

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 522

By Senator Tarr

[Introduced January 31, 2023; referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §11-22-2 of the Code of West Virginia, 1931, as amended, relating to
 2 allocating a percentage of county excise taxes received from transfers of title to real estate
 3 in each county for funding improvements to election administration, infrastructure, and
 4 physical and cyber security; allocating a percentage of county excise taxes received from
 5 transfers of title to real estate in each county for funding other county purposes including,
 6 but not limited to, compliance with the Uniform Real Property Electronic Recording Act;
 7 authorizing the Secretary of State to promulgate legislative rules establishing minimum
 8 adequate funding thresholds and standards based on county classification for improving
 9 election administration, infrastructure, and security; and authorizing county clerks to
 10 reallocate the excess portion of funding for improving election administration,
 11 infrastructure, and security to other approved county purposes upon determination by the
 12 Secretary of State that the minimum funding thresholds and standards have been met.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22. EXCISE TAX ON PRIVILEGE OF TRANSFERRING REAL PROPERTY.

§11-22-2. Rate of tax; when and by whom payable; additional county tax; county clerk funding for election administration, infrastructure, and security, and other county clerk purposes.

1 (a) Every person who delivers, accepts, or presents for recording any document, or in
 2 whose behalf any document is delivered, accepted, or presented for recording, is subject to pay
 3 for, and in respect to the transaction or any part thereof, a state excise tax upon the privilege of
 4 transferring title to real estate at the rate of \$1.10 for each \$500 value or fraction thereof as
 5 represented by the document as defined in §11-22-1 of this code: *Provided*, That beginning July 1,
 6 2021, ten percent of each state excise tax collected pursuant to the provisions of this subsection
 7 shall be retained by the county wherein the tax was collected to be used for county purposes:
 8 *Provided, however*, That beginning July 1, in every year thereafter, an additional 10 percent of
 9 each state excise tax collected pursuant to this subsection shall be retained by the county wherein

10 the tax was collected to be used for county purposes as provided in subsection (c): *Provided,*
11 *further,* That beginning July 1, 2030, the excise tax collected pursuant to this subsection shall be a
12 county excise tax to be used by the county wherein it is collected for county purposes as provided
13 in subsection (c). The state tax is payable at the time of delivery, acceptance, or presenting for
14 recording of the document. In addition to the state excise tax described in this subsection, there is
15 assessed a fee of \$20 upon the privilege of transferring real estate for consideration. The clerk of
16 the county commission shall collect the additional \$20 fee before recording a transfer of title to real
17 estate and shall deposit the moneys from the additional fees into the Affordable Housing Fund as
18 provided in §31-18-20d of this code. The moneys collected from this additional fee shall be
19 segregated from other funds of the West Virginia Housing Development Fund and shall be
20 accounted for separately. None of these moneys may be expended by the West Virginia Housing
21 Development Fund to defray administrative and operating costs and expenses actually incurred
22 by the West Virginia Housing Development Fund. The West Virginia Housing Development Fund
23 shall publish monthly on the Internet site an accounting of all revenue deposited into the fund
24 during the month and a full disclosure of all expenditures from the fund including the group
25 receiving funds, their location and any contractor awarded the construction contract.

26 (b) Effective January 1, 1968, and thereafter, there is imposed an additional county excise
27 tax for the privilege of transferring title to real estate at the rate of 55 cents for each \$500 value or
28 fraction thereof as represented by such document as defined in §11-22-1 of this code, which
29 county tax shall be payable at the time of delivery, acceptance, or presenting for recording of such
30 document: *Provided,* That after July 1, 1989, the county may increase said excise tax to an
31 amount equal to the state excise tax. The additional tax hereby imposed is declared to be a county
32 tax and to be used for county purposes as provided by subsection (c): *Provided, however,* That
33 after July 1, 2017, the county may increase the excise tax to an amount not to exceed \$1.65 for
34 each \$500 value, or fraction thereof, as represented by a document as defined in §11-22-1 of this
35 code: *Provided further,* That only one such state tax and one such county tax shall be paid on any

