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Legislation Text

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Committee on Finance July 24, 2019

The Bring Chicago Home Ordinance

WHEREAS, an estimate using data from the City of Chicago Homeless Management Information System along with data from the U.S. Census Bureau's American Communities Survey demonstrates that there are approximately 86,324 individuals experiencing homelessness in Chicago; and

WHEREAS, cities around the country such as Los Angeles, New York, San Francisco, and Washington D.C. have recognized that homelessness cannot be solved without dedicating local resources and have dramatically increased their city budgets to dedicate funding for solving homelessness; and

WHEREAS, Chicago families accessing the shelter system overwhelmingly have income below the Federal Poverty Level. The majority are single-adult households headed by a female. Four out of 10 families in shelter self-report a disability, and one in five self-report a mental health problem; and

WHEREAS, providing permanent solutions to homelessness in the City is a matter of racial justice, as the majority of individuals experiencing housing instability are people of color; and

WHEREAS, there is a shortage of affordable housing in the City for low-income households as over 50 percent of all Chicagoans are rent-burdened and 27.9 percent are extremely rent-burdened; and

WHEREAS, in Chicago, the Fair Market Rent (FMR) for a two-bedroom apartment is \$ 1,180. In order to afford this level of rent and utilities - without paying more than 30% of income on housing - a person earning minimum wage must work 110 hours a week; and

WHEREAS, an increasing proportion of the city's households live in overcrowded or substandard housing; and

WHEREAS, approximately 17,894 students in Chicago experienced homelessness in 2018; and

WHEREAS, chronically homeless people have an increased risk of poor outcomes from persistent disease, and they live up to 15 years less than the average American; and

WHEREAS, increasing numbers of Chicago's children are experiencing housing instability and homelessness negatively impacts children educationally, emotionally and physically and imposes increasing burdens on the Chicago Public Schools; therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Chapter 3-33 of the Municipal Code is hereby amended by deleting the stricken text and adding

the underscored text as follows:

CHICAGO REAL PROPERTY TRANSFER TAX

3-33-010 Title.

This chapter shall be known and may be cited as the "Chicago Real Property Transfer Tax

Ordinance". The tax imposed by this chapter shall be known as the "Chicago Real Property Transfer Tax", and is 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. "Accessible" means Type A adaptable or compliant with UFAS standards.

B. "Affordable" means the tenant's portion of the rent must equal no more than 30% of a household's monthly adjusted income pursuant to the U.S. Department of Housing's General Program Requirements (24 CFR 5.628) with the tenant portion of the rent set at \$0 for people with no income.

C. "Area Median Income" means the median gross household income for the Chicago region, as determined by the Secretary of the United States Department of Housing and Urban Development, with adjustments for smaller and larger families.

At D/TJeneficial 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.

©. E. "City" means the City of Chicago.

G. F. "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.

Or G. "Department" means the department of finance of the city.

H. "Homeless person" means an individual or family who meets the definition of "homeless" under Section 103 of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) or an individual or family residing in any of the living situations described in 42 U.S.C. 11434a(2).

E. f 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-. J. "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.

Gt K. "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. L. "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.

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

Imposed.

A. Except as otherwise provided in this chapter, a tax is 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 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.

B. (I) The tax imposed by this chapter is 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) and £GJ of this section, the primary incidence of the tax and the obligation to pay the tax are on the purchaser, grantee, assignee or other transferee; provided, however, that ifthe transferee is exempt from the tax solely by operation of state law, then the incidence of the tax and obligation to pay the tax shall be upon the transferor.

D. The tax 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 tax 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 tax solely by operation of state or federal law, then the incidence of the C.T.A. portion of the tax and obligation to pay the C.T.A. portion of the tax 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 tax is owed and has not been paid. If the C.T.A. portion of the tax 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 tax, 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 tax. 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 tax. 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 tax 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. For transfers taking place on or after September 1, 2020 in which the transfer price exceeds \$1,000,000.00, a supplemental tax of \$6.00 per \$500.00 of transfer price, or fraction thereof, shall be imposed for the purpose of providing permanent solutions to homelessness in Chicago. This supplemental portion shall be referred to as the "Housing Portion" of the Chicago Real Property Transfer Tax. The Housing Portion shall be paid by the transferee; provided, however, that if the transferee is exempt from the tax solely by operation of state or federal law, then the incidence of the Housing Portion of the tax and obligation to pay the Housing Portion of the tax shall be upon the transferor; and provided further that it shall be unlawful for the transferee to accept a deed or other instrument of transfer if the Homeless Portion of the tax is owed and has not been paid. Except as otherwise provided herein, all terms of this chapter and any rules issued by the Department shall apply to the Homeless Portion of the tax in the same manner as they apply to the City portion.

H. (1) No less than 70% of funding generated from the Housing Portion in a year shall be designated to a special fund in the treasury called the Homeless Transfer Tax Fund. The remainder of the funding shall be appropriated to a special fund in the treasury called the Affordable Housing Transfer Tax Fund.

