WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2003

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2359

(By Mr. Speaker, Mr. Kiss)

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Passed February 28, 2003

In Effect July 1, 2003
AN ACT to amend and reenact sections twelve-b and twenty-two, article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the fire marshal fees fund; eliminating the transfer of ten percent of the fees collected by the state fire marshal to general revenue; and transferring a portion of the insurance company tax to the fund.

Be it enacted by the Legislature of West Virginia:

That sections twelve-b and twenty-two, article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:
ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-12b. Fees.

(a) The state fire marshal may establish fees in accordance with the following:

1. For blasting. — Any person storing, selling or using explosives shall first obtain a permit from the state fire marshal. The permit shall be valid for one year. The state fire marshal may charge a fee for the permit.

2. For inspections of schools or day-care facilities. — The state fire marshal may charge a fee of up to twenty-five dollars per annual inspection for inspection of schools or day-care facilities: Provided, That only one such fee may be charged per year for any building in which a school and a day-care facility are colocated: Provided, however, That any school or day care facility may not be charged for an inspection more than one time per twelve-month period.

3. For inspections of hospitals or nursing homes. — The state fire marshal may charge an inspection fee of up to one hundred dollars per annual inspection of hospitals or nursing homes: Provided, That any hospital or nursing home may not be charged for an inspection more than one time per twelve-month period.

4. For inspections of personal care homes or board and care facilities. — The state fire marshal may charge an inspection fee of up to fifty dollars per annual inspection for inspections of personal care homes or board and care facilities: Provided, That any personal care home or board and care facility may not be charged for an inspection more than one time per twelve-month period.
(5) For inspections of residential occupancies. — The state fire marshal may charge an inspection fee of up to one hundred dollars for each inspection of a residential occupancy. For purposes of this subdivision, “residential occupancies” are those buildings in which sleeping accommodations are provided for normal residential purposes.

(6) For inspections of mercantile occupancies. — The state fire marshal may charge an inspection fee of up to one hundred dollars for inspections of mercantile occupancies: Provided, That if the inspection is in response to a complaint made by a member of the public, the state fire marshal shall obtain from the complainant an advance inspection fee of twenty-five dollars. This fee shall be returned to the complainant if, after the state fire marshal has made the inspection, he or she finds that the complaint was accurate and justified, and he or she shall thereafter collect an inspection fee of up to one hundred dollars from the mercantile occupancy. If, after the inspection has been performed, it appears to the state fire marshal that the complaint was not accurate or justified, the state fire marshal shall keep the twenty-five dollar advance inspection fee obtained from the complainant and may not collect any fees from the mercantile occupant. For purposes of this section, “mercantile occupancy” includes stores, markets and other rooms, buildings or structures for the display and sale of merchandise.

(7) For business occupancies. — The state fire marshal may charge an inspection fee of up to one hundred dollars for inspections of business occupancies: Provided, That the provisions in subdivision (6) of this section shall apply regarding complaints by members of the public. For purposes of this section, “business occupancies” are those buildings used for the transaction of business, other than mercantile occupancies, for the keeping of accounts and records and similar purposes.
(8) For inspections of assembly occupancies. — The state fire marshal may charge an inspection fee not more than one time per twelve-month period for the inspection of assembly occupancies. The inspection fee shall be assessed as follows: For Class C assembly facilities, an inspection fee not to exceed fifty dollars; for Class B assembly facilities, an inspection fee not to exceed seventy-five dollars; and for Class A facilities, an inspection fee not to exceed one hundred dollars.

For purposes of this subdivision, an “assembly occupancy” includes, but is not limited to, all buildings or portions of buildings used for gathering together fifty or more persons for such purposes as deliberation, worship, entertainment, eating, drinking, amusement or awaiting transportation. For purposes of this section, a “Class C assembly facility” is one that accommodates fifty to three hundred persons; a “Class B facility” is one which accommodates more than three hundred persons but less than one thousand persons; and a “Class A facility” is one which accommodates more than one thousand persons.

(b) The state fire marshal may collect fees for the fire safety review of plans and specifications for new and existing construction. Fees shall be paid by the party or parties receiving the review.

(1) Structural barriers and fire safety plans review. — The fee is one dollar for each one thousand dollars of construction cost up to the first one million dollars. Thereafter, the fee is forty cents for each one thousand dollars of construction cost.

(2) Sprinkler system review. — The fee charged for the review of an individual sprinkler system is as follows: Number of heads: One to two hundred — eighty-five dollars; two hundred one to three hundred — one hundred dollars; three hundred one to seven hundred fifty — one hundred twenty
dollars; over seven hundred fifty — one hundred twenty dollars plus ten cents per head over seven hundred fifty.

(3) **Fire alarm systems review.** — The fee charged for the review of a fire alarm system is fifty dollars for each ten thousand square feet of space with a fifty dollar minimum charge.

(4) **Range hood extinguishment system review.** — The fee is twenty-five dollars per individual system reviewed.

(5) **Carpet specifications.** — The fee for carpet review and approval is twenty dollars per installation.

(c) All fees authorized and collected pursuant to this article and article three-b of this chapter shall be paid to the state fire commission and thereafter deposited into the special account in the state treasury known as the “fire marshal fees fund”. Expenditures from the fund shall be for the purposes set forth in this article and articles three-b and three-c of this chapter and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter five-a of this code. Any balance remaining in the special account at the end of any fiscal year shall be reappropriated to the next fiscal year.

(d) If the owner or occupant of any occupancy arranges a time and place for an inspection with the state fire marshal and is not ready for the occupancy to be inspected at the appointed time and place, the owner or occupant thereof shall be charged the inspection fee provided in this section unless at least forty-eight hours prior to the scheduled inspection the owner or occupant requests the state fire marshal to reschedule the inspection. In the event a second inspection is required by the state fire marshal as a result of the owner or occupant failing to
be ready for the inspection when the state fire marshal arrives, the state fire marshal shall charge the owner or occupant of the occupancy the inspection fees set forth above for each inspection trip required.

(e) The fees provided for in this section shall remain in effect until such time as the Legislature has approved rules promulgated by the state fire marshal, in accordance with the provisions of article three, chapter twenty-nine-a of this code, establishing a schedule of fees for services.

§29-3-22. Tax on insurance companies.

Every insurance company doing business in this state, except farmers’ mutual fire insurance companies, shall pay to the state insurance commissioner annually on or before the first day of March, in addition to the taxes now required by law to be paid by the companies, one half of one percent of the taxable premiums of the companies on insurance against the hazard of fire and on that portion of all other taxable premiums reasonably applicable to insurance against the hazard of fire which are included in other coverages, and received by it for insurance on property or risks in this state during the calendar year next preceding as shown by their annual statement under oath to the insurance department. The money so received by the state insurance commissioner is paid by him or her into the treasury and credited to the special revenue fund created in section twelve (b) of this article.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee
Larry

Chairman House Committee
Sharon Spencer

Originating in the House.

In effect July 1, 2003.

Clerk of the Senate
Darrell Espy

Clerk of the House of Delegates
Earl Ray Tomblin

President of the Senate

Speaker of the House of Delegates

The within is approved this the 4th day of March, 2003.

Governor
Bob Wise