

1 AN ACT concerning taxes.

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

4 Section 5. The Property Tax Code is amended by changing  
5 Sections 31-5, 31-10, 31-20, and 31-25 as follows:

6 (35 ILCS 200/31-5)

7 Sec. 31-5. Definitions. "Recordation" includes the  
8 issuance of certificates of title by Registrars of Title  
9 under the Registered Titles (Torrens) Act pursuant to the  
10 filing of deeds or trust documents for that purpose, as well  
11 as the recording of deeds or trust documents by recorders.

12 "Department" means the Department of Revenue.

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

18 "Value" means the amount of the full actual consideration  
19 for the real property, including the amount of any lien on  
20 the real property assumed by the buyer.

21 "Trust document" means a document required to be recorded  
22 under the Land Trust Recordation and Transfer Tax Act.

23 "Controlling interest" means (1) 50% or more of the  
24 combined voting power or fair market value of all ownership  
25 interests or beneficial interests in a real estate entity, or  
26 (2) the right of one or of several persons to receive, at the  
27 time of distribution, 50% or more of the income or profits of  
28 a real estate entity.

29 "Real estate entity" means any person including, but not  
30 limited to, any partnership, corporation, limited liability  
31 company, trust, other entity, or multi-tiered entity, that

1 exists or acts substantially for the purpose of holding  
 2 directly or indirectly title to or beneficial interest in  
 3 real property located in the State of Illinois. There is a  
 4 rebuttable presumption that an entity is a real estate entity  
 5 if it owns, directly or indirectly, real property located in  
 6 the State of Illinois having a fair market value greater than  
 7 75% of the total fair market value of all of the entity's  
 8 assets, determined without deduction for any mortgage, lien,  
 9 or encumbrance.

10 (Source: P.A. 92-651, eff. 7-11-02.)

11 (35 ILCS 200/31-10)

12 Sec. 31-10. Imposition of tax. A tax is imposed on the  
 13 privilege of transferring title to real estate, as  
 14 ~~represented-by-the-deed-that-is-filed-for-recording,~~ and on  
 15 the privilege of transferring a beneficial interest in real  
 16 property that is the subject of a land trust as ~~represented~~  
 17 ~~by-the-trust-document-that-is-filed-for-recording,~~ and on  
 18 the privilege of transferring a controlling interest in a  
 19 real estate entity, at the rate of 50¢ for each \$500 of value  
 20 or fraction of \$500 stated in the declaration required by  
 21 Section 31-25. If, however, the ~~deed-or-trust-document~~  
 22 ~~states--that--the~~ real estate, beneficial interest, or  
 23 controlling interest is transferred subject to a mortgage,  
 24 the amount of the mortgage remaining outstanding at the time  
 25 of transfer shall not be included in the basis of computing  
 26 the tax. The tax is due if the transfer is made by one or  
 27 more related transactions and whether or not a document is  
 28 recorded.

29 (Source: P.A. 86-624; 86-925; 86-1028; 86-1475; 87-543;  
 30 88-455.)

31 (35 ILCS 200/31-20)

32 Sec. 31-20. Affixing of stamps. Payment of the tax shall

1 be evidenced by revenue stamps in the amount required to show  
2 full payment of the tax imposed by Section 31-10. Except as  
3 provided in Section 31-45, a deed, document transferring a  
4 controlling interest in real property, or trust document  
5 shall not be accepted for filing by any recorder or registrar  
6 of titles unless revenue stamps in the required amount have  
7 been purchased from the recorder or registrar of titles of  
8 the county where the deed, document transferring a  
9 controlling interest in real property, or trust document is  
10 being filed for recordation. The revenue stamps shall be  
11 affixed to the deed, document transferring a controlling  
12 interest in real property, or trust document by the recorder  
13 or the registrar of titles either before or after recording  
14 as requested by the grantee. A person using or affixing a  
15 revenue stamp shall cancel it and so deface it as to render  
16 it unfit for reuse by marking it with his or her initials and  
17 the day, month and year when the affixing occurs. The  
18 marking shall be made by writing or stamping in indelible ink  
19 or by perforating with a machine or punch. However, the  
20 revenue stamp shall not be so defaced as to prevent ready  
21 determination of its denomination and genuineness.

22 (Source: P.A. 86-624; 86-925; 86-1028; 86-1475; 87-543;  
23 88-455.)

