

CHICAGO REAL PROPERTY TRANSFER TAXES

3-33-010 Title.

This chapter shall be known and may be cited as the "Chicago Real Property Transfer Tax Ordinance". The taxes imposed by this chapter shall be known as the "Chicago Real Property Transfer Taxes", and are imposed in addition to all other taxes imposed by the City of Chicago, the State of Illinois or any other municipal corporation or political subdivision of the State of Illinois.

3-33-020 Definitions.

When any of the following words or terms are used in this chapter, whether or not capitalized and whether or not used in a conjunctive or connective form, they shall have the meaning or construction ascribed to them in this section:

A. "Beneficial interest in real property" includes, but is not limited to:

- 1) The beneficial interest in an Illinois land trust;
- 2) The lessee interest in a ground lease (including any interest of the lessee in the related improvements) that provides for a term of 30 or more years when all options to renew or extend are included, whether or not any portion of the term has expired; or
- 3) The indirect interest in real property as reflected by a controlling interest in a real estate entity.

B. "City" means the City of Chicago.

C. "Controlling interest" means (1) 50 percent or more of the combined voting power or fair market value of all ownership interests or beneficial interests in a real estate entity, whether the interests are owned by one or by several persons, or (2) the right of one or of several persons to receive at the time of any distribution 50 percent or more of the income or profits of a real estate entity.

D. "Department" means the department of finance of the city.

E. The terms "mortgagee" and "secured creditor" mean a lender, such as a bank, credit union, mortgage company or other person who acquires a mortgage or other instrument of transfer primarily for the purpose of securing a loan, and not primarily for the purpose of acquiring the real property or beneficial interest in real property that is the subject of the mortgage or other instrument of transfer.

F. "Person" means any individual, receiver, administrator, executor, conservator, assignee, trust, estate, partnership, joint venture, club, joint stock company, business trust, political subdivision of the State of Illinois, corporation, association, limited liability company, syndicate, society, or any group of persons acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

G. "Real estate entity" means any person (other than an Illinois land trust) including, but not limited to, any partnership, corporation, trust, or single or multi-tiered entity, that exists or acts substantially for the purpose of holding directly or indirectly title to or beneficial interest in real property located in the city, whether for personal use, the production of rental income, or investment. It shall be presumed, unless proved otherwise, that an entity is a real estate entity if it owns directly or indirectly real property located in the city having a fair market value

greater than 75 percent of the total fair market value of all of the entity's assets, determined without deduction for any mortgage, lien or encumbrance.

H. "Transfer price" means the consideration furnished for the transfer of title to, or beneficial interest in, real property, valued in money, whether paid in money or otherwise, including cash, credits and property, determined without any deduction for mortgages, liens or encumbrances, and specifically including the amount of any indebtedness or obligation canceled or discharged in connection with the transfer. In the case where the controlling interest in a real estate entity is transferred, and the real estate entity holds assets in addition to title to or beneficial interest in real property located in the city, "transfer price" means only that portion of the consideration attributable to the transfer of such real property or such beneficial interest.

I. -P. [Reserved.]

Q. "Zoning administrator" means the zoning administrator of the city. 3-33-030

Taxes imposed.

A. Except as otherwise provided in this chapter, a-taxes4s-are imposed upon the privilege of transferring title to, or beneficial interest in, real property located in the city, whether or not the agreement or contract providing for the transfer is entered into the city. The-One tax shall be at the rate of \$3.75 per \$500.00 of the transfer price, or fraction thereof, of the real property or the beneficial interest in real property. A second tax, known as the lead abatement transfer tax, shall be a flat tax at the rate of fifty dollars (\$50.00) per each title transfer.

B. (1) The taxes imposed by this chapter ts-are due upon the earlier of the delivery or recording of the deed, assignment or other instrument of transfer.

(2) In the case of an assignment of a beneficial interest in a trust, delivery shall be deemed to occur when the trustee receives possession of a valid assignment of the beneficial interest. In the case of other transfers, delivery shall be deemed to occur when the transferee, or the transferee's representative or agent, receives or

becomes entitled to receive possession of the instrument of transfer.

