

1 **Senate Bill No. 266**

2 (By Senators Snyder, Edgell, Plymale, Miller and Laird)

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4 [Introduced January 25, 2011; referred to the Committee on
5 Government Organization; and then to the Committee on Finance.]

6 _____
7 **FISCAL**
8 **NOTE**

9
10 A BILL to amend and reenact §11-22-2 of the Code of West Virginia,
11 1931, as amended, relating to authorizing the real property
12 transfer tax collected by the state to be paid to the
13 counties; and providing this be accomplished incrementally
14 over a five-year period.

15 *Be it enacted by the Legislature of West Virginia:*

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

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

19 **§11-22-2. Rate of tax; when and by whom payable.**

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

1 estate at the rate of \$1.10 for each \$500 value or fraction thereof
2 as 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.

5 (b) In addition to the ~~state~~ excise tax described in ~~this~~
6 subsection (a) of this section, there is assessed a fee of \$20 upon
7 the privilege of transferring real estate for consideration. The
8 clerk of the county commission shall collect the additional \$20 fee
9 before recording a transfer of title to real estate and shall
10 deposit the moneys from the additional fees into the West Virginia
11 Affordable Housing Trust Fund as provided in article eighteen-d,
12 chapter thirty-one of this code. The moneys collected from this
13 additional fee shall be segregated from other funds in the West
14 Virginia Affordable Housing Trust Fund and shall be accounted for
15 separately. Not more than ten percent of these additional moneys
16 may be expended by the West Virginia Affordable Housing Trust Fund
17 to defray administrative and operating costs and expenses actually
18 incurred by the West Virginia Affordable Housing Trust Fund. The
19 Housing Development Fund, as fiscal agent of the West Virginia
20 Affordable Housing Trust Fund, shall publish monthly on the
21 Internet site an accounting of all revenue deposited into the fund
22 during the month and a full disclosure of all expenditures from the
23 fund including the group receiving funds, their location and any
24 contractor awarded the construction contract. Additionally, the

1 West Virginia Affordable Housing Trust Fund is to provide an annual
2 report to the Joint Committee on Government and Finance before
3 December 1, 2007, and each year thereafter.

4 (c) Commencing July 1, 2010, the excise tax collected in
5 subsection (a) of this section shall be distributed in the
6 following manner:

7 (1) For the first year, eighty percent to the state and twenty
8 percent to the county;

9 (2) For the second year, sixty percent to the state and forty
10 percent to the county;

11 (3) For the third year, forty percent to the state and sixty
12 percent to the county;

13 (4) For the fourth year, twenty percent to the state and
14 eighty percent to the county; and

15 (5) For the fifth and each succeeding year, one hundred
16 percent to the county.

17 ~~(b)~~ (d) Effective January 1, 1968, and thereafter, there is
18 imposed an additional county excise tax for the privilege of
19 transferring title to real estate at the rate of \$0.55 for each
20 \$500 value or fraction thereof as represented by such document as
21 defined in section one of this article, which county tax shall be
22 payable at the time of delivery, acceptance or presenting for
23 recording of such document. *Provided*, That after July 1, 1989, the
24 county may increase said excise tax to an amount equal to the ~~state~~

1 excise tax set forth in subsection (a) of this section. The
2 additional tax hereby imposed is declared to be a county tax and to
3 be used for county purposes. ~~Provided, however, That only one such~~
4 ~~state tax and one such county tax shall be paid on any one document~~
5 and

6 (e) The taxes established by this section shall be collected
7 in the county where the document is first admitted to record and
8 the tax shall be paid by the grantor therein unless the grantee
9 accepts the document without such tax having been paid, in which
10 event such tax shall be paid by the grantee: *Provided further,*
11 That on any transfer of real property from a trustee or a county
12 clerk transferring real estate sold for taxes, such tax shall be
13 paid by the grantee. The county excise tax imposed under
14 subsection (d) of this section may not be increased in any county
15 unless the increase is approved by a majority vote of the members
16 of the county commission of such county. Any county commission
17 intending to increase the excise tax imposed in its county shall
18 publish a notice of its intention to increase such tax not less
19 than thirty days nor more than sixty days prior to the meeting at
20 which such increase will be considered, such notice to be published
21 as a Class I legal advertisement in compliance with the provisions
22 of article three, chapter fifty-nine of this code and the
23 publication area shall be the county in which such county
24 commission is located.

NOTE: The purpose of this bill is to authorize the real property transfer tax collected by the state to be paid to the counties incrementally over a five-year period. This bill does not increase taxes paid by a taxpayer.

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