WEST virginia legislature

**FISCAL NOTE**

2022 regular session

Introduced

**FISCAL NOTE**

Senate Bill 234

By Senators Romano, Lindsay, Caputo, and Stollings

[Introduced January 12, 2022; referred
to the Committee on Banking and Insurance; and then to the Committee on Finance]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-3-33c, relating to creating a surcharge on fire and casualty insurance policies in order to relieve the burden from municipalities and counties of certain fire-related cleanup and demolition; requiring the assessment of a surcharge on certain policies; creating exceptions; setting forth collection and remittance requirements; authorizing penalties; creating the Political Subdivisions Fire Cleanup Relief Fund; permitting municipalities and counties to apply to the State Treasurer for a disbursement from the fund; authorizing the State Treasurer to disburse funds; and granting rule-making authority.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.

§33-3-33c. Surcharge on fire and casualty insurance policies to relieve burden from municipalities and counties of fire related cleanup and demolition; creation of Political Subdivisions Fire Cleanup Relief Fund; disbursements.

(a) For the purpose of providing funds for municipalities and counties that are left to pay for demolition and cleanup following a fire at privately owned property that does not have sufficient insurance, does not have insurance or where an insurance policy has lapsed, there is hereby authorized and imposed on the policyholder of every fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one tenth of one percent of the taxable premium for each such policy. This surcharge is in addition to other similar surcharges and taxes currently existing in law.

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

(c) The policy surcharge shall be collected and remitted to the commissioner by the insurer, or in the case of surplus lines coverage, by the surplus lines licensee, or if the policy is issued by a risk retention group, by the risk retention group. The amount required to be collected under this section shall be remitted to the commissioner on a quarterly basis on or before the 25th day of the month succeeding the end of the quarter in which they are collected, except for the fourth quarter for which the surcharge shall be remitted on or before March 1 of the succeeding year. All money collected by the commissioner from the policy surcharge shall be deposited into a special account in the State Treasury, hereby created and designated the Political Subdivisions Fire Cleanup Relief Fund.

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

(e) Municipalities and counties that become responsible for the demolition or cleanup of private structures following a fire due to the failure of the private owner to obtain sufficient insurance, obtain any insurance or keep current fire insurance may apply to the Treasurer for a disbursement of funds from the Political Subdivisions Fire Cleanup Relief Fund. The Treasurer may disburse funds, as available, to valid applications if the municipality or county can prove that it will obtain ownership of the property and redevelop the property or transfer the property to a private developer that has no connection to the previous owner. The funds disbursed are only to be used for demolition and cleanup.

(f) The Treasurer may propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code, in order to effectuate this section.

NOTE: The purpose of this bill is to create a fund to relieve the burden upon municipalities and counties of certain fire related cleanup and demolition.

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