



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5613

by Rep. Rich Brauer

SYNOPSIS AS INTRODUCED:

35 ILCS 200/31-5

35 ILCS 200/31-15

35 ILCS 735/3-1A

from Ch. 120, par. 2603-1A

Amends the Real Estate Transfer Tax Law in the Property Tax Code. Contains provisions concerning electronic revenue stamps. Requires the recorder of deeds or registrar of titles to electronically file a return and electronically remit the tax to the Department of Revenue if the recorder or registrar uses an electronic revenue stamp or alternative indicia to indicate payment of the tax. Provides that a penalty shall be imposed upon the recorder or registrar of titles if a return is not timely filed or the tax is not fully paid. Amends the Uniform Penalty and Interest Act to make conforming changes. Effective immediately.

LRB098 19704 HLH 54915 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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 and 31-15 as follows:

6 (35 ILCS 200/31-5)

7 Sec. 31-5. Definitions.

8 "Affixed" means physically or electronically indicated.

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

14 "Department" means the Department of Revenue.

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

20 "Revenue Stamp" means physical, electronic, or alternative
21 indicia that indicates the amount of tax paid.

22 "Value" means the amount of the full actual consideration
23 for the real property or the beneficial interest in real

1 property located in Illinois, including the amount of any lien
2 on the real property assumed by the transferee.

3 "Trust document" means a document required to be recorded
4 under the Land Trust Recordation and Transfer Tax Act and,
5 beginning June 1, 2005, also means any document relating to the
6 transfer of a taxable beneficial interest under this Article.

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

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

9 (2) the lessee interest in a ground lease (including
10 any interest of the lessee in the related improvements)
11 that provides for a term of 30 or more years when all
12 options to renew or extend are included, whether or not any
13 portion of the term has expired; or

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

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

19 "Real estate entity" means any person including, but not
20 limited to, any partnership, corporation, limited liability
21 company, trust, other entity, or multi-tiered entity, that
22 exists or acts substantially for the purpose of holding
23 directly or indirectly title to or beneficial interest in real
24 property. There is a rebuttable presumption that an entity is a
25 real estate entity if it owns, directly or indirectly, real
26 property having a fair market value greater than 75% of the

1 total fair market value of all of the entity's assets,
2 determined without deduction for any mortgage, lien, or
3 encumbrance.

4 (Source: P.A. 92-651, eff. 7-11-02; 93-657, eff. 6-1-04;
5 93-1099, eff. 6-1-05.)

6 (35 ILCS 200/31-15)

7 Sec. 31-15. Collection of tax.

8 (a) Paper revenue stamps. The tax shall be collected by the
9 recorder or registrar of titles of the county in which the
10 property is situated through the sale of revenue stamps, the
11 design, denominations and form of which shall be prescribed by
12 the Department. ~~If requested by the recorder or registrar of~~
13 ~~titles of a county that has imposed a county real estate~~
14 ~~transfer tax under Section 5-1031 of the Counties Code, the~~
15 ~~Department shall design the stamps furnished to that county~~
16 ~~under this Section so that the same stamp also provides~~
17 ~~evidence of the payment of the county real estate transfer tax~~
18 ~~and shall include in the design of the stamp the name of the~~
19 ~~county and an indication that the stamp is evidence of the~~
20 ~~payment of both State and county real estate transfer taxes.~~
21 The revenue stamps shall be sold by the Department to the
22 recorder or registrar of titles who shall cause them to be sold
23 for the purposes prescribed. The Department shall charge at a
24 rate of 50¢ per \$500 of value in units of not less than \$500.
25 The recorder or registrar of titles of the several counties

1 shall sell the revenue stamps at a rate of 50¢ per \$500 of
2 value or fraction of \$500. The recorder or registrar of titles
3 may use the proceeds for the purchase of revenue stamps from
4 the Department. The Department must establish a system to allow
5 the recorder or registrar of titles to purchase the revenue
6 stamps electronically and must deliver the electronically
7 purchased stamps to the recorder or registrar of titles.

8 (b) Electronic revenue stamp or alternative indicia. If the
9 recorder or registrar of titles uses an electronic revenue
10 stamp or alternative indicia, the recorder or registrar of
11 titles shall electronically file a return and electronically
12 remit the tax to the Department on or before the 10th day of
13 the month following the month in which the tax was required to
14 be collected. The return shall disclose the tax collected and
15 other information that the Department may reasonably require.
16 The return shall be filed using a format prescribed by the
17 Department.

18 If a return is not filed or the tax is not fully paid as
19 required under this Section within 15 days of the required time
20 period, the Department may eliminate the recorder or registrar
21 of titles' ability to electronically file its returns and
22 electronically remit the tax until such time as the recorder or
23 registrar of titles fully remits the return and tax amount due.

24 (Source: P.A. 94-785, eff. 1-1-07.)

25 Section 10. The Uniform Penalty and Interest Act is amended

1 by changing Section 3-1A as follows:

2 (35 ILCS 735/3-1A) (from Ch. 120, par. 2603-1A)

3 Sec. 3-1A. In this Article, references to this "Act" mean
4 this "Article" and references to "Department" mean the
5 Department of Revenue. Unless otherwise specified in a tax Act,
6 this Act applies to all taxes administered by the Department of
7 Revenue, except for the Racing Privilege Tax Act, the
8 provisions of the Property Tax Code except as expressly
9 provided in Section 31-15 of the Property Tax Code, the Real
10 Estate Transfer Tax Act, and the Coin Operated Amusement Device
11 Tax.

12 (Source: P.A. 87-205; 88-670, eff. 12-2-94.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.