AN ACT to amend and reenact sections five and six, article twenty-two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the recordation of instruments transferring real property with the county clerk; permitting documentary stamps reflecting the payment of taxes upon the privilege of transferring real property to be affixed by meter or similar device; providing that such stamps need not be canceled; and providing that those instruments to which documentary stamps are not required to be affixed may not be recorded unless there is tendered with the document a verified sales listing form.

Be it enacted by the Legislature of West Virginia:

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

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

§11-22-5. Commissioner to provide for sale of stamps; rules and regulations.

(a) The commissioner shall prescribe, prepare and furnish adhesive stamps of such denominations and quantities as may be necessary, for the payment of the tax imposed and assessed by this article, to the clerks of the various county commissions whose duty it shall be to offer said stamps for sale.

(b) The commissioner is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to:

1. The method and means to be used in affixing or cancelling of stamps in substitution for or in addition to the method and means provided in this article.
2. The denominations and sale of stamps.
3. Any other matter or thing pertaining to the administration and enforcement of the provisions of this article.

(c) In addition to the form of the stamps described in subsection (a) of this section, and the method and means to be used in affixing the stamps heretofore authorized by the commissioner, the commissioner may authorize the clerks of the county commissions to affix stamps by meter or other similar device. Stamps that are affixed by the use of such devices shall be uniform as to size and design and shall be in such form as determined by the commissioner. Notwithstanding the provisions of section four of this article, cancellation of the stamps affixed by the use of such devices is not required.

§11-22-6. Duties of clerk; declaration of consideration or value; filing of sales listing form for tax commissioner; disposition and use of proceeds.
When any instrument on which the tax as herein provided is imposed is offered for recordation, the clerk of the county commission shall ascertain and compute the amount of the tax 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, 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. The 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
Given under my hand this ___ day of ____________, 19__.

Signed ___________________________ (Indicate whether grantor, grantee, or other interest in conveyance). ___________________________ Address"

The declaration shall be considered by the clerk in ascertaining the correct number of stamps required, and if declaration (d) above 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.

On or after the first day of July, one thousand nine hundred ninety-six, the clerk shall not record any document with or without stamps affixed unless there is tendered with the document a completed and verified sales listing form for the benefit and use of the state tax commissioner. Preprinted forms for this purpose shall be provided to each clerk by the tax commissioner.

The forms shall require the following information: (1) If the last deed in the chain of title represents the last transfer of the property, the names of the grantor and grantee and the deedbook and page number; or (2) if the last transfer was not made by deed, the source of the grantor’s title, if known; or (3) if the source of the grantor’s title is unknown, a description of the property and the name of the person to whom real property taxes are assessed as set forth in the landbook prepared by the assessor. In all cases the forms shall require the tax map and parcel number of the property, the district or municipality in which the real property or the greater portion thereof lies, the address of the property, the consideration or value in money, including any other valuable goods or services, upon which the buyer and seller agree to consummate the sale, and any other financing arrangements affecting value. The sales listing
form required by this paragraph is to be completed in addition to, and not in lieu of, the declaration required by this section: Provided, That the tax commissioner may design and provide a form which combines into one form the contents of the declaration and the sales listing form required herein and recordation and filing of that form may be used as an alternative to filing the sales listing form required herein: Provided, however, That the filing with the clerk of a duplicate deed containing the sales listing form information required by this section shall also satisfy the requirements of this section regarding the sales listing form. The clerk shall, at the end of the month, pay all of the proceeds collected from the sale of stamps for the county excise tax into the county general fund for use of the county.

On or before the tenth day of each month the clerk shall deliver to the tax commissioner, or a person designated by the tax commissioner, the sales listing forms or other alternative forms as may be authorized by this section for documents recorded during the preceding month.

The sales listing form required by this section shall also include a portion thereof for the information required of a person claiming a lien against the real property described in the document who desires to file a statement pursuant to the provisions of subsection (a), section three, article three, chapter eleven-a of this code. Upon receipt of the form, the clerk shall, no later than the end of the business day upon which it was received, provide a copy of the statement to the assessor and a copy thereof to the sheriff. The assessor shall note the lien and any new owner of the real property indicated on the sales listing form upon his land books. The sheriff shall promptly compare the information contained in the sales listing form with his records and shall:

(1) Provide the lienholder such notice as the lienholder would thereafter otherwise be entitled to receive pursuant to the provisions of chapter eleven-a of this code had
the lienholder provided the information in the form of a statement as permitted by the provisions of section three, article three of said chapter;

(2) Provide any other person listed on the sales listing form such notice as the person would thereafter otherwise be entitled to receive pursuant to the provisions of chapter eleven-a of this code as a result of the person's interest in the real property;

(3) Deliver to any person listed on the sales listing form as the new owner of the real property described in the document a copy of any subsequently issued tax ticket required to be sent by the provisions of section eight, article one, chapter eleven-a of this code; and

(4) Promptly notify any person listed on the sales listing form as the lienholder or the new owner of the real property of any due and unpaid taxes assessed against the property.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.
In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 1st day of April, 1996.

Governor