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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SB 357

WEST VIRGINIA LEGISLATURE

Regular Session, 2004



ENROLLED

Committee Substitute for

SENATE BILL NO. 357

(By Senator Minard, et al)



PASSED March 11, 2004

In Effect from Passage

FILED

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OFFICE WEST VIRGINIA
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ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 357

(SENATORS MINARD, FANNING, PREZIOSO, UNGER,
BOLEY AND MINEAR, *original sponsors*)

[Passed March 11, 2006; in effect from passage.]

AN ACT to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, all relating generally to the promulgation of administrative rules by the Department of Revenue and the procedures relating thereto; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules as amended by the Legislature; authorizing certain of the

agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Insurance Commissioner to promulgate a legislative rule relating to unfair trade practices; authorizing the Insurance Commissioner to promulgate a legislative rule relating to licensing and conduct of individual insurance producers, agencies and solicitors; authorizing the Insurance Commissioner to promulgate a legislative rule relating to the West Virginia Essential Property Insurance Association; authorizing the Insurance Commissioner to promulgate a legislative rule relating to Medicare supplement insurance; authorizing the Insurance Commissioner to promulgate a legislative rule relating to nonrenewal of property insurance policies; authorizing the Insurance Commissioner to promulgate a legislative rule relating to private passenger automobile and property insurance - biannual rate filing requirements; authorizing the Insurance Commissioner to promulgate a legislative rule relating to replacement of life insurance policies and annuity contracts; authorizing the Racing Commission to promulgate legislative rule relating to greyhound racing; authorizing the Tax Commissioner to promulgate a legislative rule relating to business registration certificate - suspension for failure to pay personal property taxes; and authorizing the Tax Commissioner to promulgate a legislative rule relating to valuation of active and reserve coal for ad valorem property tax purposes.

Be it enacted by the Legislature of West Virginia:

That article 7, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF TAX AND REVENUE
TO PROMULGATE LEGISLATIVE RULES.**

§64-7-1. Insurance Commissioner.

- 1 (a) The legislative rule filed in the State Register on the
- 2 twenty-ninth day of July, two thousand five, authorized

3 under the authority of section ten, article two, chapter
4 thirty-three of this code and section four-a, article eleven
5 of said chapter, modified by the Insurance Commissioner
6 to meet the objections of the Legislative Rule-Making
7 Review Committee and refiled in the State Register on the
8 twentieth day of January, two thousand six, relating to the
9 Insurance Commissioner (unfair trade practices, 114 CSR
10 14), is authorized, with the following amendment:

11 On page two, subsection 2.3., by striking out the words
12 “for which premiums were paid by the claimant or on the
13 claimant’s behalf”;

14 On page two, subsection 2.8., by striking out the words
15 “for which premiums were not paid by the claimant or on
16 the his or her behalf”;

17 On page two, subsection 2.9., before the word “compen-
18 sation”, by inserting the word “the”;

19 On page three, subsection 4.4., by striking out the words
20 “in the policy or set” and, after the words “statute or”, by
21 inserting the word “legislative”;

22 On page five, subsection 6.1, by adding the following
23 sentence: ‘This section is not intended to conflict with the
24 statutory requirements of the Medical Professional
25 Liability Act, W. Va. Code §§55-7B-1 to -11, as the same
26 relate to the assertion and investigation of medical profes-
27 sional liability claims.’;

28 On page five, subsection 6.3, after the word ‘limits’ by
29 inserting the words “and, with respect to medical profes-
30 sional liability claims, subject to applicable statutory
31 requirements set forth in the Medical Professional Liabil-
32 ity Act, W. Va. Code §§55-7B-1 to -11,’

33 On page five, subdivision 6.4.b., after the word
34 “whether”, by striking out the words “or not”;

35 On page eight, by striking out subsection 6.17. in its
36 entirety and by renumbering the subsequent subsection;

37 On page eight, after subsection 6.18., by adding a new
38 subsection, designated subsection 6.18, to read as follows:

39 6.18. Motor vehicle repair shops. – An insurer may
40 furnish to the claimant the names of one or more conve-
41 niently located motor vehicle repair shops that will
42 perform the repairs; however no insurer may require the
43 claimant to use a particular repair shop or location to
44 obtain the repairs;

45 And,

46 On page eleven, subdivision 7.3., by striking out the
47 words “of the insurer’s choice” and inserting in lieu
48 thereof the words “recommended by the insurer”.

49 (b) The legislative rule filed in the State Register on the
50 twenty-ninth day of July, two thousand five, authorized
51 under the authority of section ten, article two, chapter
52 thirty-three of this code, modified by the Insurance
53 Commissioner to meet the objections of the Legislative
54 Rule-Making Review Committee and refiled in the State
55 Register on the twentieth day of January, two thousand
56 six, relating to the Insurance Commissioner (licensing and
57 conduct of individual insurance producers, agencies and
58 solicitors, 114 CSR 2), is authorized.

59 (c) The legislative rule filed in the State Register on the
60 twenty-ninth day of July, two thousand five, authorized
61 under the authority of section ten, article two, chapter
62 thirty-three of this code and section three, article twenty-a
63 of said chapter, relating to the Insurance Commissioner
64 (West Virginia Essential Property Insurance Association,
65 114 CSR 21), is authorized.

66 (d) The legislative rule filed in the State Register on the
67 twenty-ninth day of July, two thousand five, authorized
68 under the authority of section ten, article two, chapter
69 thirty-three of this code, section three-d, article sixteen of
70 said chapter and section five-b, article twenty-eight of
71 said chapter, relating to the Insurance Commissioner

72 (Medicare supplement insurance, 114 CSR 24), is autho-
73 rized.

