

Part 3

Realty Transfer Tax

[Ord. No. 03-11287 is hereby repealed and replaced as per Ordinance No. 121007, below]

§301. SHORT TITLE. This Part shall be known as the “Clay Township Realty Transfer Tax Ordinance.”

§302. AUTHORITY. This realty transfer tax is levied under authority of Article XI-D, entitled “Local Real Estate Transfer Tax,” of the Pennsylvania Real Estate Transfer Tax Act, which was added by Act 77-1986 (Act of July 2, 1986, No. 77, P.L.) To the Pennsylvania Real Estate Transfer Tax Act, Act 14-1981 (Act of May 5, 1981, No. 14, P.L. 36) as amended. The Pennsylvania Real Estate Transfer Tax Act is codified at 72 P.S. §8101-C *et seq.*, and Part 11-D is codified at 72 P.S. §8101-D *et seq.*

§303. DEFINITIONS. The following words when used in this Part shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Association - A partnership, limited partnership, or any other form of unincorporated enterprise owned or conducted by two or more persons, other than a private trust or decedent’s estate.

Collector - The Recorder of Deeds of Lancaster County, Pennsylvania, is hereby appointed collector of the tax levied by this Part.

Corporation - A corporation, joint-stock association, business trust or banking institution which is organized under the laws of the Commonwealth of Pennsylvania, the United states, or any other state, territory, foreign country, or dependency.

Department - the Department of Revenue of the Commonwealth of Pennsylvania.

Document - Any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or devise of title to real estate within the municipality, but does not include wills, mortgages, deeds of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding 30 years, or instruments which solely grant, vest or confirm a public utility easement. “Document” shall also include a declaration of acquisition required to be presented for recording under §24-209 of this Part.

Family Farm Corporation - A corporation of which at least 75 percent of its assets are devoted to the business of agriculture and at least 75 percent of each class of stock of the corporation is continuously owned by members of the same family. The business of agriculture shall not be deemed to include: (1) recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing; (2) the raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreations activities; (3) fur farming; (4) stockyard and slaughterhouse operations; or (5) manufacturing or processing operations of any kind.

Family Farm Partnership - A partnership of which a least seventy-five per cent of its assets are devoted to the business of agriculture and at least seventy-five per cent of the interests in the partnership are continuously owned by members of the same family. The business of agriculture shall include the leasing to members of the same family of property which is directly and principally used for agricultural purposes. The business of agriculture shall not be deemed to include:

- (1) recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;
- (2) the raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities;
- (3) fur farming;
- (4) stockyard and slaughterhouse operations; or
- (5) manufacturing or processing operations of any kind.

Living Trust - Any trust, other than a business trust, intended as a will substitute by the settlor which becomes effective during the lifetime of the settlor, but from which trust distributions cannot be made to any beneficiaries other than the settlor prior to the death of the settlor.

Members of the Same Family - Any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors or lineal descendants of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing. Individuals related by the half blood or legal adoption shall be treated as if they were related by the whole blood.

Municipality - The Township of Clay, Lancaster County, Pennsylvania.

Ordinary Trust - Any trust, other than a business trust or a living trust, which takes effect during the lifetime of the settlor and for which the trustees of the trust take title to property primarily for the purpose of protecting, managing or conserving it until distribution to the named beneficiaries of the trust. An ordinary trust does not include a trust that has an objective to carry on business and divide gains, nor does it either expressly or impliedly have any of the following features: the treatment of beneficiaries as associates, the treatment of the interests in the trust as personal property, the free transferability of beneficial interests in the trust, centralized management by the trustee or the beneficiaries, or continuity of life.

Person - 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 associations, shall include the responsible members or general partners thereof and, as applied to corporations, the officers thereof.

Real Estate -

(1) Any lands, tenements or hereditaments within this Municipality including, without limitation, buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees, and other improvements, immovables or interests which by custom, usage or law pass with a conveyance of land, but excluding permanently attached machinery and equipment in an industrial plant.

(2) A condominium unit.

(3) Tenant-stockholder's interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

Real Estate Company - A corporation or association which is primarily engaged in the business of holding, selling or leasing real estate, 90 percent or more of the ownership interest in which is held by 35 or fewer persons and which:

(1) Derives 60 percent or more of its annual gross receipts from the ownership or disposition of real estate; or

(2) Holds real estate, the value of which comprises 90 percent or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.

