



Sen. Terry Link

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1 AMENDMENT TO HOUSE BILL 869

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 869 by replacing  
3 everything after the enacting clause with the following:

4 "Section 3. "AN ACT concerning taxes", approved January 22,  
5 2004, Public Act 93-657, is amended by adding Section 99 as  
6 follows:

7 (P.A. 93-657, Sec. 99 new)  
8 Sec. 99. Effective date. This Act takes effect on June 1,  
9 2004, except that Section 5 takes effect on July 1, 2004.

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

12 (35 ILCS 200/31-5)  
13 (Text of Section after amendment by P.A. 93-657)  
14 Sec. 31-5. Definitions.  
15 "Recordation" includes the issuance of certificates of  
16 title by Registrars of Title under the Registered Titles  
17 (Torrens) Act pursuant to the filing of deeds or trust  
18 documents for that purpose, as well as the recording of deeds  
19 or trust documents by recorders.

20 "Department" means the Department of Revenue.

21 "Person" means any natural individual, firm, partnership,  
22 association, joint stock company, joint adventure, public or

1 private corporation, limited liability company, or a receiver,  
2 executor, trustee, guardian or other representative appointed  
3 by order of any court.

4 "Value" means the amount of the full actual consideration  
5 for the real property or the beneficial interest in real  
6 property located in Illinois, including the amount of any lien  
7 on the real property assumed by the transferee ~~buyer~~.

8 "Trust document" means a document required to be recorded  
9 under the Land Trust Recordation and Transfer Tax Act and,  
10 beginning July 1, 2004, also means any document relating to the  
11 transfer of a taxable beneficial interest under this Article.

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

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

14 (2) the lessee interest in a ground lease (including  
15 any interest of the lessee in the related improvements)  
16 that provides for a term of 30 or more years when all  
17 options to renew or extend are included, whether or not any  
18 portion of the term has expired; or

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

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

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

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

2 (35 ILCS 200/31-10)

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

4 Sec. 31-10. Imposition of tax. A tax is imposed on the  
5 privilege of transferring title to real estate located in  
6 Illinois, on the privilege of transferring a beneficial  
7 interest in real property located in Illinois, and on the  
8 privilege of transferring a controlling interest in a real  
9 estate entity owning property located in Illinois, at the rate  
10 of 50¢ for each \$500 of value or fraction of \$500 stated in the  
11 declaration required by Section 31-25. If, however, the  
12 transferring document states that the real estate, beneficial  
13 interest, or controlling interest is transferred subject to a  
14 mortgage, the amount of the mortgage remaining outstanding at  
15 the time of transfer shall not be included in the basis of  
16 computing the tax. The tax is due if the transfer is made by  
17 one or more related transactions or involves one or more  
18 persons or entities and whether or not a document is recorded.

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

20 (35 ILCS 200/31-20)

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

22 Sec. 31-20. Affixing of stamps. Payment of the tax shall  
23 be evidenced by revenue stamps in the amount required to show  
24 full payment of the tax imposed by Section 31-10. Except as  
25 provided in Section 31-45, a deed, document transferring a  
26 controlling interest in real property, or trust document shall  
27 not be accepted for filing by any recorder or registrar of  
28 titles unless revenue stamps in the required amount have been  
29 purchased from the recorder or registrar of titles of the  
30 county where the deed, document transferring a controlling  
31 interest in real property, or trust document is being filed for  
32 recordation. The revenue stamps shall be affixed to the deed,

1 document transferring a controlling interest in real property,  
2 or trust document by the recorder or the registrar of titles  
3 either before or after recording as requested by the grantee.  
4 The Department may prescribe a form to which stamps must be  
5 affixed that a transferee must file for recordation at the time  
6 a declaration is presented if a transferring document is not  
7 presented for recordation within 3 business days after the  
8 transfer is effected. A person using or affixing a revenue  
9 stamp shall cancel it and so deface it as to render it unfit  
10 for reuse by marking it with his or her initials and the day,  
11 month and year when the affixing occurs. The marking shall be  
12 made by writing or stamping in indelible ink or by perforating  
13 with a machine or punch. However, the revenue stamp shall not  
14 be so defaced as to prevent ready determination of its  
15 denomination and genuineness.

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

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

19 (35 ILCS 820/3)

20 (This Section may contain text from a Public Act with a  
21 delayed effective date)

22 Sec. 3. Construction of Act. Nothing in this Act shall be  
23 construed as prohibiting or otherwise invalidating any real  
24 estate transfer tax or fee authorized or permitted by Section  
25 31-10 of the Property Tax Code, Sections 5-1031 and Section  
26 5-1031.1 of the Counties Code, or Section 8-3-19 of the  
27 Illinois Municipal Code. This Section is intended as a  
28 clarification and not as a change to existing law.

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

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

1 (55 ILCS 5/5-1031) (from Ch. 34, par. 5-1031)

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

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

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

24 (b) Beginning July 1, 2004, no tax may be imposed by a  
25 county under this Section unless the county board also imposes  
26 a tax at the same rate on the transfer of a beneficial  
27 interest, as defined in Section 31-5 of the Property Tax Code.  
28 If, however, the transferring document states that the real  
29 estate or beneficial interest is transferred subject to a  
30 mortgage, then the amount of the mortgage remaining outstanding  
31 at the time of transfer shall not be included in the basis of  
32 computing the tax.

33 The tax must be paid at the time of recordation or, if a

1 document is not recorded, at the time of presentation of the  
2 transfer declaration to the recorder, as provided in Section  
3 31-25 of the Property Tax Code. All deeds or documents relating  
4 to the transfer of a beneficial interest exempted in Sections  
5 31-45 or 31-46 of the Property Tax Code are also exempt from  
6 any tax imposed under this Section. A tax imposed under this  
7 Section is in addition to all other occupation and privilege  
8 taxes imposed by the State of Illinois or any municipal  
9 corporation or political subdivision thereof.

10 (c) Beginning July 1, 2004, a tax imposed under this  
11 Section is due if the transfer is made by one or more related  
12 transactions or involves one or more persons or entities,  
13 regardless of whether a document is recorded.

14 (d) Notwithstanding Sections 6 and 8 of the State Mandates  
15 Act, no reimbursement by the State is required for the  
16 implementation of any mandate created by this Section.

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

18 Section 90. The State Mandates Act is amended by adding  
19 Section 8.28 as follows:

20 (30 ILCS 805/8.28 new)

21 Sec. 8.28. Exempt mandate. Notwithstanding Sections 6 and 8  
22 of this Act, no reimbursement by the State is required for the  
23 implementation of any mandate created by Section 5-1031 of the  
24 Counties Code or otherwise by this amendatory Act of the 93rd  
25 General Assembly.

26 Section 95. No acceleration or delay. Where this Act makes  
27 changes in a statute that is represented in this Act by text  
28 that is not yet or no longer in effect (for example, a Section  
29 represented by multiple versions), the use of that text does  
30 not accelerate or delay the taking effect of (i) the changes  
31 made by this Act or (ii) provisions derived from any other

1 Public Act.

2 Section 99. Effective date. This Act takes effect July 1,  
3 2004, except that Section 3 and this Section take effect upon  
4 becoming law.".