

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 647

FISCAL
NOTE

BY SENATORS JEFFRIES, BEACH, MILLER, OJEDA,

PLYMALE, PREZIOSO AND STOLLINGS

[Introduced March 17, 2017; Referred

to the Committee on Agriculture and Rural

Development; and then to the Committee on Finance]

1 A BILL to repeal §8A-12-21 of the Code of West Virginia, 1931, as amended; and to amend and
 2 reenact §11-22-2 of said code, all relating generally to additional county excise taxes on
 3 the privilege of transferring real property; repealing the additional county excise tax on the
 4 privilege of transferring real property in county's where the county commission has created
 5 a farmland protection program; authorizing an additional county excise tax on the privilege
 6 of transferring real property in counties where the county commission has created either
 7 a farmland protection program or a certified development community program; setting
 8 forth certain requirements; and authorizing a larger additional county excise tax in a county
 9 with both a farmland protection program and a certified development community program.

Be it enacted by the Legislature of West Virginia:

1 That §8A-12-21 of the Code of West Virginia, 1931, as amended, be repealed; and that
 2 §11-22-2 of said code be amended and reenacted, all 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; additional county tax to fund farmland protection and local economic development corporation or authority operations, activities or programs.

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 excise tax upon the privilege of
 4 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. In addition to the
 7 state excise tax described in this subsection, there is assessed a fee of \$20 upon the privilege of
 8 transferring real estate for consideration. The clerk of the county commission shall collect the
 9 additional \$20 fee before recording a transfer of title to real estate and shall deposit the moneys
 10 from the additional fees into the West Virginia Affordable Housing Trust Fund as provided in article

11 eighteen-d, chapter thirty-one of this code. The moneys collected from this additional fee shall be
12 segregated from other funds in the West Virginia Affordable Housing Trust Fund and shall be
13 accounted for separately. Not more than ten percent of these additional moneys may be
14 expended by the West Virginia Affordable Housing Trust Fund to defray administrative and
15 operating costs and expenses actually incurred by the West Virginia Affordable Housing Trust
16 Fund. The Housing Development Fund, as fiscal agent of the West Virginia Affordable Housing
17 Trust Fund, shall publish monthly on the Internet site an accounting of all revenue deposited into
18 the fund during the month and a full disclosure of all expenditures from the fund including the
19 group receiving funds, their location and any contractor awarded the construction contract.
20 Additionally, the West Virginia Affordable Housing Trust Fund is to provide an annual report to
21 the Joint Committee on Government and Finance before December 1, 2007, and each year
22 thereafter.

23 (b) Effective January 1, 1968, and thereafter, there is imposed an additional county excise
24 tax for the privilege of transferring title to real estate at the rate of 55¢ for each \$500 value or
25 fraction thereof as represented by such document as defined in section one of this article, which
26 county tax shall be payable at the time of delivery, acceptance or presenting for recording of such
27 document: *Provided*, That after July 1, 1989, the county may increase said excise tax to an
28 amount equal to the state excise tax. The additional tax hereby imposed is declared to be a county
29 tax and to be used for county purposes: *Provided, however*, That, except with regard to the
30 additional county tax set forth in subsection (c) of this section, only one such state tax and one
31 such county tax shall be paid on any one document and shall be collected in the county where
32 the document is first admitted to record and the tax shall be paid by the grantor therein unless the
33 grantee accepts the document without such tax having been paid, in which event such tax shall
34 be paid by the grantee: *Provided further*, That on any transfer of real property from a trustee or a
35 county clerk transferring real estate sold for taxes, such tax shall be paid by the grantee. The
36 county excise tax imposed under this section may not be increased in any county unless the

37 increase is approved by a majority vote of the members of the county commission of such county.
38 Any county commission intending to increase the excise tax imposed in its county shall publish a
39 notice of its intention to increase such tax not less than thirty days nor more than sixty days prior
40 to the meeting at which such increase will be considered, such notice to be published as a Class
41 I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this
42 code and the publication area shall be the county in which such county commission is located.

43 (c) In addition to the taxes otherwise imposed by this article, any county commission that
44 establishes and implements a farmland protection program pursuant to article twelve, chapter
45 eight-a of this code, or any county with an economic development corporation or authority,
46 including without limitation, a development authority established under article twelve, chapter
47 seven of this code operating within the county that participates in the certified development
48 community program pursuant to article two, chapter five-b of this code, may impose an additional
49 county excise tax for the privilege of transferring title to real estate at a rate of no more than \$1.10
50 for each \$500 value or fraction thereof, as represented by any document as defined in section
51 one, article twenty-two, chapter eleven of this code, payable at the time of delivery, acceptance
52 or presentation for recording of the document. The additional tax imposed pursuant to this
53 subsection is to be used exclusively for the purposes of funding the county's farmland protection
54 program or the operations, programs or activities of the local economic development corporation
55 or authority, or both, at the sole discretion of the county commission: *Provided*, That if a county
56 commission elects to fund both the county's farmland protection program and the operations,
57 programs or activities of the local economic development corporation or authority, then the
58 commission may impose the additional county excise tax authorized in this subsection at a rate
59 of up to \$2.20 for each \$500 value or fraction thereof, as represented by any document as defined
60 in section one, article twenty-two, chapter eleven of this code, payable at the time of delivery,
61 acceptance or presentation for recording of the document, and shall divide all proceeds thereof
62 equally between the county's farmland protection program and the local economic development

63 corporation or authority.

NOTE: The purpose of this bill is to repeal §8A-12-21 which imposes an additional county excise tax on the privilege of transferring real property for the purposes of funding farmland preservation, and to replace the same by amending §11-22-2 to add subsection (c) which provides for an additional county excise tax on the privilege of transferring real property for the purposes of funding the county farmland preservation program and the operations, programs and activities of the local economic development corporation or authority.

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