

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4190

**FISCAL
NOTE**

BY DELEGATE CANESTRARO

[Introduced January 14, 2020; Referred to the Committee
on Finance]

1 A BILL to amend and reenact §11-22-1 of the Code of West Virginia, 1931, as amended, relating
2 to definitions in excise tax on privilege of transferring real property.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22. EXCISE TAX ON PRIVILEGE OF TRANSFERRING REAL PROPERTY.

§11-22-1. Definitions.

1 As used in this chapter:

2 ~~(1)~~ “Association” means a partnership, limited partnership or any other form of
3 unincorporated enterprise, owned or conducted by two or more persons.

4 ~~(2)~~ “Corporation” means a corporation or joint-stock association, organized under the laws
5 of this state, the United States or any other state, territory or foreign country or dependency
6 including, but not limited to, banking institutions.

7 ~~(3)~~ “Commissioner” means the State Tax Commissioner.

8 ~~(4)~~ “Document” means any deed, or instrument or writing by which any real property within
9 this state or any interest in real property including mineral interest or right to extract any mineral
10 interest is granted, conveyed or otherwise transferred to the grantee, purchaser or any other
11 person; but does not include wills, testamentary or inter vivos trusts, deeds of partition, deeds
12 made pursuant to mergers of corporations, limited liability companies, partnerships, limited
13 partnerships, testamentary or inter vivos trusts, deeds made pursuant to conversions to limited
14 liability companies from corporations, partnerships, limited partnerships or trusts, deeds made by
15 a subsidiary corporation to its parent corporation for no consideration other than the cancellation
16 or surrender of the subsidiary’s stock, leases that do not permit the extraction of minerals,
17 transfers between husband and wife, transfers between parent and child or transfers between
18 parent and child and his or her spouse, without consideration, transfers between grandparent and
19 grandchild or transfers between grandparent and grandchild and his or her spouse, without
20 consideration, transfers without consideration between a principal and straw party for any
21 purpose, gifts to or transfers from or between voluntary charitable or educational associations or

22 trustees of voluntary charitable or educational associations and like nonprofit corporations having
23 the same or similar purposes without consideration, ~~quitclaim or~~ corrective deeds without
24 consideration, transfers to or from the United States, the State of West Virginia, or to or from any
25 of their instrumentalities, agencies or political subdivisions, ~~by gift, dedication, deed or~~
26 ~~condemnation proceedings~~ or mortgages or deeds of trust given as security for a debt.

27 (5) "Limited liability company" means a limited liability company organized under the laws
28 of this state, the United States or by any other state, territory or the District of Columbia.

29 (6) "Person" means every natural person, association or corporation. Whenever used in
30 any clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied
31 to associations, means the partners or members of the association, and, as applied to
32 corporations, the officers of the corporation.

33 (7) "Transaction" means the delivering, accepting or presenting for recording of a
34 document.

35 (8) "Value" means in the case of any document not ~~exempted in subparagraph (4)~~
36 hereinabove a gift, the amount of the full actual consideration for the document, paid or to be paid,
37 including the amount of any lien or liens assumed; and in the case of ~~a gift, or~~ any other document
38 without consideration, the actual monetary value of the property conveyed or transferred. In the
39 event any document includes real property or any interest in real property lying outside the State
40 of West Virginia or includes personal property, value is the proportion of the consideration paid in
41 case of the transfer for consideration, or the proportion of the true and actual value in case of a
42 gift, which the actual value of the real property located in West Virginia bears to the total actual
43 value of all the property, real or personal, transferred by the document. The value as defined in
44 this subdivision shall be stated in the declaration of consideration or value provided for in section
45 six of this article.

NOTE: The purpose of this bill is to amend definitions relating to excise tax.

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