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Part 1

Earned Income Tax

§101. Short Title and Definitions.

This Part shall be known as the “Conewago Township Earned Income Tax Ordinance.” The provisions hereof shall first become effective March 1, 1966.

(Ord. 1966-1, 1/25/1966, §1)

§102. Definitions.

The following words and phrases, when used in this Part, shall have the meanings ascribed to them in this Section, except where the context clearly indicates or requires a different meaning:

ASSOCIATION — a partnership, limited partnership or any other unincorporated group of two or more persons.

BUSINESS — an enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit whether by a person, partnership, association, or any other entity.

CORPORATION — a corporation or joint stock association organized under the laws of the United States, the Commonwealth of Pennsylvania, or any other state, territory, foreign country or dependency.

CURRENT YEAR — the calendar year for which the tax is levied.

DOMICILE — the place where one lives and has his permanent home and to which he has the intention of returning whenever he is absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode, which, in the intention of the taxpayer, is permanent rather than transitory. “Domicile” is the place in which a man has voluntarily fixed the habitation of himself and his family, not for a mere special or limited purpose, but with the present intention of making a permanent home until some event occurs to induce him to adopt some other permanent home. In the case of businesses or associations the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

EARNED INCOME — salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation received by a person or his personal representative for services rendered, whether directly or through an agent, and whether in cash or in property; not including however, wages or compensation paid to persons on active military service, periodic payments for sickness and disability other than regular wages received during a period of sickness, disability or retirement or payments arising under work-

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men's compensation acts, occupational disease acts and similar legislation, or payments commonly recognized as old age benefits, retirement pay or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment or payments commonly known as public assistance, or unemployment compensation payments made by any governmental agency or payments to reimburse expenses or payments made by employers or labor unions for wage and salary supplemental programs, including, but not limited to, programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, social security and retirement.

EMPLOYER — a person, partnership, association, corporation, institution, governmental body or unit or agency, or any other entity employing one or more persons for a salary, wage, commission or other compensation.

INCOME TAX OFFICER or OFFICER — person, public employee or private agency designated by the Board of Supervisors of Conewago Township to collect and administer the tax on earned income and net profits.

NET PROFITS — the net income from the operation of a business, profession, or other activity, except corporations, after provision for all costs and expenses incurred in the conduct thereof determined either on a cash or accrual basis in accordance with the accounting system used in such business, profession, or other activity but without deduction of taxes based on income.

NONRESIDENT — a person, partnership, association or other entity domiciled outside the Township of Conewago.

PERSON or INDIVIDUAL — a natural person.

PRECEDING YEAR — the calendar year before the current year.

RESIDENT — a person, partnership, association or other entity domiciled in the Township of Conewago.

SUCCEEDING YEAR — the calendar year following the current year.

TAXPAYER — a person, partnership, association, or any other entity required hereunder to file a return of earned income or net profits, or to pay a tax thereon.

(Ord. 1966-1, 1/25/1966, §2)

§103. Imposition of Tax.

A tax for general revenue purposes of 1% is hereby imposed and shall be applied as follows:

- A. To earned income by residents of the Township of Conewago during the calendar year 1966 and during each calendar year thereafter.
- B. To earned income earned by nonresidents of the Township of Conewago in the Township of Conewago during the calendar year 1966 and during each calendar year thereafter.
- C. To net profits earned by residents of the Township of Conewago during the calendar year 1966 or taxpayer fiscal year beginning in the calendar year 1966, and during each calendar or taxpayer fiscal year thereafter.
- D. To net profits earned in the Township of Conewago by nonresidents of the Township of Conewago during the calendar year 1966 or taxpayer fiscal year beginning in the calendar year 1966, and during each calendar year or taxpayer fiscal year thereafter.

(Ord. 1966-1, 1/25/1966, §3)

§104. Declaration and Payment of Tax.