C. Except as otherwise provided in subsection (F) of this section, the primary incidence of the taxes and the obligation to pay the taxes are on the purchaser, grantee, assignee or other transferee; provided, however, that if the transferee is exempt from the taxes solely by operation of state law, then the incidence of the taxes and obligation to pay the taxes shall be upon the transferor.

D. The taxes imposed by this chapter shall be due whether the transfer of a controlling interest in a real estate entity is effected by one transaction or by a series of related transactions. For purposes of this subsection, it shall be presumed unless proved otherwise that transactions are related if they occur within the same 24-month period.

E. Nothing in this chapter shall be construed to impose a tax upon any transaction or privilege which, under the constitutions of the United States or the State of Illinois, may not be made the subject of taxation by the city.

F. Pursuant to Section 8-3-19 of the Illinois Municipal Code, 65 ILCS 5/8-3-19, as amended, a supplemental tax at the rate of \$1.50 per \$500.00 of the transfer price, or fraction thereof, shall be imposed on transfers taking place on or after April 1, 2008, for the purpose of providing financial assistance to the Chicago Transit Authority (for purposes of this section, "C.T.A."). This supplemental tax shall be referred to as the "C.T.A. portion" of the Chicago Real Property Transfer Tax, and the taxes imposed pursuant to subsection A of this section shall be referred to as the "City portion". The C.T.A. portion shall be paid by the transferor: provided that if the transferor is exempt from the taxes solely by operation of state or federal law, then the incidence of the C.T.A. portion of the taxes and obligation to pay the C.T.A. portion of the taxes shall be upon the purchaser, grantee, assignee or other transferee; and provided further that it shall be unlawful for the transferee to accept a deed or other instrument of transfer if the C.T.A. portion of the taxes is owed and has not been paid. If the C.T.A. portion of the taxes is owed and has not been paid at the time it is due, then the transferor and transferee shall be jointly and severally liable for the taxes, plus interest and penalties, and the real property that is the subject of the transfer shall be subject to the lien provided in Section 3-33-120. Pursuant to an intergovernmental agreement to be entered into between the department of finance (for purposes of this section, "Department") and the C.T.A, the Department shall administer and enforce the C.T.A. portion of the taxes. The intergovernmental agreement shall include a reasonable collection fee for the Department, which may be based on a percentage of the gross collections of the C.T.A. portion of the taxes. Except as otherwise provided herein, all terms of this chapter and any rules and regulations issued by the Department shall apply to the C.T.A. portion of the taxes in the same manner as they apply to the City portion. All amounts of the C.T.A. portion collected, after fees for costs of collection, shall be provided to the C.T.A., as promptly as practicable upon their receipt, as provided in the intergovernmental agreement. The Department shall file a report with the Illinois Department of Revenue each month certifying the amount paid to the C.T.A. in the previous month from the proceeds of the supplemental tax.

G. All receipts of the lead abatement transfer tax shall be immediately deposited into a special purpose fund identified as the Lead Abatement Transfer Tax Fund, and all moneys in that fund shall be subject to continuing appropriation, under which said moneys shall, on a semiannual basis, be immediately available to

the Department of Water Management, for the sole purpose of retrofitting and remediating the city's water delivery pipes and infrastructure to eliminate lead and other harmful materials from the water delivered to the city's residents, businesses, and visitors, provided that, the expenditures shall be subject to a lead abatement plan, prepared by the Department and approved by the city council through resolution, which identifies those residential neighborhoods, schools, and childcare centers that shall be a priority; and provided further that the City may, by way of ordinance approved by the City

Council, pledge such receipts as backing to long-term financing, including one or more series of revenue bonds.

3-33-040 Payment of the taxes.

A. Except in the case of taxes paid pursuant to Section 3-33-100, the taxes imposed by this chapter shall be paid by the purchase of tax stamps issued by the department or its agents.

B. It shall be the duty of the person or persons liable for the taxes to affix, or cause to be affixed, the appropriate number and denomination of stamps to the face of the deed, assignment or other instrument of transfer. Any person affixing a stamp shall cancel it in accordance with the provisions of Subsection 3-33-090 (D) of this chapter.

