

SB 505

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

96 APR - 1 PM 4: 45

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SENATE BILL NO. 505

(By Senator Miller)

PASSED MARCH 7 1996

In Effect NINETY Days From Passage

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OFFICE OF WEST VIRGINIA
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Senate Bill No. 505

(BY SENATOR MILLER)

[Passed March 7, 1996; in effect ninety days from passage.]

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.

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

7 (b) The commissioner is hereby authorized and empow-
8 ered to prescribe, adopt, promulgate and enforce rules
9 and regulations relating to:

10 (1) The method and means to be used in affixing or
11 cancelling of stamps in substitution for or in addition to
12 the method and means provided in this article.

13 (2) The denominations and sale of stamps.

14 (3) Any other matter or thing pertaining to the
15 administration and enforcement of the provisions of this
16 article.

17 (c) In addition to the form of the stamps described in
18 subsection (a) of this section, and the method and means
19 to be used in affixing the stamps heretofore authorized
20 by the commissioner, the commissioner may authorize
21 the clerks of the county commissions to affix stamps by
22 meter or other similar device. Stamps that are affixed
23 by the use of such devices shall be uniform as to size and
24 design and shall be in such form as determined by the
25 commissioner. Notwithstanding the provisions of section
26 four of this article, cancellation of the stamps affixed by
27 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.

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

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

16 "DECLARATION OF CONSIDERATION OR VALUE

17 I hereby declare:

18 (a) The total consideration paid for the property
19 conveyed by the document to which this declaration is
20 appended is \$_____; or

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

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

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

37 _____ County.

38 Given under my hand this ___ day of _____,
39 19__.

40 Signed _____ (Indicate
41 whether grantor, grantee, or other interest in convey-
42 ance). _____ Address”

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

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

57 The forms shall require the following information: (1)
58 If the last deed in the chain of title represents the last
59 transfer of the property, the names of the grantor and
60 grantee and the deedbook and page number; or (2) if the
61 last transfer was not made by deed, the source of the
62 grantor’s title, if known; or (3) if the source of the
63 grantor’s title is unknown, a description of the property
64 and the name of the person to whom real property taxes
65 are assessed as set forth in the landbook prepared by the
66 assessor. In all cases the forms shall require the tax map
67 and parcel number of the property, the district or
68 municipality in which the real property or the greater
69 portion thereof lies, the address of the property, the
70 consideration or value in money, including any other
71 valuable goods or services, upon which the buyer and
72 seller agree to consummate the sale, and any other
73 financing arrangements affecting value. The sales listing

74 form required by this paragraph is to be completed in
75 addition to, and not in lieu of, the declaration required
76 by this section: *Provided*, That the tax commissioner
77 may design and provide a form which combines into one
78 form the contents of the declaration and the sales listing
79 form required herein and recordation and filing of that
80 form may be used as an alternative to filing the sales
81 listing form required herein: *Provided, however*, That
82 the filing with the clerk of a duplicate deed containing
83 the sales listing form information required by this
84 section shall also satisfy the requirements of this section
85 regarding the sales listing form. The clerk shall, at the
86 end of the month, pay all of the proceeds collected from
87 the sale of stamps for the county excise tax into the
88 county general fund for use of the county.

89 On or before the tenth day of each month the clerk
90 shall deliver to the tax commissioner, or a person desig-
91 nated by the tax commissioner, the sales listing forms or
92 other alternative forms as may be authorized by this
93 section for documents recorded during the preceding
94 month.

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

109 (1) Provide the lienholder such notice as the lienholder
110 would thereafter otherwise be entitled to receive pursu-
111 ant to the provisions of chapter eleven-a of this code had

112 the lienholder provided the information in the form of a
113 statement as permitted by the provisions of section three,
114 article three of said chapter;

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

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

125 (4) Promptly notify any person listed on the sales
126 listing form as the lienholder or the new owner of the
127 real property of any due and unpaid taxes assessed
128 against the property.

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

Nancy Sidorova
.....
Chairman Senate Committee

Andy Stewart
.....
Chairman House Committee

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

Patricia E. Shaw
.....
Clerk of the Senate

Bryony A. King
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Earl C. Kinnear
.....
Speaker House of Delegates

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

Gaston Caputo
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/28/96

Time 9:57 am