- 1. Net Profits. Every taxpayer making net profits shall, on or before April 15 of the current year, make and file with the officer on a form prescribed or approved by the officer, a declaration of his estimated net profits during the period beginning January 1 and ending December 31 of the current year, and pay to the officer in four quarterly installments the tax due thereon as follows: the first installment at the time of filing the declaration, and the other installments on or before June 15 of the current year, September 15 of the current year, and January 15 of the succeeding year, respectively.
 - A. Any taxpayer who first anticipates any net profit after April 15 of the current year, shall make and file the declaration hereinabove required on or before June 15 of the current year, September 15 of the current year, or December 31 of the current year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profit, and pay to the officer in equal installments the tax due thereon on or before the quarterly payment dates which remain after the filing of the declaration.
 - B. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the officer on a form prescribed or approved by the officer a final return showing the amount of net profits earned during the period beginning January 1 of the current year, and ending December 31 of the current year, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the officer the balance of tax due or shall make demand for refund or credit in the case of overpayment. Any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the

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officer on or before January 31 of the succeeding year, the final return as hereinabove required.

- C. The officer is hereby authorized to provide by regulation for the making and filing of adjusted declarations of estimated tax in cases where a taxpayer who has filed the declaration hereinabove required anticipates additional net profits not previously declared or finds that he has overestimated his anticipated net profits.
- D. Every taxpayer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

2. Earned Income.

- A. Annual Earned Income Tax Return. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the officer on a form prescribed or approved by the officer a final return showing the amount of earned income received during the period beginning January 1 of the current year, and ending December 31 of the current year, the total amount of tax due thereon, the amount of tax paid thereon, the amount of tax thereon that has been withheld pursuant to the provisions relating to the collection at source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.
- B. Earned Income Not Subject to Withholding. Every taxpayer who is employed for a salary, wage, commission, or other compensation and who received any earned income not subject to the provisions relating to collection at source, shall make and file with the officer on a form prescribed or approved by the officer, a quarterly return on or before April 30 of the current year, July 31 of the current year, October 31 of the current year, and January 31 of the succeeding year, setting forth the aggregate amount of earned income not subject to withholding by him during the three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively, and subject to the tax, together with such other information as the officer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the officer the amount of tax shown as due thereon.

(Ord. 1966-1, 1/25/1966, §4)

§105. Collection at Source.

- 1. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the Township of Conewago who employs one or more persons, other than domestic servants, for a salary, wage, commission or other

compensation, who has not previously registered, shall, within 15 days after becoming an employer, register with the officer his name and address and such other information as the officer may require.

2. Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the Township who employs one or more persons, other than domestic servants, for a salary, wage, commission, or other compensation, shall deduct at the time of payment thereof, the tax imposed by this Part on the earned income due to his employee or employees, and shall, on or before April 30 of the current year, July 31 of the current year, October 31 of the current year, and January 31 of the succeeding year, file a return and pay to the officer the amount of taxes deducted during the preceding three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively. Such return, unless otherwise agreed upon between the officer and employer, shall show the name and social security number of each such employee, the earned income of such employee during such preceding three-month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee, the total earned income of all such employees during such proceeding three-month period, and the total tax deducted therefrom and paid with the return.
3. Any employer who for two of the preceding four quarterly periods has failed to deduct the proper tax, or any part thereof, or has failed to pay over the proper amount of tax to the Township of Conewago, may be required by the officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the officer on or before the last day of the month succeeding the month for which the tax was withheld.
4. On or before February 28 of the succeeding year, every employer shall file with the officer:
 - A. An annual return showing the total amount of earned income paid, the total amount of tax deducted, and the total amount of tax paid to the officer for the period beginning January 1 of the current year, and ending December 31 of the current year.
 - B. A return withholding statement for each employee during all or any part of the period beginning January 1 of the current year, and ending December 31 of the current year, setting forth the employee's name, address and social security number, the amount of earned income paid to employee during said period, the amount of tax deducted, the political subdivisions imposing the tax upon such employee, the amount of tax paid to the officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.
5. Every employer who discontinues business prior to December 31, of the current year, shall, within 30 days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.