(2) All moneys in the Homeless Transfer Tax Fund shall be subject to continuing appropriation, under which said moneys shall, on an annual basis, be made available to the Department of Family and Support Services and the Department of Housing in proportions described in subsection (5) of this section.

(3) Funds in the Homeless Transfer Tax Fund shall be used for the following purposes:

- a) Cash assistance or rental subsidies to prevent at-risk persons from experiencing homelessness or to cover expenses related to moving to permanent housing.
- b) Permanent rental subsidies for homeless persons.
- c) Short-term bridge subsidies tied to a guaranteed permanent housing option or rapid rehousing subsidies which will become permanent subsidies when necessary.
- d) Capital or operating support for rehabilitation or accessible new construction of permanent supportive housing designated for and affordable to homeless persons.
- e) Capital or operating support for preservation of Single Room Occupancy and affordable housing with future vacancies designated for and affordable to homeless persons with supportive services provided.
- f) Backing for long-term financing including one or more series of bonds issued for construction of accessible permanent supportive housing designated for and affordable to homeless persons.
- g) Supportive services attached to permanent supportive housing or permanent rental subsidies designated for and affordable to homeless persons or other supportive services that prevent homelessness or help people leave homelessness.
- h) Assessments of people seeking homeless services and housing.
- i) Supportive services and permanent and transitional housing models for homeless youth.
- j) Workforce development services for homeless persons including employment navigation services, career readiness services, skills training, supported employment programs, and support services to eliminate barriers to employment.
- k) A reserve fund to ensure continued funding for ongoing expenses in the event of a fluctuation in revenue.
- l) Staffing to accomplish the above uses.

4) The Homeless Transfer Tax funds shall not be spent on emergency shelter or interim housing beds or services. The funds also may not be spent on any actions that forcibly displace homeless persons from outdoor locations.

5) The exact distribution of funds among the categories listed in subsection (2)a-(2)l as well as which department shall administer the funds shall be determined by the City Council based on a proposed spending plan submitted by an appointed Task Force led by the Department of Family and Support Services and the Department of Housing called the Chicago Homeless Transfer Tax Task Force. On an annual basis, the Task Force will work in collaboration with the Commissioners of the Department of Housing and Family and Support Services to set spending priorities for the funds based on the expected revenue for the next fiscal year. Based on those priorities, the Task Force shall propose an annual spending plan to the City Council for approval. The Task force shall be comprised of the Commissioner of the Department of Family and Support Services, the Commissioner of the Department of Housing, six members elected from the membership of the Chicago Continuum of Care Board or if that board should not exist, the planning body to address homelessness in the City of Chicago, and six members representing community organizations, including at least one homeless advocacy organization, appointed by the mayor. At least two members of the Task Force must be currently or formerly homeless. At least one member of the task force must be 18-24 years old. All members of the Task Force with the exception of Commissioners shall be confirmed by the City Council and shall serve for three- year terms. The Task Force shall elect a chairman from among its membership. The Commissioners of the Department of Housing and the Department of Family and Support Services shall report quarterly to the Housing Committee of the City Council on the distribution and use of the funds. Meetings of the Task Force shall comply with the Illinois Open Meetings Act. Final distribution and administration of the funds shall be done in compliance with City procurement policy.

(6) Homeless persons residing in any of the living situations described in 42 U.S.C. 11434a(2) shall not be made a lower priority for housing or services paid for by the Homeless Transfer Tax funds simply because of the nature of their living situation.

(71 The Homeless Transfer Tax funds shall not be used to supplant other city, state, or federal funding already committed to addressing homelessness.

(8) All moneys in the Affordable Housing Transfer Tax Fund shall be subject to continuing appropriation, under which said moneys shall, on an annual basis, be made available to the Department of Housing and shall be used for affordable housing for households earning up to 60% of Area Median Income. The Commissioner of the Department of Housing shall report quarterly to the Housing Committee of the City Council on the distribution and use of the funds.

(91 The amount of receipts in the Housing Transfer Tax Fund and the Homeless Transfer Tax fund shall be displayed on the City's website and updated quarterly.

3-33-060 Exempt transfers.

Subject to the requirement contained in subsection 3-33-070(0 of this chapter, the following transfers are exempt from the tax or the specified portion of the tax 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; Property otherwise qualifying for a charitable exemption under this subsection 3-33-060(B1 shall not lose its exemption because the legal title is held (i) by an entity .that is organized solely to hold that title and that qualifies under paragraph (21 of Section 501(c) of the Internal Revenue Code or its successor, (ii) by an entity that is organized as a partnership or limited liability company, in which at least one charitable organization, or a wholly owned affiliate or subsidiary of the charitable organization, is a general partner of the partnership or managing member of the limited liability company, for the purposes of owning and operating a residential rental property that has received an allocation of Low Income Housing Tax Credits under Section 42 of the Internal Revenue Code of 1986, as amended, or (iii) by an entity that is organized as a partnership or limited liability company, provided that all of the partnership or limited liability company's members or partners are charitable organizations or wholly-owned affiliates or subsidiaries of charitable organizations.

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 16-12 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 tax; 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.

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