24 (35 ILCS 200/31-25)

25 Sec. 31-25. Transfer declaration. At the time a deed, a  
26 document transferring a controlling interest in real  
27 property, or trust document is presented for recordation, or  
28 within 3 business days after the transfer is effected,  
29 whichever is earlier, there shall also be presented to the  
30 recorder or registrar of titles a declaration, signed by at  
31 least one of the sellers and also signed by at least one of  
32 the buyers in the transaction or by the attorneys or agents  
33 for the sellers or buyers. The declaration shall state

1 information including, but not limited to: (a) the full  
2 consideration for the property or interest in real property  
3 so transferred; (b) the parcel identifying number of the  
4 property; (c) the legal description of the property; (d) the  
5 date of the deed, the date the transfer was effected, or the  
6 date of the trust document; (e) the type of deed, transfer,  
7 or trust document; (f) the address of the property; (g) the  
8 type of improvement, if any, on the property; (h) information  
9 as to whether the transfer is between related individuals or  
10 corporate affiliates or is a compulsory transaction; (i) the  
11 lot size or acreage; (j) the value of personal property sold  
12 with the real estate; (k) the year the contract was initiated  
13 if an installment sale; and (l) the name, address, and  
14 telephone number of the person preparing the declaration.  
15 Except as provided in Section 31-45, a deed, a document  
16 transferring a controlling interest in real property, or  
17 trust document shall not be accepted for recordation unless  
18 it is accompanied by a declaration containing all the  
19 information requested in the declaration. When the  
20 declaration is signed by an attorney or agent on behalf of  
21 sellers or buyers who have the power of direction to deal  
22 with the title to the real estate under a land trust  
23 agreement, the trustee being the mere repository of record  
24 legal title with a duty of conveying the real estate only  
25 when and if directed in writing by the beneficiary or  
26 beneficiaries having the power of direction, the attorneys or  
27 agents executing the declaration on behalf of the sellers or  
28 buyers need identify only the land trust that is the  
29 repository of record legal title and not the beneficiary or  
30 beneficiaries having the power of direction under the land  
31 trust agreement. The declaration form shall be prescribed by  
32 the Department and shall contain sales information questions.  
33 For sales occurring during a period in which the provisions  
34 of Section 17-10 require the Department to adjust sale prices

1 for seller paid points and prevailing cost of cash, the  
 2 declaration form shall contain questions regarding the  
 3 financing of the sale. The subject of the financing  
 4 questions shall include any direct seller participation in  
 5 the financing of the sale or information on financing that is  
 6 unconventional so as to affect the fair cash value received  
 7 by the seller. The intent of the sales and financing  
 8 questions is to aid in the reduction in the number of buyers  
 9 required to provide financing information necessary for the  
 10 adjustment outlined in Section 17-10. For sales occurring  
 11 during a period in which the provisions of Section 17-10  
 12 require the Department to adjust sale prices for seller paid  
 13 points and prevailing cost of cash, the declaration form  
 14 shall include, at a minimum, the following data: (a) seller  
 15 paid points, (b) the sales price, (c) type of financing  
 16 (conventional, VA, FHA, seller-financed, or other), (d) down  
 17 payment, (e) term, (f) interest rate, (g) type and  
 18 description of interest rate (fixed, adjustable or  
 19 renegotiable), and (h) an appropriate place for the inclusion  
 20 of special facts or circumstances, if any. The Department  
 21 shall provide an adequate supply of forms to each recorder  
 22 and registrar of titles in the State.

23 (Source: P.A. 91-555, eff. 1-1-00.)

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

26 (35 ILCS 820/3 new)

27 Sec. 3. Construction of Act. Nothing in this Act shall  
 28 be construed as prohibiting or otherwise invalidating any  
 29 real estate transfer tax or fee authorized or permitted by  
 30 law.

31 Section 15. The Counties Code is amended by changing

1 Section 5-1031.1 as follows:

2 (55 ILCS 5/5-1031.1)

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

4 (a) After the effective date of this amendatory Act of  
5 the 93rd General Assembly 1996 and subject to this Section, a  
6 home rule county may impose or increase a tax or other fee on  
7 the privilege of transferring title to real estate, as  
8 ~~represented-by-the-deed-that-is-filed-for-recordation,~~ and on  
9 the privilege of transferring a beneficial interest in a land  
10 trust holding legal title to real property, and on the  
11 privilege of transferring a controlling interest in a real  
12 estate entity, all to the same extent as a tax is authorized  
13 under Article 31 of the Property Tax Code as--represented--by  
14 ~~the-trust-document-that-is-filed-for-recordation.~~ Such a tax  
15 or other fee ~~on-the-privilege-of-transferring-title-to-real~~  
16 ~~estate,~~--as--represented--by--the--deed--that--is--filed--for  
17 ~~recordation,~~--and--on--the--privilege--of--transferring--a  
18 ~~beneficial--interest--in--a-land-trust-holding-legal-title-to~~  
19 ~~real-property,~~ as represented by the trust document--that--is  
20 ~~filed--for--recordation,~~ shall hereafter be referred to as a  
21 real estate transfer tax.

