

Senate Bill No. 141

(By Senators Unger and Kessler (Mr. President))

[Introduced February 13, 2013; referred to the Committee on
Government Organization; and then to the Committee on 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 and substance abuse
programs; providing this be accomplished incrementally over a
five-year period; and making 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; additional county
tax.**

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.

10 (b) In addition to the ~~state~~ excise tax described in ~~this~~
11 subsection (a) of this section, there is assessed a fee of \$20 upon
12 the privilege of transferring real estate for consideration. The
13 clerk of the county commission shall collect the additional \$20 fee
14 before recording a transfer of title to real estate and ~~shall~~
15 deposit the moneys ~~from the additional fees~~ into the West Virginia
16 Affordable Housing Trust Fund as provided in article eighteen-d,
17 chapter thirty-one of this code. The moneys collected ~~from this~~
18 ~~additional fee~~ shall be segregated from other funds in the West
19 Virginia Affordable Housing Trust Fund and ~~shall be~~ accounted for
20 separately. Not more than ten percent of these additional moneys
21 may be expended by the West Virginia Affordable Housing Trust Fund
22 to defray administrative and operating costs and expenses actually
23 incurred by the West Virginia Affordable Housing Trust Fund. The

1 Housing Development Fund, as fiscal agent of the West Virginia
2 Affordable Housing Trust Fund, shall publish monthly on the
3 Internet site an accounting of all revenue deposited into the fund
4 during the month and a full disclosure of all expenditures from the
5 fund including the group receiving funds, their location and any
6 contractor awarded the construction contract. Additionally, the
7 West Virginia Affordable Housing Trust Fund is to provide an annual
8 report to the Joint Committee on Government and Finance before
9 December 1, 2007, and each year thereafter.

10 ~~(b) Effective January 1, 1968, and thereafter, there is~~
11 ~~imposed an additional county excise tax for the privilege of~~
12 ~~transferring title to real estate at the rate of 55¢ for each \$500~~
13 ~~value or fraction thereof as represented by such document as~~
14 ~~defined in section one of this article, which county tax shall be~~
15 ~~payable at the time of delivery, acceptance or presenting for~~
16 ~~recording of such document: Provided, That after July 1, 1989, the~~
17 ~~county may increase said excise tax to an amount equal to the state~~
18 ~~excise tax. The additional tax hereby imposed is declared to be a~~
19 ~~county tax and to be used for county purposes: Provided, however,~~
20 ~~That only one such state tax and one such county tax shall be paid~~
21 ~~on any one document and shall be collected in the county where the~~
22 ~~document is first admitted to record and the tax shall be paid by~~
23 ~~the grantor therein unless the grantee accepts the document without~~

~~1 such tax having been paid, in which event such tax shall be paid by
2 the grantee: *Provided further,* That on any transfer of real
3 property from a trustee or a county clerk transferring real estate
4 sold for taxes, such tax shall be paid by the grantee. The county
5 excise tax imposed under this section may not be increased in any
6 county unless the increase is approved by a majority vote of the
7 members of the county commission of such county. Any county
8 commission intending to increase the excise tax imposed in its
9 county shall publish a notice of its intention to increase such tax
10 not less than thirty days nor more than sixty days prior to the
11 meeting at which such increase will be considered, such notice to
12 be published as a Class I legal advertisement in compliance with
13 the provisions of article three, chapter fifty-nine of this code
14 and the publication area shall be the county in which such county
15 commission is located.~~

16 (c) There may be imposed an additional county excise tax for
17 the privilege of transferring title to real estate. The additional
18 county tax imposed is declared to be a county tax and to be used
19 for the county purposes specified in subsection (d) of this
20 section. The county may impose this tax to an amount equal to or
21 less than the tax set forth in subsection (a) of this section if
22 approved by a majority vote of the members of the county
23 commission. A county commission intending to impose such tax in its

1 county shall publish a notice of its intention not less than thirty
2 days nor more than sixty days prior to the meeting at which the
3 county tax will be considered, such notice to be published as a
4 Class I legal advertisement in compliance with the provisions of
5 article three, chapter fifty-nine of this code and the publication
6 area shall be the county in which the county commission is located.

7 (d) Any county tax imposed in subsection (c) of this section
8 shall be collected in the county where the document is first
9 admitted to record and paid by the grantor unless the grantee
10 accepts the document without the tax having been paid, in which
11 event the tax shall be paid by the grantee. On any transfer of
12 real property from a trustee or a county clerk transferring real
13 estate sold for taxes, such tax shall be paid by the grantee. The
14 moneys collected shall be segregated from other county funds and
15 accounted for separately. The county shall use fifty percent of
16 the tax collected to support the regional jail serving the county
17 and fifty percent to support substance abuse treatment.

18 (e) The county commission in consultation with the sheriff of
19 the county and chief circuit court judge shall determine how to
20 disperse the money dedicated to support substance abuse treatment.
21 The funding is to be used in the county where it was collected.
22 Treatment programs that are suitable for funding include but are
23 not limited to substance abuse treatment and intervention such as

1 ethics case management-based addiction programs, short- and long-
2 term residential treatment programs and out-patient programs as
3 well as community corrections substance abuse treatment programs.

NOTE: The purpose of this bill is to redistribute 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. The bill requires counties to dedicate this excise tax to support regional jails and substance abuse programs incrementally over a five-year period. And the bill makes stylistic changes.

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