

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 526**

4 (By Senators Unger and Klempa)

5 _____
6 [Originating in the Committee on Finance;
7 reported February 17, 2012.]
8 _____

9
10
11 A BILL to amend and reenact §11-22-2 of the Code of West Virginia,
12 1931, as amended, relating to authorizing counties to impose
13 an additional excise tax upon the transfer of real property;
14 and requiring counties to dedicate this additional excise tax
15 to support regional jails and substance abuse programs.

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 county**
21 **tax.**

22 (a) Every person who delivers, accepts or presents for
23 recording any document, or in whose behalf any document is
24 delivered, accepted or presented for recording, is subject to pay

1 for, and in respect to the transaction or any part thereof, ~~a state~~
2 an excise tax upon the privilege of transferring title to real
3 estate at the rate of \$1.10 for each \$500 value or fraction thereof
4 as represented by the document as defined in section one of this
5 article. The ~~state~~ tax is payable at the time of delivery,
6 acceptance or presenting for recording of the document.

7 (b) In addition to the ~~state~~ excise tax described in ~~this~~
8 subsection (a) of this section, there is assessed a fee of \$20 upon
9 the privilege of transferring real estate for consideration. The
10 clerk of the county commission shall collect the additional \$20 fee
11 before recording a transfer of title to real estate and ~~shall~~
12 deposit the moneys ~~from the additional fees~~ into the West Virginia
13 Affordable Housing Trust Fund as provided in article eighteen-d,
14 chapter thirty-one of this code. The moneys collected ~~from this~~
15 ~~additional fee~~ shall be segregated from other funds in the West
16 Virginia Affordable Housing Trust Fund and ~~shall be~~ accounted for
17 separately. Not more than ten percent of these additional moneys
18 may be expended by the West Virginia Affordable Housing Trust Fund
19 to defray administrative and operating costs and expenses actually
20 incurred by the West Virginia Affordable Housing Trust Fund. The
21 Housing Development Fund, as fiscal agent of the West Virginia
22 Affordable Housing Trust Fund, shall publish monthly on the
23 Internet site an accounting of all revenue deposited into the fund
24 during the month and a full disclosure of all expenditures from the

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

6 ~~(b) Effective January 1, 1968, and thereafter, there is~~
7 ~~imposed an additional county excise tax for the privilege of~~
8 ~~transferring title to real estate at the rate of 55¢ for each \$500~~
9 ~~value or fraction thereof as represented by such document as~~
10 ~~defined in section one of this article, which county tax shall be~~
11 ~~payable at the time of delivery, acceptance or presenting for~~
12 ~~recording of such document: Provided, That after July 1, 1989, the~~
13 ~~county may increase said excise tax to an amount equal to the state~~
14 ~~excise tax. The additional tax hereby imposed is declared to be a~~
15 ~~county tax and to be used for county purposes: Provided, however,~~
16 ~~That only one such state tax and one such county tax shall be paid~~
17 ~~on any one document and shall be collected in the county where the~~
18 ~~document is first admitted to record and the tax shall be paid by~~
19 ~~the grantor therein unless the grantee accepts the document without~~
20 ~~such tax having been paid, in which event such tax shall be paid by~~
21 ~~the grantee: Provided further, That on any transfer of real~~
22 ~~property from a trustee or a county clerk transferring real estate~~
23 ~~sold for taxes, such tax shall be paid by the grantee. The county~~
24 ~~excise tax imposed under this section may not be increased in any~~

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

11 (c) There may be imposed an additional county excise tax for
12 the privilege of transferring title to real estate. The additional
13 county tax imposed is declared to be a county tax and to be used
14 for the county purposes specified in subsection (d) of this
15 section. The county may impose this tax to an amount equal to or
16 less than the tax set forth in subsection (a) of this section if
17 approved by a majority vote of the members of the county
18 commission. A county commission intending to impose such tax in its
19 county shall publish a notice of its intention not less than thirty
20 days nor more than sixty days prior to the meeting at which the
21 county tax will be considered, such notice to be published as a
22 Class I legal advertisement in compliance with the provisions of
23 article three, chapter fifty-nine of this code and the publication
24 area shall be the county in which the county commission is located.

1 (d) Any county tax imposed in subsection (c) of this section
2 shall be collected in the county where the document is first
3 admitted to record and paid by the grantor unless the grantee
4 accepts the document without the tax having been paid, in which
5 event the tax shall be paid by the grantee. On any transfer of
6 real property from a trustee or a county clerk transferring real
7 estate sold for taxes, such tax shall be paid by the grantee. The
8 moneys collected shall be segregated from other county funds and
9 accounted for separately. The county shall use fifty percent of
10 the tax collected to support the regional jail serving the county
11 and fifty percent to support substance abuse treatment.

12 (e) The county commission in consultation with the sheriff of
13 the county and chief circuit court judge shall determine how to
14 disperse the money dedicated to support substance abuse treatment.
15 The funding is to be used in the county where it was collected.
16 Treatment programs that are suitable for funding include but are
17 not limited to substance abuse treatment and intervention such as
18 ethics case management-based addiction programs, short- and long-
19 term residential treatment programs and out-patient programs as
20 well as community corrections substance abuse treatment programs.