

in the township which make other capital expenditures more urgent than those for which the fund was created.

The township commissioners may appropriate moneys from the general township funds to be paid into the capital reserve fund, or place in the fund any moneys received from the sale, lease or other disposition of any township property or from any other source unless received or acquired for a particular purpose. The fund shall be controlled, invested, reinvested and administered and the moneys therein and income from such moneys expended for the specific purpose or purposes for which the fund is created in such manner as may be determined by the township commissioners. The money in the fund, when invested, shall be invested in securities designated by law as legal investments for sinking funds of municipalities.

APPROVED—The 20th day of May, A. D. 1957.

GEORGE M. LEADER

No. 89

AN ACT

Reenacting and amending the act of December 27, 1951 (P. L. 1742), entitled, as amended, "An act to provide revenue by imposing a State tax relating to certain documents and transactions; prescribing and regulating the method and manner of evidencing the payment of such tax; conferring powers and imposing duties upon certain persons, partnerships, associations, and corporations, sheriffs, recorders of deeds, and the Department of Revenue; saving certain State and local taxes and authorizing amendments, extensions and supplements to the ordinances and resolutions relating thereto; and providing penalties," extending the provisions of the act for a further limited period of time, requiring the Department of Revenue to appoint the recorder of deeds in each county as an agent for the sale of tax stamps, and excluding certain documents from the tax.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title and all sections of the act of December 27, 1951 (P. L. 1742), known as "The Realty Transfer Tax Act," reenacted and amended June 1, 1955 (P. L. 128), and the act amended March 15, 1956 (P. L. 1295), are reenacted and amended to read:

AN ACT

To provide revenue by imposing a State tax relating to certain documents and transactions; prescribing and regulating the method and manner of evidencing the payment of such tax; conferring powers and imposing duties upon certain persons, partnerships, associa-

The Realty Transfer Tax Act.

The title and all sections, act of December 27, 1951, P. L. 1742, reenacted and amended June 1, 1955, P. L. 128, and the act amended March 15, 1956, P. L. 1295, further amended and reenacted.

Title.

tions, and corporations, sheriffs, recorders of deeds, and the Department of Revenue; saving certain State and local taxes and authorizing amendments, extensions and supplements to the ordinances and resolutions relating thereto; and providing penalties.

Section 1. Short Title.—This act shall be known and may be cited as “The Realty Transfer Tax Act.”

Definitions.

Section 2. The following words when used in this act shall have meanings ascribed to them in this section, except in those instances 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.

“Corporation.” A corporation or joint-stock association, organized under the laws of this Commonwealth, the United States or any other state, territory, or foreign country, or dependency, including, but not limited to, banking institutions.

“Department.” The Department of Revenue of this Commonwealth.

“Document.” Any deed, instrument or writing whereby any lands, tenements or hereditaments within this Commonwealth or any interest therein shall be granted, bargained, sold, or otherwise conveyed to the grantee, purchaser, or any other person, but does not include wills, mortgages, transfers between husband and wife, 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 of confirmation in connection with condemnation proceedings, and leases, *or 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.*

“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 mean the partners or members thereof, and, as applied to corporations, the officers thereof.

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

“Value.” 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 of 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. 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 or in respect of the vellum parchment or paper upon which such document is written or printed, a State tax at the rate of one (1) per centum of the value of the property represented by such document, which State tax shall be payable at the time of making, execution, delivery, acceptance or presenting for recording of such document.

Rate of tax.

Section 4. The tax herein imposed 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 costs 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 moneys paid to him in connection therewith.

Priority of tax to proceeds in judicial sale.

Section 5. The payment of the tax imposed by this act shall be evidenced by the affixing of a documentary stamp or stamps to every document by the person making, executing, delivering or presenting for recording such document. Such stamps shall be affixed in such manner that their removal will require the continued application of steam or water, and the person using or affixing such stamps shall write or stamp or cause to be written or stamped thereon the initials of his name and

Payment of tax to be evidenced by documentary stamps.

the date upon which such stamps are affixed or used so that such stamps may not again be used: Provided, That the department may prescribe such other method of cancellation as it may deem expedient.

Department of Revenue to furnish such stamps.

Section 6. The department shall prescribe, prepare and furnish adhesive stamps, of such denominations and quantities as may be necessary, for the payment of the tax imposed and assessed by this act. The department shall make provisions for the sale of such stamps in such places as it may deem necessary.

Appointment of agents to sell such stamps.

The department [may appoint recorders of deeds or] *shall appoint the recorder of deeds in each county and other persons within or without the Commonwealth, as agents, in accordance with the provisions of The Fiscal Code, the act of April nine, one thousand nine hundred twenty-nine (Pamphlet Laws 343), as amended, for the sale of stamps to be used in paying the tax herein imposed upon documents, and may allow a commission to said agents of one per cent of the face value of the stamps.* The department shall pay the premium or premiums on any bond or bonds required by law to be procured by any agent for the performance of his duties under this act. *This section shall not be construed to require any recorder of deeds to accept appointment or serve as such agent.*

Bond premiums.

