

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 255**

4 (By Senators Plymale and Tucker)

5 _____
6 [Originating in the Committee on Banking and Insurance;
7 reported February 18, 2014.]

8 _____
9 **FISCAL**
10 **NOTE**

11 A BILL to amend and reenact §33-3-33 of the Code of West Virginia,
12 1931, as amended, relating to increasing a surcharge on fire
13 and casualty insurance policies to one percent to benefit
14 volunteer and part-volunteer fire departments.

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

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

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

19 **§33-3-33. Surcharges on fire and casualty insurance policies to**
20 **benefit volunteer and part-volunteer fire**
21 **departments; special fund created; allocation of**
22 **proceeds; effective dates.**

23 (a) ~~(1) For the purpose of providing additional revenue for~~
24 ~~volunteer fire departments, part-volunteer fire departments, and~~

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

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

19 ~~(3)~~ (1) After December 31, 2005, for the purpose of providing
20 additional revenue for volunteer fire departments and
21 part-volunteer fire departments, there is hereby authorized and
22 imposed on the policyholder of any fire insurance policy or
23 casualty insurance policy issued by any insurer, authorized or
24 unauthorized, or by any risk retention group, a policy surcharge

1 equal to fifty-five one hundredths of one percent of the taxable
2 premium for each ~~such~~ policy: Provided, That after June 30, 2014,
3 for the purpose of providing additional operational funds and for
4 reimbursement to each member of any volunteer fire department and
5 part-volunteer fire department who successfully completes a
6 certification or recertification examination, an additional policy
7 surcharge equal to forty-five one hundredths of one percent shall
8 be authorized and imposed on the policyholder of any fire insurance
9 policy or casualty insurance policy issued by any insurer,
10 authorized or unauthorized, or by any risk retention group.

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

19 (b) The policy surcharge shall be collected and remitted to
20 the commissioner by the insurer, or in the case of surplus lines
21 coverage, by the surplus lines licensee, or if the policy is issued
22 by a risk retention group, by the risk retention group. The amount
23 required to be collected under this section shall be remitted to
24 the commissioner on a quarterly basis on or before the twenty-fifth

1 day of the month succeeding the end of the quarter in which they
2 are collected, except for the fourth quarter for which the
3 surcharge shall be remitted on or before March 1 of the succeeding
4 year.

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

12 (d) (1) All money from the policy surcharge shall be collected
13 by the commissioner who shall disburse the money received from the
14 surcharge into a special account in the State Treasury, designated
15 the Fire Protection Fund. The net proceeds of ~~this~~ the fifty-five
16 one hundredths of one percent of the taxable premium for each
17 policy portion of the tax and the interest thereon, after
18 appropriation by the Legislature, shall be distributed quarterly on
19 January 1, April 1, July 1 and October 1, to each volunteer fire
20 company or department on an equal share basis by the State
21 Treasurer. After June 30, ~~2005~~, 2014 the money received from the
22 forty-five one hundredths of one percent of the taxable premium for
23 each policy surcharge and the interest thereon shall be distributed
24 by the State Treasurer annually to each volunteer fire company or

1 department upon submission by the company or department of the
2 amounts to be reimbursed for certification fees: *Provided*, That any
3 remaining amounts after distribution for certification shall be
4 distributed by the State Treasurer to each company or department on
5 an equal share basis. ~~as specified in subdivisions (2) and (3) of~~
6 ~~this subsection.~~

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

12 ~~(B) The remaining portion of moneys collected shall be~~
13 ~~transferred into the fund in the State Treasury of the Public~~
14 ~~Employees Insurance Agency into which are deposited the~~
15 ~~proportionate shares made by agencies of this state of the Public~~
16 ~~Employees Insurance Agency costs of those agencies, until November~~
17 ~~1, 2005. After the October 31, 2005, through December 31, 2005,~~
18 ~~the remain portion shall be transferred to the special account in~~
19 ~~the State Treasury, known as the Municipal Pensions and Protection~~
20 ~~Fund.~~

21 ~~(3) After December 31, 2005, all money from the policy~~
22 ~~surcharge shall be collected by the Commissioner who shall disburse~~
23 ~~all of the money received from the surcharge into the Fire~~
24 ~~Protection Fund for distribution as provided in subdivision (1) of~~

1 ~~this subsection.~~

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

8 (e) The allocation, distribution and use of revenues provided
9 in the Fire Protection Fund are subject to the provisions of
10 sections eight-a and eight-b, article fifteen, chapter eight of
11 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.