

# Illinois Department of Revenue

## Rental Housing Support Program Guidelines

This guideline is designed to assist in identifying real estate and real estate related documents that are to receive the \$10 Rental Housing Support Program Act surcharge under 310 ILCS 105/1 and the Counties Code 35 ILCS 5/3-5018.

"Real estate related document" means any document that affects an interest in real property excluding documents, which solely relate to an easement for water, sewer, electricity, gas, telephone, cable or other public service. This includes non-for-profit companies, cooperatives, and associations.

As a general rule the buyer or entity receiving the real estate related benefit is responsible for paying any applicable surcharge. However, the Rental Housing Support Program Act surcharge does not apply if the buyer or entity receiving the real estate related benefit is an Illinois state agency, unit of local government, school district, or water reclamation districts. The Federal government including instrumentalities of the federal government such as Fannie Mae and Freddie Mac are also excluded.

The Rental Housing Support Program Act surcharge does not apply to documents rerecorded as a result of an error.

### **REAL ESTATE DOCUMENTS**

The list below is not deemed inclusive of all Real Estate Documents.

**Agreements/Contracts/Offers/Options to purchase, sell, or lease property** -An arrangement between parties. Look for words in the document that pertain to real estate such as purchase, sell, lease, deed, option, subordinate, partition, extend, release, waive. etc.

**Coal, Oil and Gas Related Document** - Documents related to minerals found in land. Look for words in the document that contain coal, oil, gas, minerals, or surface agreement.

**Condominium Document** - a legal document, with appropriate addenda, that provides for qualifying a multi-unit property for condominium development and sale in accordance with a state's condominium law. Look for words like declaration. The declaration can include:

- 1) A legal description of the condominium units and the common elements.
- 2) A copy of the condominium's bylaws, drafted to govern the operation of the owners' association.
- 3) A survey of the property.
- 4) An architect's drawings, illustrating both the vertical and horizontal boundaries of each unit.
- 5) Any restrictive covenants controlling the rights of ownership

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**Conveyance** - a legal document affecting the transfer of title to real property from one to another.

**Deeds/Contract for deeds** - A signed, written instrument that conveys title to real property. An instrument of bond, contract, or conveyance pertaining to property. All deeds are real estate related and include:

- Administrator's deed
- Cemetery deed
- Contract for deed
- Corporation deed
- Declaration deed
- Deed in/of trust
- Deed with plat of survey
- Disclaimer deed
- General warranty deed
- Mineral deed
- Quit claim deed
- Royalty deed
- Sheriffs/Marshal's deed
- Tax deed
- Warranty deed

**Easements (other than public services)** - The right of way from an individual or entity to another.

**Environmental Document** - A document dealing with environmental issues related to land. Includes:

- Environmental disclosure
- Any document disclosing hazard or potential hazard on property.
- Any document that warrants a property is free of environmental concerns

**Foreclosures** - To deprive of possession of a mortgaged property. Includes:

- Foreclosure decree
- Foreclosure Notices/Releases
- Foreclosure in lieu of sale
- Judicial foreclosure
- Redemption

**Indenture** - A written contract. A contract binding one party into service of another for a specified term. Look for terms relating to debt secured against certain real property assets of a corporation.

**Land grants** - A donation of land

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**Leases** - A contract granting use or occupation of land or holding during a specific period in exchange for rent. Includes:

- Ground lease
- Lake lease
- Lease addendum
- Leaseback
- Lease extension
- Lease with option
- Mineral lease
- Mining lease Month-to-month lease
- Sublease
- Timber lease/agreement

**Liens** - The right to take a hold or sell the real property of a debtor as security or payment for a debt. Includes:

- Architect's lien
- General lien
- Judicial lien (of realty)
- Materialman's lien
- Mechanic's lien Mobile
- Home lien Municipal lien
- Tax lien
- Vendor's lien

**LIS pendens** - A public notice that litigation is pending on a property. Includes:

- Lis pendens notice
- Lis pendens release

**Monument Records** - A fixed natural or artificial object used to establish real estate boundaries for a metes-and-bounds description.

**Mortgage** - A pledge of property to a creditor as security against a debt. A contract or deed specifying the terms of such a pledge. Includes:

- Amended or modified mortgage
- Assumption
- Extension General mortgage
- First mortgage
- Junior mortgage
- Notes
- Release
- Rider
- Second mortgage
- Specific mortgage
- Subordination

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**Partition** - Co-tenants who wish to terminate their co-ownership may file an action in court to partition the property which is a legal procedure to dissolve the relationship when the parties do not voluntarily agree to its termination. Includes:

- General partition
- Judicial partition
- Deed partition

**Permit** - A document granting permission. Includes:

- Sewer
- Sui Iding/Construction

**Plats/Surveys** - To determine the boundaries, area, or elevation of measuring angles and distances which may be in the form of a report, map or a property diagram indicating legal boundaries, easements, encroachments, rights of way, improvement locations. etc. Includes:

- Abrogation or repeal of plat
- Plat of disconnection
- Plat of survey
- Plat map
- Replat
- Subdivision flood plain
- Parcel
- Plat
- Subdivision
- Topographical

**Right of Way** - The right to pass over property by another.

*Note:* A public service right of ways is exempt from the Rental Housing Support Program Act surcharge.

