

**ADDENDUM***January 1, 2003***§8A-12-21. Tax on privilege of transferring real property.**

- (a) Notwithstanding the provisions of section two, article twenty-two, chapter eleven, and effective the first day of January, two thousand three, and thereafter, in addition to the tax imposed pursuant to article twenty-two, chapter eleven of this code, any county commission that has created a farmland protection program may impose an additional county excise tax for the privilege of transferring title to real estate at the rate of no more than one dollar and ten cents for each five hundred dollars' value or fraction thereof, as represented by any document as defined in section one, article twenty-two, chapter eleven of this code, payable at the time of delivery, acceptance or presentation for recording of the document.
- (b) The tax imposed pursuant to this section is to be administered and collected as the tax on the privilege of transferring title to real estate imposed pursuant to the provisions of article twenty-two, chapter eleven of this code.
- (c) The tax imposed pursuant to this section is to be used exclusively for the purpose of funding farmland preservation.

CHAPTER 8. MUNICIPAL CORPORATIONS.**ARTICLE 24. PLANNING AND ZONING.****PART XXI. VOLUNTARY PROFFERING.***June 10, 2003***§8-24-86. Conditions as part of final plat approval.**

- (a) A zoning ordinance may provide for the voluntary proffering by a landowner as a requirement of final plat approval for a development project.
- (b) For purposes of this article, a "voluntary proffer" is a written offer by a landowner to the planning commission whereby the landowner offers to satisfy certain reasonable conditions as a requirement of the final plat approval for a development project. A voluntary proffer made to a county shall be in lieu of payment of an impact fee as authorized by section four, article twenty, chapter seven of this code.
- (c) For purposes of this section, a condition contained in a voluntary proffer is considered reasonable if:
 - (1) The development project results in the need for the conditions;
 - (2) the conditions have a reasonable relation to the development project; and
 - (3) all conditions are in conformity with the comprehensive plan adopted pursuant to this article.
- (d) No proffer may be accepted by a county or municipality unless it has approved a list detailing any proposed capital improvements from all areas within the county or municipality, to which the proffer is made, and containing descriptions of any proposed capital improvements, cost estimates, projected time frames for constructing the improvements and proposed or anticipated funding sources: Provided, That the approval of the list does not limit the county or municipality from accepting proffers relating to items not contained on the list. For purposes of this



subsection, “capital improvement” has the same definition as found in section three, article twenty, chapter seven of this code.

- (e) If a voluntary proffer includes the dedication of real property or the payment of cash, the proffer shall provide for the alternate disposition of the property or cash payment in the event the property or cash payment is not to be used for the purpose for which it was proffered.
- (f) Notwithstanding any provision of this code to the contrary, a municipality may transfer the portion of the proceeds of a voluntary proffer intended by the terms of the proffer to be used by the board of education of a county in which the municipality is located upon the condition that the portion so transferred may only be used by the board for capital improvements.

NOTE: §8-24-86 [not included here: §8-24-87 and §16-13E-1 through §16-13E-14] are new; therefore strike-throughs and underscoring have been omitted.

H.B. 4331

February 6, 2004

“A Bill to repeal *West Virginia Code §8-24-1 thru 85* of the code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new chapter, designated *West Virginia Code §8A-1-1 thru 23*, all relating to land use planning; planning commissions; comprehensive plan; subdivision and land development ordinance; land development plan and plat; improvement location permit; zoning; board of zoning appeals; appeal process; enforcement; penalties; special provisions; and voluntary farmland protection program”; to the Committee on Government Organization then the Judiciary.

By Delegates Beane, Ennis, Hatfield, Perdue, Yost, Leggett and Azinger ♦

[End of §8A-12-21]