

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **Senate Bill 37**

**FISCAL  
NOTE**

BY SENATOR SNYDER

[Introduced January 13, 2016;

Referred to the Committee on Government

Organization; and then to the Committee on Finance.]

1 A BILL to amend and reenact §11-22-2 of the Code of West Virginia, 1931, as amended, relating  
2 to redistributing an existing excise tax paid upon transfer of real property so that tax is paid  
3 to the county where the property is situate instead of to the state; providing this be  
4 accomplished incrementally over a five-year period; requiring counties to dedicate excise  
5 tax to support regional jails; and making stylistic changes.

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

1 That §11-22-2 of the Code of West Virginia, 1931, as amended, be amended and  
2 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 recording any document, or in  
2 whose behalf any document is delivered, accepted or presented for recording, is subject to pay  
3 for, and in respect to the transaction or any part thereof, ~~a state~~ an excise tax upon the privilege  
4 of transferring title to real estate at the rate of \$1.10 for each \$500 value or fraction thereof as  
5 represented by the document as defined in section one of this article. The ~~state~~ tax is payable at  
6 the time of delivery, acceptance or presenting for recording of the document. Commencing July  
7 1, 2016, the excise tax collected in this subsection shall be distributed in the following manner:

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

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

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

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

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

13 ~~(b) Effective January 1, 1968, and thereafter, there is imposed an additional county excise~~  
14 ~~tax for the privilege of transferring title to real estate at the rate of 55¢ for each \$500 value or~~  
15 ~~fraction thereof as represented by such document as defined in section one of this article, which~~  
16 ~~county tax shall be payable at the time of delivery, acceptance or presenting for recording of such~~

17 document: ~~Provided, That after July 1, 1989, the county may increase said excise tax to an~~  
18 ~~amount equal to the state excise tax. The additional tax hereby imposed is declared to be a~~  
19 ~~county tax and to be used for county purposes: Provided, however, That only one such state tax~~  
20 ~~and one such county tax shall be paid on any one document and shall be collected in the county~~  
21 ~~where the document is first admitted to record and the tax shall be paid by the grantor therein~~  
22 ~~unless the grantee accepts the document without such tax having been paid, in which event such~~  
23 ~~tax shall be paid by the grantee: Provided further, That on any transfer of real property from a~~  
24 ~~trustee or a county clerk transferring real estate sold for taxes, such tax shall be paid by the~~  
25 ~~grantee. The county excise tax imposed under this section may not be increased in any county~~  
26 ~~unless the increase is approved by a majority vote of the members of the county commission of~~  
27 ~~such county. Any county commission intending to increase the excise tax imposed in its county~~  
28 ~~shall publish a notice of its intention to increase such tax not less than thirty days nor more than~~  
29 ~~sixty days prior to the meeting at which such increase will be considered, such notice to be~~  
30 ~~published as a Class I legal advertisement in compliance with the provisions of article three,~~  
31 ~~chapter fifty-nine of this code and the publication area shall be the county in which such county~~  
32 ~~commission is located.~~

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

35 (c) In addition to the state excise tax described in this subsection (a) of this section, there  
36 is assessed a fee of \$20 upon the privilege of transferring real estate for consideration. The clerk  
37 of the county commission shall collect the additional \$20 fee before recording a transfer of title to  
38 real estate and shall deposit the moneys from the additional fees into the West Virginia Affordable  
39 Housing Trust Fund as provided in article eighteen-d, chapter thirty-one of this code. The moneys  
40 collected from this additional fee shall be segregated from other funds in the West Virginia

41 Affordable Housing Trust Fund and ~~shall be~~ accounted for separately. Not more than ten percent  
42 of these additional moneys may be expended by the West Virginia Affordable Housing Trust Fund  
43 to defray administrative and operating costs and expenses actually incurred by the West Virginia  
44 Affordable Housing Trust Fund. The Housing Development Fund, as fiscal agent of the West  
45 Virginia Affordable Housing Trust Fund, shall publish monthly on the Internet site an accounting  
46 of all revenue deposited into the fund during the month and a full disclosure of all expenditures  
47 from the fund including the group receiving funds, their location and any contractor awarded the  
48 construction contract. Additionally, the West Virginia Affordable Housing Trust Fund is to provide  
49 an annual report to the Joint Committee on Government and Finance before December 1, 2007,  
50 and each year thereafter.

51 (d) There is imposed an additional county excise tax for the privilege of transferring title to  
52 real estate at the rate of \$.55 for each \$500 value or fraction thereof as represented by the  
53 document, as defined in section one of this article, and is payable at the time of delivery,  
54 acceptance or presenting for recording of the document. The additional tax hereby imposed is  
55 declared to be a county tax and to be used for county purposes. The county may increase this  
56 excise tax to an amount equal to the tax set forth in subsection (a) of this section if approved by  
57 a majority vote of the members of the county commission. A county commission intending to  
58 increase the excise tax imposed in its county shall publish a notice of its intention to increase the  
59 tax not less than thirty days nor more than sixty days prior to the meeting at which the increase  
60 will be considered. The notice shall be published as a Class I legal advertisement in compliance  
61 with article three, chapter fifty-nine of this code and the publication area is the county in which the  
62 county commission is located.

63 (e) The taxes established by this section shall be collected in the county where the  
64 document is first admitted to record and paid by the grantor unless the grantee accepts the

- 65 document without the tax having been paid, in which event the tax shall be paid by the grantee.
- 66 On any transfer of real property from a trustee or a county clerk transferring real estate sold for
- 67 taxes, the tax 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. The bill requires that moneys paid to counties be exclusively dedicated to regional jails. The bill also makes stylistic changes.

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