

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

Senate Bill 168

BY SENATORS ROMANO, OJEDA AND JEFFRIES

[Originating in the Committee on Banking and
Insurance; reported on March 7, 2017]

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; providing that surcharge be increased to one percent beginning January 1,
4 2018; and deleting obsolete language.

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 through December 31, 2017, 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 of the taxable premium for
20 each such policy. Beginning January 1, 2018, the policy surcharge imposed in this subdivision is
21 increased from fifty-five one hundredths of one percent to one percent.

22 ~~(4)~~ (2) For purposes of this section, casualty insurance may not include insurance on the
23 life of a debtor pursuant to or in connection with a specific loan or other credit transaction or
24 insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other
25 credit transaction while the debtor is disabled as defined in the policy. The policy surcharge may
26 not be subject to premium taxes, agent commissions or any other assessment against premiums.

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

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

39 (d)(1) All money from the policy surcharge shall be collected by the commissioner who
40 shall disburse the money received from the surcharge into a special account in the State Treasury,
41 designated the Fire Protection Fund. The net proceeds of this portion of the tax and the interest

42 thereon, after appropriation by the Legislature, shall be distributed quarterly on the first day of the
43 months of January, April, July and October to each volunteer fire company or department on an
44 equal share basis by the State Treasurer. ~~After June 30, 2005, the money received from the~~
45 ~~surcharge shall be distributed as specified in subdivisions (2) and (3) of this subsection.~~

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

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

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

59 ~~(4)~~ (2) Before each distribution date to volunteer fire companies or departments, the State
60 Fire Marshal shall report to the State Treasurer the names and addresses of all volunteer and
61 part-volunteer fire companies and departments within the state which meet the eligibility
62 requirements established in section eight-a, article fifteen, chapter eight of this code.

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