

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1967

ENROLLED

SENATE BILL NO. 315 *Com Sub for*

(By Mr. *Carson* [Mr. President] and
Mr. Carrey original sponsors)

PASSED March 11, 1967

In Effect Monday day for Passage

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 3-21-67

315

ENROLLED
FINANCE
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 315

(MR. CARSON [MR. PRESIDENT] and MR. CARRIGAN
original sponsors)

[Passed March 11, 1967; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, six and ten, **article** twenty-two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the imposition of a state and county excise tax on the privilege of transferring real property.

Be it enacted by the Legislature of West Virginia:

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

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

§11-22-2. Rate of tax; when and by whom payable.

Every person who delivers, accepts or presents for
2 recording any document, or in whose behalf any docu-
3 ment is delivered, accepted or presented for recording,
4 shall be subject to pay for and in respect to the trans-
5 action or any part thereof, a state excise tax upon the
6 privilege of transferring title to real estate at the rate
7 of one dollar and ten cents for each five hundred dollars
8 value or fraction thereof as represented by such docu-
9 ment as defined in section one hereof, which state tax
10 shall be payable at the time of delivery, acceptance or
11 presenting for recording of such document.

12 Effective January first, one thousand nine hundred
13 sixty-eight and thereafter, there is hereby imposed an
14 additional county excise tax for the privilege of trans-
15 ferring title to real estate at the rate of fifty-five cents
16 for each five hundred dollars value or fraction thereof
17 as represented by such document as defined in section
18 one hereof, which county tax shall be payable at the time

19 of delivery, acceptance or presenting for recording of
20 such document. The additional tax hereby imposed is
21 declared to be a county tax and to be used for county
22 purposes: *Provided*, That only one such state tax and
23 one such county tax shall be paid on any one document
24 and shall be collected in the county where the document
25 is first admitted to record, and, the same shall be paid
26 by the grantor therein unless the grantee accepts the
27 same without such tax having been paid, in which event
28 such tax shall be paid by the grantee: *Provided, however*,
29 That on any transfer of real property from a trustee or
30 a county clerk transferring real estate sold for taxes,
31 such tax shall be paid by the grantee.

**§11-22-6. Duties of clerk; declaration of consideration or value;
disposition and use of proceeds.**

When any instrument on which the tax as herein pro-
2 vided is imposed is offered for recordation, the clerk of
3 county court shall ascertain and compute the amount of
4 the tax due thereon and shall ascertain if stamps in the
5 proper amount are attached thereto as a prerequisite to
6 acceptance of the instrument for recordation.

7 When offered for recording, each instrument subject
8 to the the tax as herein provided shall have appended
9 on the face or at the end thereof, a statement or declara-
10 tion signed by the grantor, grantee or other responsible
11 party familiar with the transaction therein involved
12 declaring the consideration paid for or the value of the
13 property thereby conveyed. Such declaration may be in
14 the following language:

15 "DECLARATION OF CONSIDERATION OR VALUE

16 I hereby declare:

17 (a) The total consideration paid for the property con-
18 veyed by the document to which this declaration is ap-
19 pended is \$; or,

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

24 (c) The proportion of all the property included in the
25 document to which this declaration is appended which is
26 real property located in West Virginia is%;
27 the value of all the property \$; the value of
28 real estate in West Virginia is \$; or,

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

37 Given under my hand this day of, 19....

38 Signature

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

41

42 Address

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

50 The clerk shall, at the end of the month, pay all of the
51 proceeds collected from the sale of stamps for the state
52 excise tax to the state auditor in the manner provided by
53 law which shall be credited to the state general revenue
54 fund.

55 The clerk shall, at the end of the month, pay all of the
56 proceeds collected from the sale of stamps for the county
57 excise tax into the county general fund for the use of the
58 county.

§11-22-10. Erroneous collections; refund.

Any person who may have been required to pay the
2 state tax provided for in this article because of any
3 mistake of law or fact or because the tax herein provided
4 for was improperly collected may apply for a refund
5 thereof either to the county clerk receiving such payment,
6 or to the state auditor.

7 Any person who may have been required to pay the
8 county tax provided for in this article because of any
9 mistake of law or fact or because the tax herein provided
10 for was improperly collected may apply for a refund
11 thereof to the county clerk receiving such payment.

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

William Tompan
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect 90 days from passage.

Howard Meyer
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

H. Laban White
Speaker House of Delegates

The within approved this the 17
day of March, 1967.

Hullett C. Smith
Governor

PRESENTED TO THE
GOVERNOR

Date 3/17/67

Time 2:50pm