Title to Real Estate -

(1) Any interest in real estate which endures for a period of time the termination of which is not fixed or ascertained by a specific number of years, including without limitation an estate in fee simple, life estate, or perpetual leasehold.

(2) Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group of rights approximating those of an estate in fee simply, life estate or perpetual leasehold, including without limitation a leasehold interest or possessory interest under a lease or occupancy agreement for a term of 30 years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity. In determining the term of the lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established.

Transaction - The making, executing, delivering, accepting, or presenting for recording of a document.

Value -

(1) In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate. Provided, that where the document shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale;

(2) In the case of a gift, sale by execution (2) upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties, or the real

estate of an acquired company, value shall be actual monetary worth of the real estate within the Municipality, determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio of assessed values to market values of the taxing distribution in which the Municipality is located as established by the State Tax Equalization Board, or a commensurate part of the assessment where the assessment includes other real estate;

(3) In the case of an easement or other interest in real estate the value of which is not determinable under subparagraph (1) or (2), the actual monetary worth of such interest; or

(4) The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby, or between the grantor, the agent or principal of the grantor or a related corporation, association or partnership and the grantee existing before or effective with the transfer. The singular shall include the plural and the masculine shall include the feminine and neuter.

§304. IMPOSITION OF TAX. A tax is hereby levied and imposed, for general Municipal purposes, on every real estate transaction, at the rate of 1 percent of the value of the real estate represented by the document involved in the real estate transaction.

1. The tax shall be payable at the earlier of the time the document is presented for recording, within 30 days of acceptance of the document, or within 30 days of becoming an acquired company.
2. If the real estate is located partially within and partially outside the Municipality, the tax shall be calculated on the value of the portion within the Municipality.
3. The tax imposed hereunder shall be due and payable to the collector, as a joint and several liability, by 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. In the case of an acquired company, the company shall also have liability for payment of the tax. All such persons shall also be liable for any penalties imposed under this Part.
4. It is the intent of this Part that the entire burden of the tax imposed on a real estate transaction by the Municipality and other political subdivisions shall not exceed the limitations prescribed in §8 of the Local Tax Enabling Act, 53 P.S. §6908, so that if any other political subdivision imposes a tax on real estate transactions taxed under this Part, the provisions of said §8 shall apply.

§305. EVIDENCE OF PAYMENT. The payment of the tax imposed hereunder shall be evidenced by the collector affixing on the document an official stamp or writing setting forth the date of payment of the tax and amount of tax paid.

§306. INTEREST. Any tax imposed under Section 304 that is not paid by the date the tax is due shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923 (P.L. 207, No. 153) (53 P.S. §§ 7101, *et seq.*), as amended, known as “The Municipal Claims and Tax Liens Act.” The interest rate shall be the lesser of the interest rate

imposed upon delinquent Commonwealth taxes as provided in Section 806 of the Act of April 9, 1929 (P.L. 343, No. 176) (72 P.S. § 806), as amended, known as “The Fiscal Code,” or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims.

§307. EXEMPT PARTIES. The United States, the Commonwealth of Pennsylvania, or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this Part. The exemption of such governmental bodies shall not, however, relieve any other party to a real estate transaction from liability for the tax.

§308. EXCLUDED TRANSACTION.

1. The tax imposed by this Part shall not be imposed upon:
 - A. A transfer to the Commonwealth of Pennsylvania, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a 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 1 year from the date of condemnation.
 - B. A document which the Municipality is prohibited from taxing under the Constitution or statutes of the United States.
 - C. A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale.
 - D. A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.
 - E. A transfer of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.
 - F. A transfer between husband wife, between persons who were previously husband and wife who have since been divorced, provided 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, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and brother or sister or the spouse of a brother or sister, and between a grandparent and grandchild or the spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a

subsequent transfer by the grantee within 1 year shall be subject to tax as if the grantor were making such transfer.

- G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
- H. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries that are entitled to receive the property or proceeds from the sale of the property under the trust, whether or not such beneficiaries are contingent or specifically named. A trust clause which identifies the contingent beneficiaries by reference to the heirs of the trust settlor as determined by the law of the intestate succession shall not disqualify a transfer from the exclusion provided by this clause. No such exemption shall be granted unless the collector is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.

(1) A transfer for no or nominal actual consideration to a trustee of a living trust from the settlor of the living trust. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the living trust instrument.

