

# WEST VIRGINIA LEGISLATURE

## 2024 REGULAR SESSION

Introduced

### House Bill 4409

FISCAL  
NOTE

By Delegate Mallow

[Introduced January 10, 2024; Referred  
to the Committee on Banking and Insurance then  
Finance ]

1 A BILL to amend and reenact §33-3-33 of the Code of West Virginia, 1931, as amended, relating to  
 2 the surcharge on fire and casualty insurance policies; providing that the surcharge be  
 3 increased to one percent; providing that the surcharge be used solely for volunteer fire  
 4 departments; and deleting obsolete language.

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

**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, or~~  
 5 ~~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, or~~  
 13 ~~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, for (a)(1) For the purpose of providing additional revenue for~~  
 16 ~~volunteer fire departments and part-volunteer fire departments, there is hereby authorized and~~  
 17 ~~imposed on the policyholder of any fire insurance policy or casualty insurance policy issued by any~~

18 insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to ~~fifty-~~  
19 ~~five one hundredths~~ of one percent of the taxable premium for each such policy.

20 (4) ~~(2)~~ For purposes of this section, casualty insurance may not include insurance on the  
21 life of a debtor pursuant to or in connection with a specific loan or other credit transaction or  
22 insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other  
23 credit transaction while the debtor is disabled as defined in the policy. The policy surcharge may  
24 not be subject to premium taxes, agent commissions or any other assessment against premiums.

25 (b) The policy surcharge shall be collected and remitted to the Commissioner by the  
26 insurer, or in the case of surplus lines coverage, by the surplus lines licensee, or if the policy is  
27 issued by a risk retention group, by the risk retention group. The amount required to be collected  
28 under this section shall be remitted to the Commissioner on a quarterly basis on or before the  
29 twenty-fifth day of the month succeeding the end of the quarter in which they are collected, except  
30 for the fourth quarter for which the surcharge shall be remitted on or before March 1 of the  
31 succeeding year.

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

37 (d)(1) All money from the policy surcharge shall be collected by the Commissioner who  
38 shall disburse the money received from the surcharge into a special account in the state Treasury,  
39 designated the Fire Protection Fund. The net proceeds of this portion of the tax and the interest  
40 thereon, after appropriation by the Legislature, shall be distributed quarterly on the first day of the  
41 months of January, April, July and October to each volunteer fire company or department on an  
42 equal share basis by the state Treasurer. ~~After June 30, 2005, the money received from the~~  
43 ~~surcharge shall be distributed as specified in subdivisions (2) and (3) of this subsection.~~

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

48 ~~(B) The remaining portion of moneys collected shall be transferred into the fund in the state~~  
49 ~~Treasury of the Public Employees Insurance Agency into which are deposited the proportionate~~  
50 ~~shares made by agencies of this state of the Public Employees Insurance Agency costs of those~~  
51 ~~agencies, until November 1, 2005. After the October 31, 2005, through December 31, 2005, the~~  
52 ~~remain portion shall be transferred to the special account in the state Treasury, known as the~~  
53 ~~Municipal Pensions and Protection Fund.~~

54 ~~(3) After December 31, 2005, all money from the policy surcharge shall be collected by the~~  
55 ~~Commissioner who shall disburse all of the money received from the surcharge into the Fire~~  
56 ~~Protection Fund for distribution as provided in subdivision (1) of this subsection~~

57 ~~(4) (2) Before each distribution date to volunteer fire companies or departments, the state~~  
58 ~~Fire Marshal shall report to the state Treasurer:~~

59 (A) The names and addresses of all volunteer and part-volunteer fire companies and  
60 departments within the state which meet the eligibility requirements established in §8-15-8a of this  
61 code during the preceding quarter;

62 (B) The number of volunteer firefighters and the number of full-time paid members  
63 providing services to each volunteer and part-volunteer fire company and department during the  
64 preceding quarter;

65 (C) A full accounting of each volunteer and part-volunteer fire company and department  
66 eligible to receive a distribution under this section's revenues and expenditures for the last two  
67 calendar years; and

68 (D) A list of each volunteer and part-volunteer fire company and department has  
69 implemented the State Auditor's West Virginia Checkbook fiscal reporting system on or before

70 January 1, 2026.

71 (e) Notwithstanding any other provision of this subsection, each volunteer and part-  
72 volunteer fire company and department shall implement the State Auditor's West Virginia  
73 Checkbook fiscal reporting system on or before January 1, 2026, in order to remain eligible to  
74 receive any funds pursuant to this section.

75 (f) The allocation, distribution and use of revenues provided in the Fire Protection Fund are  
76 subject to the provisions of §8-15-8a and §8-15-8b of this code.

NOTE: The purpose of this bill is to increase the fire and casualty insurance surcharge from .55 percent to one percent to be distributed solely to volunteer and part-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.