



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB2937

by Rep. Mike Fortner - Michael J. Zalewski

#### SYNOPSIS AS INTRODUCED:

605 ILCS 10/9.12

Amends the Toll Highway Act. Deletes provisions concerning: land disclosure requirements; condemnation proceedings; beneficial interests; procedures for disclosure; recordation; validity of agreements; penalties; and other requirements. Provides that the Illinois State Toll Highway Authority may not enter into any contract relating to the ownership or use of real property unless the identity of every owner and beneficiary having an interest in the property and every member, shareholder, limited partner, or general partner entitled to receive more than 7.5% of the distributable income of any company or corporation having an interest in the property is disclosed. Provides that the disclosure shall be in writing and under oath. Provides that the beneficiaries of a lease shall furnish a trustee subject to disclosure under the provision with a letter of direction authorizing the trustee to provide the Authority with an up-to-date disclosure whenever requested by the Authority.

LRB100 10173 AXK 20354 b

1 AN ACT concerning transportation.

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

4 Section 5. The Toll Highway Act is amended by changing  
5 Section 9.12 as follows:

6 (605 ILCS 10/9.12)

7 Sec. 9.12. Land disclosure requirements. The Authority may  
8 not enter into any contract relating to the ownership or use of  
9 real property unless the identity of every owner and  
10 beneficiary having any interest, real or personal, in the  
11 property and every member, shareholder, limited partner, or  
12 general partner entitled to receive more than 7 1/2% of the  
13 total distributable income of any limited liability company,  
14 corporation, or limited partnership having any interest, real  
15 or personal, in the property is disclosed. The disclosure shall  
16 be in writing and shall be subscribed by a member, owner,  
17 authorized trustee, corporate official, general partner, or  
18 managing agent, or his or her authorized attorney, under oath.  
19 However, if the interest, stock, or shares in a limited  
20 liability company, corporation, or general partnership are  
21 publicly traded and there is no readily known individual having  
22 greater than a 7 1/2% interest, then a statement subscribed to  
23 under oath by a member, officer of the corporation, general

1 partner, or managing agent, or his or her authorized attorney,  
2 shall fulfill the disclosure statement requirement of this  
3 Section. As a condition of contracts entered into on or after  
4 the effective date of this amendatory Act of the 100th General  
5 Assembly, the beneficiaries of a lease shall furnish the  
6 trustee of a trust subject to disclosure under this Section  
7 with a binding non-revocable letter of direction authorizing  
8 the trustee to provide the Authority with an up-to-date  
9 disclosure whenever requested by the Authority. The letter of  
10 direction shall be binding on the beneficiaries' heirs,  
11 successors, and assigns during the term of the contract. This  
12 Section shall be liberally construed to accomplish the purpose  
13 of requiring the identification of the actual parties  
14 benefiting from any transaction with the Authority involving  
15 the procurement of the ownership or use of real property  
16 thereby.

17 If an entity is wholly or partially owned by another  
18 entity, the names of the owners of the wholly or partially  
19 owning entity shall be disclosed under this Section as well as  
20 the names of the owners of the wholly or partially owned  
21 entity.

22 ~~(a) Disclosure required. The Authority may not enter into~~  
23 ~~any agreement or understanding for the use or acquisition of~~  
24 ~~land that is intended to be used or acquired for toll highway~~  
25 ~~purposes unless full disclosure of all beneficial interests in~~  
26 ~~the land is made under this Section.~~

1       ~~(b) Condemnation proceedings. If the Authority commences~~  
2       ~~condemnation proceedings to acquire land that is intended to be~~  
3       ~~used or acquired for toll highway purposes, the holders of all~~  
4       ~~beneficial interests in the land must make full disclosure~~  
5       ~~under this Section unless the court determines that the~~  
6       ~~disclosure would cause irreparable harm to one or more holders~~  
7       ~~of a beneficial interest.~~

8       ~~(c) Beneficial interests. Each holder of any beneficial~~  
9       ~~interest in the land, including without limitation beneficial~~  
10       ~~interests in a land trust, must be disclosed, including both~~  
11       ~~individuals and other entities. If any beneficial interest is~~  
12       ~~held by an entity, other than an entity whose shares are~~  
13       ~~publicly traded, and not by an individual, then all the holders~~  
14       ~~of any beneficial interest in that entity must be disclosed.~~  
15       ~~This requirement continues at each level of holders of~~  
16       ~~beneficial interests until all beneficial interests of all~~  
17       ~~individuals in all entities, other than entities whose shares~~  
18       ~~are publicly traded, have been disclosed.~~

19       ~~(d) Written statement. Disclosure must be made by a written~~  
20       ~~statement filed (i) with the Authority contemporaneously with~~  
21       ~~the execution of the agreement or understanding or (ii) in the~~  
22       ~~case of a condemnation proceeding, with the Authority and the~~  
23       ~~court within a time period ordered by the court. Each~~  
24       ~~individual and entity must be disclosed by name and address and~~  
25       ~~by a description of the interest held, including the percentage~~  
26       ~~interest in the land held by the individual or entity. The~~

1 ~~statement must be verified, subject to penalty of perjury, by~~  
2 ~~the individual who holds the greatest percentage of beneficial~~  
3 ~~interest in the land.~~

4 ~~(e) Recordation. The Authority must file the statement of~~  
5 ~~record with the recorder of each county in which any part of~~  
6 ~~the land is located within 3 business days after the statement~~  
7 ~~is filed with the Authority.~~

8 ~~(f) Agreements and understandings void. Any agreement or~~  
9 ~~understanding in violation of this Act is void.~~

10 ~~(g) Penalty. A person who knowingly violates this Section~~  
11 ~~is guilty of a business offense and shall be fined \$10,000.~~

12 ~~(h) Other disclosure requirements. The disclosure required~~  
13 ~~under this Act is in addition to, and not in lieu of, any other~~  
14 ~~disclosure required by law.~~

15 (Source: P.A. 92-759, eff. 8-2-02.)