- I. A transfer for no or nominal actual consideration from a trustee of an ordinary trust to a specifically named beneficiary that is entitled to receive the property under the recorded trust instrument or to a contingent beneficiary where the transfer of the same property would be exempt if the transfer was made by the grantor of the real estate from a living trust during the settlor's lifetime shall be considered for the purposes of this article as if such transfer were made directly from the settlor to the grantee.

(1) A transfer for no or nominal actual consideration from a trustee of a living trust after the death of the settlor of the trust or from a trustee of a trust created pursuant to the will of a decedent to a beneficiary to whom the property is devised or bequeathed.

(2) A transfer for no or nominal actual consideration from the trustee of a living trust to the settlor of the living trust if such property was originally conveyed to the trustee by the settlor.

- J. A transfer for no or nominal actual consideration from trustee to successor trustee.
- K. A transfer:

- (1) For no or nominal actual consideration between principal and agent or straw party; or
- (2) From or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this Part.

Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this subsection.

- L. A transfer made pursuant to the statutory merger consolidation of a corporation or statutory division of a nonprofit corporation, except where the Municipality reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this Part.
- M. A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than 2 years.
- N. A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt of the grantee, or a transfer to a nonprofit industrial development agency or authority.
- O. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if:
 - (1) The grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conservation, energy production, pollution control, warehousing or agriculture; and
 - (2) The agency or authority has the full ownership interest in the real estate transferred.
- P. A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.

- Q. Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.
- R. A transfer to a conservancy which possesses a tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. §501(c)(3)) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities; or a transfer from such a conservancy to the United States, the Commonwealth or to any of their instrumentalities, agencies or political subdivisions; or any transfer from such a conservancy where the real estate is encumbered by a perpetual agricultural conservation easement as defined by the act of June 30, 1981 (P.L. 128, No. 43), known as the "Agricultural Area Security Law," and such conservancy has owned the real estate for at least two years immediately prior to the transfer.
- S. A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least seventy-five per cent of each class of the stock thereof.
- (1) A transfer of real estate devoted to the business of agriculture to a family farm partnership by a member of the same family, which family directly owns at least seventy-five per cent of the interests in the partnership.
- T. A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation, or family farm partnership which owns real estate.
- U. A transaction wherein the tax due is \$1 or less.
- V. Leases for the production or extraction of coal, oil, natural gas or minerals, and assignments thereof.

2. In order to exercise any exclusion provided in this Section, the true, full and complete value of the transfer shall be shown on the statement of value. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this Part.

§309. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.

Except as otherwise provided in §24-207, documents which make, confirm or evidence any transfer or devise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purposes of this Part, corporations and associations are entities separate from their members, partners,

stockholders or shareholders.

§310. Acquired Company.

1. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change:
 - A. Does not affect the continuity of the company.
 - B. Of itself or together with prior changes has the effect of transferring, directly or indirectly, 90 percent or more of the total ownership interest in the company within a period of 3 years.
2. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of acquisition or transfer of assets, it fails to meet the minimum requirements of a family farm corporation under this Part.
 - A. A family farm partnership is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm partnership or when, because of transfer of partnership interest or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm partnership under this act.
3. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition to the Collector for recording and for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in the Municipality.

§311. Credits Against Tax.

1. Where there is a transfer of a residential property by a licensed real estate broker which property was transferred to him within the preceding year as 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.
2. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.
3. Where there is a transfer of real estate which is devised by the grantor, a credit for the amount of tax paid at the time of the devise shall be given the grantor toward the tax due upon the transfer.
4. Where there is a conveyance by deed of real estate which was previously sold

under
a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.

5. If the tax due upon the transfer is greater than the credit given under this Section, the difference shall be paid. If the credit allowed is greater than the amount of tax due, no refund or carryover credit shall be allowed.

§312. Extension of Lease.

In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established.

§313. Statement of Value.

Every document lodged with or presented to the collector for recording shall set forth therein and as part of such document the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Part. The provisions of this Section shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship, provided the relationship is specified in the deed, instrument or writing. Documents which are not to be recorded shall be presented to the collector and shall be accompanied by a certified copy of the document and a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof, or the reason, if any, why such document is not subject to tax under this Part. Evidence of payment shall be affixed to the original document and the certified copy. The certified copy and statement of value shall be filed with the collector.

§314. Determination and Notice of Tax; Review.

