments received by credit card shall be maintained  
10 by the county recorder or registrar of titles, as applicable,  
11 until the payments are balanced and reconciled. The fee must  
12 be in compliance with subsection (b) of Section 25 of the Local  
13 Governmental Acceptance of Credit Cards Act.

14 (Source: P.A. 93-1099, eff. 6-1-05.)

15 (55 ILCS 5/5-1031.1)

16 Sec. 5-1031.1. Home rule real estate transfer taxes.

17       (a) After the effective date of this amendatory Act of the  
18 93rd General Assembly and subject to this Section, a home rule  
19 county may impose or increase a tax or other fee on the  
20 privilege of transferring title to real estate, on the  
21 privilege of transferring a beneficial interest in real  
22 property, and on the privilege of transferring a controlling  
23 interest in a real estate entity, as the terms "beneficial  
24 interest", "controlling interest", and "real estate entity"  
25 are defined in Article 31 of the Property Tax Code. Such a tax

or other fee shall hereafter be referred to as a real estate transfer tax.

(b) Before adopting a resolution to submit the question of imposing or increasing a real estate transfer tax to referendum, the corporate authorities shall give public notice of and hold a public hearing on the intent to submit the question to referendum. This hearing may be part of a regularly scheduled meeting of the corporate authorities. The notice shall be published not more than 30 nor less than 10 days prior to the hearing in a newspaper of general circulation within the county. The notice shall be published in the following form:

Notice of Proposed (Increased) Real Estate Transfer  
Tax for (commonly known name of county).

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

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

(c) A notice that includes any information not specified and required by this Section is an invalid notice. All hearings shall be open to the public. At the public hearing,

1 the corporate authorities of the county shall explain the  
2 reasons for the proposed or increased real estate transfer tax  
3 and shall permit persons desiring to be heard an opportunity  
4 to present testimony within reasonable time limits determined  
5 by the corporate authorities. A copy of the proposed ordinance  
6 shall be made available to the general public for inspection  
7 before the public hearing.

8 (d) No home rule county shall impose a new real estate  
9 transfer tax after the effective date of this amendatory Act  
10 of 1996 without prior approval by referendum. No home rule  
11 county shall impose an increase of the rate of a current real  
12 estate transfer tax without prior approval by referendum. A  
13 home rule county may impose a new real estate transfer tax or  
14 may increase an existing real estate transfer tax with prior  
15 referendum approval. The referendum shall be conducted as  
16 provided in subsection (e). An existing ordinance or  
17 resolution imposing a real estate transfer tax may be amended  
18 without approval by referendum if the amendment does not  
19 increase the rate of the tax or add transactions on which the  
20 tax is imposed.

21 (e) The home rule county shall, by resolution, provide for  
22 submission of the proposition to the voters. The home rule  
23 county shall certify the resolution and the proposition to the  
24 proper election officials in accordance with the general  
25 election law. If the proposition is to impose a new real estate  
26 transfer tax, it shall be in substantially the following form:

1       "Shall (name of county) impose a real estate transfer tax at a  
2       rate of (rate) to be paid by the buyer (seller) of the real  
3       estate transferred, with the revenue of the proposed transfer  
4       tax to be used for (purpose)?". If the proposition is to  
5       increase an existing real estate transfer tax, it shall be in  
6       the following form: "Shall (name of county) impose a real  
7       estate transfer tax increase of (percent increase) to  
8       establish a new real estate transfer tax rate of (rate) to be  
9       paid by the buyer (seller) of the real estate transferred? The  
10       current rate of the real estate transfer tax is (rate), and the  
11       revenue is used for (purpose). The revenue from the increase  
12       is to be used for (purpose).".

13       If a majority of the electors voting on the proposition  
14       vote in favor of it, the county may impose or increase the real  
15       estate transfer tax.

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

19       (g) A home rule county may not impose real estate transfer  
20       taxes other than as authorized by this Section. This Section  
21       is a denial and limitation of home rule powers and functions  
22       under subsection (g) of Section 6 of Article VII of the  
23       Illinois Constitution.

24       (h) Notwithstanding subsection (g) of this Section, any  
25       real estate transfer taxes adopted by a county at any time  
26       prior to January 17, 1997 (the effective date of Public Act

1 89-701) and any amendments to any existing real estate  
2 transfer tax ordinance adopted after that date, in accordance  
3 with the law in effect at the time of the adoption of the  
4 amendments, are not preempted by this amendatory Act of the  
5 93rd General Assembly.

6 (i) Notwithstanding any other provision of law, each  
7 county recorder or registrar of titles shall, at the request  
8 of the taxpayer, accept payment by credit card for all  
9 recording fees and for the tax imposed under this Section;  
10 however, all service charges or fees associated with the  
11 processing or accepting of such a credit card payment shall be  
12 paid by the taxpayer if the taxpayer chooses this method of  
13 payment. Payments received by credit card shall be maintained  
14 by the county recorder or registrar of titles, as applicable,  
15 until the payments are balanced and reconciled. The fee must  
16 be in compliance with subsection (b) of Section 25 of the Local  
17 Governmental Acceptance of Credit Cards Act.

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