

TOWNSHIP OF SOUTH BEAVER

ORDINANCE NO. 72

AN ORDINANCE CONFIRMING AND IMPOSING A TAX UPON THE TRANSFER OF REAL PROPERTY OR ANY INTEREST IN REAL PROPERTY SITUATE WITHIN THE TOWNSHIP OF SOUTH BEAVER EXCEPT AS EXCLUDED FROM SUCH TAX; REQUIRING THAT EACH DEED OR INSTRUMENT OF CONVEYANCE SHALL SHOW EVIDENCE THAT THE TAX DUE HAS BEEN PAID; PROVIDING METHODS OF COLLECTION OF THE TAX IMPOSED; AND PROVIDING FOR PENALTIES IF THE TAX IS NOT PAID.

The Supervisors of the Township of South Beaver, County of Beaver, County of Beaver and Commonwealth of Pennsylvania, under authority of Act No. 2 of 1971, March 4, P.L. 6, as amended, known as the "Tax Reform Code", Act No. 60 of 1995, November 9, P.L. 350, as amended, known as the "Second Class Township Code", and as remaining applicable to continuing imposition and levying of a local realty transfer tax, Act No. 511 of 1965, Dec., 31, P.L. 1257, as amended, known as "The Local Tax Enabling Act"; hereby enact the following:

SECTION 1. For general revenue purposes, on and after the effective date of this Ordinance the Township of South Beaver hereby pursuant to Article XI-D of the "Tax Reform Code" of 1971, as last amended by Act No. 40 of 2005, July 7, P.L. 149, or as said Article XI-D may hereafter be amended, does hereby levy and impose a realty transfer tax upon each and every transfer of real property, or any interest in real property, situate with the boundaries of the Township of South Beaver at the rate of five (5) mills, or $\frac{1}{2}$ of 1%, of the actual value of said real property, or interest in said real property, regardless where the deeds or instrument of transfer-conveyance are made, executed, or delivered or where the actual settlements on such transfer are made or take place, to the extent that the transfer-transactions are subject to the Pennsylvania realty transfer tax imposed by Article XI-C of the said "Tax Reform Code" of 1971. Where only a portion of the real estate so transferred lies within the boundaries of the Township of South Beaver the transfer of that portion only shall be taxed.

SECTION 2. The tax shall be paid by the grantor or grantors named in the deed or instrument or conveyance, but the grantee or grantees named therein, or their successors or assigns, shall be secondarily liable.

SECTION 3. The tax shall be due and payable at the time of the actual transfer as evidenced by the delivery of the deed or instrument of conveyance. Payment of the tax shall be officially evidenced on the deed or instrument of conveyance, which official evidence of payment shall be so affixed by the Tax Collector in the form designated by said Tax Collector, and which form shall show the date of payment and the amount of tax paid.

SECTION 4. The Tax Collector for the tax levied and imposed by this Ordinance shall be the Recorder of Deeds of Beaver County in accordance with Section 6 (c) of Act No. 113 of 1971, November 1, P.L. 495, and as reaffirmed per Section 12 of Act No. 40 of 2005, July 7, P.L. 149, with the latter legislative enactment adding Section 1105-D to the aforesaid "Tax Reform Code". In the event further statutory enactment by the Commonwealth of Pennsylvania appointing another Tax Collector to collect local realty transfer taxes, such subsequent legislative Tax Collector shall succeed the said Recorder of Deeds of Beaver County to be such Tax Collector. If for some reason further statutory enactment fails to maintain appointment/designation of a Tax Collector for local realty transfer taxes, thereafter such Tax Collector shall be appointed by Resolution adopted by the Supervisors of the Township of South Beaver.

A. The tax shall be payable at the Recorder of Deeds Office of Beaver County. The Tax Collector shall be compensated for the collection of the tax as provided by statute or statutes of the Commonwealth of Pennsylvania, or in the alternative as specified in the appointing Resolution of South Beaver Township.

B. The Tax Collector shall remit the net amount of said tax collected each month on or before the tenth of the month next succeeding the month during which

such taxes were collected, e.g. the previous month, unless otherwise required by law or resolution hereinafter adopted by the Board of Supervisors of South Beaver Township, with such remittance being accompanied by a report showing the names of the grantors and grantees, the date of the payment, the amount of tax paid and such other information as is required by the Commonwealth of Pennsylvania of the Tax Collector in reporting collections of the Pennsylvania realty transfer tax.

SECTION 5. The Tax Collector may require production of a certificate or affidavit executed by a responsible person connected with the transaction, which certificate or affidavit shall show such connection and the actual value of real property transferred, and if the transfer is asserted as being excluded from the tax, verification of the basis for such exclusion, or the Tax Collector may, in his or her discretion, accept a copy of the sales agreement as evidence of such value and base the tax on the consideration price therein stated, or the Tax Collector may require production of such other documentation acceptable to the Commonwealth of Pennsylvania relative to the Pennsylvania realty transfer tax.