1. If any person fails to pay any tax imposed under this article for which that person is liable, a political subdivision may authorize the Department of Revenue to make a determination of additional tax, penalty and interest due under this Section by the person. The determination will be based upon any information which is within the possession or which will come into the possession of the department. The determination will be made within three years after the date of the recording of the document, subject to the following:

- A. If the taxpayer underpays the correct amount of the tax by twenty-five per cent or more, the tax may be assessed at any time within six years after the date of the recording of the document.
- B. If any part of any underpayment of tax is due to fraud or an undisclosed intentional disregard of rules and regulations, the full amount of the tax may be assessed at any time.

2. A. Promptly after the date of such determination, the department shall send by mail a copy thereof to the person against whom it was made. Within ninety days after the date upon which the copy of the determination was mailed, the person may file with the department a petition for redetermination of the taxes.
 - B. Every petition for redetermination must state specifically the reasons which the petitioner believes to be entitled to redetermination and shall be supported by affirmation that it is not made for the purpose of delay and that the facts set forth therein are true.
 - C. The department, within six months after the date of filing of a petition for redetermination, shall dispose of the petition. Notice of the action taken upon a petition for redetermination shall be given to the petitioner promptly after the date of redetermination by the department.
 3. A person shall have the right to review by the Board of Finance and Revenue and appeal in the same manner and within the same time as provided by law in the case of capital stock and franchise taxes imposed upon corporations.
 4. A. Notice of the action of the Board of Finance and Revenue shall be given by mail to the political subdivision. A political subdivision shall have the right to appeal in the same manner and within the same time as provided by law for the Commonwealth in the case of capital stock and franchise taxes imposed upon corporations.
 - B. The political subdivision may request in writing the Offices of General Counsel to render such legal advice and such representation as are required concerning every matter and issue arising in connection with an appeal from a decision of the Board of Finance and Revenue.

§315. Disbursements.

The tax, interest and penalty that the Department of Revenue collects under this article shall be remitted in the manner provided by law to the Collector along with the "State Tax Payment Imprint Receipt" which shall provide sufficient information for the Collector to determine if the Municipality is entitled to the collections. The Collector shall record the "State Tax Payment Imprint Receipt" whether or not signed and acknowledged by the Department of Revenue and shall index in the grantor/grantee index to the original document upon which the tax has been paid. The department shall collect from the taxpayer as part of its determination process the county recording fee for the recording of the "State Tax Payment Imprint Receipt."

§316. Unlawful Acts.

1. It shall be unlawful for any person to:
 - A. Make, execute, deliver, accept, or present for recording or cause to be made, executed, delivered, accepted, or presented for recording any document without the full amount of tax thereon being duly paid.

- B. Fail to record a declaration of acquisition, as required by this Part.
- C. Fraudulently affix to any document any forged evidence of payment.

D. Fail, neglect or refuse to comply with or violate other provisions of this Part or any rules and regulations promulgated by the Municipality under this Part, or any rules and regulations of the Pennsylvania Department of Revenue to the extent applicable to the tax levied hereunder.

2. Any person violating any provision of this Section shall be guilty of a summary offense.

3. A person who makes a false statement of value or declaration of acquisition, when he does not believe the statement or declaration to be true, is guilty of a misdemeanor of the second degree.

§317. Civil Penalties.

1. If any part of any underpayment of tax imposed under this article is due to fraud, an amount equal to fifty per cent of the underpayment shall be added to the tax.

2. In the case of failure to record a declaration required under this article on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, five per cent of the amount of such tax shall be added to the tax if the failure is for not more than one month, with an additional five per cent for each additional month or fraction thereof during which the failure continues, not exceeding fifty per cent in the aggregate.

§318. Lien.

1. Any tax determined to be due by the Department and remaining unpaid after demand for the same, and all penalties and interest thereon, shall be a lien in favor of the Municipality upon the property, both real and personal, of such person but only after said lien has been entered and docketed of record by the prothonotary of the county where such property is situated.

A. At any time after it makes an assessment of additional tax, penalty or interest, the Department may transmit to the prothonotaries of the respective counties certified copies of all liens for such taxes, penalties and interest, and it shall be the duty of each prothonotary receiving the lien to enter and docket the same of record in his office, which lien shall be indexed as judgments are now indexed. After the Department's assessment becomes final, a writ of execution may directly issue upon such lien without the issuance and prosecution to judgment of a writ of scire facias: Provided, that not less than ten days before issuance of any execution on the lien, notice shall be sent by certified mail to the taxpayer at his last known post office address. No prothonotary shall require as a condition precedent to the entry of such liens, the payment of any costs incident thereto.

