

ORDINANCE NO. 1-1981

AN ORDINANCE IMPOSING A TAX FOR GENERAL REVENUE PURPOSES ON THE TRANSFER OF REAL PROPERTY SITUATE WITHIN THE TOWNSHIP OF WASHINGTON, ARMSTRONG COUNTY, PENNSYLVANIA, IN THE AMOUNT OF ONE (1%) PER CENT OF THE VALUE OF THE LAND, TENEMENTS OR HEREDITAMENTS, BEGINNING JULY 1, 1981, AND CONTINUING IN FORCE WITHOUT ANNUAL REENACTMENT UNTIL APPEAL; PROVIDING FOR THE ADMINISTRATION, COLLECTION, AND ENFORCEMENT OF SAID TAX, EVIDENCE OF PAYMENT OF THE TAX AND PRESCRIBING PENALTIES FOR VIOLATION UNDER THE AUTHORITY OF THE ACT OF ASSEMBLY APPROVED DECEMBER 31, 1965, BEING ACT NO. 511 AND KNOWN AS "THE LOCAL TAX ENABLING ACT" AND ITS AMENDMENTS.

The Township of Washington, Armstrong County, Pennsylvania, by virtue of the authority granted by the Act of Assembly No. 511 approved December 31, 1965, known as the "Local Tax Enabling Act" and its supplements and amendments hereby ordains as follows:

SECTION 1. TITLE.

This Ordinance, and any supplements or amendments thereto, shall be known and may be cited as the Realty Transfer Tax Ordinance.

SECTION 2. DEFINITIONS

The following words or phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates or requires a different meaning;

(a) "ASSOCIATION" means a partnership, limited partnership, or any other form of unincorporated enterprise owned or conducted by two or

more persons.

(b) "TOWNSHIP" means the Township of Washington.

(c) "CORPORATION" means a corporation or Joint-stock association organized under the laws of the Commonwealth of Pennsylvania, the United States or any other state, territory, or foreign country, or dependency, including but not limited to, banking institutions.

(d) "DOCUMENT" means any deed, instrument, or writing whereby any lands, tenements, or hereditaments within the Township of Washington, or any interest therein, shall be quitclaimed, granted, bargained, sold, or otherwise conveyed to the grantee, purchaser, or any other person, but does not include wills, mortgages, transfers between corporations operating housing projects pursuant to the Housing and Redevelopment Assistance Law, and the shareholders thereof, transfers nonprofit industrial development agencies and industrial corporations purchasing from them, any transfers to nonprofit industrial development agencies and transfers between husband and wife, transfers between persons who were previously husband and wife, but who have since been divorced, provided, such transfer is made within three months of the date of the granting of the final decree in divorce, and the property or interest, therein, subject to such transfer, was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, transfers between parent and child or the spouse of such a child or between parent and trustee for the benefit of a child or the spouse of such child, by and between a principal and straw party for the purpose of placing a mortgage or ground rent upon the premises, correctional deeds without consideration, transfers to the United States, the Commonwealth of Pennsylvania or to any of their instrumentalities, agencies or political

subdivisions by gift, dedication or deed in lieu of condemnation or deed of confirmation, in connection with condemnation proceedings, or reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation, which reconveyance may include property line adjustments, provided said reconveyance is made within one year from the date of condemnation, leases, a conveyance to a trustee under a recorded trust agreement for the express purpose of holding title in trust as security for a debt contracted at the time of the conveyance, under which the trustee is not the lender and requiring the trustee to make reconveyance to the grantor-borrower upon the repayment of the debt, or a transfer by the owner of previously occupied residential premises to a builder of new residential premises when such previously occupied premises is taken in trade by such builder as part of the consideration from the purchaser of a new previously unoccupied residential premises, any transfer from a purchase money mortgagor to the vendor holding the purchase money mortgage, whether pursuant to a foreclosure or in lieu thereof, or conveyance to municipalities, township, school districts, and counties, pursuant to acquisition by municipalities, township, school districts, and counties, of tax delinquent properties at sheriff sale or tax claim bureau, any transfer between religious organizations or other bodies or persons holding title to real estate for a religious organization, if such real estate is not being, or has not been, used by such transferor for commercial purposes, or on a privilege, transaction, subject, occupation or personal property which is now or does hereafter become subject to a tax or license fee imposed by the Commonwealth of Pennsylvania.

