

H. B. 4117

(By Delegate Lawrence)

[Introduced January 18, 2012; 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 redistributing an existing
excise tax paid upon the transfer of real property so that the
tax is paid to the county where the property is situate
instead of to the state; requiring counties to dedicate this
excise tax to support regional jails; providing this be
accomplished incrementally over a five-year period; and
stylistic changes.

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; distribution and
use.**

1 (a) Every person who delivers, accepts or presents for
2 recording any document, or in whose behalf any document is
3 delivered, accepted or presented for recording, is subject to pay
4 for, and in respect to the transaction or any part thereof, ~~a state~~
5 an excise tax upon the privilege of transferring title to real
6 estate at the rate of \$1.10 for each \$500 value or fraction thereof
7 as represented by the document as defined in section one of this
8 article. The ~~state~~ tax is payable at the time of delivery,
9 acceptance or presenting for recording of the document. Commencing
10 July 1, 2012, the excise tax collected in this subsection shall be
11 distributed in the following manner:

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

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

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

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

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

22 (b) The counties shall use the excise tax collected under
23 subsection (a) of this section exclusively to support the regional
24 jail within their respective regions.

1 @ In addition to the ~~state~~ excise tax described in ~~this~~
2 subsection (a) of this section, there is assessed a fee of \$20 upon
3 the privilege of transferring real estate for consideration. The
4 clerk of the county commission shall collect the additional \$20 fee
5 before recording a transfer of title to real estate and ~~shall~~
6 deposit the moneys ~~from the additional fees~~ into the West Virginia
7 Affordable Housing Trust Fund as provided in article eighteen-d,
8 chapter thirty-one of this code. The moneys collected ~~from this~~
9 ~~additional fee~~ shall be segregated from other funds in the West
10 Virginia Affordable Housing Trust Fund and ~~shall be~~ accounted for
11 separately. Not more than ten percent of these additional moneys
12 may be expended by the West Virginia Affordable Housing Trust Fund
13 to defray administrative and operating costs and expenses actually
14 incurred by the West Virginia Affordable Housing Trust Fund. The
15 Housing Development Fund, as fiscal agent of the West Virginia
16 Affordable Housing Trust Fund, shall publish monthly on the
17 Internet site an accounting of all revenue deposited into the fund
18 during the month and a full disclosure of all expenditures from the
19 fund including the group receiving funds, their location and any
20 contractor awarded the construction contract. Additionally, the
21 West Virginia Affordable Housing Trust Fund is to provide an annual
22 report to the Joint Committee on Government and Finance before
23 December 1, 2007, and each year thereafter.

24 ~~(b) Effective January 1, 1968, and thereafter, there is~~

1 ~~imposed an additional county excise tax for the privilege of~~
2 ~~transferring title to real estate at the rate of 55¢ for each \$500~~
3 ~~value or fraction thereof as represented by such document as~~
4 ~~defined in section one of this article, which county tax shall be~~
5 ~~payable at the time of delivery, acceptance or presenting for~~
6 ~~recording of such document: *Provided*, That after July 1, 1989, the~~
7 ~~county may increase said excise tax to an amount equal to the state~~
8 ~~excise tax. The additional tax hereby imposed is declared to be a~~
9 ~~county tax and to be used for county purposes: *Provided*, however,~~
10 ~~That only one such state tax and one such county tax shall be paid~~
11 ~~on any one document and shall be collected in the county where the~~
12 ~~document is first admitted to record and the tax shall be paid by~~
13 ~~the grantor therein unless the grantee accepts the document without~~
14 ~~such tax having been paid, in which event such tax shall be paid by~~
15 ~~the grantee: *Provided further*, That on any transfer of real~~
16 ~~property from a trustee or a county clerk transferring real estate~~
17 ~~sold for taxes, such tax shall be paid by the grantee. The county~~
18 ~~excise tax imposed under this section may not be increased in any~~
19 ~~county unless the increase is approved by a majority vote of the~~
20 ~~members of the county commission of such county. Any county~~
21 ~~commission intending to increase the excise tax imposed in its~~
22 ~~county shall publish a notice of its intention to increase such tax~~
23 ~~not less than thirty days nor more than sixty days prior to the~~
24 ~~meeting at which such increase will be considered, such notice to~~

1 ~~be published as a Class I legal advertisement in compliance with~~
2 ~~the provisions of article three, chapter fifty-nine of this code~~
3 ~~and the publication area shall be the county in which such county~~
4 ~~commission is located.~~

5 (d) There is imposed an additional county excise tax for the
6 privilege of transferring title to real estate at the rate of \$0.55
7 for each \$500 value or fraction thereof as represented by such
8 document, as defined in section one of this article, and is payable
9 at the time of delivery, acceptance or presenting for recording of
10 such document. The additional tax hereby imposed is declared to be
11 a county tax and to be used for county purposes. The county may
12 increase this excise tax to an amount equal to the tax set forth in
13 subsection (a) of this section if approved by a majority vote of
14 the members of the county commission. A county commission intending
15 to increase the excise tax imposed in its county shall publish a
16 notice of its intention to increase such tax not less than thirty
17 days nor more than sixty days prior to the meeting at which the
18 increase will be considered, such notice to be published as a Class
19 I legal advertisement in compliance with the provisions of article
20 three, chapter fifty-nine of this code and the publication area
21 shall be the county in which such county commission is located.

22 (e) The taxes established by this section shall be collected
23 in the county where the document is first admitted to record and
24 paid by the grantor unless the grantee accepts the document without

1 the tax having been paid, in which event the tax shall be paid by
2 the grantee. On any transfer of real property from a trustee or a
3 county clerk transferring real estate sold for taxes, such tax
4 shall be paid by the grantee.

NOTE: The purpose of this bill is to incrementally redistribute an existing excise tax on the transfer of real property so that, over the course of five years, all moneys collected will be paid to the county where the property is situate instead of the state and to require that moneys paid to counties be exclusively dedicated to regional jails.

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