B. The lien imposed hereunder shall have priority from the date of its

recording as aforesaid, and shall be fully paid and satisfied out of the proceeds of any judicial sale of property subject thereto before any other obligation, judgment, claim, lien or estate to which said property may subsequently become subject, except costs of the sale and of the writ upon which the sale was made, and real estate taxes and municipal claims against such property, but shall be subordinate to mortgages and other liens existing and duly recorded or entered of record prior to the recording of the tax lien. In case of a judicial sale of property subject to a lien imposed hereunder upon a lien or claim over which the lien imposed hereunder has priority, as aforesaid, such sale shall discharge the lien imposed hereunder to the extent only that the proceeds are applied to its payment, and such lien shall continue in full force and effect as to the balance remaining unpaid.

- C. The lien imposed hereunder shall continue for five years from the date of its entry of record, and may be renewed and continued in the manner now or hereafter provided for the renew of judgments, or as may be provided in the act of April 9, 1929 (P.L. 343, No. 176) known as "The Fiscal Code."

§319. Proceeds of Judicial Sale.

The tax imposed under this Part shall be fully paid, and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or cost of the sale and of the writ upon which the sale is made, and the sheriff, or other officer, conducting said sale shall pay the tax herein imposed out of the first monies paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

§320. Enforcement.

1. In order to determine whether the proper amount of tax has been paid, without limiting any other rights of the municipality, the Municipality shall have the right to review all documents or records relating to any real estate transaction or any related transactions, and to take such other steps as the Municipality shall deem necessary or appropriate, including a review or audit of any documents or records of any party to a real estate transaction to determine the fair market value of the real estate or any other relevant matter as determined by the Municipality. Upon request of the Municipality, and at such place and time as specified by the Municipality, any party shall make available to the Municipality any documents or records requested by the Municipality.

2. In the event any tax is not paid when due, the Municipality may enforce payment of the tax, together with all penalties, by suit in assumpsit or any other appropriate means.

§321. Refunds.

1. Whenever the amount due upon determination, redetermination or review is less than the amount paid on account thereof, the political subdivision shall refund the difference.

2. Where there has been no determination of unpaid tax, application for refund

shall be made to the political subdivision in the manner prescribed by the act of December 31, 1965 (P.L. 1257, No. 511), known as "The Local Tax Enabling Act," 53 Pa. C.S. Ch. 84 Subch.C (relating to local taxpayers bill of rights) or as otherwise provided by law.

§322. Collector.

1. As provided in 16 P.S. §11011-6, the Recorder of Deeds shall be the collection agent for this tax, without compensation from the Municipality.
2. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the collector shall not accept for recording any document unless it is accompanied by a statement of value showing what taxes are due each political subdivision.
3. On or before the 10th day of each month, the collector shall pay over to the Municipality all taxes collected under this Part, less 2 percent for use of the county, and shall also, provide a report containing the information required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania Realty Transfer Tax. The 2 percent commission shall be paid to the County.
4. In accordance with Act 77-1986, any recorder of deeds who shall record any document upon which tax is imposed under this Part without payment of tax as required under this Part, as is indicated in the document or accompanying statement of value shall, upon summary conviction, be sentenced to pay a fine of \$50 and costs of prosecution.

§323. Regulations.

The Municipality may promulgate and enforce reasonable rules and regulations consistent with 72 P.S. §8103.D. for the interpretation, collection and enforcement of the tax.

§324. Interpretation/Effect.

1. To the extent this Part imposes a tax on real estate transaction which is subject to the Commonwealth of Pennsylvania Realty Transfer Tax imposed by Act 77-1986, and to the extent not inconsistent herewith or with rules or regulations adopted by the Municipality, this Part shall be interpreted in the same manner as Act 77-1986 and in accordance with regulations promulgated thereunder.
2. The provisions of this Part, so far as they are the same as those of ordinances in force immediately prior to adoption of this Part, are intended as a continuation of such ordinances, and not as new enactments.
3. This Part shall impose a tax on all transactions which the Municipality is permitted to tax under Act 77-1986 to the fullest extent permissible.
4. In the event this Part is declared invalid, the prior ordinance or ordinances of the Municipality levying a realty transfer tax shall remain in full force and effect, and shall not be affected in any way by adoption of this Part.
5. The provisions of this Part shall not affect any act done or liability incurred, nor shall they affect any suit or prosecution pending or to be instituted to enforce any right or penalty

or to punish any offense, under the authority of any ordinance in force prior to adoption of this Part.

