

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

**Introduced**

### **Senate Bill 168**

<b>FISCAL NOTE</b>
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BY SENATORS ROMANO, OJEDA AND JEFFRIES

[Introduced February 8, 2017; 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 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) For purposes of this section, casualty insurance may not include insurance on the life  
23 of a debtor pursuant to or in connection with a specific loan or other credit transaction or insurance  
24 on a debtor to provide indemnity for payments becoming due on a specific loan or other credit  
25 transaction while the debtor is disabled as defined in the policy. The policy surcharge may not be  
26 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) 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.

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

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