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6. Every employer who willfully or negligently fails or omits to make the deductions required by §105 shall be liable for payment of the taxes which he was required to withhold to the extent that such taxes have not been recovered from the employee.
7. The failure or omission of any employer to make the deductions required by §105 shall not relieve any employee from the payment of the tax or from complying with the requirements of this Part relating to the filing of declarations and returns.

(Ord. 1966-1, 1/25/1966, §5)

§106. Powers and Duties of Officer.

1. It shall be the duty of the officer to collect and receive the taxes, fines and penalties imposed by this Part. It shall also be his duty to keep a record showing the amount received by him from each person or business paying the tax and the date of such receipt.
2. The income tax officer, before entering upon his official duties under this Part, shall give and acknowledge a bond to the Township of Conewago such as will comply with the provisions of §13(V)(b) of Act 511 of the 1965 Session of the Pennsylvania General Assembly approved December 31, 1965.
3. The officer charged with the administration and enforcement of the provisions of this Part is hereby empowered to prescribe, adopt, promulgate and enforce, rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the reexamination and correction of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to make refunds in case of overpayment, for any period of time not to exceed six years subsequent to the date of payment of the sum involved, and to prescribe forms necessary for the administration of this Part. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution by the Board of Supervisors of Conewago Township. A copy of such rules and regulations currently in force shall be available for public inspection.
4. The officer shall refund, on petition of and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses, to the extent that such expenses are not paid by the taxpayer's employer.
5. The officer and agents designated by him are hereby authorized to examine the books, papers, and records of any employer or of any taxpayer or of any person whom the officer reasonably believes to be an employer or taxpayer, in order to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every employer and every taxpayer and every person whom the officer reasonably believes to be an employer or taxpayer, is hereby

directed and required to give to the officer, or to any agent designated by him, the means, facilities, and opportunity for such examination and investigations as are hereby authorized.

6. Any information gained by the officer, his agents, or by any other official or agent of the Township of Conewago, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Part, shall be confidential, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.
7. The officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

(Ord. 1966-1, 1/25/1966, §6)

§107. Suit for Collection of Tax.

1. The officer may sue in the name of the Township of Conewago for the recovery of taxes due and unpaid under this Part.
2. Any suit brought to recover the tax imposed by this Part shall be begun within three years after such tax is due, or within three years after the declaration or return has been filed, whichever date is later; provided, however, this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:
 - A. Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under provisions of this Chapter, there shall be no limitation.
 - B. Where an examination of the declaration or return filed by any person, or of other evidence relating to such declaration or return in the possession of the officer, reveals a fraudulent evasion of taxes, there shall be no limitation.
 - C. In the case of substantial understatement of tax liability of 25% or more, and no fraud, suit shall be begun within six years.
 - D. Where any person has deducted taxes under the provisions of this Part, and has failed to pay the amounts so deducted to the officer, or where any person has willfully failed or omitted to make the deductions required by this Part, there shall be no limitation.
 - E. This Section shall not be constructed to limit the Township of Conewago from recovering delinquent taxes by any other means provided by law.
3. The officer may sue for recovery of an erroneous refund provided such suit is begun two years after making such refund, except that the suit may be brought

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within five years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

(Ord. 1966-1, 1/25/1966, §7)

§108. Interest and Penalties.

If for any reason the tax is not paid when due, interest at the rate of 6% per annum on the amount of said tax, and an additional penalty of 1/2% of 1% of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefore shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

(Ord. 1966-1, 1/25/1966, §8)

§109. Fines and Penalties.