36 one document and shall be collected in the county where the document is first admitted to record
37 and the tax shall be paid by the grantor therein unless the grantee accepts the document without
38 such tax having been paid, in which event such tax shall be paid by the grantee: *And provided*
39 *further*, That on any transfer of real property from a trustee or a county clerk transferring real estate
40 sold for taxes, such tax shall be paid by the grantee. The county excise tax imposed under this
41 section may not be increased in any county unless the increase is approved by a majority vote of
42 the members of the county commission of such county. Any county commission intending to
43 increase the excise tax imposed in its county shall publish a notice of its intention to increase such
44 tax not less than 30 days nor more than 60 days prior to the meeting at which such increase will be
45 considered, such notice to be published as a Class I legal advertisement in compliance with the
46 provisions of §59-3-1 *et seq.* of this code and the publication area shall be the county in which
47 such county commission is located.

48 (c)(1) Beginning July 1, 2023, and ending June 30, 2030, the additional 10 percent of the
49 state excise tax retained annually by the county wherein the tax was collected pursuant to
50 subsection (a) shall be deposited into two separate funds under the following requirements:

51 (A) Fifty percent of the additional moneys received shall be allocated for use in improving
52 election administration, infrastructure, and physical and cyber security, in accordance with the
53 minimum fund thresholds and standards established by the Secretary of State as provided in
54 subdivision (3) of this subsection; and

55 (B) Fifty percent of the additional moneys received shall be allocated for other county clerk
56 purposes including, but not limited to, establishing, maintaining, and securing infrastructure to
57 comply with the Uniform Real Property Electronic Recording Act, §39A-4-1 *et seq.* of this code.

58 (2) Beginning July 1, 2030, the excise tax collected pursuant to subsection (b) shall be
59 used by the county wherein it is collected for county purposes as follows:

60 (A) Ninety percent of the total excise tax shall be deposited into the county's general fund;
61 and

62 (B) Ten percent of the total excise tax shall be deposited into two separate funds for county
63 clerk purposes under the following requirements:

64 (i) Fifty percent of the moneys described in paragraph (B) shall be allocated for use in
65 improving election administration, infrastructure, and physical and cyber security, in accordance
66 with the minimum fund thresholds and standards established by the Secretary of State as provided
67 in subdivision (3) of this subsection; and

68 (ii) Fifty percent of the moneys received shall be allocated for other county clerk purposes
69 including, but not limited to, establishing, maintaining, and securing infrastructure to comply with
70 Uniform Real Property Electronic Recording Act, §39A-4-1 et seq. of this code.

71 (3) The Secretary of State is authorized to promulgate legislative rules for purposes of this
72 subsection to establish minimum fund thresholds and standards for use in improving election
73 administration, infrastructure, and physical and cyber security, which rules shall include a
74 respective minimum fund threshold for each county classification as provided in §7-7-3 of this
75 code. Upon a determination by the Secretary of State that the county clerk has satisfied the
76 minimum fund threshold and standards, the moneys in excess of the minimum fund threshold may
77 be transferred to the county's general fund at the county commission's direction.

78 (4) All additional moneys under this section that are deposited into two separate funds for
79 use in improving election administration, infrastructure, and physical and cyber security, and other
80 county clerk purposes, shall be in addition to typical county budget allocations and shall not be
81 supplanted by a budget reduction: *Provided*, That reasonable budget reductions are permitted if
82 made in the ordinary course for reasons other than offsetting county clerk additional funding as
83 provided in this section.

NOTE: The purpose of this bill is to allocate a percentage of county excise taxes received from transfers of title to real estate in each county for funding improvements to election administration, infrastructure, and physical and cyber security; allocate a percentage of county excise taxes received from transfers of title to real estate in each county for funding other county purposes including but not limited to compliance with the Uniform Real Property Electronic Recording Act; authorize the Secretary of State to promulgate legislative rules establishing minimum adequate funding thresholds and standards based

on county classification for improving election administration, infrastructure, and security; and authorize county clerks to reallocate the excess portion of funding for improving election administration, infrastructure, and security to other approved county purposes upon determination by the Secretary of State that the minimum funding thresholds and standards have been met.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.