

FILED

2005 APR 21 P 4: 27

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
*Regular Session, 2005*

---

**ENROLLED**

SENATE BILL NO. 253

(By Senators Minerd and Sharpe )

---

PASSED April 7, 2005

In Effect July 1, 2005 Passage

FILED

2005 APR 21 P 4: 27

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

ENROLLED

## Senate Bill No. 253

(BY SENATORS MINARD AND SHARPE)

[Passed April 7, 2005; to take effect July 1, 2005.]

AN ACT to amend and reenact §33-43-7 of the Code of West Virginia, 1931, as amended, relating to late filings of tax returns to the Insurance Commissioner; permitting the Commissioner to waive or reduce the penalty; and establishing the standard for granting waiver or reduction.

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

That §33-43-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

### ARTICLE 43. INSURANCE TAX PROCEDURES ACT.

#### §33-43-7. Penalties.

- 1 (a) If any taxpayer fails to file a return by the applicable
- 2 filing date, then for each day throughout which the
- 3 taxpayer fails to file, the taxpayer is liable for a civil
- 4 penalty of twenty-five dollars: *Provided*, That the Com-
- 5 missioner may waive or reduce this penalty if the Commis-

6 sioner determines that the failure to timely file was caused  
7 by excusable neglect.

8 (b) If a taxpayer fails to pay a tax liability in full by the  
9 applicable payment date, then for each day throughout  
10 which a portion of the liability remains unpaid, the  
11 taxpayer is liable for a civil penalty in an amount equal to  
12 one percent of the unpaid portion: *Provided*, That the sum  
13 of the penalties imposed under this subsection may not  
14 exceed one hundred percent of the tax liability: *Provided*,  
15 *however*, That this penalty may be waived or reduced if  
16 the taxpayer establishes, to the satisfaction of the Com-  
17 missioner, that the failure upon which the penalty is based  
18 was not, in whole or in part, willful or due to the neglect  
19 of the taxpayer.

20 (c) The assessment of a penalty under this section is  
21 automatic unless a waiver or reduction of the penalty is  
22 agreed to by the Commissioner in writing.

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

*Chandey White*  
.....  
Chairman Senate Committee

*W. Rich Bean*  
.....  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 2005.

*Darrell Glavin*  
.....  
Clerk of the Senate

*Gregg M. Paul*  
.....  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
.....  
President of the Senate

*Robert D. 35*  
.....  
Speaker House of Delegates

The within *is approved* this the *21<sup>st</sup>*  
Day of *April*, 2005.

*[Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 15 2005

Time 12:15 p