(e) "PERSON" means every natural person, association or corporation.

Whenever used in any clause prescribing and imposing a fine or imprisonment or both, the term "Person" as applied to association, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

(f) "TAX COLLECTOR" means the person or persons who, from time to time, shall be appointed by resolution of the Supervisors of the Township of Washington as its agent or agents for the collection of the tax imposed hereunder.

(g) "TRANSACTION" means the making, executing, delivering, accepting, or presenting for recording of a document.

(h) "VALUE" means in the case of any document granting, bargaining, selling or otherwise conveying any land, tenement or hereditament, or interest therein, the amount of the actual consideration therefor, including liens or other encumbrances thereon and ground rents, or a commensurate part or the liens or other encumbrances thereon and ground rents where such liens or other encumbrances and ground rents also encumber or are charged against other lands, tenements, or hereditaments: Provided, that where such documents shall set forth a small or nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale, or, in the case of a gift, or any other document without consideration, from the actual monetary worth of the property granted, bargained, sold or otherwise conveyed, which in either event, shall not be less than the amount of the highest assessment of such lands, tenements, or hereditaments, for local tax purposes.

SECTION 3. RATE OF TAX.

Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed,

delivered, accepted, or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, or for in respect of the vellum, parchment, or paper upon which such document is written or printed, a Township Tax at the rate of one (1) percentum of the value of the property represented by such document, which Township tax shall be payable at the time of making, execution, delivery, acceptance or presenting for recording, such document.

SECTION 4. TRANSFERS BY REAL ESTATE BROKERS

Where there is a transfer of a residential property by a licensed real estate broker, which property was transferred to him within the preceeding year as part of the consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him shall be given to him toward the amount of the tax due upon the transfer. If the tax due upon the transfer from the licensed real estate broker is greater than the credit given for the prior transfer, the difference shall be paid, if the credit allowed is greater than the amount of the tax due, no refund, shall be allowed.

SECTION 5. EVIDENCE OF PAYMENT OF TAX.

The payment of the tax imposed by this ordinance shall be evidenced by the affixation with indelible ink of a seal upon every document by the tax collector. The seal shall indicate that it is evidence of payment of the tax. The amount of tax paid to the tax collector shall be notated by the tax collector within the seal.

SECTION 6. TOWNSHIP TO FURNISH SEAL.

The Township shall prescribe, prepare and furnish a seal to the tax collector for the payment of the tax imposed hereunder.

SECTION 7. EVIDENCE OF VALUE AND TAX-EXEMPT STATUS.

(a) The tax collector shall not affix to any document a seal evidencing payment of the tax imposed hereunder unless there is set forth therein, and as a part of such document, the true, full and complete value, thereof or unless the document is accompanied by an affidavit, executed by a responsible party connected with the transaction, showing such connection, and setting forth the true, full and complete value thereof.

(b) Where the transaction is claimed to be exempt from the tax imposed hereunder, an affidavit, executed by a responsible party connected with the transaction, showing such connection, and setting forth the legal basis for the exemption, shall be filed with the tax collector.

(c) The affidavits required by Subsection (a) and Subsection (b) of this Section need not be executed if similar affidavits are filed with the Recorder of Deeds of Armstrong County pursuant to the provisions of any statute of the Commonwealth, or its accompanying regulations, levying a tax upon the transfer of real estate.

SECTION 8. REGULATIONS.

Regulations promulgated by the Department of Revenue of the Commonwealth relating to the administration and enforcement of the provision of any statute of the Commonwealth levying a tax upon the transfer of real estate shall be and hereby are adopted as the regulations governing the administration and enforcement of the provisions of this ordinance.

