

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Enrolled

Committee Substitute

for

Committee Substitute

for

Senate Bill 522

By Senators Tarr and Woodrum

[Passed March 11, 2023; in effect 90 days from
passage]

1 AN ACT to amend and reenact §11-22-2 of the Code of West Virginia, 1931, as amended, relating
2 to excise taxes on transfers of title to real estate; requiring a certain percentage of certain
3 excise taxes be allocated to the county in which it was collected; providing for distribution
4 of funds from certain excise taxes allocated to the county in which it was received;
5 authorizing the Secretary of State to propose legislative rules establishing standards for
6 election administration, infrastructure, and security; and providing for allocation of funds
7 when certain minimum standards or reserve amounts are 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, an 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 excise tax collected pursuant to the provisions of this subsection shall
7 be retained by the county wherein the tax was collected to be used for county purposes: *Provided*,
8 *however*, That beginning July 1, 2022, 20 percent of each excise tax collected pursuant to the
9 provisions of this section shall be retained by the county wherein the tax was collected to be used
10 for county purposes: *Provided further*, That beginning July 1, 2023, thirty percent of each excise
11 tax collected pursuant to the provisions of this section shall be retained by the county wherein the
12 tax was collected to be used as provided in subsection (c) of this section: *And provided further*,
13 That beginning July 1, 2024, 65 percent of each excise tax collected pursuant to the provisions of
14 this section shall be retained by the county wherein the tax was collected to be used as provided in

15 subsection (c) of this section: *And provided further*, That beginning July 1, 2025, the excise tax
16 collected pursuant to this subsection shall be a county excise tax retained by the county wherein
17 the tax was collected and to be used by the county as provided in subsection (c) of this section.
18 The excise tax collected pursuant to this subsection is payable at the time of delivery, acceptance,
19 or presenting for recording of the document. In addition to the excise tax described in this
20 subsection, there is assessed a fee of \$20 upon the privilege of transferring real estate for
21 consideration. The clerk of the county commission shall collect the additional \$20 fee before
22 recording a transfer of title to real estate and shall deposit the moneys from the additional fees into
23 the Affordable Housing Fund as provided in §31-18-20d of this code. The moneys collected from
24 this additional fee shall be segregated from other funds of the West Virginia Housing Development
25 Fund and shall be accounted for separately. None of these moneys may be expended by the West
26 Virginia Housing Development Fund to defray administrative and operating costs and expenses
27 actually incurred by the West Virginia Housing Development Fund. The West Virginia Housing
28 Development Fund shall publish monthly on its Internet site an accounting of all revenue deposited
29 into the fund during the month and a full disclosure of all expenditures from the fund including any
30 person or entity receiving funds, its location, and any contractor awarded a construction contract.

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

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

53 (c)(1) Beginning July 1, 2023, and ending June 30, 2024, the excise tax retained by the
54 county wherein the tax was collected, pursuant to subsection (a) of this section, shall be used by
55 the county and deposited as follows:

56 (A) Twenty percent of the moneys received shall be deposited into the county general fund
57 to be used for county purposes;

58 (B) Five percent of the moneys received shall be deposited into a separate account and
59 allocated for use by the clerk of the county commission in improving election administration,
60 infrastructure, and security, in accordance with the standards established by the Secretary of State
61 as provided in subdivision (4) of this subsection; and

62 (C) Five percent of the moneys received shall be deposited into a separate account for use
63 by the clerk of the county commission for other purposes including, but not limited to, establishing,
64 maintaining, and securing infrastructure to comply with the Uniform Real Property Electronic
65 Recording Act, §39A-4-1 *et seq.* of this code.

66 (2) Beginning July 1, 2024, and ending June 30, 2025, the excise tax retained by the

67 county wherein the tax was collected, pursuant to subsection (a) of this section, shall be used by
68 the county and deposited as follows:

69 (A) Thirty percent of the moneys received shall be deposited into the county general fund
70 to be used for county purposes;

71 (B) Seventeen and one-half percent of the moneys received shall be deposited into a
72 separate account and allocated for use by the clerk of the county commission in improving election
73 administration, infrastructure, and security, in accordance with the standards established by the
74 Secretary of State as provided in subdivision (4) of this subsection; and

75 (C) Seventeen and one-half percent of the moneys received shall be deposited into a
76 separate account for use by the clerk of the county commission for other purposes including, but
77 not limited to, establishing, maintaining, and securing infrastructure to comply with the Uniform
78 Real Property Electronic Recording Act, §39A-4-1 *et seq.* of this code.

79 (3) Beginning July 1, 2025, the excise tax retained by the county wherein the tax was
80 collected, pursuant to subsection (a) of this section, shall be used by the county and deposited as
81 follows:

82 (A) Ninety percent of the moneys received shall be deposited into the county general fund
83 to be used for county purposes;

84 (B) Five percent of the moneys received shall be deposited into a separate account and
85 allocated for use by the clerk of the county commission in improving election administration,
86 infrastructure, and security, in accordance with the standards established by the Secretary of State
87 as provided in subdivision (4) of this subsection; and

88 (C) Five percent of the moneys received shall be deposited into a separate account for use
89 by the clerk of the county commission for other purposes including, but not limited to, establishing,
90 maintaining, and securing infrastructure to comply with the Uniform Real Property Electronic
91 Recording Act, §39A-4-1 *et seq.* of this code.

92 (4) The Secretary of State propose rules for legislative approval in accordance with the

93 provisions of §29A-3-1 *et seq.* of this code to establish minimum standards for election
94 administration, infrastructure, and security, which rules shall include, but not be limited to,
95 standards regarding cyber and physical security, and a minimum reserve funding requirement for
96 each county from funds transferred to the separate fund required by this subsection for election
97 administration, infrastructure, and security: *Provided*, That the minimum reserve funding
98 requirement may not exceed the cost of upgrading voting equipment at the statewide average
99 price to upgrade a voting system by precinct. Upon a determination by the Secretary of State that a
100 county has satisfied the minimum reserve funding requirement and standards, the moneys in
101 excess of the minimum reserve funding requirement may be transferred to the county's general
102 fund at the county commission's direction.

103 (5) Any moneys that are deposited into two separate funds for use in improving election
104 administration, infrastructure, and security, and other purposes relating to the office of the clerk of
105 the county commission, shall be in addition to and separate from typical county budget allocations
106 and shall not be supplanted by a budget reduction to the clerk of the county commission's office:
107 *Provided*, That reasonable budget reductions are permitted if made in the ordinary course for
108 reasons other than offsetting the additional funding as provided in this section.