

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **Senate Bill 532**

BY SENATORS SNYDER, ROMANO, FACEMIRE, KESSLER,  
KIRKENDOLL, LAIRD, MILLER, PREZIOSO, YOST,  
STOLLINGS, PLYMALE AND WILLIAMS

[Introduced February 6, 2016;

Referred to the Committee on Banking and Insurance;  
and then to the Committee on Finance.]

1 A BILL to amend and reenact §33-3-33 of the Code of West Virginia, 1931, as amended, relating  
 2 to surcharge on fire and casualty insurance policies for purpose of funding volunteer fire  
 3 departments; and providing that surcharge be increased to one percent.

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

1 That §33-3-33 of the Code of West Virginia, 1931, as amended, be amended and  
 2 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; Public Employees Insurance Agency and municipal  
 pension plans; special fund created; allocation of proceeds; effective date.**

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

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

15 (3) ~~After December 31, 2005~~ After December 31, 2016 for the purpose of providing  
 16 additional revenue for volunteer fire departments and part-volunteer fire departments, there is

17 hereby authorized and imposed on the policyholder of any fire insurance policy or casualty  
18 insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group,  
19 a policy surcharge equal to ~~fifty-five one hundredths of one percent~~ one percent of the taxable  
20 premium for each such policy.

21 (4) For purposes of this section, casualty insurance may not include insurance on the life  
22 of a debtor pursuant to or in connection with a specific loan or other credit transaction or insurance  
23 on a debtor to provide indemnity for payments becoming due on a specific loan or other credit  
24 transaction while the debtor is disabled as defined in the policy. The policy surcharge may not be  
25 subject to premium taxes, agent commissions or any other assessment against premiums.

26 (b) The policy surcharge shall be collected and remitted to the commissioner by the  
27 insurer, or in the case of surplus lines coverage, by the surplus lines licensee, or if the policy is  
28 issued by a risk retention group, by the risk retention group. The amount required to be collected  
29 under this section shall be remitted to the commissioner on a quarterly basis on or before the  
30 twenty-fifth day of the month succeeding the end of the quarter in which they are collected, except  
31 for the fourth quarter for which the surcharge shall be remitted on or before March 1 of the  
32 succeeding year.

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

38 (d)(1) All money from the policy surcharge shall be collected by the commissioner who  
39 shall disburse the money received from the surcharge into a special account in the State Treasury,  
40 designated the Fire Protection Fund. The net proceeds of this portion of the tax and the interest  
41 thereon, after appropriation by the Legislature, shall be distributed quarterly on the first day of the  
42 months of January, April, July and October to each volunteer fire company or department on an

43 equal share basis by the State Treasurer. After June 30, 2005, the money received from the  
44 surcharge shall be distributed as specified in subdivisions (2) and (3) of this subsection.

45 (2)(A) After June 30, 2005, through December 31, 2005, all money from the policy  
46 surcharge shall be collected by the commissioner who shall disburse one half of the money  
47 received from the surcharge into the Fire Protection Fund for distribution as provided in  
48 subdivision (1) of this subsection.

49 (B) The remaining portion of moneys collected shall be transferred into the fund in the  
50 State Treasury of the Public Employees Insurance Agency into which are deposited the  
51 proportionate shares made by agencies of this state of the Public Employees Insurance Agency  
52 costs of those agencies, until November 1, 2005. After ~~the~~ October 31, 2005, through December  
53 31, 2005, the remain portion shall be transferred to the special account in the State Treasury,  
54 known as the Municipal Pensions and Protection Fund.

55 (3) After December 31, 2005, all money from the policy surcharge shall be collected by  
56 the commissioner who shall disburse all of the money received from the surcharge into the Fire  
57 Protection Fund for distribution as provided in subdivision (1) of this subsection.

58 (4) Before each distribution date to volunteer fire companies or departments, the State  
59 Fire Marshal shall report to the State Treasurer the names and addresses of all volunteer and  
60 part-volunteer fire companies and departments within the state which meet the eligibility  
61 requirements established in section eight-a, article fifteen, chapter eight of this code.

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

NOTE: The purpose of this bill is to restore the surcharge on fire and casualty insurance policies for the purpose of funding volunteer fire departments to one percent.

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