

SB 358

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STATE OF WEST VIRGINIA

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999



## ENROLLED

SENATE BILL NO. 358

(By Senator Craig, et al)



PASSED March 9, 1999

In Effect Ninety days from Passage

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OFFICE OF THE CLERK  
SENATE OF WEST VIRGINIA

## ENROLLED

### Senate Bill No. 358

(BY SENATORS CRAIGO, BOWMAN, BAILEY, JACKSON,  
FANNING, SHARPE, MINARD, HELMICK, ROSS, ANDERSON, LOVE,  
MINEAR, SPROUSE, WALKER, CHAFIN, DITTMAR, HUNTER,  
KESSLER, TOMBLIN, MR. PRESIDENT AND OLIVERIO)

[Passed March 9, 1999; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article twenty-two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to real estate transfer taxes; exempting certain transfers between grandparent and grandchild; exempting certain transfers made pursuant to conversions to limited liability companies from corporations, partnerships, limited partnerships or trusts; exempting certain transfers made pursuant to mergers of limited liability companies, partnerships, limited partnerships, testamentary or inter vivos trusts; and defining the term limited liability company.

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

That section one, 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.**

**§11-22-1. Definitions.**

1 As used in this chapter:

2 (1) "Association" means a partnership, limited partner-  
3 ship or any other form of unincorporated enterprise,  
4 owned or conducted by two or more persons.

5 (2) "Corporation" means a corporation or joint-stock  
6 association, organized under the laws of this state, the  
7 United States or any other state, territory or foreign  
8 country or dependency including, but not limited to,  
9 banking institutions.

10 (3) "Commissioner" means the state tax commissioner.

11 (4) "Document" means any deed, or instrument or  
12 writing by which any real property within this state or any  
13 interest in real property is granted, conveyed or otherwise  
14 transferred to the grantee, purchaser or any other person;  
15 but does not include wills, transfer of real property where  
16 the value of the property transferred is one hundred  
17 dollars or less, testamentary or inter vivos trusts, deeds of  
18 partition, deeds made pursuant to mergers of corporations,  
19 limited liability companies, partnerships, limited partner-  
20 ships, testamentary or inter vivos trusts, deeds made  
21 pursuant to conversions to limited liability companies  
22 from corporations, partnerships, limited partnerships or  
23 trusts, deeds made by a subsidiary corporation to its  
24 parent corporation for no consideration other than the  
25 cancellation or surrender of the subsidiary's stock, leases,  
26 transfers between husband and wife, transfers between  
27 parent and child or transfers between parent and child and  
28 his or her spouse, without consideration; transfers between  
29 grandparent and grandchild or transfers between grand-  
30 parent and grandchild and his or her spouse, without  
31 consideration; transfers without consideration between a  
32 principal and straw party for any purpose, gifts to or  
33 transfers from or between voluntary charitable or educa-  
34 tional associations or trustees of voluntary charitable or  
35 educational associations and like nonprofit corporations  
36 having the same or similar purposes, quitclaim or correc-  
37 tive deeds without consideration, transfers to or from the  
38 United States, the state of West Virginia, or to or from any  
39 of their instrumentalities, agencies or political subdivi-  
40 sions, by gift, dedication, deed or condemnation proceed-

41 ings, or mortgages or deeds of trust given as security for a  
42 debt.

43 (5) "Limited liability company" means a limited liability  
44 company organized under the laws of this state, the United  
45 States or by any other state, territory or the District of  
46 Columbia.

47 (6) "Person" means every natural person, association or  
48 corporation. Whenever used in any clause prescribing and  
49 imposing a fine or imprisonment, or both, the term  
50 "person" as applied to associations, means the partners or  
51 members of the association, and, as applied to corpora-  
52 tions, the officers of the corporation.

53 (7) "Transaction" means the delivering, accepting or  
54 presenting for recording of a document.

55 (8) "Value" means in the case of any document not a gift,  
56 the amount of the full actual consideration for the docu-  
57 ment, paid or to be paid, including the amount of any lien  
58 or liens assumed; in the case of a gift, or any other docu-  
59 ment without consideration, the actual monetary value of  
60 the property conveyed or transferred. In the event any  
61 document includes real property or any interest in real  
62 property lying outside the state of West Virginia or  
63 includes personal property, value is the proportion of the  
64 consideration paid in case of the transfer for consider-  
65 ation, or the proportion of the true and actual value in case  
66 of a gift, which the actual value of the real property  
67 located in West Virginia bears to the total actual value of  
68 all the property, real or personal, transferred by the  
69 document. The value as defined in this subdivision shall  
70 be stated in the declaration of consideration or value  
71 provided for in section six of this article.

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

*Ray Schover*

Chairman Senate Committee

*Joe L. Smith*

Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

*David E. White*  
Clerk of the Senate

*Gregory W. Gray*  
Clerk of the House of Delegates

*Carl Roy Tomblin*  
President of the Senate

*John W. Rowland*  
Speaker House of Delegates

The within *approved* this the *18th*  
Day of *March*, 1999

*Jeff Beaman*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/15/89

Time 3:02 pm