

ORDINANCE NO. 3

AN ORDINANCE PROVIDING FOR THE IMPOSING, LEVYING, ASSESSING AND COLLECTION OF A TAX FOR GENERAL REVENUE PURPOSES FOR BERWICK TOWNSHIP, ADAMS COUNTY, PENNSYLVANIA, UPON DEEDS AND LIKE INSTRUMENTS WHICH CONVEY AND TRANSFER LANDS OR ANY INTEREST THEREIN, SITUATE WHOLLY OR IN PART WITHIN THE TOWNSHIP AFORESAID; REGARDLESS OF WHERE THE INSTRUMENTS MAKING THE TRANSFERS ARE MADE, EXECUTED OR DELIVERED OR WHERE THE ACTUAL SETTLEMENTS ON SUCH TRANSFERS TAKE PLACE; CONFERRING POWERS UPON THE RECORDER OF DEEDS OF ADAMS SETTLEMENTS ON SUCH TRANSFERS TAKE PLACE; CONFERRING POWERS UPON THE RECORDER OF DEEDS OF ADAMS COUNTY AFORESAID, AND OTHER PERSONS; PROVIDING FOR THE PAYMENT OF SAID TAX; PRESCRIBING THE MANNER AND METHOD OF COLLECTION OF THE TAX IMPOSED, LEVIED AND ASSESSED BY THIS ORDINANCE; GRANTING CERTAIN EXEMPTIONS AND IMPOSING PENALTIES.

The Township of Berwick, Adams County, Pennsylvania, does herein and hereby ordain that a tax for general revenue purposes be and the same is hereby imposed, levied and assessed in pursuance of the authority granted by the Act of Assembly of the Commonwealth of Pennsylvania, know as The Local Tax Enable Act.

Section I: This Ordinance shall be designated and known as the BERWICK TOWNSHIP REAL ESTATE TRANSFER TAX ORDINANCE OF 1983.

Section II: When used in this Ordinance, the following words shall have the meanings as defined in this section, except where the context indicates a different meaning:

(a) ASSOCIATION – Any partnership, limited partnership or other form of unincorporated enterprise owned or conducted by two or more persons.

(b) COLLECTOR – The Recorder of Deeds of Adams County, Pennsylvania, or such other person as shall be designated and appointed by the Board of Supervisors of Berwick Township, Adams County, Pennsylvania.

(c) DEED – Any deed, instrument, or writing other than a lease, agreement

of sale or purchase mortgage, ground rent or testamentary writing whereby any lands, tenements, hereditaments or interest therein, shall be granted, bargained, sold or otherwise conveyed to a grantee, purchaser or any other person.

(d) PERSON – Every natural person, co-partnership, association, or corporation. Whenever used in any clause prescribing or imposing a penalty, or imprisonment, or both, the term “person” as applied to co-partnerships or associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

(e) VALUE – In case of any deed granting, bargaining, selling or otherwise conveying any lands, tenements or hereditaments, or any interest therein, value shall be the actual monetary worth or value of the property granted, bargained, sold, or otherwise conveyed at the time of the said grant, bargain, sale or conveyance. The actual consideration therefore shall be prima facie evidence of the actual monetary worth or value of the property granted, bargained, or otherwise conveyed. The actual consideration which is prima facie evidence of the actual monetary worth or value of the property granted, bargained, sold, or otherwise conveyed shall be construed to mean, for the purpose of this Ordinance, the cash paid for the execution and delivery of the deed, together with the face value of all liens, mortgages, or any other encumbrances secured on the real estate conveyed or transferred by the said deed, together with any other evidence of indebtedness or promises, either oral or written, given by or on behalf of the grantee to the grantor, or anyone on this behalf, as full or part consideration for the deed of conveyance; PROVIDED, where deeds shall set forth a small or nominal consideration the price set forth in, or the actual consideration for the conveyance as contained in the contract or agreement of sale, if any, shall be prima facie evidence of the actual monetary worth or value of the lands, or interest therein conveyed. In no event shall the value of any lands, tenements or hereditaments, or interest therein be less than the amount of the highest assessment of such lands, tenements or hereditaments for local tax purposes.

(f) The singular shall include the plural and the masculine shall include the feminine and neuter.