22 (b) Before adopting a resolution to submit the question  
23 of imposing or increasing a real estate transfer tax to  
24 referendum, the corporate authorities shall give public  
25 notice of and hold a public hearing on the intent to submit  
26 the question to referendum. This hearing may be part of a  
27 regularly scheduled meeting of the corporate authorities.  
28 The notice shall be published not more than 30 nor less than  
29 10 days prior to the hearing in a newspaper of general  
30 circulation within the county. The notice shall be published  
31 in the following form:

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

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

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

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

20          (d) No home rule county shall impose a new real estate  
21 transfer tax after the effective date of this amendatory Act  
22 of 1996 without prior approval by referendum. No home rule  
23 county shall impose an increase of the rate of a current real  
24 estate transfer tax without prior approval by referendum. A  
25 home rule county may impose a new real estate transfer tax or  
26 may increase an existing real estate transfer tax with prior  
27 referendum approval. The referendum shall be conducted as  
28 provided in subsection (e).

29          (e) The home rule county shall, by resolution, provide  
30 for submission of the proposition to the voters. The home  
31 rule county shall certify the resolution and the proposition  
32 to the proper election officials in accordance with the  
33 general election law. If the proposition is to impose a new  
34 real estate transfer tax, it shall be in substantially the

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

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

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

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

25 (Source: P.A. 89-701, eff. 1-17-97; 90-14, eff. 7-1-97.)

26 Section 20. The Illinois Municipal Code is amended by  
 27 changing Section 8-3-19 as follows:

28 (65 ILCS 5/8-3-19)

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

30 (a) After the effective date of this amendatory Act of  
 31 the 93rd General Assembly 1996 and subject to this Section, a  
 32 home rule municipality may impose or increase a tax or other



1 fee on the privilege of transferring title to real estate, as  
 2 ~~represented by the deed that is filed for recordation,~~ and on  
 3 the privilege of transferring a beneficial interest in a land  
 4 trust holding legal title to real property, and on the  
 5 privilege of transferring a controlling interest in a real  
 6 estate entity, all to the same extent as a tax is authorized  
 7 under Article 31 of the Property Tax Code as represented by  
 8 ~~the trust document that is filed for recordation.~~ Such a tax  
 9 or other fee ~~on the privilege of transferring title to real~~  
 10 ~~estate, as represented by the deed that is filed for~~  
 11 ~~recordation, and on the privilege of transferring a~~  
 12 ~~beneficial interest in a land trust holding legal title to~~  
 13 ~~real property, as represented by the trust document that is~~  
 14 ~~filed for recordation,~~ shall hereafter be referred to as a  
 15 real estate transfer tax.

16 (b) Before adopting a resolution to submit the question  
 17 of imposing or increasing a real estate transfer tax to  
 18 referendum, the corporate authorities shall give public  
 19 notice of and hold a public hearing on the intent to submit  
 20 the question to referendum. This hearing may be part of a  
 21 regularly scheduled meeting of the corporate authorities.  
 22 The notice shall be published not more than 30 nor less than  
 23 10 days prior to the hearing in a newspaper of general  
 24 circulation within the municipality. The notice shall be  
 25 published in the following form:

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

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

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

3           (c) A notice that includes any information not specified  
4           and required by this Section is an invalid notice. All  
5           hearings shall be open to the public. At the public hearing,  
6           the corporate authorities of the municipality shall explain  
7           the reasons for the proposed or increased real estate  
8           transfer tax and shall permit persons desiring to be heard an  
9           opportunity to present testimony within reasonable time  
10          limits determined by the corporate authorities. A copy of the  
11          proposed ordinance shall be made available to the general  
12          public for inspection before the public hearing.

13          (d) No home rule municipality shall impose a new real  
14          estate transfer tax after the effective date of this  
15          amendatory Act of 1996 without prior approval by referendum.  
16          No home rule municipality shall impose an increase of the  
17          rate of a current real estate transfer tax without prior  
18          approval by referendum. A home rule municipality may impose  
19          a new real estate transfer tax or may increase an existing  
20          real estate transfer tax with prior referendum approval. The  
21          referendum shall be conducted as provided in subsection (e).

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

1 estate transfer tax increase of (percent increase) to  
2 establish a new transfer tax rate of (rate) to be paid by the  
3 buyer (seller) of the real estate transferred? The current  
4 rate of the real estate transfer tax is (rate), and the  
5 revenue is used for (purpose). The revenue from the increase  
6 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  
11 the purposes for which real estate transfer tax revenues may  
12 be 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 (Source: P.A. 89-701, eff. 1-17-97.)

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.