WEST VIRGINIA CODE CHAPTER 51 ARTICLE 1A

WV Legislature

§51-1A-1. Definitions.

As used in this article:

(1) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States.

(2) "Tribe" means a native American tribe, band or village recognized by federal law or formally acknowledged by a state.

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§51-1A-2. Power to certify.

The Supreme Court of Appeals of West Virginia, on the motion of a party to a pending cause or its own motion, may certify a question of law to the highest court of another state or of a tribe or of Canada, a Canadian province or territory, Mexico or a Mexican state if:

(1) The pending cause involves a question to be decided under the law of the other state or of the tribe or of Canada, the Canadian province or territory, Mexico or the Mexican state;

(2) The answer to the question may be determinative of an issue in the pending cause; and

(3) The question is one for which no answer is provided by a controlling appellate decision, Constitutional provision or statute of the other state or of the tribe or of Canada, the Canadian province or territory, Mexico or the Mexican state.

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§51-1A-3. Power to answer.

The Supreme Court of Appeals of West Virginia may answer a question of law certified to it by any court of the United States or by the highest appellate court or the intermediate appellate court of another state or of a tribe or of Canada, a Canadian province or territory, Mexico or a Mexican state, if the answer may be determinative of an issue in a pending cause in the certifying court and if there is no controlling appellate decision, Constitutional provision or statute of this state.

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§51-1A-4. Power to amend question.

The Supreme Court of Appeals of West Virginia may reformulate a question certified to it.

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§51-1A-5. Certification order; record.

The court certifying a question shall issue a certification order and shall forward it to the designated receiving court. Before responding to a certified question, the receiving court may require the certifying court to deliver its record, or any portion of the record, to the receiving court.

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§51-1A-6. Contents of certification order.

(a) A certification order must contain:

(1) The question of law to be answered;

(2) The facts relevant to the question, showing fully the nature of the controversy out of which the question arose;

(3) A statement acknowledging that the receiving court may reformulate the question; and

(4) The names and addresses of counsel of record and unrepresented parties.

(b) If the parties cannot agree upon a statement of facts, then the certifying court shall determine the relevant facts and shall state them as a part of its certification order.

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§51-1A-7. Notice; preference.

The Supreme Court of Appeals of West Virginia, acting as the receiving court, shall notify the certifying court of its acceptance or rejection of the question; and in accordance with notions of comity and fairness, it shall respond to an accepted certified question as soon as practicable.

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§51-1A-8. Procedures.

After the Supreme Court of Appeals of West Virginia has accepted a certified question, proceedings are governed by the rules and statutes of this state governing briefs, arguments and other appellate procedures. Procedures for certification from this state to a receiving court shall be those provided in the rules and statutes of the receiving forum.

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§51-1A-9. Opinion.

The Supreme Court of Appeals of West Virginia shall state in a written opinion the law answering the certified question and send a copy of the opinion to the certifying court, to counsel of record and to unrepresented parties.

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§51-1A-10. Cost of certification.

Fees and costs are the same as in civil appeals docketed before the Supreme Court of Appeals of West Virginia and shall be equally divided between the parties unless otherwise ordered by the certifying court.

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§51-1A-11. Severability.

If any provision of this article or its application to any person, court or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

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§51-1A-12. Construction.

This article shall be construed as to effectuate its general purpose to make uniform the law of those jurisdictions which enact it.

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§51-1A-13. Short title.

This article may be cited as the "Uniform Certification of Questions of Law Act".

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