1. Any person who fails, neglects, or refuses to make any declaration or return required by this Part, any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees, or fails, neglects or refuses to deduct or withhold the tax from his employees; any person who refuses to permit the officer or any agent designated by him to examine his books, records, and papers, and any person who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Part, shall, upon conviction thereof before any District Justice or court of competent jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and, in default of payment of said fine and costs to be imprisoned for a period not exceeding 30 days.
2. Any person who divulges any information which is confidential under the provisions of this Part shall, upon conviction thereof before any District Justice or court of competent jurisdiction, be sentenced to pay a fine of not more than \$500 for each offense, and costs, and, in default of payment of said fines and costs to be imprisoned for a period not exceeding 30 days.
3. The penalties imposed under this Section shall be in addition to any other penalty imposed by any other Section of this Part.
4. The failure of any person to receive or procure forms required for making the declaration or returns required by this Part shall not excuse him from such declaration or return.

(Ord. 1966-1, 1/25/1966, §9)

§110. Credit or Deduction for Payment of Tax to Other Political Subdivisions or States.

Taxpayers under this Part shall be allowed such credit or deduction from their liability for the tax imposed by this Part in addition to taxes paid to other taxing authorities as is provided by "The Local Tax Enabling Act," Act 511, of the 1965 Session of the Pennsylvania General Assembly, approved December 31, 1965.

(Ord. 1966-1, 1/25/1966, §10)

Part 2
Realty Transfer Tax

§201. Short Title.

This Part shall be known as the “Conewago Township Realty Transfer Tax Ordinance.”

(Ord. 1991-1, 2/13/1991, §1)

§202. Authority.

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interests in real estate situate within Conewago Township, regardless of where the documents making the transfer are made, executed or delivered, or where actual settlements on such transfer took place as authorized by authority of Section 17 of Act 77 of 1986 (72 P.S. §8101-D), and under the authority of the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, No. 511, 53 P.S. §6901, et seq.

(Ord. 1991-1, 2/13/1991, §2)

§203. Definitions.

Unless otherwise expressly stated, the following terms, when used in this Part, shall have the meaning ascribed to them in this Section.

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 Dauphin County, Pennsylvania.

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.

DOCUMENT — any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title to real estate, 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 §210 of this Part.

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FAMILY FARM CORPORATION — a corporation of which:

- (1) At least 75% of its assets are devoted to the business of agriculture, which business shall not be deemed to include (i) recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing; (ii) 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 (iii) fur farming; (iv) stockyard and slaughterhouse operations; or, (v) manufacturing or processing operations of any kind.
- (2) At least 75% of each class of stock of the corporation is continuously owned by members of the same family.

MEMBERS OF THE SAME FAMILY — an individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and 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 by legal adoption shall be treated as if they were related by the whole blood.

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 the Township of Conewago, Dauphin County, Commonwealth of Pennsylvania, 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) a 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% or more of the ownership interest in which is held by 35 or fewer persons and which (1) derives 60% 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% 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.

REAL ESTATE TRANSACTION — the making, executing, delivering, accepting or presenting for recording of a document.

TOWNSHIP — Township of Conewago.

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; or (2) any interest in real estate enduring for a fixed period of years but which, either by reason of length of the term or of 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 simple, 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 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.

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 thereof, 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 such documents 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 upon a judgment or 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, the actual monetary worth of the real estate 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 district 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 subsection (1) or (2), 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.

(Ord. 1991-1, 2/13/1991, §3)

§204. Imposition and Payment of Tax; Interest.

1. A tax to provide revenue for general Township purposes is hereby levied, assessed and imposed upon every real estate transaction. 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

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written or printed, a tax at the rate of 1% of the value of the real estate represented by such document.

2. The tax shall be payable at the earliest of the time the document is presented for recording, or within 30 days of acceptance of the document or within 30 days of becoming an acquired company.
3. If the real estate is located partially within and partially outside the Township, the tax shall be calculated on the value of the portion within the Township.
4. 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 penalty imposed under this Part.
5. If for any reason the tax is not paid when due, interest at the legal rate in effect at the time the tax was due shall be added and collected.
6. It is the intent of this Part that the entire burden of the tax imposed on a real estate transaction by the Township and school district shall not exceed the limitations prescribed in Section 8 of the Local Tax Enabling Act, 53 P.S. §6908, so that if the school district also imposes a tax on real estate transactions taxed under this Part, the provisions of said §208 shall apply.

