

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4295

BY DELEGATES WESTFALL, ESPINOSA AND HOTT

[Passed March 8, 2022; in effect ninety days from passage.]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §15-5-20b; to amend and reenact §33-2-23 of said code; and to amend and
3 reenact §33-3-14 and §33-3-14a of said code, all relating to the State Office of the National
4 Flood Insurance Program; transferring the State Office of the National Flood Insurance
5 Program from the Offices of the Insurance Commissioner to the Division of Emergency
6 Management; authorizing the Director of the Division of Emergency Management to
7 employ staff for the State Office of the National Flood Insurance Program; granting rule-
8 making authority to the Division of Emergency Management; providing that state-owned
9 property in any nonparticipating community shall be governed by rules proposed by the
10 Division of Emergency Management; requiring the State Office of the National Flood
11 Insurance Program and floodplain managers to develop a strategic plan to meet goals and
12 objectives, which shall be reviewed and approved by the State Resiliency Officer and
13 State Resiliency Board; requiring the State Office of the National Flood Insurance Program
14 to establish floodplain management guidelines in special hazard areas which are in
15 conformity with federal regulations; providing the State Office of the National Flood
16 Insurance Program shall cooperate with the State Resiliency Office to the fullest extent
17 practicable to assist that office in fulfilling its duties; transferring the assets of the State
18 Office of the National Flood Insurance Program from the Offices of the Insurance
19 Commissioner to the Division of Emergency Management; deleting obsolete language
20 concerning temporary tax dedication to the tobacco settlement account; providing that
21 private market flood insurance premium taxes be treated like federal flood insurance
22 premium taxes; correcting terminology; clarifying that the additional premium tax applies
23 to flood insurance premiums; and requiring the State Treasurer to distribute funds from
24 the flood insurance tax fund to finance the operations and responsibilities of the State
25 Office of the National Flood Insurance Program and for subgrants.

Be it enacted by the Legislature of West Virginia:

CHAPTER 15. PUBLIC SAFETY.

**ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY
MANAGEMENT.**

**§15-5-20b. Continuation of the State Office of the National Flood Insurance Program;
transfer to the Division of Emergency Management; funding; responsibilities.**

1 (a) The Legislature, finding that the National Flood Insurance Program is a voluntary
2 federal program under which federal flood insurance is made available to participating
3 communities and is of vital importance to the citizens of West Virginia, does hereby continue the
4 State Office of the National Flood Insurance Program. Effective July 1, 2022, the State Office of
5 the National Flood Insurance Program shall transfer from the Offices of the Insurance
6 Commissioner to the Division of Emergency Management established pursuant to §15-5-3 of this
7 code. The Division of Emergency Management shall provide office space, equipment, and
8 supplies for the State Office of the National Flood Insurance Program, which shall be funded, in
9 part, from the special revenue fund established in §33-3-14(c) of this code.

10 (b) The State Office of the National Flood Insurance Program shall issue guidance and
11 instructions as necessary to administer the program effectively. The State Office of the National
12 Flood Insurance Program shall offer and conduct training as required by §15-5-20a of this code
13 and adopt adequate land use and development criteria that are consistent with the minimum
14 standards established by the National Flood Insurance Program. The State Office of the National
15 Flood Insurance Program shall be under the supervision of the Director of the Division of
16 Emergency Management who shall employ staff as needed to operate the program.

17 (c) The Director of the Division of Emergency Management may propose rules for
18 legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code as
19 necessary to administer the State Office of the National Flood Insurance Program and any of the
20 program's responsibilities. Any state-owned property located in a non-participating local

21 community shall be governed by rules proposed by the Director of the Division of Emergency
22 Management.

23 (d) The State Office of the National Flood Insurance Program, in consultation with the
24 Director of the Division of Emergency Management, and with the assistance of floodplain
25 managers around the state, shall develop and publish a strategic plan to establish shared goals,
26 define a path to meet those goals, and shall invite other governmental units to adopt these goals
27 and objectives. The strategic plan shall be initially presented by the Director of the Division of
28 Emergency Management to the State Resiliency Officer and to the State Resiliency Office Board
29 who shall review and approve the strategic plan, and that plan shall be so presented and approved
30 no less than biannually thereafter. The strategic plan shall be made available to the public.

31 (e) The State Office of the National Flood Insurance Program shall establish floodplain
32 management guidelines for any state property in special hazard areas which, at a minimum,
33 satisfy the criteria set forth in 44 CFR §§60.3, 60.4, and 60.5 (2022).

34 (f) Notwithstanding any other provision of this code to the contrary, the State Office of the
35 National Flood Insurance Program shall cooperate with the State Resiliency Office to the fullest
36 extent practicable to assist that office in fulfilling its duties.

CHAPTER 33. INSURANCE.

