WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1960

ENROLLED

HOUSE BILL No. H.6....

(By Mr. _______)

PASSED ________

In Effect _________
ENROLLED

House Bill No. 46
(By Mr. Myles and Mr. Seibert)

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

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

“Association” means a partnership, limited partnership,
or any other form of unincorporated enterprise, owned
or conducted by two or more persons.

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

"Commissioner" means the state tax commissioner.

"Document" means any deed, or instrument or writing
whereby any real property within this state or any in-
terest therein shall be granted, conveyed or otherwise
transferred to the grantee, purchaser, or any other person;
but does not include wills, transfer of real property where
the value of the property transferred is one hundred dol-
lars or less, testamentary or inter vivos trusts, deeds of
partition, deeds made pursuant to mergers of corporations,
deeds made by a subsidiary corporation to its parent cor-
poration for no consideration other than the cancellation
or surrender of the subsidiary's stock, leases, transfers be-
tween husband and wife, or between parent and child
without consideration, transfers without consideration be-
between a principal and straw party for any purpose, transfer without consideration between voluntary charitable or educational associations or trustees thereof and like non-profit corporations having the same or similar purposes, quitclaim or corrective deeds without consideration, transfers to or from the United States, the state of West Virginia, or to or from any of their instrumentalities, agencies or political subdivisions, by gift, dedication, deed or condemnation proceedings, or mortgages or deeds of trust given as security for a debt.

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

"Transaction" means the delivering, accepting, or presenting for recording of a document.

"Value" means in the case of any document not a gift, the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens
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
amount are attached thereto as a prerequisite to acceptance of the instrument for recordation.

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

"DECLARATION OF CONSIDERATION OR VALUE

I hereby declare:

(a) The total consideration paid for the property conveyed by the document to which this declaration is appended is $__________; or,

(b) The true and actual value of the property transferred by the document to which this declaration is appended is, to the best of my knowledge and belief $__________; or,

(c) The proportion of all the property included in the
document to which this declaration is appended which is
real property located in West Virginia is___________%;
the value of all the property $_____________; the value, of
real estate in West Virginia, is $_____________; or,
(d) This deed conveys real estate located in more than
one county in West Virginia; the total consideration paid
for, or actual cash value of, all the real estate located in
West Virginia conveyed by this document is $_____________; and documentary stamps showing payment of all of the
excise tax on all of said real estate are attached to an
executed counterpart of this deed recorded in___________
county.

Given under my hand this________day of______________,
19____.

Signature ___________________________________________

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

Address __________________________________________

"Such declaration shall be considered by the clerk in
ascertaining the correct number of stamps required, and
if declaration (d) is used no stamps shall be required on the duplicate deed to which it is attached and such duplicate deed shall be admitted to record, and when recorded shall have the same effect for all purposes as if stamps were attached thereto.

The clerk shall, at the end of the month, pay all of the proceeds collected from the sale of stamps to the state auditor in the manner provided by law which shall be credited to the state general revenue fund.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect from passage.

[Signatures]

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker, House of Delegates

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

[Signature]

Governor

Filed in Office of the Secretary of State of West Virginia

FEB 15 1960

JOE F. BURDETT
SECRETARY OF STATE