



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 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) The county board may impose a tax at the same rate on
25 the transfer of a beneficial interest, as defined in Section
26 31-5 of the Property Tax Code. If, however, the transferring
27 document states that the real estate or beneficial interest is
28 transferred subject to a mortgage, then the amount of the
29 mortgage remaining outstanding at the time of transfer shall
30 not be included in the basis of computing the tax.

31 The tax must be paid at the time of recordation or, if a
32 document is not recorded, at the time of presentation of the
33 transfer declaration to the recorder, as provided in Section

1 31-25 of the Property Tax Code. All deeds or documents relating
2 to the transfer of a beneficial interest exempted in Sections
3 31-45 or 31-46 of the Property Tax Code are also exempt from
4 any tax imposed under this Section. A tax imposed under this
5 Section is in addition to all other occupation and privilege
6 taxes imposed by the State of Illinois or any municipal
7 corporation or political subdivision thereof.

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

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

13 Section 95. No acceleration or delay. Where this Act makes
14 changes in a statute that is represented in this Act by text
15 that is not yet or no longer in effect (for example, a Section
16 represented by multiple versions), the use of that text does
17 not accelerate or delay the taking effect of (i) the changes
18 made by this Act or (ii) provisions derived from any other
19 Public Act.

20 Section 99. Effective date. This Act takes effect July 1,
21 2004, except that Section 3 and this Section take effect upon
22 becoming law."