C. Neither the comptroller nor any agent of the comptroller shall issue tax stamps in connection with a parcel of real property located in the city unless the comptroller issues a certificate indicating that, as of the most current billing, all water and sewer assessments relating to the parcel have been paid in full, or (2) a waiver of certification issued pursuant to applicable rules or regulations.

Before control of a property subject to the Illinois Condominium Property Act is transferred from the developer to the board of managers, a certificate of payment shall be obtained from the comptroller upon application and payment of an application fee of fifty (50) dollars. Such certificate of payment shall be obtained within 30 days prior to the election of the first unit owner board of managers. The terms used in this section shall have the same meanings as those in the Illinois Condominium Property Act.

Subsequent transfers of a unit within a condominium building shall require a certificate of payment based on the last regularly scheduled reading of that building's water meter and shall be issued subject to the same regulations contained in Section 11-12-530.

Where a townhome or condominium development has a single meter and the respective association's assessments include the individual owner's share of the water bill, the comptroller may issue a certificate of payment upon application and payment of an application fee of fifty (50) dollars.

D. Neither the comptroller nor any agent of the comptroller shall issue tax stamps in connection with a parcel of residential property located in the city that is within one or more of the categories specifically described in subsection 3-33-045(A) of this chapter unless there is presented to the department or its agent either: (1) a valid certificate of zoning compliance issued by the zoning administrator under Section 3-33-045 of this chapter; or (2) evidence that the requirement for a certificate of zoning compliance has been waived by virtue of the failure of the zoning administrator to act within the time periods prescribed in either subsection 3-33-045 (D) or subsection 3-33-045(E) of this chapter.

3-33-045 Certificate of zoning compliance.

A. Categories of property covered. A certificate of zoning compliance shall be required prior to the issuance of tax stamps pursuant to Section 3-33-030 of this chapter for residential property zoned for, or occupied by, one or more: (1) one-family dwellings, (2) two-family dwellings, or (3) multifamily dwellings containing five or fewer dwelling units, all as defined in the Chicago zoning ordinance. However, a certificate of zoning compliance shall not be required for residential property subject to the Illinois condominium property act, for residential property located within cooperative buildings, or for property containing a newly constructed dwelling that is sold to the initial occupant of the dwelling. For purposes of this section, a cooperative building is defined as a multiple-dwelling complex owned by a cooperative corporation, stock in which affords the owner thereof the right to possess or occupy a particular family unit allocated to that stock within the complex. This right of possession or occupancy is granted through a proprietary lease or similar arrangement, and, unlike the owner of a condominium, the owner of the cooperative stock does not hold legal title to his or her individual family unit.

B. Application. The owner or owner's agent may apply for a certificate of zoning compliance for any property subject to subsection 3-33-045(A) by submitting to the zoning administrator an application in a form prescribed by the zoning administrator and payment of any administrative fee required therefor under Section 3-33-070. The consent of the owner of the property for which a certificate is requested shall not be required unless the zoning administrator determines that an on-site inspection of the property is required.

C. Use analysis. Upon receipt of an application for a certificate of zoning compliance, the zoning administrator shall conduct a use analysis of the property. For purposes of issuance of a certificate of zoning compliance, the use analysis shall be limited to a determination of the applicable and lawful number of dwelling units on the property. Nothing herein shall be deemed or interpreted as precluding the zoning administrator from performing otherwise authorized and lawful zoning inspections, or from initiating otherwise authorized and lawful zoning enforcement procedures, for any property at any time.

D. Action. Within five business days after receipt of an application for a certificate of zoning compliance, the zoning administrator shall either: (1) issue the certificate of zoning compliance if the zoning administrator determines that there are no more dwelling units on the property than that which are permitted by the applicable provisions of the Chicago zoning ordinance: or (2) deny the application for a certificate of zoning compliance by issuance of a written statement setting forth the reason for such denial. If no request for reconsideration is made pursuant to subsection 3-33-045(E) of this chapter, the decision of the zoning administrator shall become a final decision within five business days after its issuance. The failure of the zoning administrator to act within the time periods prescribed in this subsection 3-33-045(D) shall be deemed to be a waiver of the requirement for the issuance of a certificate of zoning compliance.

