WEST VIRGINIA CODE: §11-22-2

§11-22-2. Rate of tax; when and by whom payable; additional county tax; county clerk funding for election administration, infrastructure, and security, and other county clerk purposes.

(a) Every person who delivers, accepts, or presents for recording any document, or in whose behalf any document is delivered, accepted, or presented for recording, is subject to pay for, and in respect to the transaction or any part thereof, an excise tax upon the privilege of transferring title to real estate at the rate of $1.10 for each $500 value or fraction thereof as represented by the document as defined in §11-22-1 of this code: *Provided*, That beginning July 1, 2021, ten percent of each excise tax collected pursuant to the provisions of this subsection shall be retained by the county wherein the tax was collected to be used for county purposes: *Provided, however*, That beginning July 1, 2022, 20 percent of each excise tax collected pursuant to the provisions of this section shall be retained by the county wherein the tax was collected to be used for county purposes: *Provided further*, That beginning July 1, 2023, thirty percent of each excise tax collected pursuant to the provisions of this section shall be retained by the county wherein the tax was collected to be used as provided in subsection (c) of this section: *And provided further*, That beginning July 1, 2024, 65 percent of each excise tax collected pursuant to the provisions of this section shall be retained by the county wherein the tax was collected to be used as provided in subsection (c) of this section: *And provided further*, That beginning July 1, 2025, the excise tax collected pursuant to this subsection shall be a county excise tax retained by the county wherein the tax was collected and to be used by the county as provided in subsection (c) of this section. The excise tax collected pursuant to this subsection is payable at the time of delivery, acceptance, or presenting for recording of the document. In addition to the excise tax described in this subsection, there is assessed a fee of $20 upon the privilege of transferring real estate for consideration. The clerk of the county commission shall collect the additional $20 fee before recording a transfer of title to real estate and shall deposit the moneys from the additional fees into the Affordable Housing Fund as provided in §31-18-20d of this code. The moneys collected from this additional fee shall be segregated from other funds of the West Virginia Housing Development Fund and shall be accounted for separately. None of these moneys may be expended by the West Virginia Housing Development Fund to defray administrative and operating costs and expenses actually incurred by the West Virginia Housing Development Fund. The West Virginia Housing Development Fund shall publish monthly on its Internet site an accounting of all revenue deposited into the fund during the month and a full disclosure of all expenditures from the fund including any person or entity receiving funds, its location, and any contractor awarded a construction contract.

(b) Effective January 1, 1968, and thereafter, there is imposed an additional county excise tax for the privilege of transferring title to real estate at the rate of 55 cents for each $500 value or fraction thereof as represented by such document as defined in §11-22-1 of this code, which county tax shall be payable at the time of delivery, acceptance, or presenting for

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recording of such document: *Provided*, That after July 1, 1989, the county may increase said excise tax to an amount equal to the state excise tax. The additional tax hereby imposed is declared to be a county tax and to be used for county purposes: *Provided, however*, That after July 1, 2017, the county may increase the excise tax to an amount not to exceed $1.65 for each $500 value, or fraction thereof, as represented by a document, as defined in §11-22-1 of this code: *Provided further*, That only one such state tax and one such county tax shall be paid on any one document and shall be collected in the county where the document is first admitted to record and the tax shall be paid by the grantor therein unless the grantee accepts the document without such tax having been paid, in which event such tax shall be paid by the grantee: *And provided further*, That on any transfer of real property from a trustee or a county clerk transferring real estate sold for taxes, such tax shall be paid by the grantee. The county excise tax imposed under this section may not be increased in any county unless the increase is approved by a majority vote of the members of the county commission of such county. Any county commission intending to increase the excise tax imposed in its county shall publish a notice of its intention to increase such tax not less than 30 days nor more than 60 days prior to the meeting at which such increase will be considered, such notice to be published as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code and the publication area shall be the county in which such county commission is located.

(c)(1) Beginning July 1, 2023, and ending June 30, 2024, the excise tax retained by the county wherein the tax was collected, pursuant to subsection (a) of this section, shall be used by the county and deposited as follows:

(A) Twenty percent of the moneys received shall be deposited into the county general fund to be used for county purposes;

(B) Five percent of the moneys received shall be deposited into a separate account and allocated for use by the clerk of the county commission in improving election administration, infrastructure, and security, in accordance with the standards established by the Secretary of State as provided in subdivision (4) of this subsection; and

(C) Five percent of the moneys received shall be deposited into a separate account for use by the clerk of the county commission for other purposes including, but not limited to, establishing, maintaining, and securing infrastructure to comply with the Uniform Real Property Electronic Recording Act, §39A-4-1 *et seq*. of this code.

(2) Beginning July 1, 2024, and ending June 30, 2025, the excise tax retained by the county wherein the tax was collected, pursuant to subsection (a) of this section, shall be used by the county and deposited as follows:

(A) Thirty percent of the moneys received shall be deposited into the county general fund to be used for county purposes;

(B) Seventeen and one-half percent of the moneys received shall be deposited into a separate

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account and allocated for use by the clerk of the county commission in improving election administration, infrastructure, and security, in accordance with the standards established by the Secretary of State as provided in subdivision (4) of this subsection; and

(C) Seventeen and one-half percent of the moneys received shall be deposited into a separate account for use by the clerk of the county commission for other purposes including, but not limited to, establishing, maintaining, and securing infrastructure to comply with the Uniform Real Property Electronic Recording Act, §39A-4-1 *et seq*. of this code.

(3) Beginning July 1, 2025, the excise tax retained by the county wherein the tax was collected, pursuant to subsection (a) of this section, shall be used by the county and deposited as follows:

(A) Ninety percent of the moneys received shall be deposited into the county general fund to be used for county purposes;

(B) Five percent of the moneys received shall be deposited into a separate account and allocated for use by the clerk of the county commission in improving election administration, infrastructure, and security, in accordance with the standards established by the Secretary of State as provided in subdivision (4) of this subsection; and

(C) Five percent of the moneys received shall be deposited into a separate account for use by the clerk of the county commission for other purposes including, but not limited to, establishing, maintaining, and securing infrastructure to comply with the Uniform Real Property Electronic Recording Act, §39A-4-1 *et seq*. of this code.

(4) The Secretary of State propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq*. of this code to establish minimum standards for election administration, infrastructure, and security, which rules shall include, but not be limited to, standards regarding cyber and physical security, and a minimum reserve funding requirement for each county from funds transferred to the separate fund required by this subsection for election administration, infrastructure, and security: *Provided*, That the minimum reserve funding requirement may not exceed the cost of upgrading voting equipment at the statewide average price to upgrade a voting system by precinct. Upon a determination by the Secretary of State that a county has satisfied the minimum reserve funding requirement and standards, the moneys in excess of the minimum reserve funding requirement may be transferred to the county's general fund at the county commission's direction.

(5) Any moneys that are deposited into two separate funds for use in improving election administration, infrastructure, and security, and other purposes relating to the office of the clerk of the county commission, shall be in addition to and separate from typical county budget allocations and shall not be supplanted by a budget reduction to the clerk of the county commission's office: *Provided*, That reasonable budget reductions are permitted if made in the ordinary course for reasons other than offsetting the additional funding as

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provided in this section.

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