

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1960



ENROLLED

HOUSE BILL No.. *H.B. ....*

(By Mr. *Myles* <sup>and</sup> Mrs. *Sibert*)



PASSED *February 9,* 1960

In Effect *Jan* Passage



Filed in Office of the Secretary of State  
of West Virginia **FEB 15 1960**  
**JOE F. BURDETT**  
SECRETARY OF STATE

ENROLLED

# House Bill No. 46

(By MR. MYLES and MR. SEIBERT)

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[Passed February 9, 1960; in effect from passage.]

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AN ACT to amend and reenact sections one and six, article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the excise tax upon the privilege of transferring real property.

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

That sections one and six, article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. *Definitions.*—The following words when used

2 in this chapter shall have meanings ascribed to them in  
3 this section, except in those instances where the context  
4 clearly indicates a different meaning.

5 “Association” means a partnership, limited partnership,

6 or any other form of unincorporated enterprise, owned  
7 or conducted by two or more persons.

8 "Corporation" means a corporation or joint-stock asso-  
9 ciation, organized under the laws of this state, the United  
10 States or any other state, territory, or foreign country, or  
11 dependency, including, but not limited to, banking insti-  
12 tutions.

13 "Commissioner" means the state tax commissioner.

14 "Document" means any deed, or instrument or writing  
15 whereby any real property within this state or any in-  
16 terest therein shall be granted, conveyed or otherwise  
17 transferred to the grantee, purchaser, or any other person;  
18 but does not include wills, transfer of real property where  
19 the value of the property transferred is one hundred dol-  
20 lars or less, testamentary or inter vivos trusts, deeds of  
21 partition, deeds made pursuant to mergers of corporations,  
22 deeds made by a subsidiary corporation to its parent cor-  
23 poration for no consideration other than the cancellation  
24 or surrender of the subsidiary's stock, leases, transfers be-  
25 tween husband and wife, or between parent and child  
26 without consideration, transfers without consideration be-

*Ex. Bismarck*  
*by*  
*CCB*

27 tween a principal and straw party for any purpose, trans-  
28 fer without consideration between voluntary charitable or  
29 educational associations or trustees thereof and like non-  
30 profit corporations having the same or similar purposes,  
31 quitclaim or corrective deeds without consideration, trans-  
32 fers to or from the United States, the state of West Vir-  
33 ginia, or to or from any of their instrumentalities, agencies  
34 or political subdivisions, by gift, dedication, deed or con-  
35 demnation proceedings, or mortgages or deeds of trust  
36 given as security for a debt.

37 "Person" means every natural person, association, or  
38 corporation. Whenever used in any clause prescribing and  
39 imposing a fine or imprisonment, or both, the term "per-  
40 son" as applied to associations, shall mean the partners  
41 or members thereof, and, as applied to corporations, the  
42 officers thereof.

43 "Transaction" means the delivering, accepting, or pre-  
44 senting for recording of a document.

45 "Value" means in the case of any document not a gift,  
46 the amount of the full actual consideration therefor, paid  
47 or to be paid, including the amount of any lien or liens

*for*  
*at Blankenship*  
*for*  
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48 assumed; in the case of a gift, or any other document  
49 without consideration, the actual monetary value of the  
50 property conveyed or transferred. In the event any docu-  
51 ment includes real property or any interest therein lying  
52 outside the state of West Virginia or includes personal  
53 property, value shall be the proportion of the considera-  
54 tion paid in case of the transfer for consideration, or the  
55 proportion of the true and actual value in case of a gift,  
56 which the actual value of the real property located in  
57 West Virginia bears to the total actual value of all the  
58 property, real or personal, transferred by the document.  
59 The value as herein defined shall be stated in the declara-  
60 tion of consideration or value provided for in section six  
61 hereof.

*Sec. 6. Duties of Clerks; Declaration of Consideration  
2 or Value; Remittance and Use of Proceeds.—When any  
3 instrument on which the tax as herein provided is im-  
4 posed is offered for recordation, the clerk of the county  
5 court shall ascertain and compute the amount of the tax  
6 due thereon and shall ascertain if stamps in the proper*

7 amount are attached thereto as a prerequisite to accept-  
8 ance of the instrument for recordation.

9 When offered for recording on or after the first day of  
10 July, one thousand nine hundred fifty-nine, each instru-  
11 ment subject to the tax as herein provided shall have  
12 appended on the face or at the end thereof, a statement  
13 or declaration signed by the grantor, grantee or other  
14 responsible party familiar with the transaction therein  
15 involved declaring the consideration paid for or the value  
16 of the property thereby conveyed. Such declaration may  
17 be in the following language:

18 "DECLARATION OF CONSIDERATION OR VALUE

19 I hereby declare:

20 (a) The total consideration paid for the property con-  
21 veyed by the document to which this declaration is ap-  
22 pended is \$.....; or,

23 (b) The true and actual value of the property trans-  
24 ferred by the document to which this declaration is ap-  
25 pended is, to the best of my knowledge and belief \$.....;

26 or,

27 (c) The proportion of all the property included in the

28 document to which this declaration is appended which is  
 29 real property located in West Virginia is.....%;  
 30 the value of all the property \$.....; the value, of  
 31 real estate in West Virginia, is \$.....; or,

32 (d) This deed conveys real estate located in more than  
 33 one county in West Virginia; the total consideration paid  
 34 for, or actual cash value of, all the real estate located in  
 35 West Virginia conveyed by this document is \$.....;  
 36 and documentary stamps showing payment of all of the  
 37 excise tax on all of said real estate are attached to an  
 38 executed counterpart of this deed recorded in.....  
 39 county.

40 Given under my hand this.....day of.....,  
 41 19\_\_\_\_\_.

42 Signature .....

43 (Indicate whether grantor, grantee, or other  
 44 interest in conveyance).

45 .....

46 Address .....

47 Such declaration shall be considered by the clerk in  
 48 ascertaining the correct number of stamps required, and

49 if declaration (d) is used no stamps shall be required  
50 on the duplicate deed to which it is attached and such  
51 duplicate deed shall be admitted to record, and when re-  
52 corded shall have the same effect for all purposes as if  
53 stamps were attached thereto.

54 The clerk shall, at the end of the month, pay all of the  
55 proceeds collected from the sale of stamps to the state  
56 auditor in the manner provided by law which shall be  
57 credited to the state general revenue fund.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Harold Mason, Jr.*  
Chairman Senate Committee

*Eudora Andrews*  
Chairman House Committee

Originated in the House of Delegates

Takes effect *from* ..... passage.

*Thomas Meyer*  
Clerk of the Senate

*W. Blankenship*  
Clerk of the House of Delegates

*Ralph Bean*  
President of the Senate

*W. H. Sawyer*  
Speaker, House of Delegates

The within *approved* this the *15th*  
day of *February* 1960.

*W. H. Underwood*  
Governor



Filed in Office of the Secretary of State  
of West Virginia **FEB 15 1960**  
JOE F. BURDETT  
SECRETARY OF STATE