E. Reconsideration. Any person whose application for a certificate of zoning compliance is denied may request the zoning administrator to reconsider his or her determination. If such a request for reconsideration is

made, the zoning administrator shall review any additional information presented to him or her by the applicant and shall conduct an on-site inspection of the property, regardless of whether any such on-site inspection previously was made; provided, however, that no on-site inspection shall be conducted without the prior written consent therefore by the owner of the property, or its duly authorized agent. Within five (5) business days after the request for reconsideration is made, the zoning administrator shall render a final decision which shall consist of either: (1) issuance of the certificate of zoning compliance; or (2) issuance of a written statement setting forth the reasons for denial of the application. The failure of the zoning administrator to act within the time period prescribed in this subsection 3-33-045(E) shall be deemed to be a waiver of the requirement for the issuance of a certificate of zoning compliance.

F. Appeal. Any final decision of the zoning administrator under this Section 3-33-045 may be appealed to the zoning board of appeals.

G. Effective period. A certificate of zoning compliance issued under this Section 3-33-045 shall be valid for one year following the date of its issuance.

3-33-050 Contingent liability.

If a real property transfer declaration is not filed with the department as provided by Section 3-33-070, then the transferor shall be liable for any unpaid taxes imposed by this chapter on the transferee, together with interest and all applicable penalties, and the transferee shall be liable for any unpaid taxes imposed by this chapter on the transferor, together with interest and all applicable penalties.

3-33-060 Exempt transfers.

Subject to the requirement contained in subsection 3-33-070(C) of this chapter, the following transfers are exempt from the taxes or the specified portion of the taxes imposed by this chapter:

A. Transfers of real property made prior to January 1, 1974 where the deed was recorded after that date, or assignments of beneficial interest in real property dated prior to July 19, 1985 where the assignment was delivered on or after July 19, 1985;

B. Transfers involving real property acquired by or from any governmental body, or acquired by with respect to the City portion, or acquired from with respect to the C.T.A. portion, any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or acquired by any international organization not subject to local taxes under applicable law;

C. Transfers in which the deed, assignment or other instrument of transfer secures debt or other obligations; provided, however, that any transfer must be to a mortgagee or secured creditor;

D. Transfers in which the deed, assignment or other instrument of transfer, without additional consideration, confirms, corrects, modifies, or supplements a deed, assignment or other instrument of transfer previously recorded or delivered;

E. Transfers in which the transfer price is less than \$500.00;

- F. Transfers in which the deed is a tax deed;
- G. Transfers in which the deed, assignment or other instrument of transfer releases property which secures debt or other obligations;
- H. Transfers in which the deed is a deed of partition; provided, however, that if a party receives a share greater than its undivided interest in the real property, then such party shall be liable for tax computed upon any consideration paid for the excess;
- I. Transfers between a subsidiary corporation and its parent or between subsidiary corporations of a common parent either pursuant to a plan of merger or consolidation or pursuant to an agreement providing for the sale of substantially all of the seller's assets;
- J. Transfers from a subsidiary corporation to its parent for no consideration other than the cancellation or surrender of the subsidiary's stock and transfers from a parent corporation to its subsidiary for no consideration other than the issuance or delivery to the parent of the subsidiary's stock;
- K. Transfers made pursuant to a confirmed plan of reorganization as provided under Section 1146(c) of Chapter 11 of the United States Bankruptcy Code of 1978, as amended;
- L. Transfers of title to, or beneficial interest in, real property used primarily for commercial or industrial purposes located in an enterprise zone, as defined in Chapter 16¹² of this Code;
- M. Transfers in which the deed or other instrument of transfer is issued to the mortgagee or secured creditor pursuant to a mortgage or security interest foreclosure proceeding or sale or pursuant to a transfer in lieu of foreclosure; and
- N. Transfers in which the transferee is a participant in the Illinois Home Ownership Made Easy Program (H.O.M.E.), authorized under the Illinois Home Ownership Made Easy Act, 310 ILCS 55/1.
- O. Transfers in which the transferee is a person 65 years of age or older who demonstrates, by proof acceptable to the Chicago Tax Assistance Center, (1) that he will occupy the property as his principal dwelling place for at least one year following the transfer, and (2) that the transfer price is \$250,000.00 or less; provided, that this exemption applies only to the C.T.A.

portion of the taxes; and provided further, that this exemption shall be administered in the form of a refund for which the transferee desiring the refund shall apply to the Chicago Tax Assistance Center within three years following the transfer.

