

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 526

(By Senators Unger and Klempa)

[Originating in the Committee on Finance;
reported February 17, 2012.]

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

Be it enacted by the Legislature of West Virginia:

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

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

11 (b) In addition to the ~~state~~ excise tax described in ~~this~~
12 subsection (a) of this section, there is assessed a fee of \$20
13 upon the privilege of transferring real estate for consider-
14 ation. The clerk of the county commission shall collect the
15 additional \$20 fee before recording a transfer of title to real
16 estate and ~~shall~~ deposit the moneys ~~from the additional fees~~
17 into the West Virginia Affordable Housing Trust Fund as
18 provided in article eighteen-d, chapter thirty-one of this
19 code. The moneys collected ~~from this additional fee~~ shall be
20 segregated from other funds in the West Virginia Affordable

21 Housing Trust Fund and ~~shall be~~ accounted for separately.
22 Not more than ten percent of these additional moneys may be
23 expended by the West Virginia Affordable Housing Trust
24 Fund to defray administrative and operating costs and
25 expenses actually incurred by the West Virginia Affordable
26 Housing Trust Fund. The Housing Development Fund, as
27 fiscal agent of the West Virginia Affordable Housing Trust
28 Fund, shall publish monthly on the Internet site an account-
29 ing of all revenue deposited into the fund during the month
30 and a full disclosure of all expenditures from the fund
31 including the group receiving funds, their location and any
32 contractor awarded the construction contract. Additionally,
33 the West Virginia Affordable Housing Trust Fund is to
34 provide an annual report to the Joint Committee on Govern-
35 ment and Finance before December 1, 2007, and each year
36 thereafter.

37 ~~(b) Effective January 1, 1968, and thereafter, there is~~
38 ~~imposed an additional county excise tax for the privilege of~~
39 ~~transferring title to real estate at the rate of 55¢ for each~~
40 ~~\$500 value or fraction thereof as represented by such~~
41 ~~document as defined in section one of this article, which~~
42 ~~county tax shall be payable at the time of delivery, accep-~~

43 ~~tance or presenting for recording of such document: *Pro-*~~
44 ~~*vided*, That after July 1, 1989, the county may increase said~~
45 ~~excise tax to an amount equal to the state excise tax. The~~
46 ~~additional tax hereby imposed is declared to be a county tax~~
47 ~~and to be used for county purposes: *Provided, however*, That~~
48 ~~only one such state tax and one such county tax shall be paid~~
49 ~~on any one document and shall be collected in the county~~
50 ~~where the document is first admitted to record and the tax~~
51 ~~shall be paid by the grantor therein unless the grantee~~
52 ~~accepts the document without such tax having been paid, in~~
53 ~~which event such tax shall be paid by the grantee: *Provided*~~
54 ~~*further*, That on any transfer of real property from a trustee~~
55 ~~or a county clerk transferring real estate sold for taxes, such~~
56 ~~tax shall be paid by the grantee. The county excise tax~~
57 ~~imposed under this section may not be increased in any~~
58 ~~county unless the increase is approved by a majority vote of~~
59 ~~the members of the county commission of such county. Any~~
60 ~~county commission intending to increase the excise tax~~
61 ~~imposed in its county shall publish a notice of its intention~~
62 ~~to increase such tax not less than thirty days nor more than~~
63 ~~sixty days prior to the meeting at which such increase will be~~
64 ~~considered, such notice to be published as a Class I legal~~

65 ~~advertisement in compliance with the provisions of article~~
66 ~~three, chapter fifty-nine of this code and the publication area~~
67 ~~shall be the county in which such county commission is~~
68 ~~located.~~

69 (c) There may be imposed an additional county excise
70 tax for the privilege of transferring title to real estate. The
71 additional county tax imposed is declared to be a county tax
72 and to be used for the county purposes specified in subsec-
73 tion (d) of this section. The county may impose this tax to an
74 amount equal to or less than the tax set forth in subsection
75 (a) of this section if approved by a majority vote of the
76 members of the county commission. A county commission
77 intending to impose such tax in its county shall publish a
78 notice of its intention not less than thirty days nor more than
79 sixty days prior to the meeting at which the county tax will
80 be considered, such notice to be published as a Class I legal
81 advertisement in compliance with the provisions of article
82 three, chapter fifty-nine of this code and the publication area
83 shall be the county in which the county commission is
84 located.

85 (d) Any county tax imposed in subsection (c) of this
86 section shall be collected in the county where the document

87 is first admitted to record and paid by the grantor unless the
88 grantee accepts the document without the tax having been
89 paid, in which event the tax shall be paid by the grantee. On
90 any transfer of real property from a trustee or a county clerk
91 transferring real estate sold for taxes, such tax shall be paid
92 by the grantee. The moneys collected shall be segregated
93 from other county funds and accounted for separately. The
94 county shall use fifty percent of the tax collected to support
95 the regional jail serving the county and fifty percent to
96 support substance abuse treatment.

97 (e) The county commission in consultation with the
98 sheriff of the county and chief circuit court judge shall
99 determine how to disperse the money dedicated to support
100 substance abuse treatment. The funding is to be used in the
101 county where it was collected. Treatment programs that are
102 suitable for funding include but are not limited to substance
103 abuse treatment and intervention such as ethics case
104 management-based addiction programs, short- and long-
105 term residential treatment programs and out-patient pro-
106 grams as well as community corrections substance abuse
107 treatment programs.