6. Subject to the provisions in this Section, this Part shall supersede, replace and repeal ordinances levying a realty transfer tax in force immediately prior to the adoption of this Part.

§325. Information.

Notwithstanding the provisions of any other act, the officer of the Municipality imposing a local real estate transfer tax or the authorized representative of the office may divulge to the Department information concerning the administration or collection of local real estate transfer tax authorized by this Part.

§326. Repealer.

This Ordinance shall supersede, replace and repeal ordinances levying a realty transfer tax in force immediately prior to the adoption of this Ordinance. However, this Ordinance shall not effect any Realty Transfer Taxes, penalties or interest accrued prior to the effective date of this Ordinance, and those shall remain subject to the provisions of Chapter 24, Part 3 of the Code of Ordinances of the Township of Clay.

§327. Severability.

The provisions of this Ordinance shall be severable. If any provision hereof shall be held to be unconstitutional, invalid, or illegal by any court of competent jurisdiction; such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent that this Ordinance would have been enacted had such unconstitutional, invalid, or illegal provisions not been included therein.

§328. Effective Date.

This Ordinance shall be effective five (5) days after its adoption.

Part 4

Street Lighting Assessment

§401. Annual Assessment for Maintenance of Street Lights. There is hereby established an annual assessment for the cost and expense of the maintenance for lighting of streets within Clay Township. Such assessment shall be made by resolution of the Supervisors of the Township annually and shall cover all costs and expense of maintenance and overhead of such street lighting. The general revenues of the Township shall not be used for street lighting purposes. *[Ord. 31, 03/11/1974, §1]*

§402. Method of Assessment. Assessment shall be made in the manner and subject to the criteria provided by The Second-Class Township Code. *[Ord. 31, 03/11/1974, §2]*

§403. Collections. Collections shall be made in the manner authorized by The Second-Class Township Code with all expenses of collection to be charged to the street lighting. *[Ord. 31, 03/11/1974, §3]*

§404. Municipal Claims and Liens. The filing of municipal claim pursuant to the provisions of The Second-Class Township Code shall be automatic for those assessments not paid within the time limit. The tax collector shall report promptly to the Township Secretary all such unpaid assessments, and the same shall be transmitted to the Township Solicitor for filing of liens. All penalties authorized by law shall be imposed. *[Ord. 31, 03/11/1974, §4]*

Part 5
Tax Collector Commission

Section 501. Commission. The Tax Collector's commission shall be a flat fee of Two Dollars \$2.00 for each tax bill sent and subsequently paid by the taxpayer before exoneration of the tax collector from collecting from said taxpayer. This fee schedule shall be in effect for the years of 2010 and thereafter, until amended. The commission shall be paid at the time of collection of the tax.

Section 502. Tax Certification. The Township of Clay hereby appoints the locally elected Tax Collector as the municipal officer authorized to provide tax certifications upon request by the public and hereby authorizes said Tax Collector to assess, collect, and retain as compensation for providing such additional service a fee of Fifteen Dollars (\$15.00) for each request. Expenses associated with answering said requests shall be borne by the Tax Collector.

Section 503. Duplicate Bills. Where taxpayers or their assigns (tax service company) has failed to submit the original bill with payment, the Tax Collector may charge the taxpayer or their assigns a fee of Two Dollars (\$2.00) for preparing a duplicate bill and may retain said fee as compensation. All expenses of providing a duplicate bill shall be borne by the Tax Collector.

[Previous Part 5 repealed, new Part 5 adopted per Ord. 120808, 12/8/08]

Part 6

Real Estate Taxes

§601 Real Estate Tax. A tax is hereby levied on all real property within the Township of Clay subject to taxation for Township purposes for the fiscal year 2006.

§602 Rate. The real estate tax rate for Township purposes shall be 0.7569 mills (.0007569), until changed by properly advertised Resolution of the Clay Township Board of Supervisors.

§603. Assesses Valuation. Pursuant to Section 3208 of the Second Class Township Code, it is hereby noted that the tax will result in a tax of Seven point Five Six Nine Cents (\$.07569) on each One Hundred Dollars (\$100.00) of assessed valuation of taxable property.

§604 Collection and Enforcement. Collection and enforcement of this Ordinance shall be in conformance with the Second Class Township Code and the Local Tax Collection Law.

[added by Ord. 122905, 12/29/05; sjf]