3-33-070 Filing of real property transfer declaration.

A. At or before the time that the taxes imposed by this chapter is due or, in the case of an exempt transfer, at or before the time that the deed, assignment or other instrument of transfer is delivered, there shall be filed with the department a real property transfer declaration signed by at least one of the transferors and also signed by at least one of the transferees, or by their respective attorneys or agents. The declaration shall be on

a form prescribed by the comptroller, and shall contain such information as the comptroller may reasonably require. If the property is subject to Section 3-33-045, the declaration shall be accompanied by a certificate of compliance issued by the zoning administrator following a use analysis of the subject property pursuant to that section. An inspection fee for said use analysis is hereby set at \$120.00, payable to the department. Such fee shall be the responsibility of the transferor.

B. If the declaration is signed by an attorney or agent on behalf of transferors or transferees who have the power of direction to deal with the title to the real property under a land trust agreement, the trustee being the mere repository of record legal title with a duty of conveying the real property only when and if directed in writing by the beneficiary or beneficiaries having the power of direction, the attorney or agent executing the declaration on behalf of the transferors or transferees shall not be required to identify the beneficiary or beneficiaries having the power of direction under the land trust agreement.

C. No transfer shall be exempt from the taxes imposed by this chapter unless the declaration describes the facts supporting the exemption and is accompanied by such supporting documentation as the comptroller may reasonably require.

3-33-080 Obligations of trustees.

No trustee of a trust which holds title to or beneficial interest in real property located in the city shall accept or acknowledge an assignment of a beneficial interest in the trust unless the trustee has received from the assignor and assignee a complete and fully executed real estate transfer declaration as provided in subsection 3-33-070, and unless the amount of tax stamps required by this chapter has been affixed to the assignment.

3-33-090 Tax stamps.

A. The comptroller shall cause to be printed, in such form and quantities and in such denominations as he or she may from time to time determine, adhesive stamps for the purpose of paying the taxes imposed by this chapter. The comptroller also may appoint one or more agents to sell the stamps.

B. (1) The comptroller from time to time may provide for the issuance and exclusive use of tax stamps of a new design and forbid the use of stamps of any prior design, but only after giving at least 60 days' notice of the change. The notice shall be published at least three times in one or more daily newspapers of general circulation in the city during the 60-day period before the change takes effect. After the effective date of the change, it shall be unlawful for any person to make use of any other than the new issue or design of stamps to pay the taxes imposed by this chapter.

(2) Any person lawfully in possession of unused tax stamps of a superseded issue or design may, not later than 90 days after the effective date of the change, surrender the stamps to the department together with a sworn application setting forth the name and address of the owner and party surrendering the stamps, how, when and from whom the stamps were acquired and such other information as the department reasonably may require. If the department determines that the application is in proper order, it promptly shall issue, or authorize an agent to issue, replacement stamps of the new issue or design in exchange for the surrendered stamps.

C. No person shall sell or expose for sale, traffic in, trade, barter or exchange tax stamps issued pursuant to this chapter without first obtaining the department's written consent. No person shall sell or expose for sale, traffic in, trade, barter or exchange any transfer tax stamp for an amount less than the stamp's face value.

D. In every case where a tax stamp is used to pay the taxes imposed by this chapter, the person affixing the stamp shall write or stamp thereupon the person's name or initials and the date upon which the stamp is affixed, and further shall cut or perforate the stamp in a substantial manner so that the stamp cannot be again used; provided, however, that no stamp shall be defaced in such a manner as to prevent its authenticity and denomination from being determined.

