

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 5049**

By Delegates Hillenbrand, Hott, Fehrenbacher, Willis,  
Ridenour, Crouse, Moore, Kump, Sheedy, T. Clark,  
and Hardy

[Introduced January 23, 2024; Referred to the  
Committee on Finance]

1 A BILL to amend and reenact §11-22-1 of the Code of West Virginia, 1931, as amended, relating to  
 2 exemptions from excise taxes; amending definitions; removing the exemption from excise  
 3 taxes for certain transfers; adding an exemption for transfers between siblings; removing  
 4 exemptions for certain gifts; and removing the excise-tax exemption for quitclaim deeds.

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

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

**§11-22-1. Definitions.**

1 As used in this chapter:

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

4 (2) "Corporation" means a corporation or joint-stock association, organized under the laws  
 5 of this state, the United States or any other state, territory or foreign country or dependency  
 6 including, but not limited to, banking institutions.

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

8 (4) "Document" means any deed, or instrument or writing by which any real property within  
 9 this state or any interest in real property is granted, conveyed or otherwise transferred to the  
 10 grantee, purchaser or any other person; but does not include: wills, ~~transfer of real property where~~  
 11 ~~the value of the property transferred is \$100 or less~~ testamentary or inter vivos trusts, deeds of  
 12 partition, deeds made pursuant to mergers of corporations, limited liability companies,  
 13 partnerships, limited partnerships, testamentary or inter vivos trusts, deeds made pursuant to  
 14 conversions to limited liability companies from corporations, partnerships, limited partnerships or  
 15 trusts, deeds made by a subsidiary corporation to its parent corporation for no consideration other  
 16 than the cancellation or surrender of the subsidiary's stock, leases, transfers between husband  
 17 and wife, transfers between parent and child, transfers between siblings, or transfers between  
 18 parent and child and his or her spouse, without consideration, transfers between grandparent and  
 19 grandchild or transfers between grandparent and grandchild and his or her spouse, without

20 consideration, transfers without consideration between a principal and straw party for any  
21 purpose, ~~gifts to or~~ transfers from or between voluntary charitable or educational associations or  
22 trustees of voluntary charitable or educational associations and like nonprofit corporations having  
23 the same or similar purposes, ~~quitclaim or~~ corrective deeds without consideration, transfers to or  
24 from the United States, the State of West Virginia, or to or from any of their instrumentalities,  
25 agencies or political subdivisions, by gift, dedication, deed or condemnation proceedings, or  
26 mortgages or deeds of trust given as security for a debt.

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

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

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

35 (8) "Value" means in the case of any document not a gift exempted in subdivision (4) of this  
36 section, the amount of the full actual consideration for the document, paid or to be paid, including  
37 the amount of any lien or liens assumed; and in the case of a gift, or any other document without  
38 consideration, the actual monetary value of the property conveyed or transferred. In the event any  
39 document includes real property or any interest in real property lying outside the State of West  
40 Virginia or includes personal property, value is the proportion of the consideration paid in case of  
41 the transfer for consideration, or the proportion of the true and actual value in case of a gift, which  
42 the actual value of the real property located in West Virginia bears to the total actual value of all the  
43 property, real or personal, transferred by the document. The value as defined in this subdivision  
44 shall be stated in the declaration of consideration or value provided for in section six of this article.

NOTE: The purpose of this bill is to tighten the transfer-tax provisions and remove the loopholes that are being used to evade the payment of transfer taxes.

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