

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 647**

BY SENATORS JEFFRIES, BEACH, MILLER, OJEDA,

PLYMALE, PREZIOSO AND STOLLINGS

[Originating in the Committee on Agriculture and  
Rural Development; reported on March 23, 2017]



1 A BILL to repeal §8A-12-21 of the Code of West Virginia, 1931, as amended; and to amend and  
2 reenact §11-22-2 of said code, relating generally to additional county excise taxes on the  
3 privilege of transferring real property; repealing the additional county excise tax on the  
4 privilege of transferring real property in counties where the county commission has created  
5 a farmland protection program; authorizing an additional county excise tax on the privilege  
6 of transferring real property in counties where the county commission has created either  
7 a farmland protection program or a certified development community program; setting  
8 forth certain requirements; and authorizing a larger additional county excise tax in a county  
9 with both a farmland protection program and a certified development community program.

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

1 That §8A-12-21 of the Code of West Virginia, 1931, as amended, be repealed; and that  
2 §11-22-2 of said code 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; additional county tax to fund farmland protection and local economic development.**

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

8 (2) In addition to the state excise tax described in this subsection, there is assessed a fee  
9 of \$20 upon the privilege of transferring real estate for consideration. The clerk of the county  
10 commission shall collect the additional \$20 fee before recording a transfer of title to real estate  
11 and shall deposit the moneys from the additional fees into the West Virginia Affordable Housing

12 Trust Fund as provided in article eighteen-d, chapter thirty-one of this code. The moneys collected  
13 from this additional fee shall be segregated from other funds in the West Virginia Affordable  
14 Housing Trust Fund and shall be accounted for separately. ~~Not~~ No more than ten percent of ~~these~~  
15 ~~additional moneys~~ the fee may be expended by the West Virginia Affordable Housing Trust Fund  
16 to defray actual administrative and operating costs and expenses ~~actually incurred by the West~~  
17 ~~Virginia Affordable Housing Trust Fund~~. The Housing Development Fund, as fiscal agent of the  
18 West Virginia Affordable Housing Trust Fund, shall publish on its website a monthly ~~on the Internet~~  
19 ~~site~~ an accounting of all revenue deposited into the fund ~~during the~~ that month and a full disclosure  
20 of all expenditures from the fund, including the group receiving funds, ~~their~~ its location and any  
21 ~~contractor awarded the construction contract~~ contracts awarded. Additionally, the West Virginia  
22 Affordable Housing Trust Fund is to provide an annual report to the Joint Committee on  
23 Government and Finance before December 1, ~~2007,~~ and of each year ~~thereafter~~.

24 (b)~~(1)~~ ~~Effective January 1, 1968, and thereafter, there is imposed an~~ An additional county  
25 excise tax is imposed for the privilege of transferring title to real estate at the rate of 55 cents for  
26 each \$500 value or fraction thereof as represented by ~~such~~ the document as defined in section  
27 one of this article, ~~which county tax shall be~~. It is payable at the time of delivery, acceptance or  
28 presenting for recording of such the document is delivered, accepted or presented for recording.:  
29 *Provided, That after July 1, 1989, the*

30 (2) The county may increase ~~said~~ the excise tax to an amount equal to the state excise  
31 tax. The additional tax ~~hereby imposed~~ is declared to be a county tax and to be used for county  
32 purposes. ~~Provided, however, That~~ Excluding the additional county tax set forth in subsection (c)  
33 of this section, only one ~~such~~ state tax and one ~~such~~ county tax shall be paid on any one document  
34 and ~~shall be~~ collected in the county where the document is first admitted to record ~~and the~~. The  
35 tax shall be paid by the grantor ~~therein~~ unless the grantee accepts the document without ~~such~~ the  
36 tax having been paid, in which event ~~such~~ the tax shall be paid by the grantee. ~~Provided further,~~  
37 ~~That on~~ On any transfer of real property from a trustee or a county clerk transferring real estate

38 sold for taxes, ~~such~~ the tax shall be paid by the grantee. The county excise tax imposed ~~under~~ by  
39 this section may not be increased in any county unless the increase is approved by a majority  
40 vote of the members of the county commission ~~of such county~~. Any county commission intending  
41 to increase the excise tax ~~imposed in its county~~ shall publish a notice of its intention to increase  
42 ~~such~~ the tax not less than thirty days nor more than sixty days prior to the meeting at which ~~such~~  
43 the increase will be considered. ~~such~~ The notice is to be published as a Class I legal  
44 advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and  
45 the publication area shall ~~be~~ include the county in which ~~such~~ the county commission is located.

46 (c)(1) In addition to the taxes imposed by this article, any county commission that  
47 establishes and implements a farmland protection program pursuant to article twelve, chapter  
48 eight-a of this code, or any county with an economic development corporation or authority,  
49 including without limitation, a development authority established under article twelve, chapter  
50 seven of this code operating within the county that participates in the certified development  
51 community program pursuant to article two, chapter five-b of this code, may impose an additional  
52 county excise tax for the privilege of transferring title to real estate at a rate of no more than \$1.10  
53 for each \$500 value or fraction thereof, as represented by any document as defined in section  
54 one of this article, payable at the time of delivery, acceptance or presentation for recording of the  
55 document. The additional tax imposed pursuant to this subsection is to be used exclusively for  
56 the purposes of funding the county's farmland protection program or the operations, programs or  
57 activities of the local economic development corporation or authority, or both, at the sole discretion  
58 of the county commission.

59 (2) If a county commission elects to fund both the county's farmland protection program  
60 and the operations, programs or activities of the local economic development corporation or  
61 authority, then the commission may impose the additional county excise tax authorized in this  
62 subsection at a rate of up to \$2.20 for each \$500 value or fraction thereof, as represented by any  
63 document as defined in section one of this article, payable at the time of delivery, acceptance or

64 presentation for recording of the document, and shall divide all proceeds thereof equally between  
65 the county's farmland protection program and the local economic development corporation or  
66 authority.

NOTE: The purpose of this bill is to repeal §8A-12-21 which imposes an additional county excise tax on the privilege of transferring real property for the purposes of funding farmland preservation, and to replace the same by amending §11-22-2 to add subsection (c) which provides for an additional county excise tax on the privilege of transferring real property for the purposes of funding the county farmland preservation program and the operations, programs and activities of the local economic development corporation or authority.

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