

H. B. 2785

(By Delegates Cowles, J. Miller, Michael, Cann,
Duke, C. Miller and Overington)

[Introduced January 24, 2011; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-22-2 of the Code of West Virginia,
1931, as amended, relating to the excise tax on the privilege
of transferring real property; and providing that the tax be
used to reimburse counties for regional jail fees.

Be it enacted by the Legislature of West Virginia:

That §11-22-2 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

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

**§11-22-2. Rate of tax; when and by whom payable; additional county
tax.**

(a) Every person who delivers, accepts or presents for
recording any document, or in whose behalf any document is
delivered, accepted or presented for recording, is subject to pay
for, and in respect to the transaction or any part thereof, a state
excise tax upon the privilege of transferring title to real estate

1 at the rate of \$1.10 for each \$500 value or fraction thereof as
2 represented by the document as defined in section one of this
3 article. The state tax is payable at the time of delivery,
4 acceptance or presenting for recording of the document. This
5 excise tax, once collected, shall be expended to reimburse each
6 county for funds expended to satisfy its regional jail fees. In
7 addition to the state excise tax described in this subsection,
8 there is assessed a fee of \$20 upon the privilege of transferring
9 real estate for consideration. The clerk of the county commission
10 shall collect the additional \$20 fee before recording a transfer of
11 title to real estate and shall deposit the moneys from the
12 additional fees into the West Virginia Affordable Housing Trust
13 Fund as provided in article eighteen-d, chapter thirty-one of this
14 code. The moneys collected from this additional fee shall be
15 segregated from other funds in the West Virginia Affordable Housing
16 Trust Fund and shall be accounted for separately. Not more than
17 ten percent of these additional moneys may be expended by the West
18 Virginia Affordable Housing Trust Fund to defray administrative and
19 operating costs and expenses actually incurred by the West Virginia
20 Affordable Housing Trust Fund. The Housing Development Fund, as
21 fiscal agent of the West Virginia Affordable Housing Trust Fund,
22 shall publish monthly on the Internet site an accounting of all
23 revenue deposited into the fund during the month and a full
24 disclosure of all expenditures from the fund including the group

1 receiving funds, their location and any contractor awarded the
2 construction contract. Additionally, the West Virginia Affordable
3 Housing Trust Fund is to provide an annual report to the Joint
4 Committee on Government and Finance before December 1, 2007, and
5 each year thereafter.

6 (b) Effective January 1, 1968, and thereafter, there is
7 imposed an additional county excise tax for the privilege of
8 transferring title to real estate at the rate of \$0.55 for each
9 \$500 value or fraction thereof as represented by such document as
10 defined in section one of this article, which county tax shall be
11 payable at the time of delivery, acceptance or presenting for
12 recording of such document: *Provided*, That after July 1, 1989, the
13 county may increase said excise tax to an amount equal to the state
14 excise tax. The additional tax hereby imposed is declared to be a
15 county tax and to be used for county purposes: *Provided, however*,
16 That only one such state tax and one such county tax shall be paid
17 on any one document and shall be collected in the county where the
18 document is first admitted to record and the tax shall be paid by
19 the grantor therein unless the grantee accepts the document without
20 such tax having been paid, in which event such tax shall be paid by
21 the grantee: *Provided further*, That on any transfer of real
22 property from a trustee or a county clerk transferring real estate
23 sold for taxes, such tax shall be paid by the grantee. The county
24 excise tax imposed under this section may not be increased in any

1 county unless the increase is approved by a majority vote of the
2 members of the county commission of such county. Any county
3 commission intending to increase the excise tax imposed in its
4 county shall publish a notice of its intention to increase such tax
5 not less than thirty days nor more than sixty days prior to the
6 meeting at which such increase will be considered, such notice to
7 be published as a Class I legal advertisement in compliance with
8 the provisions of article three, chapter fifty-nine of this code
9 and the publication area shall be the county in which such county
10 commission is located.

NOTE: The purpose of this bill is to provide that the state excise tax on the privilege of transferring real property tax be used to reimburse counties for regional jail fees.

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