

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3005

FISCAL
NOTE

By Delegates Hardy, Foster, Criss, Hornby, Ridenour,

Espinosa, Horst, W. Hall, and Westfall

[Introduced January 24, 2023; Referred 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 to
 2 accelerating the conversion of the state excise tax on the privilege of transferring real
 3 property into a county excise tax.

Be it enacted by the Legislature of West Virginia:

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 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 §11-22-1 of this code: *Provided*, That beginning July 1,
 6 2021, ten percent of each state excise tax collected pursuant to the provisions of this subsection
 7 shall be retained by the county wherein the tax was collected to be used for county purposes:
 8 ~~*Provided, however*, That beginning July 1, in every year thereafter, an additional ten percent of~~
 9 ~~each state excise tax collected pursuant to this subsection shall be retained by the county wherein~~
 10 ~~the tax was collected to be used for county purposes: *Provided, further*, That beginning July 1,~~
 11 ~~2030, the excise tax collected pursuant to this subsection shall be a county excise tax to be used~~
 12 ~~by the county wherein it is collected for county purposes *Provided, however*, That beginning July 1,~~
 13 2023, and in every year thereafter, an additional ~~ten~~ 45 percent of each state excise tax collected
 14 pursuant to this subsection shall be retained by the county wherein the tax was collected to be
 15 used for county purposes: ~~*Provided, further*, That beginning July 1, 2030~~ 2025, the excise tax
 16 collected pursuant to this subsection shall be a county excise tax to be used by the county wherein
 17 it is collected for county purposes. The state tax is payable at the time of delivery, acceptance, or
 18 presenting for recording of the document. In addition to the state excise tax described in this
 19 subsection, there is assessed a fee of \$20 upon the privilege of transferring real estate for
 20 consideration. The clerk of the county commission shall collect the additional \$20 fee before

21 recording a transfer of title to real estate and shall deposit the moneys from the additional fees into
22 the Affordable Housing Fund as provided in §31-18-20d of this code. The moneys collected from
23 this additional fee shall be segregated from other funds of the West Virginia Housing Development
24 Fund and shall be accounted for separately. None of these moneys may be expended by the West
25 Virginia Housing Development Fund to defray administrative and operating costs and expenses
26 actually incurred by the West Virginia Housing Development Fund. The West Virginia Housing
27 Development Fund shall publish monthly on the Internet site an accounting of all revenue
28 deposited into the fund during the month and a full disclosure of all expenditures from the fund
29 including the group receiving funds, their location and any contractor awarded the construction
30 contract.

31 (b) Effective January 1, 1968, and thereafter, there is imposed an additional county excise
32 tax for the privilege of transferring title to real estate at the rate of 55 cents for each \$500 value or
33 fraction thereof as represented by such document as defined in §11-22-1 of this code, which
34 county tax shall be payable at the time of delivery, acceptance, or presenting for recording of such
35 document: *Provided*, That after July 1, 1989, the county may increase said excise tax to an
36 amount equal to the state excise tax. The additional tax hereby imposed is declared to be a county
37 tax and to be used for county purposes: *Provided, however*, That after July 1, 2017, the county
38 may increase the excise tax to an amount not to exceed \$1.65 for each \$500 value, or fraction
39 thereof, as represented by a document as defined in §11-22-1 of this code: *Provided further*, That
40 only one such state tax and one such county tax shall be paid on any one document and shall be
41 collected in the county where the document is first admitted to record and the tax shall be paid by
42 the grantor therein unless the grantee accepts the document without such tax having been paid, in
43 which event such tax shall be paid by the grantee: *And provided further*, That on any transfer of
44 real property from a trustee or a county clerk transferring real estate sold for taxes, such tax shall
45 be paid by the grantee. The county excise tax imposed under this section may not be increased in
46 any county unless the increase is approved by a majority vote of the members of the county

47 commission of such county. Any county commission intending to increase the excise tax imposed
48 in its county shall publish a notice of its intention to increase such tax not less than 30 days nor
49 more than 60 days prior to the meeting at which such increase will be considered, such notice to
50 be published as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.*
51 of this code and the publication area shall be the county in which such county commission is
52 located.

NOTE: The purpose of this bill is to accelerate the change in the transfer tax so that it is payable only to the counties.

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