

ORDINANCE NO. 246

AN ORDINANCE OF THE BOROUGH OF SOUTHMONT, IMPOSING A TAX ON TRANSFERS OF REAL ESTATE IN THE BOROUGH OF SOUTHMONT, FOR THE YEAR 1967; PROVIDING FOR ASSESSMENT AND COLLECTION OF SAID TAX AND IMPOSING PENALTIES FOR VIOLATIONS.

BE IT ENACTED AND ORDAINED by the Council of the Borough of Southmont, Cambria County, Pennsylvania, and it is hereby enacted and ordained pursuant to authority granted to Boroughs in the Commonwealth of Pennsylvania, by an Act of General Assembly, approved the 31st day of December, 1965, Act No. 511, as amended, as follows:

SECTION 1: A tax for the purpose of providing revenue for general Borough purposes is hereby levied, assessed and imposed on the transaction of transferring title to real property lying within said Borough of Southmont or of interests in such real property, at the rate of one per cent (1%) of the amount of the value of said real property or interest therein.

SECTION 2: The tax levied in Section 1 hereof shall become payable upon each transfer of title, to the real estate or interest therein without regard to the place where the making, executing, delivery, or acceptance of the instrument of transfer shall have been done, and shall be paid by the transferor, and for this purpose title shall be deemed to be transferred when the Deed or other instrument conveying the real estate or interest therein is recorded.

SECTION 3: Definition. The following words, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

A. "Person" - Any natural person, corporation, partnership, association, or unincorporated enterprise. As applied to any association or partnership, the term "person" shall include the partners or members thereof and as applied to corporations, the officers thereof. The singular shall include the plural and the masculine shall include the feminine and neuter.

B. "Transfer" - A transaction whereby all or part of the interest of any person in lands, tenements, hereditaments, or any real property situate within the Borough of Southmont passes to another person by deed or other instrument of conveyance, except:

- (1) by lease, agreement of sale, mortgage, or testamentary writing; or
- (2) where the transfer is a "straw" transaction whereby title passes to a third person temporarily and for no valuable consideration; or
- (3) where the interest passes to or from a corporation, association or organization limited to religious, charitable, or educational purposes only; or
- (4) where the passing of the interest is a transfer taxed by the Commonwealth of Pennsylvania under the Transfer Inheritance Tax Law.

C. "Value" - The actual monetary worth or value of the property transferred at the time of the transfer. The actual consideration for the transfer shall be prima facie evidence of the actual monetary worth or value of the property transferred, and the monetary value shall include all liens, mortgages or other encumbrances on the property so transferred. The term "actual consideration" as used herein shall be construed to mean the amount of money agreed to be paid, or paid, for the execution and delivery of the instrument effecting the transfer, together with the face value of the liens, mortgages or other encumbrances secured on the real property transferred by said instrument together with any other evidence of indebtedness or promise, either oral or written, given by the grantee to the grantor, his nominee, or anyone in his behalf, as full or part consideration for said instrument; provided that

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where said instrument shall set forth a small or nominal consideration, the "value" shall be determined from the price set forth in, or the actual consideration for, the contract or agreement of sale, which shall not be less than the amount of the highest assessment of said real property or interest in real property for local tax purposes.

SECTION 4: Where lands lying partly within the boundaries of the Borough of Southmont and partly without said boundaries are transferred, the tax herein imposed shall be calculated upon such portion of the value as shall be represented by the portion of such lands lying within the boundaries of the Borough of Southmont, such apportionment of value to be evidenced by the affidavit or certificate of value hereinafter provided for, but shall in no event be less than the highest assessed valuation for local tax purposes placed upon the same in the assessment of property within the Borough of Southmont.

SECTION 5: The tax levied hereunder shall be due and payable and shall be paid by the grantor or transferor named in the instrument of conveyance at the time of recording of the said instrument of transfer.

SECTION 6: Every instrument of conveyance effecting a transfer of title to real property or interest therein, located in Southmont Borough, shall set forth as part of said instrument the full, complete and actual consideration for the transfer of real property described therein, or shall be accompanied by a certificate of any attorney at law or 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, and if the privilege of making such transfer is not taxable hereunder, the facts by reason of which such nontaxability exists.

SECTION 7: In the event of question as to whether a specific transfer of real estate or of an interest therein is subject to tax under this Ordinance, the Regulations issued by the Pennsylvania Department of Revenue under the Authority of the Realty Transfer Tax Act, as amended, shall be used in making a determination thereof.

SECTION 8: The payment of the tax imposed by this ordinance shall be evidenced by a stamp impressed upon or affixed to every instrument or deed of conveyance, and the Borough of Southmont, by its agent, using such stamp shall indelibly write thereon his name, the amount of the tax paid and the date of payment. Said stamp shall read substantially as follows:

Southmont Borough, Cambria County,
Realty Transfer Tax-Ordinance No.
Effective

Date _____ Amount Paid _____
_____, Borough Treasurer

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SECTION 9: The Secretary of the Borough of Southmont shall prescribe, prepare and furnish the stamp of metal or rubber which shall clearly show that the tax assessed under this ordinance has been paid. The Borough Council may appoint one or more persons as agents to affix or impress said stamp mark and collect the tax imposed herein, and may provide for his term of office and compensation, not in excess of 5% of the amount of tax collected hereunder.

SECTION 10: All taxes imposed by this Ordinance which are not paid when due shall bear interest at the rate of $\frac{1}{2}$ of 1% per month until paid. The tax when due and unpaid shall become a lien on the real property or interest in real property which is described in the deed or instrument of conveyance on which this tax is imposed, and shall be collected as other debts of like character are collected. The Solicitor of the Borough of Southmont is authorized to file a municipal or tax claim in the Court of Common Pleas of Cambria County for the collection of any unpaid tax under this ordinance.

SECTION 11: Any person who shall fail, neglect or refuse to comply with any of the terms or provisions of this ordinance or of any regulation or requirement pursuant thereto and authorized thereby, shall, in addition to other penalties provided by law, be liable to a penalty not exceeding \$100.00 for each offense and further shall be required to pay the amount of the tax, together with interest as hereinbefore provided, and upon default for ten (10) days in the payment of same shall be subject to thirty (30) days imprisonment.

SECTION 12: The provisions of this ordinance are severable, and if any of its sections, clauses or sentences shall be held illegal, invalid or unconstitutional, such provisions shall not affect or impair any of the remaining sections, clauses or sentences. It is hereby declared to be the intent of the Council of Southmont Borough that this ordinance would have been adopted if such illegal, invalid or unconstitutional sections, clause or sentences had not been included therein.

SECTION 13: This Ordinance shall take effect January 1, 1967, and shall be effective during the calendar year of 1967.

ORDAINED the 12th day of December, 1966.

Paul L. Weir

President of Council

ATTEST:

Carole E. Haines

Secretary

APPROVED:

Robert Moore

Mayor

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