

H. B. 2473

(By Delegate Cowles, Espinosa, Householder, Duke, Upson, Folk, Faircloth and Blair)

[Introduced January 28, 2015; 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 at the rate of \$1.10 for each \$500 value or fraction thereof as represented by the document as defined in section one of this article. The state tax is payable at the time of delivery,

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

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

1 equal to the state excise tax. The additional tax hereby imposed is declared to be a county tax and
2 to be used for county purposes: *Provided, however,* That only one such state tax and one such
3 county tax shall be paid on any one document and shall be collected in the county where the
4 document is first admitted to record and the tax shall be paid by the grantor therein unless the grantee
5 accepts the document without such tax having been paid, in which event such tax shall be paid by
6 the grantee: *Provided further,* That on any transfer of real property from a trustee or a county clerk
7 transferring real estate sold for taxes, such tax shall be paid by the grantee. The county excise tax
8 imposed under this section may not be increased in any county unless the increase is approved by
9 a majority vote of the members of the county commission of such county. Any county commission
10 intending to increase the excise tax imposed in its county shall publish a notice of its intention to
11 increase such tax not less than thirty days nor more than sixty days prior to the meeting at which such
12 increase will be considered, such notice to be published as a Class I legal advertisement in
13 compliance with the provisions of article three, chapter fifty-nine of this code and the publication
14 area shall be the county in which such county 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.