Disposition of all proceeds.

All moneys paid into the State Treasury during the effective period of this act shall be credited to the General Fund.

Department to prescribe and enforce rules and regulations.

Section 7. The department is hereby charged with the enforcement of the provisions of this act and is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to:

(a) The method and means to be used in affixing or cancelling of stamps in substitution for or in addition to the method and means provided in this act.

(b) The denominations and sale of stamps.

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

Effect, in certain cases, of failure to affix stamps.

Section 8. No document upon which tax is imposed by this act shall be made the basis of any action or other legal proceeding, nor shall proof thereof be offered or received in evidence in any court of this Commonwealth, or recorded in the office of any recorder of deeds of any county of this Commonwealth, unless a documentary stamp or stamps as provided in this act have been affixed thereto.

Section 9. Every document when lodged with or presented to any recorder of deeds in this Commonwealth for recording, shall set forth therein and as a part of such document the true, full and complete value thereof, 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 and complete value thereof or the reason, if any, why such document is not subject to tax under this act.

True, full and complete value of document to be set forth therein when presented for recording.

Any such recorder of deeds who shall record any document upon which tax is imposed by this act without the proper documentary stamp or stamps affixed thereto as required by this act as is indicated in such document or accompanying affidavit, shall, upon summary conviction before any magistrate, alderman or justice of the peace, or other officer having the powers of a committing magistrate, be sentenced to pay a fine of fifty dollars (\$50.00) and costs of prosecution, and in default of payment thereof, undergo imprisonment for not more than thirty (30) days: Provided, That when any document shall have been recorded, it shall be presumed that all requirements of law affecting the title to any real property conveyed thereby have been complied with.

Duty of recorder.

Penalty for failure to perform duty.

Proviso.

Section 10. (a) It shall be unlawful for any person to:

Unlawful acts.

1. 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; or,
2. Make use of any documentary stamp to denote payment of any tax imposed by this act without cancelling such stamp as required by this act or as prescribed by the department; or,
3. Fail, neglect or refuse to comply with or violate the rules and regulations prescribed, adopted and promulgated by the department under the provisions of this act.

Any person violating any of the provisions of this subsection (a) shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than five hundred dollars (\$500.00) and costs of prosecution, or to undergo imprisonment of not more than ninety (90) days, or both, in the discretion of the court.

Penalty.

(b) It shall be unlawful for any person to:

1. Fraudulently cut, tear or remove from a document any documentary stamp; or,
2. Fraudulently affix to any document upon which tax is imposed by this act any documentary stamp which has

Further unlawful acts.

been cut, torn or removed from any other document upon which tax is imposed by this act, or any documentary stamp of insufficient value, or any forged or counterfeited stamp, or any impression of any forged or counterfeited stamp, die, plate or other article; or,

3. Wilfully remove or alter the cancellation marks of any documentary stamp, or restore any such documentary stamp, with intent to use or cause the same to be used after it has already been used, or knowingly buy, sell, offer for sale, or give away any such altered or restored stamp to any person for use, or knowingly use the same; or,

4. Knowingly have in his possession any altered or restored documentary stamp which has been removed from any document upon which tax is imposed by this act: Provided, That the possession of such stamps shall be prima facie evidence of an intent to violate the provisions of this clause; or,

5. Knowingly or wilfully prepare, keep, sell, offer for sale, or have in his possession, any forged or counterfeited documentary stamps.

Penalty.

Any person violating any of the provisions of this subsection (b) shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) and costs of prosecution, or to undergo imprisonment for not more than five (5) years, or both, in the discretion of the court.

Saving clause.

Section 11. Notwithstanding anything contained in any law to the contrary, the validity of any law or any ordinance or part of law or of any ordinance, or any resolution or part of any resolution, and any amendments or supplements thereto, now or hereafter enacted or adopted by the Commonwealth or any political subdivision thereof, providing for or relating to the imposition, levy or collection of any tax, shall not be affected or impaired by anything contained in this act.

Duration of act.

Section 12. This act shall become effective the first day of February, one thousand nine hundred fifty-two, and shall remain in force until and including the thirty-first day of May, one thousand nine hundred [fifty-seven] *fifty-nine*.

Effective date.

Section 2. This reenacting and amending act shall take effect June one, one thousand nine hundred fifty-seven, but shall not apply to any documents made, executed and delivered prior to the first day of February, one thousand nine hundred fifty-two.

APPROVED—The 23rd day of May, A. D. 1957.

GEORGE M. LEADER