

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**Committee Substitute**

**for**

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**for**

**Senate Bill 522**

BY SENATORS TARR AND WOODRUM

[Originating in the Committee on Finance; reported on

February 23, 2023]



1 A BILL to amend and reenact §11-22-2 of the Code of West Virginia, 1931, as amended, relating  
2 to allocating a percentage of county excise taxes received from transfers of title to real  
3 estate in each county for funding improvements to election administration, infrastructure,  
4 and physical and cyber security; accelerating rate at which counties retain excise taxes  
5 from transfers of title to real estate in county; allocating a percentage of county excise  
6 taxes received from transfers of title to real estate in each county for funding other county  
7 purposes including, but not limited to, compliance with the Uniform Real Property  
8 Electronic Recording Act; authorizing the Secretary of State to promulgate legislative rules  
9 establishing minimum adequate funding thresholds and standards based on county  
10 classification for improving election administration, infrastructure, and security; and  
11 authorizing county clerks to reallocate the excess portion of funding for improving election  
12 administration, infrastructure, and security to other approved county purposes upon  
13 determination by the Secretary of State that the minimum funding thresholds and  
14 standards have been met.

*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; county clerk funding for election administration, infrastructure, and security, and other county clerk purposes.**

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  
6 1, 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, 2024, and in every year thereafter, an additional ~~40~~ 35  
9 percent of each state excise tax collected pursuant to this subsection shall be retained by the  
10 county wherein the tax was collected to be used for county purposes as provided in subsection  
11 (c): *Provided, further,* That beginning July 1, ~~2030~~ 2025, the excise tax collected pursuant to this  
12 subsection shall be a county excise tax to be used by the county wherein it is collected for county  
13 purposes as provided in subsection (c). The state tax is payable at the time of delivery,  
14 acceptance, or presenting for recording of the document. In addition to the state excise tax  
15 described in this subsection, there is assessed a fee of \$20 upon the privilege of transferring real  
16 estate for consideration. The clerk of the county commission shall collect the additional \$20 fee  
17 before recording a transfer of title to real estate and shall deposit the moneys from the additional  
18 fees into the Affordable Housing Fund as provided in §31-18-20d of this code. The moneys  
19 collected from this additional fee shall be segregated from other funds of the West Virginia  
20 Housing Development Fund and shall be accounted for separately. None of these moneys may  
21 be expended by the West Virginia Housing Development Fund to defray administrative and  
22 operating costs and expenses actually incurred by the West Virginia Housing Development Fund.  
23 The West Virginia Housing Development Fund shall publish monthly on the Internet site an  
24 accounting of all revenue deposited into the fund during the month and a full disclosure of all  
25 expenditures from the fund including the group receiving funds, their location, and any contractor  
26 awarded the construction contract.

27 (b) Effective January 1, 1968, and thereafter, there is imposed an additional county excise  
28 tax for the privilege of transferring title to real estate at the rate of 55 cents for each \$500 value  
29 or fraction thereof as represented by such document as defined in §11-22-1 of this code, which  
30 county tax shall be payable at the time of delivery, acceptance, or presenting for recording of such  
31 document: *Provided,* That after July 1, 1989, the county may increase said excise tax to an  
32 amount equal to the state excise tax. The additional tax hereby imposed is declared to be a county  
33 tax and to be used for county purposes, as provided by subsection (c): *Provided, however,* That

34 after July 1, 2017, the county may increase the excise tax to an amount not to exceed \$1.65 for  
35 each \$500 value, or fraction thereof, as represented by a document, as defined in §11-22-1 of  
36 this code: *Provided further*, That only one such state tax and one such county tax shall be paid  
37 on any one document and shall be collected in the county where the document is first admitted to  
38 record and the tax shall be paid by the grantor therein unless the grantee accepts the document  
39 without such tax having been paid, in which event such tax shall be paid by the grantee: *And*  
40 *provided further*, That on any transfer of real property from a trustee or a county clerk transferring  
41 real estate sold for taxes, such tax shall be paid by the grantee. The county excise tax imposed  
42 under this section may not be increased in any county unless the increase is approved by a  
43 majority vote of the members of the county commission of such county. Any county commission  
44 intending to increase the excise tax imposed in its county shall publish a notice of its intention to  
45 increase such tax not less than 30 days nor more than 60 days prior to the meeting at which such  
46 increase will be considered, such notice to be published as a Class I legal advertisement in  
47 compliance with the provisions of §59-3-1 *et seq.* of this code and the publication area shall be  
48 the county in which such county commission is located.

49 (c)(1) Beginning July 1, 2023, and ending June 30, 2024, the additional 10 percent of the  
50 state excise tax retained annually by the county wherein the tax was collected, pursuant to  
51 subsection (a) of this section, shall be deposited into two separate funds under the following  
52 requirements:

53 (A) Fifty percent of the additional moneys received shall be allocated for use in improving  
54 election administration, infrastructure, and physical and cyber security, in accordance with the  
55 minimum fund thresholds and standards established by the Secretary of State as provided in  
56 subdivision (4) of this subsection; and

57 (B) Fifty percent of the additional moneys received shall be allocated for other county clerk  
58 purposes including, but not limited to, establishing, maintaining, and securing infrastructure to  
59 comply with the Uniform Real Property Electronic Recording Act, §39A-4-1 *et seq.* of this code.

60 (2) Beginning July 1, 2024, and ending June 30, 2025, the additional 35 percent of the  
61 state excise tax retained annually by the county wherein the tax was collected pursuant to  
62 subsection (a) of this section shall be used by the county in accordance with the provisions of  
63 subdivision (1) of this subsection.

64 (3) Beginning July 1, 2025, the additional 35 percent of the state excise tax collected  
65 pursuant to subsection (b) of this section shall be used by the county wherein it is collected for  
66 county purposes as follows:

67 (A) Ninety percent of the total excise tax shall be deposited into the county's general fund;  
68 and

69 (B) Ten percent of the total excise tax shall be deposited into two separate funds for county  
70 clerk purposes under the following requirements:

71 (i) Fifty percent of the moneys described in this paragraph shall be allocated for use in  
72 improving election administration, infrastructure, and physical and cyber security, in accordance  
73 with the minimum fund thresholds and standards established by the Secretary of State as  
74 provided in subdivision (4) of this subsection; and

75 (ii) Fifty percent of the moneys received shall be allocated for other county clerk purposes  
76 including, but not limited to, establishing, maintaining, and securing infrastructure to comply with  
77 Uniform Real Property Electronic Recording Act, §39A-4-1 et seq. of this code.

78 (4) The Secretary of State is authorized to promulgate legislative rules for purposes of this  
79 subsection to establish minimum fund thresholds and standards for use in improving election  
80 administration, infrastructure, and physical and cyber security, which rules shall include a  
81 respective minimum fund threshold for each county classification as provided in §7-7-3 of this  
82 code. Upon a determination by the Secretary of State that the county clerk has satisfied the  
83 minimum fund threshold and standards, the moneys in excess of the minimum fund threshold  
84 may be transferred to the county's general fund at the county commission's direction.

85           (5) All additional moneys under this section that are deposited into two separate funds for  
86 use in improving election administration, infrastructure, and physical and cyber security, and other  
87 county clerk purposes, shall be in addition to typical county budget allocations and shall not be  
88 supplanted by a budget reduction: *Provided*, That reasonable budget reductions are permitted if  
89 made in the ordinary course for reasons other than offsetting county clerk additional funding as  
90 provided in this section.