

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 3137**

BY DELEGATES HARDY AND BARRETT

[Originating in the Committee on Finance; March 19, 2021]



1 A BILL to amend and reenact §11-22-2 of the Code of West Virginia, 1931, as amended, relating  
2 to accelerating the conversion of the state excise tax on the privilege of transferring real  
3 property into a county excise tax.

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

**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 recording any document, or in  
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 §11-22-1 of this code: *Provided*, That beginning July  
6 1, 2021, 10 percent of each state excise tax collected pursuant to the provisions of this subsection  
7 shall be retained by the county wherein the tax was collected to be used for county purposes:  
8 *Provided, however*, That beginning July 1, 2022, and in every year thereafter, an additional ~~ten~~  
9 30 percent of each state excise tax collected pursuant to this subsection shall be retained by the  
10 county wherein the tax was collected to be used for county purposes: *Provided; further*, That  
11 beginning July 1, ~~2030~~ 2024, the excise tax collected pursuant to this subsection shall be a county  
12 excise tax to be used by the county wherein it is collected for county purposes. The state tax is  
13 payable at the time of delivery, acceptance, or presenting for recording of the document. In  
14 addition to the state excise tax described in this subsection, there is assessed a fee of \$20 upon  
15 the privilege of transferring real estate for consideration. The clerk of the county commission shall  
16 collect the additional \$20 fee before recording a transfer of title to real estate and shall deposit  
17 the moneys from the additional fees into the Affordable Housing Fund as provided in §31-18-20d  
18 of this code. The moneys collected from this additional fee shall be segregated from other funds  
19 of the West Virginia Housing Development Fund and shall be accounted for separately. None of  
20 these moneys may be expended by the West Virginia Housing Development Fund to defray

21 administrative and operating costs and expenses actually incurred by the West Virginia Housing  
22 Development Fund. The West Virginia Housing Development Fund shall publish monthly on the  
23 Internet site an accounting of all revenue deposited into the fund during the month and a full  
24 disclosure of all expenditures from the fund including the group receiving funds, their location and  
25 any contractor awarded the construction contract.

26 (b) Effective January 1, 1968, and thereafter, there is imposed an additional county excise  
27 tax for the privilege of transferring title to real estate at the rate of 55 cents for each \$500 value  
28 or fraction thereof as represented by such document as defined in §11-22-1 of this code, which  
29 county tax shall be payable at the time of delivery, acceptance, or presenting for recording of such  
30 document: *Provided*, That after July 1, 1989, the county may increase said excise tax to an  
31 amount equal to the state excise tax. The additional tax hereby imposed is declared to be a county  
32 tax and to be used for county purposes: *Provided, however*, That after July 1, 2017, the county  
33 may increase the excise tax to an amount not to exceed \$1.65 for each \$500 value, or fraction  
34 thereof, as represented by a document as defined in §11-22-1 of this code: *Provided further*, That  
35 only one such state tax and one such county tax shall be paid on any one document and shall be  
36 collected in the county where the document is first admitted to record and the tax shall be paid by  
37 the grantor therein unless the grantee accepts the document without such tax having been paid,  
38 in which event such tax shall be paid by the grantee: *And provided further*, That on any transfer  
39 of real property from a trustee or a county clerk transferring real estate sold for taxes, such tax  
40 shall be paid by the grantee. The county excise tax imposed under this section may not be  
41 increased in any county unless the increase is approved by a majority vote of the members of the  
42 county commission of such county. Any county commission intending to increase the excise tax  
43 imposed in its county shall publish a notice of its intention to increase such tax not less than 30  
44 days nor more than 60 days prior to the meeting at which such increase will be considered, such  
45 notice to be published as a Class I legal advertisement in compliance with the provisions of §59-

- 46 3-1 *et seq.* of this code and the publication area shall be the county in which such county  
47 commission is located.

NOTE: The purpose of this bill is to accelerate the conversion of the transfer tax on the privilege of transferring real property from a state excise tax to a county excise tax.

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