(Ord. 1991-1, 2/13/1991, §4)

§205. 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.

(Ord. 1991-1, 2/13/1991, §5)

§206. Excluded Transactions.

The tax imposed by this Part shall not be imposed upon:

- A. A transfer of 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 recon-

veyance may include property line adjustments, provided said reconveyance is made within one year from the date of condemnation.

- B. A document which the Commonwealth or the Township 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 or 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 and 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 between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one 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, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the Recorder of Deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
- I. A transfer for no or nominal actual consideration from a trustee to a beneficiary or any ordinary trust.
- J. A transfer for no or nominal actual consideration for a trustee to a successor trustee.

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- K. A transfer (i) for no or nominal actual consideration between principal and agent or straw party; or (ii) 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 or consolidation of a corporation or statutory division of a nonprofit corporation, except where 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 two 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 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 §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.

- 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 75% of each class of stock thereof.
- T. A transfer between members of the same family of any ownership interest in a real estate company or family farm corporation.
- 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.

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.

(Ord. 1991-1, 2/13/1991, §6)

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

Except as otherwise provided in §206 of this Part, documents which make, confirm or evidence any transfer or demise 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.

(Ord. 1991-1, 2/13/1991, §7)

§208. 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.

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3. Where there is a transfer of real estate which is demised by the grantor, a credit for the amount of tax paid at the time of the demise 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.

(Ord. 1991-1, 2/13/1991, §9)

§209. 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 the amount of the tax paid.

(Ord. 1991-1, 2/13/1991, §10)

§210. 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% or more the total ownership interest in the company within a period of three 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 that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this Part.
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 the official stamp or writing evidencing payment of the tax. Such declaration shall set forth the value of real estate holdings of the acquired company in the Township.

(Ord. 1991-1, 2/13/1991, 10)

§211. 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.

(Ord. 1991-1, 2/13/1991, §11)

§212. Unlawful Acts.

1. It shall be unlawful for any person to:
 - A. Accept or present for recording or cause to be 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 any other provisions of this Part or any rules and regulations promulgated by the Township under this Part, or any rules and regulations of the Pennsylvania Department of Revenue to the extent applicable to the tax levied hereunder.
2. Enforcement and Remedies.
 - A. Enforcement Notice.
 - (1) If it appears to the Township that a violation of this Part has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice as provided in this Section.

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- (2) The enforcement notice shall be sent to the violator and, if applicable, the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel and to any other person requested in writing by the owner of record.
- (3) An enforcement notice shall state at least the following:
 - (a) The name of the violator and, if applicable, the owner of record and any other person against whom the Township intends to take action.
 - (b) The location of the violation and, if applicable, the property in violation.
 - (c) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Part.
 - (d) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
 - (e) That the recipient of the notice has the right to appeal to the Board of Supervisors within a period of 10 days.
 - (f) That failure to comply with the notice within the time specified, unless extended by appeal to the Board of Supervisors, constitutes a violation, with possible sanctions clearly described.

B. Enforcement Remedies.

- (1) Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Part shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$600 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Part to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a vio-

lation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.

- (2) The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
 - (3) Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this Section.
 - (4) District justices shall have initial jurisdiction over proceedings brought under this Section.
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.

(Ord. 1991-1, 2/13/1991, §12; as amended by Ord. 1997-1, 1/6/1997)

§213. Civil Penalties.

