

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

**Introduced**

### **Senate Bill 328**

<b>FISCAL NOTE</b>
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BY SENATORS ROMANO, BEACH, JEFFRIES, MILLER,

OJEDA, SMITH, SWOPE AND PLYMALE

[Introduced February 15, 2017; Referred  
to the Committee on Government Organization; and  
then to the Committee on Finance]

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

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
 2 section, designated §33-3-33b, to read as follows:

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

**§33-3-33b. 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.**

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

8 (b) For purposes of this section, casualty insurance may not include insurance on the life  
 9 of a debtor pursuant to or in connection with a specific loan or other credit transaction or insurance  
 10 on a debtor to provide indemnity for payments becoming due on a specific loan or other credit  
 11 transaction while the debtor is disabled as defined in the policy. The policy surcharge may not be

12 subject to premium taxes, agent commissions or any other assessment against premiums.

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

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

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

35 (g) The Treasurer may propose rules for legislative approval in accordance with the  
36 provisions of article three, chapter twenty-nine-a 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.