**Trust** - An arrangement whereby legal title to real property is transferred by the grantor (or trustor) to a person called a trustee, to be held and managed by that person for the benefit of another, called a beneficiary. Includes:

- Corporation land trust
- Deed of /in trust
- Land trust
- Notice of successor land trustee
- Real Estate Investment Trust (REIT)

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### REAL ESTATE RELATED DOCUMENTS

These are supplemental or additional documents, **only as related to real estate documents** and are to receive the \$10 Rental Housing Support Program Act surcharge (see "Real Estate Documents"). Real estate related documents include but are not limited to the following type of documents:

**Addendum**- An addition to an existing real estate document.

**Affidavit**- A sworn written statement made under oath before a notary public or other official authorized by law to administer an oath. The Rental Housing Support Program Act surcharge only applies if the affidavit provides supplemental or additional documentation to a real estate document and it has a legal description.

**Example:** the surcharge applies to an affidavit filed to correct a plat or legal description. The surcharge does not apply to all affidavits with legal descriptions.

**Example:** the surcharge does not apply to an affidavit of death and heirship.

**Amendment** - Amends or changes an existing real estate document.

**Assignment** - The transfer of the right, title and interest in the real property of one person (the assignor) to another (the assignee).

**Bankruptcy** - Proceedings under federal statutes to relieve a debtor who is unable or unwilling to pay its debts. **Be certain the documents include real estate.** Those only pertaining to personal or business bankruptcy without real estate would not be subject to the Rental Housing Support Program Act surcharge.

**Certificate** - The Rental Housing Support Program Act surcharge only applies if the certificate has a legal description.

**Example:** Certificate of Sale - which is a document generally given to the purchaser at a tax foreclosure sale. It does not convey title and normally it is an instrument certifying that the holder received title to the property after the redemption period passed and that the holder paid the property taxes for that interim period.

**Example:** Certificate of Title - which is a document provided by a qualified source (such as a title company) that shows the property legally belongs to the current owner; before the title is transferred at closing, it should be clear and free of all liens or other claims.

**Covenant** - A binding agreement or contract. Supplemental document to an existing real estate document. Agreements written into deeds and other instruments stating performance or non-performance of certain acts or noting certain uses or non-uses of property.

**Extension** - Written extensions of dates in the offer to purchase and the purchase and sale agreement.

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**Memorandum** - An informal document that parties wish to be written and recorded. Supplemental document to an existing real estate document.

**Notice** - Information recorded to inform all of a fact about real property. Includes notices related to:

- Any real estate documents
- Intent to release
- Interest
- Reclamation

**Release** - An instrument releasing real property from the lien of a mortgage, Judgment. etc. To relinquish, as a right or claim. Includes release of:

- Any real estate document
- Assignment

**Restrictions** - The act of limiting. A restriction, often specified in the deed, on the use of real property. Includes restrictions to:

- Any real estate document
- Covenant

**Rider** - The act of adding additional changes. Includes any real estate document.

**Right of Refusal** - A provision in an agreement that requires the owner of real property to give another party the first opportunity to purchase or lease the property before he or she offers it for sale or lease to others. Look for words like "Option to purchase".

**Special Assessment** - A special tax imposed on real property, individual lots or all property in the immediate area, for road construction, sidewalks, sewers, streetlights, etc.

**Subordination Agreement** - A written agreement between lien holders to change the priority of mortgage, judgment and other liens.

**Waiver** - The intentional relinquishment of a right, claim, or privilege. A document that evidences such an act. Supplemental document to:

- Any real estate document
- Bankruptcy

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Documents that are not "real estate related" are not subject to the Rental Housing Support Program Act surcharge. The following is a general, not all-inclusive list of documents that would NOT be subject to the surcharge.

### NON REAL ESTATE RELATED DOCUMENTS:

Affidavits (most are exempt from the surcharge, for clarification see *Real Estate Related Documents*)

Annexation

Application

Appointments (that do not contain a legal description)

Articles of Incorporation

Bail Bond

Bill of Sales (other than for a real estate)

Birth Certificate

Bonds

By-Laws (that do not contain a legal description)

Certificate (generally any certificate - must not contain a legal description)

Child Support Record

Corporation Record

Death Certificate

Divorce

Estate Tax

Federal Tax Record

Green Sheet

Guardianship Record

Judgment

Marriage Record

Notice of Probate

Ordinances to disconnect from a city or town

Power of Attorney

Registered Agent

Resignation

State Sales or Excise Tax Document

Stock Transfer

Transcript

DCC Record

Vehicle Record

Vendor Record

Will