

H. B. 2429

(By Delegates Cowles, Duke, Overington,
C. Miller and Sobonya)

[Introduced January 12, 2011; referred to the Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

10 A BILL to amend and reenact §11-22-2 of the Code of West Virginia,
11 1931, as amended, relating to eliminating the state excise tax
12 on the privilege of transferring real property; imposing a new
13 county excise tax for transferring real property; and
14 providing that the tax may be used by a county for its own
15 purposes and for jail fees incurred by that county.

16 *Be it enacted by the Legislature of West Virginia:*

17 That §11-22-2 of the Code of West Virginia, 1931, as amended,
18 be amended and reenacted to read as follows:

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

20 §11-22-2. Rate of tax; when and by whom payable; additional
21 county tax.

(a) Every person who delivers, accepts or presents for recording any document, or in whose behalf any document is delivered, accepted or presented for recording, is subject to pay for, and in respect to the transaction or any part thereof, a state

1 county excise tax upon the privilege of transferring title to real
2 estate at the rate of \$1.10 for each \$500 value or fraction thereof
3 as represented by the document as defined in section one of this
4 article. The ~~state~~ county tax is payable at the time of delivery,
5 acceptance or presenting for recording of the document. This
6 county excise tax is to be used by that county for county purposes
7 and for any jail costs incurred by that county. In addition to the
8 ~~state~~ county excise tax described in this subsection, there is
9 assessed a fee of \$20 upon the privilege of transferring real
10 estate for consideration. The clerk of the county commission shall
11 collect the additional \$20 fee before recording a transfer of title
12 to real estate and shall deposit the moneys from the additional
13 fees into the West Virginia Affordable Housing Trust Fund as
14 provided in article eighteen-d, chapter thirty-one of this code.
15 The moneys collected from this additional fee shall be segregated
16 from other funds in the West Virginia Affordable Housing Trust Fund
17 and shall be accounted for separately. Not more than ten percent
18 of these additional moneys may be expended by the West Virginia
19 Affordable Housing Trust Fund to defray administrative and
20 operating costs and expenses actually incurred by the West Virginia
21 Affordable Housing Trust Fund. The Housing Development Fund, as
22 fiscal agent of the West Virginia Affordable Housing Trust Fund,
23 shall publish monthly on the Internet site an accounting of all
24 revenue deposited into the fund during the month and a full

1 disclosure of all expenditures from the fund including the group
2 receiving funds, their location and any contractor awarded the
3 construction contract. Additionally, the West Virginia Affordable
4 Housing Trust Fund is to provide an annual report to the Joint
5 Committee on Government and Finance before December 1, 2007, and
6 each year thereafter.

7 (b) Effective January 1, 1968, and thereafter, there is
8 imposed an additional county excise tax for the privilege of
9 transferring title to real estate at the rate of \$0.55 for each
10 \$500 value or fraction thereof as represented by such document as
11 defined in section one of this article, which county tax shall be
12 payable at the time of delivery, acceptance or presenting for
13 recording of such document: *Provided*, That after July 1, 1989, the
14 county may increase said excise tax to an amount equal to the state
15 excise tax. The additional tax hereby imposed is declared to be a
16 county tax and to be used for county purposes: *Provided*, however,
17 That only one such state tax and one such county tax shall be paid
18 on any one document and shall be collected in the county where the
19 document is first admitted to record and the tax shall be paid by
20 the grantor therein unless the grantee accepts the document without
21 such tax having been paid, in which event such tax shall be paid by
22 the grantee: *Provided further*, That on any transfer of real
23 property from a trustee or a county clerk transferring real estate
24 sold for taxes, such tax shall be paid by the grantee. The county

1 excise tax imposed under this section may not be increased in any
2 county unless the increase is approved by a majority vote of the
3 members of the county commission of such county. Any county
4 commission intending to increase the excise tax imposed in its
5 county shall publish a notice of its intention to increase such tax
6 not less than thirty days nor more than sixty days prior to the
7 meeting at which such increase will be considered, such notice to
8 be published as a Class I legal advertisement in compliance with
9 the provisions of article three, chapter fifty-nine of this code
10 and the publication area shall be the county in which such county
11 commission is located.

NOTE: The purpose of this bill is to eliminate the state excise tax on the privilege of transferring real property. The bill imposes a new county excise tax for transferring real property. The bill also provides that the tax may be used by the counties and for county jail fees.

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