SECTION 9. SUIT FOR COLLECTION OF TAX.

The Township of Washington or any of its members duly appointed by action of the Supervisors to do so, may sue to recover taxes due and unpaid under this ordinance in accordance with the authority vested in them

under the "Local Tax Enabling Act". The Township shall have the power to collect unpaid taxes imposed by this ordinance from persons owing such taxes by suit in assumpsit or other appropriate remedy and upon each such judgment, execution may be issued without any stay or benefit of any exemption law.

SECTION 10. INTEREST AND PENALTIES.

If for any reason the tax imposed is not paid when due, interest at the rate of six (6%) per cent per annum on the amount of said tax, and an additional penalty of one-half (1/2) of one (1%) per cent of the amount of the unpaid tax for each month or fraction thereof during the time the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the cost of collecting and the interest and penalty herein imposed.

SECTION 11. PAYMENT UNDER PROTEST AND REFUND.

The tax collector is hereby authorized to collect payment under protest of the amount of tax claimed by the Township in any case where a person disputes the validity or amount of the claim for the tax. If it is thereafter judicially determined by a court of competent jurisdiction that there has been an overpayment, the amount of the overpayment shall be refunded to the person who paid under protest together with reasonable interest.

SECTION 12. UNLAWFUL ACTS.

It shall be unlawful for any person to:

(a) Make, execute, deliver, accept or present recording or cause to be made, executed, delivered, accepted or presented for recording any document without the full amount of tax thereof being duly paid or

(b) Fail, neglect or refuse to comply with or violate the rules

and regulations prescribed, adopted and promulgated by the Township under the provisions of this ordinance; or

(c) Willfully alter the notation of the tax collector indicating the amount of the tax actually paid to the tax collector.

SECTION 13. FINES AND PENALTIES.

Any person who violates any of the provisions of this ordinance shall be guilty of a summary offense and upon conviction thereof before any District Magistrate, be sentenced to pay a fine of not more than Three Hundred Dollars (\$300.00) for each offense and costs, and in default of the said payment of fine and costs to be imprisoned for a period not exceeding thirty (30) days. The penalty imposed under this ordinance shall be in addition to any other penalty imposed by any other section of this ordinance.

SECTION 14. DUTIES, COMPENSATION AND BOND OF TAX COLLECTOR.

(a) The Township of Washington shall fix the compensation of the tax collector under this ordinance.

(b) The tax collector appointed under this ordinance shall be required to give such bond to the Township of Washington shall require, to be approved in such form as the Supervisors may direct, conditioned for the faithful performance of the duties of the tax collector. The cost of said bond shall be paid for by the Township.

(c) The tax collector shall pay over to the Treasurer of the Township the amount of taxes collected under this ordinance at least quarterly, at which time the tax collector shall make a report to the Township, under oath or affirmation of the total monies received by or through him.

SECTION 15. SEVERABILITY.

The provisions of this ordinance are severable. If any sentence,

clause or section of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, or sections of this ordinance. It is hereby declared to be the intent that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause or section not been included herein.

SECTION 16. EFFECTIVE DATE.

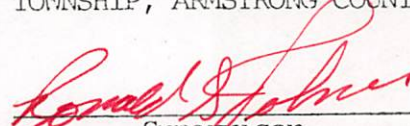
The provisions of this ordinance shall become effective July 1, 1981, and shall thereafter continue in force without annual reenactment until the rate of tax is subsequently changed or until repeal.

SECTION 17. REPEALER.

Any ordinance or part conflicting with the provisions of this ordinance be and the same are hereby repealed so far as the same affects this ordinance.

DONE, ORDAINED AND ENACTED, at a regular meeting of the Supervisors of the Township of Washington at the Washington Township Shed, on the 6th day of April, 1981.


BOARD OF SUPERVISORS OF WASHINGTON
TOWNSHIP, ARMSTRONG COUNTY, PENNSYLVANIA



Supervisor



Supervisor



Supervisor