1. If any tax owing under the terms of this Part shall not be paid when due, 10% of the amount of the tax shall be added and collected as an initial penalty for non-payment or underpayment of the tax.
2. If any tax owing under the terms of this Part shall not be paid when due, a further penalty shall accrue on the amount of the unpaid tax at the rate of 1% per month or fractional part of a month, on the amount of the unpaid tax, from the due date until the amount of the tax is paid in full.
3. In the case of failure of any acquired company to record a declaration of acquisition, as required by this Part, unless it is shown to the satisfaction of the Township that such failure is due to reasonable cause, a penalty shall accrue on the amount of the unpaid tax at the rate of 5% per month or fractional part of a month, from the due date until the tax is paid in full. This penalty shall be in addition to all other penalties, but shall not in the aggregate exceed 50% of the amount of the unpaid tax.
4. If any part of any underpayment of tax is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.
5. If the Township files suit to collect the amount of any tax not paid when due under this Part, at the discretion of the court, any person liable for payment of the tax shall also be liable for reasonable attorneys' fees incurred by the Township in prosecution of the suit.

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6. No document upon which tax is imposed by this Part shall at any time be made the basis of any action or other legal proceeding, nor shall proof thereof be offered or received in the office of any recorder of deeds of any county of this Commonwealth, unless the tax imposed hereunder shall have been paid in full and evidence of payment shall have been affixed thereto by the collector.

(Ord. 1991-1, 2/13/1991, §13)

§214. Lien.

The tax imposed by this Part, together with all penalties, shall be a lien against the real estate to which the document relates and, in the case of an acquired company, the real estate owned by the acquired company. The lien shall date from the time when the tax is due and payable and shall continue until discharged by payment in full of the tax, together with all penalties. To enforce the lien, the Township may proceed under the Municipal Claims and Liens Act of 1923, 53 P.S. §7101 et seq., or in any other appropriate manner.

(Ord. 1991-1, 2/13/1991, §14)

§215. 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 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 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.

(Ord. 1991-1, 2/13/1991, §15)

§216. Enforcement.

1. To determine whether the proper amount of tax has been paid, without limiting any other rights of the Township, the Township 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 Township 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. Upon request of the Township, and at such place and time as specified by the Township, any party shall make available to the Township any documents or records requested by the Township.

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

(Ord. 1991-1, 2/13/1991, §16)

§217. 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 Township.
2. 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 Township all taxes collected under this Part, less 2% 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% 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 receiving payment of the tax shall, upon summary conviction, be sentenced to pay a fine of \$50 and costs of prosecution.

(Ord. 1991-1, 2/13/1991, §17)

§218. Regulations.

The Township may promulgate and enforce reasonable rules and regulations for the interpretation, collection and enforcement of the tax.

(Ord. 1991-1, 2/13/1991, §18)

§219. Interpretation; Effect.

1. To the extent this Part imposes a tax on a 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 Township, this Part shall be interpreted in the same manner as Act 77-1986 and in accordance with regulations promulgated thereunder, and any amendments thereto.

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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 is intended to supplement the realty transfer tax in effect prior to this Part by imposing a tax to the fullest extent permissible on all real estate transactions not covered by prior ordinances and now taxable under Act 77-1986.
4. In the event this Part is declared invalid, the prior ordinance or ordinances of the Township 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.

(Ord. 1991-1, 2/13/1991, §20)

Part 3

Tax Collector Service Charges and Fees

§301. Title.

This Part shall be known as the Elected Tax Collector Fee Ordinance.

(Ord. 2001-2, 4/11/2001, §1)

§302. Fees Established.

The Township of Conewago hereby establishes the following fees to be collected by the Elected Tax Collector:

- A. Returned check fee: \$5 per check returned, or the actual charge imposed by the bank used by the Elected Tax Collector, whichever is greater.
- B. Duplicate tax bill fee: \$5 per bill.
- C. Tax status statement fee: \$5 per property.

(Ord. 2001-2, 4/11/2001, §2)

§303. Definition.

For the purposes of this Part, the term "Elected Tax Collector" shall also include the person or entity appointed to fill the position of Elected Tax Collector due to a vacancy in the office of the Elected Tax Collector.

(Ord. 2001-2, 4/11/2001, §3)

§304. Future Fee Changes.

The fees established herein may be revised from time to time by the Board of Supervisors by adopting a resolution specifically referring to this Part.

(Ord. 2001-2, 4/11/2001, §4)