ARTICLE 2. INSURANCE COMMISSIONER.

§33-2-23. Transfer of assets of the State Office of the National Flood Insurance Program.

1 Effective July 1, 2022, the assets of the State Office of the National Flood Insurance
2 Program, which Office has been transferred to the Division of Emergency Management pursuant
3 to §15-5-20b of this code, are hereby assigned and transferred to the Division of Emergency
4 Management. The Director of the Division of Emergency Management may decline certain assets
5 from being transferred pursuant to this section if he or she believes the assets are unnecessary
6 for the proper operation of the State Office of the National Flood Insurance Program.

ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.

§33-3-14. Annual financial statement and premium tax return; remittance by insurer of premium tax, less certain deductions; special revenue funds created.

1 (a) Every insurer transacting insurance in West Virginia shall file with the commissioner,
2 on or before March 1, each year, a financial statement made under oath of its president or
3 secretary and on a form prescribed by the commissioner. The insurer shall also, on or before
4 March 1 of each year subject to the provisions of §33-3-14c of this code, under the oath of its
5 president or secretary, make a premium tax return for the previous calendar year on a form
6 prescribed by the commissioner showing the gross amount of direct premiums, whether
7 designated as a premium or by some other name, collected, and received by it during the previous
8 calendar year on policies covering risks resident, located, or to be performed in this state and
9 compute the amount of premium tax chargeable to it in accordance with the provisions of this
10 article, deducting the amount of quarterly payments as required to be made pursuant to the
11 provisions of §33-3-14c of this code, if any, less any adjustments to the gross amount of the direct
12 premiums made during the calendar year, if any, and transmit with the return to the commissioner
13 a remittance in full for the tax due. The tax is the sum equal to two percent of the taxable premium
14 and also includes any additional tax due under §33-3-14a of this code. All taxes, except those
15 received on write your own federal flood insurance premium taxes or private market flood
16 insurance premium taxes, received by the commissioner shall be paid into the insurance tax fund
17 created in §33-3-14(b) of this code.

18 (b) There is created in the State Treasury a special revenue fund, administered by the
19 treasurer, designated the "insurance tax fund". This fund is not part of the General Revenue Fund
20 of the state. It consists of all amounts deposited in the fund pursuant to §33-3-14(a), §33-3-14a,
21 §33-3-15, and §33-3-17 of this code, any appropriations to the fund, all interest earned from
22 investment of the fund, and any gifts, grants, or contributions received by the fund: *Provided*, That
23 this subsection shall not apply to funds received on federal flood insurance premium taxes or

24 private market flood insurance premium taxes, which are subject to §33-3-14(c) of this code. The
25 treasurer shall, no later than the last business day of each month, transfer amounts from the
26 insurance tax fund to the General Revenue Fund that the treasurer determines are not necessary
27 for making premium tax refunds under this article or §33-43-1 *et seq.* of this code.

28 (c) There is created in the State Treasury a special revenue fund, administered by the
29 treasurer, designated the “flood insurance tax fund”. This fund is not part of the General Revenue
30 Fund of the state. All taxes collected pursuant to §33-3-14(a) of this code from federal flood
31 insurance policy premium taxes or private market flood insurance premium taxes shall be
32 deposited into the flood insurance tax fund. The flood insurance tax fund shall contain collections,
33 any appropriations to the fund, and any gifts, grants, and contributions received. The Treasurer
34 shall distribute funds from the flood insurance tax fund for the operations and responsibilities of
35 the State Office of the National Flood Insurance Program, as provided in §15-5-20b of this code,
36 for activities that promote and enhance floodplain management issues, and for subgrants to local
37 units of government and other eligible entities after full consideration of the recommendations of
38 the Division of Emergency Management.

§33-3-14a. Additional premium tax.

1 For the purpose of providing additional revenue for the state General Revenue Fund, there is
2 hereby levied and imposed, in addition to the taxes imposed by §33-3-14 of this code, an additional
3 premium tax equal to one percent of taxable premiums. Except as otherwise provided in this section,
4 all provisions of this article relating to the levy, imposition, and collection of the regular premium tax
5 imposed by §33-3-14 of this code shall be applicable to the levy, imposition, and collection of the
6 additional tax imposed by this section. All moneys received from the additional tax imposed by this
7 section, less deductions allowed by this article or §33-43-1 *et seq.* of this code for refunds and for
8 costs of administration, shall be received by the commissioner and shall be paid by him or her into the
9 State Treasury in accordance with §33-3-14(b) of this code for the benefit of the General Revenue

10 Fund: *Provided*, That moneys received pursuant to this section pertaining to federal flood insurance
11 policy premium taxes or private market flood insurance premium taxes shall be deposited and
12 distributed in accordance with §33-3-14(c) of this code.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2022.

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Governor