3-33-100 Open transactions.

In the case of a transfer where any part of the transfer price is contingent upon the occurrence of a future event or the attainment of a future level of financial performance, additional taxes shall be due at the time each additional amount of consideration is furnished and shall be paid directly to the department. A supplemental real estate transfer declaration shall be filed with the department at the time each tax payment is due.

3-33-110 Penalties.

Any transferor or transferee who fails to file with the department a real property transfer declaration as required by Section 3-33-070 of this chapter, or a supplemental transfer declaration as required by Section 3-33-100 of this chapter, prior to the department issuing a notice of tax audit, investigation or liability in connection with the transfer of title to, or beneficial interest in, real property, shall be subject to a penalty equal to the amount of the

applicable taxes. This penalty shall be in addition to any tax and interest due, and any negligence or willfulness penalty provided by Chapter 3j4 of this Code.

3-33-120 Tax liens.

A. In the event that the taxes imposed by this chapter is not paid when due, the city shall have a lien against the related real property in an amount equal to the taxes, together with all applicable interest and penalties. The lien shall expire only at such time as the outstanding taxes, interest and penalties are paid in full, the lien is foreclosed, or the period for bringing a foreclosure action described in subsection 3-33-120(C) expires.

B. Nothing in this section shall be construed to give the city's lien a preference or priority over the rights of any bona fide purchaser, holder of a security interest, mechanics lien or, mortgagee or judgment lien creditor arising or existing prior to the recording of an instrument evidencing the city's lien with the recorder of deeds of Cook County; provided, however, that the city's lien, whether or not recorded, shall have priority over any interest in the real property, including any lien, acquired by a person in connection with the person providing financing to the transferee taxpayer (or the taxpayer's nominee or designee) for the acquisition of the real property. The absence of tax stamps in the proper amount on the deed, assignment or other instrument of transfer pursuant to which the transferee taxpayer acquired title to, or beneficial interest in, the real property shall constitute constructive notice of the city's lien to the person providing financing.

C. The city may not commence an action to foreclose upon the lien more than seven years after the transfer giving rise to the tax liability; provided, however, that the running of the seven-year period shall be tolled (1) for the duration of any judicial order enjoining or restraining the city from instituting a foreclosure proceeding, or (2) for the period of time during which any related real property transfer tax assessment is the subject of a department tax hearing.

3-33-130 Maintaining books and records.

Every transferor and transferee shall retain for at least seven years all books and records relating to any transfer of title to, or beneficial interest in, real property located in Chicago, including the contract of sale, the closing statement and all other original source documents. Every trustee shall retain for at least seven years every real estate transfer declaration it receives pursuant to Section 3-33-080 of this chapter. All materials described in this section shall be kept in the English language and, at all times during business hours of the day, shall be open to inspection by the department.

3-33-140 Rules and regulations.

The comptroller is authorized to adopt, promulgate and enforce rules and regulations pertaining to the administration and enforcement of this chapter.

3-33-150 Application of Uniform Revenue Procedures Ordinance.

Whenever not inconsistent with the provisions of this chapter or whenever this chapter is silent, the provisions of the Uniform Revenue Procedures Ordinance, Chapter 3j4 of this Code, as amended, shall apply to and supplement this chapter.

3-33-160 Requirements for uses of funds by any public transit authority.

a) Any public transit authority that receives funds from Chicago Real Property Transfer Tax, as defined in this chapter, shall be required to offer rides at no expense to:

- i) any active military personnel in uniform and/ or displaying appropriate identification;
- ii) any veteran of the armed forces who either currently receives military disability payments or has ever received military disability payments from the federal or state government;

b) It shall be unlawful for any individual to falsely impersonate any military personnel, active or retired.

c) Violation - Penalty. Any public transit system who fails to provide free rides, pursuant to this section shall be ineligible for the funds collected pursuant to this chapter. Any individual who falsely impersonates any military personnel, active or retired, shall be subject to a \$250 fine, per offense.

Gilbert Villegas Alderman, 36th Ward

SECTION 2. This Ordinance shall take effect January 1, 2019.

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