

Senate Bill No. 362

(By Senators Snyder and Miller)

[Introduced February 25, 2013; referred to the Committee on
Government Organization; and then to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-22-2 of the Code of West Virginia,
1931, as amended, relating to redistributing an existing
excise tax paid upon the transfer of real property so that the
tax is paid to the county where the property is situate
instead of to the state; requiring counties to dedicate this
excise tax to support regional jails; providing this be
accomplished incrementally over a five-year period; and
stylistic changes.

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; distribution and

1 **use.**

2 (a) Every person who delivers, accepts or presents for
3 recording any document, or in whose behalf any document is
4 delivered, accepted or presented for recording, is subject to pay
5 for, and in respect to the transaction or any part thereof, ~~a state~~
6 an excise tax upon the privilege of transferring title to real
7 estate at the rate of \$1.10 for each \$500 value or fraction thereof
8 as represented by the document as defined in section one of this
9 article. The ~~state~~ tax is payable at the time of delivery,
10 acceptance or presenting for recording of the document. Commencing
11 July 1, 2013, the excise tax collected in this subsection shall be
12 distributed in the following manner:

13 (1) For the first year, eighty percent to the state and twenty
14 percent to the county;

15 (2) For the second year, sixty percent to the state and forty
16 percent to the county;

17 (3) For the third year, forty percent to the state and sixty
18 percent to the county;

19 (4) For the fourth year, twenty percent to the state and
20 eighty percent to the county; and

21 (5) For the fifth and each succeeding year, one hundred
22 percent to the county.

23 (b) The counties shall use the excise tax collected under

1 subsection (a) of this section exclusively to support the regional
2 jail within their respective regions.

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

1 report to the Joint Committee on Government and Finance before
2 December 1, 2007, and each year thereafter.

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

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

9 (d) There is imposed an additional county excise tax for the
10 privilege of transferring title to real estate at the rate of \$0.55
11 for each \$500 value or fraction thereof as represented by the
12 document, as defined in section one of this article, and is payable
13 at the time of delivery, acceptance or presenting for recording of
14 the document. The additional tax hereby imposed is declared to be
15 a county tax and to be used for county purposes. The county may
16 increase this excise tax to an amount equal to the tax set forth in
17 subsection (a) of this section if approved by a majority vote of
18 the members of the county commission. A county commission intending
19 to increase the excise tax imposed in its county shall publish a
20 notice of its intention to increase the tax not less than thirty
21 days nor more than sixty days prior to the meeting at which the
22 increase will be considered. The notice shall be published as a
23 Class I legal advertisement in compliance with the provisions of

1 article three, chapter fifty-nine of this code and the publication
2 area shall be the county in which the county commission is located.

3 (e) The taxes established by this section shall be collected
4 in the county where the document is first admitted to record and
5 paid by the grantor unless the grantee accepts the document without
6 the tax having been paid, in which event the tax shall be paid by
7 the grantee. On any transfer of real property from a trustee or a
8 county clerk transferring real estate sold for taxes, the tax shall
9 be paid by the grantee.

NOTE: The purpose of this bill is to incrementally redistribute an existing excise tax on the transfer of real property so that, over the course of five years, all moneys collected will be paid to the county where the property is situate instead of the state and to require that moneys paid to counties be exclusively dedicated to regional jails.

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