

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

House Bill 3005

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

Espinosa, Horst, W. Hall, and Westfall

[Originating in the Committee on Finance; February

15, 2023]

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~~ an 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, 2022, an additional ten percent of each excise tax
9 collected pursuant to the provisions of this subsection shall be retained by the county wherein the
10 tax was collected to be used for county purposes: ~~in every year thereafter, an additional ten~~
11 ~~percent of each state excise tax collected pursuant to this subsection shall be retained by the~~
12 ~~county wherein the tax was collected to be used for county purposes: *Provided, further*, That~~
13 ~~beginning July 1, 2030, the excise tax collected pursuant to this subsection shall be a county~~
14 ~~excise tax to be used by the county wherein it is collected for county purposes *Provided, further*,~~
15 ~~*however*, That beginning July 1, 2023, and in every year thereafter, an additional ten 35 percent of~~
16 ~~each state excise tax collected pursuant to this subsection shall be retained by the county wherein~~
17 ~~the tax was collected to be used for county purposes: *And, provided, further*, That beginning July~~
18 ~~1, 2030~~ 2024, the excise tax collected pursuant to this subsection shall be a county excise tax to
19 be used by the county wherein it is collected for county purposes. The ~~state tax~~ collected pursuant
20 to this subsection is payable at the time of delivery, acceptance, or presenting for recording of the

21 document. In addition to the ~~state~~ excise tax described in this subsection, there is assessed a fee
22 of \$20 upon the privilege of transferring real estate for consideration. The clerk of the county
23 commission shall collect the additional \$20 fee before recording a transfer of title to real estate and
24 shall deposit the moneys from the additional fees into the Affordable Housing Fund as provided in
25 §31-18-20d of this code. The moneys collected from this additional fee shall be segregated from
26 other funds of the West Virginia Housing Development Fund and shall be accounted for
27 separately. None of these moneys may be expended by the West Virginia Housing Development
28 Fund to defray administrative and operating costs and expenses actually incurred by the West
29 Virginia Housing Development Fund. The West Virginia Housing Development Fund shall publish
30 monthly on the Internet site an accounting of all revenue deposited into the fund during the month
31 and a full disclosure of all expenditures from the fund including the group receiving funds, their
32 location and any contractor awarded the construction contract.

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

47 property from a trustee or a county clerk transferring real estate sold for taxes, such tax shall be
48 paid by the grantee. The county excise tax imposed under this ~~section~~ subsection may not be
49 increased in any county unless the increase is approved by a majority vote of the members of the
50 county commission of such county. Any county commission intending to increase the excise tax
51 imposed in its county shall publish a notice of its intention to increase such tax not less than 30
52 days nor more than 60 days prior to the meeting at which such increase will be considered, such
53 notice to be published as a Class I legal advertisement in compliance with the provisions of §59-3-
54 1 *et seq.* of this code and the publication area shall be the county in which such county
55 commission is located.

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