SECTION 6. If for any reason a tax due under this Ordinance is not paid by the date the tax is due, same shall bear interest as prescribed for interest on delinquent municipal claims under the Act No. 153 of 1923, P.L. 207, 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 Act No. 176 of 1929, April 9, P.L. 343, as amended, known as "The Fiscal Code", or the maximum interest rate permitted under the aforesaid "The Municipal Claims and Tax Liens Act" for tax claims.

SECTION 7. It shall be unlawful for any person relative to the tax imposed by this Ordinance to violate Section 1113-D (a) of the "Tax Reform Code" of 1971, as now or hereafter amended, which Section 1113-D (a) is here incorporated by reference, and

- (a) fail or refuse to pay the tax imposed by this Ordinance;
- (b) fail or refuse to comply with the regulations or procedures adopted by the Tax Collector for Collection or as included in the aforesaid "Tax Reform Code", as now or hereafter amended, or as may be promulgated by the Pennsylvania Department of Revenue relative to the Pennsylvania realty transfer tax.
- (c) make any notation upon any deed or instrument of conveyance indicating payment of the tax, or to place any other instrument of record in the Recorder of Deeds Office of Beaver County indicating payment of the tax, without authorization and authority to do so;
- (d) fraudulently deface or remove official evidence of payment as placed on the deed or instrument of conveyance; and/or
- (e) hold himself out as Tax Collector of this tax without authorization or authority to be such Tax Collector.

SECTION 8. The Tax Collector or any other person authorized by the Township of South Beaver shall have the right to bring suit to enforce the collection of any tax due or to enforce any penalty under the terms of this Ordinance, provided however without further action, if the correct amount of tax is not paid unto the Tax Collector, the Board of Supervisors of South Beaver Township pursuant to Section 1102-D of the aforesaid "Tax Reform Code" of 1971, as amended by the aforesaid Act No. 40 of 2005, or as same may hereafter be amended, does hereby specifically authorize, empower and direct the Pennsylvania Department of Revenue to determine and collect any additional, underpaid or unpaid local transfer tax due, interest thereon as herein provided, and assess any and all civil penalties as provided by said "Tax Reform Code", together with any and all costs of collection or other proper charges, together with the authority to file liens on behalf of the Township of South Beaver, all as provided and enabled by the said "Tax Reform Code", of 1971, as now or hereafter amended, or as same may hereafter be replaced by subsequent statutory enactment.

SECTION 9. Any person who violates any provision of this Ordinance shall be subject to prosecution per the offense committed as set forth in subparagraphs (b) and (c) of Section 1113-D of the "Tax Reform Code" of 1971, as now or hereafter amended, or if any person would otherwise violate any provision or obligation of this Ordinance to avoid the provisions of this Ordinance, and such wrongful act is not otherwise within the aforesaid statutory provisions, such person shall upon summary conviction before any just of the peace, magistrate or court of competent jurisdiction, be sentence to pay a fine or not more than Five Hundred (\$500.00) Dollars for each offense, and costs, and in default of payment of said fine and costs, to be imprisoned for a period not to exceed thirty (30) days.

SECTION 10. Definitions contained in the "Tax Reform Code" of 1971 as now or hereafter amended, applicable to realty transfer tax are here incorporated and made part hereof by reference, provided however in this Ordinance the word "person" shall included every natural person, association or corporation, and whenever the word "person" is used in any clause prescribing and imposing a fine or imprisonment, the term as applied to associations shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

SECTION 11. Ordinance No. 24 of South Beaver Township as enacted August 10, 1976 pursuant to the authority of the aforesaid "Tax Enabling Act" imposing a realty transfer tax of and at the rate of five (5) mills, or $\frac{1}{2}$ of 1%, by the Township of South Beaver shall remain in full force and effect as to any all deeds or instruments conveying an interest in real estate situate in South Beaver Township that became subject to the Township's realty transfer tax prior to the effective date of this Ordinance. Said Ordinance No. 24 of South Beaver Township shall be repealed as to and deemed not applicable as to any transfer or conveyance of real estate transacted after the effective date of this Ordinance.

SECTION 12. The provisions of this Ordinance are severable and if any section, clause, sentence, part of provision 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. It is the intent of the Supervisors of the Township of South Beaver that this Ordinance would have been adopted if such illegal, invalid or unconstitutional portion had not been included herein.

SECTION 13. This Ordinance shall become effective five (5) days after date of enactment.

ENACTED AND ADOPTED this 12th day of December, 2006.

Attest:

Cass Miller
Secretary

Matthew P. Baib
Supervisor

Robert S. Long
Supervisor

W. J. ...
Supervisor