74 (e) The legislative rule filed in the State Register on the
75 twenty-ninth day of July, two thousand five, authorized
76 under the authority of section ten, article two, chapter
77 thirty-three of this code and section four-a, article
78 seventeen-a of said chapter, relating to the Insurance
79 Commissioner (nonrenewal of property insurance policies,
80 114 CSR 74), is authorized.

81 (f) The legislative rule filed in the State Register on the
82 twenty-ninth day of July, two thousand five, authorized
83 under the authority of section four-a, article twenty,
84 chapter thirty-three of this code, relating to the Insurance
85 Commissioner (private passenger automobile and property
86 insurance - biannual rate filing requirements, 114 CSR 75),
87 is authorized.

88 (g) The legislative rule filed in the State Register on the
89 twenty-ninth day of July, two thousand five, authorized
90 under the authority of section five-a, article eleven,
91 chapter thirty-three of this code, modified by the Insur-
92 ance Commissioner to meet the objections of the Legisla-
93 tive Rule-Making Review Committee and refiled in the
94 State Register on the twentieth day of January, two
95 thousand six, relating to the Insurance Commissioner
96 (replacement of life insurance policies and annuity con-
97 tracts, 114 CSR 8), is authorized.

§64-7-2. Racing Commission.

1 The legislative rule filed in the State Register on the
2 twenty-ninth day of July, two thousand five, authorized
3 under the authority of section six, article twenty-three,
4 chapter nineteen of this code, modified by the Racing
5 Commission to meet the objections of the Legislative Rule-
6 Making Review Committee and refiled in the State Regis-
7 ter on the eighteenth day of January, two thousand six,
8 relating to the Racing Commission (greyhound racing, 178
9 CSR 2), is authorized, with the following amendment:

10 On page forty-two, subsection 51.6., by striking out the
11 words “were six (6) months of age. Provided, that effective
12 January 1, 2007, in order to participate in the West
13 Virginia Greyhound Breeding Development Fund, a
14 greyhound born on or after that date must be from a litter
15 that was whelped in the State of West Virginia and
16 remained domiciled in West Virginia at least until the
17 puppies”;

18 On page forty-three, subdivision 51.7.7., by striking out
19 the words “six consecutive months of occupancy in West
20 Virginia starting from the date of whelping. Provided that
21 effective January 1, 2007, with regard to a greyhound born
22 on or after that date, affirm that the greyhound was
23 whelped in West Virginia and that the greyhound was not
24 removed from West Virginia to a place outside West
25 Virginia at any time prior to the completion of”;

26 On page forty-three, subsection 51.7.8., by striking out
27 the words “six (6) months of age, it is the owner’s or the
28 lessee’s responsibility to notify the Racing Commission
29 within ten (10) days of removal and that any West Virginia
30 bred greyhound that is removed to a location outside of
31 West Virginia prior to the completion of six consecutive
32 months of occupancy in West Virginia starting from the
33 date of whelping shall be disqualified by the Racing
34 Commission from participation in the West Virginia
35 Greyhound Breeding Development Fund. Provided that
36 effective January 1, 2007, with regard to a greyhound born
37 on or after that date, affirm that the owner or lessee
38 further understands that if any West Virginia bred grey-
39 hound is removed from West Virginia prior to”;

40 On page forty-four, subdivision 51.7.11., after the words
41 “State for”, by striking out the word “at”;

42 On page forty-eight, table 51.4., paragraph 4, by striking
43 out the word “Virgjnia” and inserting in lieu thereof the
44 word “Virginia”;

45 On page forty-eight, table 51.4., paragraph 5, by striking
46 out the words "both bred and";

47 On page forty-eight, table 51.4., paragraph 5, by striking
48 out the words "six (6)" and inserting in lieu thereof the
49 words "twelve (12)";

50 On page forty-nine, table 51.5., paragraph 5, by striking
51 out the words "both bred and";

52 And,

53 On page forty-nine, table 51.5., paragraph 5, by striking
54 out the words "six (6)" and inserting in lieu thereof the
55 words "twelve (12)".

§64-7-3. Tax Commissioner.

1 (a) The legislative rule filed in the State Register on the
2 twenty-ninth day of July, two thousand five, authorized
3 under the authority of section five, article twelve, chapter
4 eleven of this code, modified by the Tax Commissioner to
5 meet the objections of the Legislative Rule-Making Review
6 Committee and refiled in the State Register on the twenti-
7 eth day of December, two thousand five, relating to the
8 Tax Commissioner (business registration certificate -
9 suspension for failure to pay personal property taxes, 110
10 CSR 12D), is authorized.

11 (b) The legislative rule filed in the State Register on the
12 twenty-ninth day of July, two thousand five, authorized
13 under the authority of section eleven, article one-a,
14 chapter eleven of this code, relating to the Tax Commis-
15 sioner (valuation of active and reserve coal property for ad
16 valorem property tax purposes, 110 CSR 1I), is authorized,
17 with the following amendment:

18 On page seventeen, subparagraph 4.2.3.16., by striking
19 out the words "that is above local drainage".

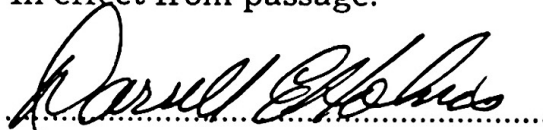
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee

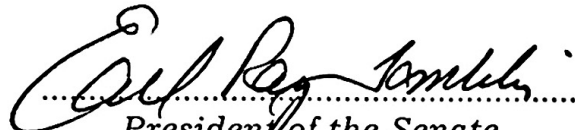

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Chairman House Committee


Originated in the Senate.

In effect from passage.


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Clerk of the Senate


.....
Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within *is approved* this the *4th*
Day of *April*, 2006.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 27 2006

Time 9:10am