

**H. B. 2055**

(By Delegate Shott)

[Introduced January 14, 2015 ; referred to the  
Committee on the Judiciary then Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §11-22-1 of the Code of West Virginia, 1931, as amended, relating to exempting from excise taxation the transfer of real property from an individual to a wholly-owned subsidiary or limited liability company.

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

That §11-22-1 the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

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

**§11-22-1. Definitions.**

As used in this chapter:

(1) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise, owned or conducted by two or more persons.

(2) "Corporation" means a corporation or joint-stock association, organized under the laws of this state, the United States or any other state, territory or foreign country or dependency

1 including, but not limited to, banking institutions.

2 (3) "Commissioner" means the State Tax Commissioner.

3 (4) "Document" means any deed, or instrument or writing by which any real property within  
4 this state or any interest in real property is granted, conveyed or otherwise transferred to the grantee,  
5 purchaser or any other person; but does not include wills, transfer of real property where the value  
6 of the property transferred is \$100 or less, testamentary or inter vivos trusts, deeds of partition, deeds  
7 made pursuant to mergers of corporations, limited liability companies, partnerships, limited  
8 partnerships, testamentary or inter vivos trusts, deeds made pursuant to conversions to limited  
9 liability companies from corporations, partnerships, limited partnerships or trusts, deeds made by  
10 a subsidiary corporation to its parent corporation for no consideration other than the cancellation or  
11 surrender of the subsidiary's stock, deeds made pursuant to transfers from an individual to his or her  
12 wholly owned corporation for no consideration other than the issuance of stock, deeds made pursuant  
13 to transfers from an individual to his or her wholly owned limited liability company for no  
14 consideration other than the issuance of unit interest, leases, transfers between husband and wife,  
15 transfers between parent and child or transfers between parent and child and his or her spouse,  
16 without consideration, transfers between grandparent and grandchild or transfers between  
17 grandparent and grandchild and his or her spouse, without consideration, transfers without  
18 consideration between a principal and straw party for any purpose, gifts to or transfers from or  
19 between voluntary charitable or educational associations or trustees of voluntary charitable or  
20 educational associations and like nonprofit corporations having the same or similar purposes,  
21 quitclaim or corrective deeds without consideration, transfers to or from the United States, the State  
22 of West Virginia, or to or from any of their instrumentalities, agencies or political subdivisions, by

1 gift, dedication, deed or condemnation proceedings, or mortgages or deeds of trust given as security  
2 for a debt.

3 (5) "Limited liability company" means a limited liability company organized under the laws  
4 of this state, the United States or by any other state, territory or the District of Columbia.

5 (6) "Person" means every natural person, association or corporation. Whenever used in any  
6 clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to  
7 associations, means the partners or members of the association, and, as applied to corporations, the  
8 officers of the corporation.

9 (7) "Transaction" means the delivering, accepting or presenting for recording of a document.

10 (8) "Value" means in the case of any document not a gift, the amount of the full actual  
11 consideration for the document, paid or to be paid, including the amount of any lien or liens  
12 assumed; in the case of a gift, or any other document without consideration, the actual monetary  
13 value of the property conveyed or transferred. In the event any document includes real property or  
14 any interest in real property lying outside the State of West Virginia or includes personal property,  
15 value is the proportion of the consideration paid in case of the transfer for consideration, or the  
16 proportion of the true and actual value in case of a gift, which the actual value of the real property  
17 located in West Virginia bears to the total actual value of all the property, real or personal,  
18 transferred by the document. The value as defined in this subdivision shall be stated in the  
19 declaration of consideration or value provided for in section six of this article.

NOTE: The purpose of this bill is to exempt from excise taxation the transfer of real property from an individual to a wholly-owned subsidiary or limited liability company.

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