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CITY COUNCIL APPROVES AMENDMENTS TO REAL PROPERTY TRANSFER TAX ORDINANCE

*Ordinance Will Protect City Against Losing Tax Revenues from Investors Exploiting Loopholes;
Will Protect About \$2 Million in Tax Revenue in the Next Year or Two*

City Council today approved amendments to the Real Property Transfer Tax ordinance (chapter 3-33 of the Municipal Code) to protect against losing tax revenue from investors taking advantage of exemptions meant only for lenders. Revenues from the Real Property Transfer Tax help fund not only the City's general operations but also the Chicago Transit Authority.

By clarifying the exemption, no tax revenues that will otherwise be paid will be lost. The City estimates that clarifying the intent by City Council will protect about \$2 million in tax revenue over the next year or two.

One of the exemptions in the Real Property Transfer Tax ordinance is for transfers to a "mortgagee or secured creditor pursuant to a mortgage or security interest foreclosure proceeding or sale or pursuant to a transfer in lieu of foreclosure." The purpose of the exemption is to make sure the tax does not apply twice by exempting the foreclosure by the bank, which is only attempting to recover its loan, and then have the tax apply when the bank sells to property to a third party.

In recent years, some investors have developed a practice of purchasing defaulting loans and mortgages from lenders for the primary purpose of acquiring the property that is the subject of the mortgage, and then claiming the exemption for transfers to a mortgagee - arguing that once the lender assigned the mortgage to them, they became the "mortgagee" entitled to take advantage of the exemption. This has allowed them to acquire the property without paying any transfer tax at all.

The proposed amendments clarify that the exemption is intended to benefit only lenders - not investors whose primary purpose is acquiring the property. This way the tax will apply once, as intended - when the investor (who is not a lender) acquires the property from the defaulting property owner.

“The Real Property Transfer Tax is imposed in order to generate tax revenues for the successful operations of City government,” said Mayor Emanuel. “The purpose of the exemption is to avoid having an entity pay the tax twice - not to create a loophole that avoids paying the tax at all. The proposed amendments will help ensure that no tax revenue is lost from transferees of real property who claim an exemption that the City Council did not intend to be available.”

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