

**Senate Bill No. 483**

(By Senators Plymale, Stollings, Unger, Beach and Tucker)

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[Introduced March 7, 2013; referred to the Committee on Banking  
and Insurance; and then to the Committee on Finance.]  
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**FISCAL  
NOTE**

A BILL to amend and reenact §33-3-33 of the Code of West Virginia,  
1931, as amended, relating to taking back the surcharge on  
fire and casualty insurance policies to one percent and have  
this surcharge benefit volunteer and part-volunteer fire  
departments.

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

That §33-3-33 of the Code of West Virginia, 1931, as amended,  
be amended and reenacted to read as follows:

**ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.**

**§33-3-33. Surcharge on fire and casualty insurance policies to  
benefit volunteer and part-volunteer fire  
departments; special fund created; allocation of  
proceeds; effective date.**

1       (a) ~~(1) For the purpose of providing additional revenue for~~  
2 ~~volunteer fire departments, part-volunteer fire departments, and~~  
3 ~~certain retired teachers and the teachers retirement reserve fund,~~  
4 ~~there is hereby authorized and imposed on and after July 1, 1992,~~  
5 ~~on the policyholder of any fire insurance policy or casualty~~  
6 ~~insurance policy issued by any insurer, authorized or unauthorized,~~  
7 ~~or by any risk retention group, a policy surcharge equal to one~~  
8 ~~percent of the taxable premium for each such policy. After June~~  
9 ~~30, 2005, the surcharge shall be imposed as specified in~~  
10 ~~subdivisions (2) and (3) of this subsection.~~

11       ~~(2) After June 30, 2005, through December 31, 2005, for the~~  
12 ~~purpose of providing additional revenue for volunteer fire~~  
13 ~~departments, part-volunteer fire departments and to provide~~  
14 ~~additional revenue to the Public Employees Insurance Agency and~~  
15 ~~municipal pension plans, there is hereby authorized and imposed on~~  
16 ~~and after July 1, 2005, on the policyholder of any fire insurance~~  
17 ~~policy or casualty insurance policy issued by any insurer,~~  
18 ~~authorized or unauthorized, or by any risk retention group, a~~  
19 ~~policy surcharge equal to one percent of the taxable premium for~~  
20 ~~each such policy.~~

21       ~~(3) (1) After December 31, 2005~~ For the purpose of providing  
22 additional revenue for volunteer fire departments and  
23 part-volunteer fire departments, there is hereby authorized and

1 imposed on the policyholder of any fire insurance policy or  
2 casualty insurance policy issued by any insurer, authorized or  
3 unauthorized, or by any risk retention group, a policy surcharge  
4 equal to ~~fifty-five one hundredths~~ of one percent of the taxable  
5 premium for each ~~such~~ policy.

6 ~~(4)~~ (2) For purposes of this section, casualty insurance may  
7 not include insurance on the life of a debtor pursuant to or in  
8 connection with a specific loan or other credit transaction or  
9 insurance on a debtor to provide indemnity for payments becoming  
10 due on a specific loan or other credit transaction while the debtor  
11 is disabled as defined in the policy. The policy surcharge may not  
12 be subject to premium taxes, agent commissions or any other  
13 assessment against premiums.

14 (b) The policy surcharge shall be collected and remitted to  
15 the commissioner by the insurer, or in the case of surplus lines  
16 coverage, by the surplus lines licensee, or if the policy is issued  
17 by a risk retention group, by the risk retention group. The amount  
18 required to be collected under this section shall be remitted to  
19 the commissioner on a quarterly basis on or before the twenty-fifth  
20 day of the month succeeding the end of the quarter in which they  
21 are collected, except for the fourth quarter for which the  
22 surcharge shall be remitted on or before March 1 of the succeeding  
23 year.

1 (c) Any person failing or refusing to collect and remit to the  
2 commissioner any policy surcharge and whose surcharge payments are  
3 not postmarked by the due dates for quarterly filing is liable for  
4 a civil penalty of up to \$100 for each day of delinquency, to be  
5 assessed by the commissioner. The commissioner may suspend the  
6 insurer, broker or risk retention group until all surcharge  
7 payments and penalties are remitted in full to the commissioner.

8 (d) (1) All money from the policy surcharge shall be collected  
9 by the commissioner who shall disburse the money received from the  
10 surcharge into a special account in the State Treasury, designated  
11 the Fire Protection Fund. The net proceeds of this portion of the  
12 tax and the interest thereon, after appropriation by the  
13 Legislature, shall be distributed quarterly on January 1, April 1,  
14 July 1 and October 1, to each volunteer fire company or department  
15 on an equal share basis by the State Treasurer. ~~After June 30,~~  
16 ~~2005, the money received from the surcharge shall be distributed as~~  
17 ~~specified in subdivisions (2) and (3) of this subsection.~~

18 ~~(2) (A) After June 30, 2005, through December 31, 2005, all~~  
19 ~~money from the policy surcharge shall be collected by the~~  
20 ~~Commissioner who shall disburse one half of the money received from~~  
21 ~~the surcharge into the Fire Protection Fund for distribution as~~  
22 ~~provided in subdivision (1) of this subsection.~~

23 ~~(B) The remaining portion of moneys collected shall be~~

1 ~~transferred into the fund in the state Treasury of the Public~~  
2 ~~Employees Insurance Agency into which are deposited the~~  
3 ~~proportionate shares made by agencies of this state of the Public~~  
4 ~~Employees Insurance Agency costs of those agencies, until November~~  
5 ~~1, 2005. After the October 31, 2005, through December 31, 2005,~~  
6 ~~the remain portion shall be transferred to the special account in~~  
7 ~~the state Treasury, known as the Municipal Pensions and Protection~~  
8 ~~Fund.~~

9       ~~(3) After December 31, 2005, all money from the policy~~  
10 ~~surcharge shall be collected by the Commissioner who shall disburse~~  
11 ~~all of the money received from the surcharge into the Fire~~  
12 ~~Protection Fund for distribution as provided in subdivision (1) of~~  
13 ~~this subsection.~~

14       ~~(4)~~ (2) Before each distribution date to volunteer fire  
15 companies or departments, the State Fire Marshal shall report to  
16 the State Treasurer the names and addresses of all volunteer and  
17 part-volunteer fire companies and departments within the state  
18 which meet the eligibility requirements established in section  
19 eight-a, article fifteen, chapter eight of this code.

20       (e) The allocation, distribution and use of revenues provided  
21 in the Fire Protection Fund are subject to the provisions of  
22 sections eight-a and eight-b, article fifteen, chapter eight of  
23 this code.

NOTE: The purpose of this bill is to take the fire or casualty insurance surcharge to one percent and dedicate the money to the Fire Protection Fund, which goes to volunteer and part-volunteer fire departments.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.