Section III: After the effective date of this Ordinance, a tax for general revenue purposes is hereby imposed, assessed and levied on transfer by deed of real property or any interest in real property, being and situate, wholly or partly within Berwick Township, Adams County, Pennsylvania, which deeds result from agreements or contracts to sell, or any other arrangements entered into prior to or after the date of adoption of this Ordinance, or which deeds are not the result of any agreements or contracts to sell, or any other arrangements, at the rate of one (1%) percent of the value of the real estate, lands, tenements or hereditaments or any interests therein, which is conveyed or transferred by the said deed. PROVIDED, that deeds wherein the grantor is a corporation, association, trust, united fund or foundation, organized exclusively for charitable, religious, educational, or public purposes shall not be taxable, AND, PROVIDED FURTHER, that where this tax shall not be due and payable or is not paid by the grantor or grantors named in the deed, then and in such event this tax shall be due and payable and shall be paid by the grantee or grantees named in the deed at the time of acceptance of delivery of said deed, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfers take place unless the grantee is a corporation, association, trust, united fund or foundation organized exclusively for the charitable, religious, educational or public purposes, AND, PROVIDED FURTHER, that such tax shall not be levied, assessed, or collected on any transfer of real property exempt by virtue of the provisions of Section 2(1), as amended, of the Local Tax Enabling Act.

Section V: The payment of the tax imposed by this Ordinance shall be evidenced by a stamp certificate impressed and signed by the Collector or his agent on every deed.

Section VI: The Collector shall furnish the necessary stamp certificates to be impressed upon every deed, and the said Collector may appoint persons within or without

said Berwick Township aforesaid as his agents for affixing to every deed said stamp certificate to be signed by said agent in the name of the Collector.

Section VII: The Collector is hereby charged with the enforcement of the provisions of this Ordinance and is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to:

(a) The methods and means to be used in affixing a stamp certificate to every deed.

(b) Any other matter or thing pertaining to the administration and enforcement of the provisions of this Ordinance.

Section VIII: Every deed upon which a tax is imposed by this Ordinance, when lodged with or presented to the Recorder of Deeds, Adams County, Pennsylvania, for recording shall set forth therein, and as a part of such deed, the true, full, complete and actual value of the property conveyed, or shall be accompanied by an affidavit executed by a responsible person connected with the transaction, showing such connection, and setting forth the true, full, complete and actual value thereof.

Section IX: It shall be unlawful for any person to:

(a) Fail to pay the tax imposed by this Ordinance;

(b) Fail, neglect or refuse to comply with or violate the rules and regulations prescribed, adopted and promulgated by the Collector under the provisions of this Ordinance;

(c) Fraudulently affix to any deed, upon which the tax is imposed by this Ordinance, any stamp certificate which has been cut, torn or removed from any other deed upon which a tax is imposed by this Ordinance, or any forged or counterfeited stamp certificate, or any impressions of any forged or counterfeited stamp certificate;

(d) Knowingly or willfully prepare, keep, sell, offer for sale, or have in his possession, any forged or counterfeited stamp certificate.

Section X: All taxes imposed by this Ordinance not paid when due shall bear interest at the rate of one-half of one per centum (1/2%) per month until paid.

Section XI: All taxes imposed by this Ordinance, together with interest from the due date shall be recovered as other debts of like character are recovered.

Section XII: The tax imposed by this Ordinance shall become lien upon the lands, tenement or hereditaments, or any interest thereto lying, being and situate, wholly or in part, within the boundaries of Berwick Township aforesaid, which lands, tenements, hereditaments, or interest therein, are granted, bargained, sold or otherwise conveyed by deed which is the subject of the tax imposed, assessed and levied by the Ordinance; said lien to begin at the time when the tax under this Ordinance is due and payable and continue until discharge by payment or in accordance with law, and the Township Solicitor is authorized to file a Municipal Tax Claim in the Court of Common Pleas of Adams County, Pennsylvania, accordance with the provisions of the Acts of the General Assembly of the Commonwealth of Pennsylvania.

Section XIII: The Collector shall furnish to said Berwick Township a proper bond in an amount to be fixed by the Supervisors of the said Township with such surety or sureties as they may approve, conditioned the effective and faithful performance of his duties as such Collector.

Section XIV: Any persons violating any of the provisions of Ordinance shall be liable to a penalty not exceeding Three Hundred (\$300.00) Dollars for each and every offense, and further shall be required to pay the amount of the tax, together with interest as is otherwise provided for in this Ordinance, which should have been paid on the said deed or deeds, upon default in the payment of the same for ten (10) days, shall be subject to thirty (30) days' imprisonment.

Section XV: The provisions of this Ordinance are severable, and if any section, clause, sentence, part or provision thereof shall be held illegal, invalid, or unconstitutional,

the decision of the Court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part or provision had not been included herein.

Section XVI: The tax levied under this Ordinance shall go into effect on the 1st day of January, 1983.