

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1972



ENROLLED

*Committee Substitute
for*

HOUSE BILL No. 667

(By Mr. *Stephan M. Seibert*)



PASSED March 11 1972

In Effect 90 days from Passage



FILED IN THE OFFICE
JOHN D. COCHRAN, IV
SECRETARY OF STATE
THIS DATE 3-29-72

667

ENROLLED

COMMITTEE SUBSTITUTE

FOR

House Bill No. 667

(By MR. STEPTOE and MR. SEIBERT)

(Originating in the House Committee on the Judiciary)

[Passed March 11, 1972; in effect ninety days from passage.]

AN ACT to amend and reenact section ten, article two, chapter two; section eight, article fourteen, chapter seven; section twelve, article fourteen, chapter eight; section seventeen, article fifteen, chapter eight; section twelve, article sixteen, chapter eleven; section five, article two, chapter fifteen; section one, article four-b, chapter sixteen; section two, article five-b, chapter sixteen; sections four and five, article nine, chapter sixteen; sections four and seven, article two, chapter seventeen-b; section ten, article eight, chapter eighteen; sections four and six, article seventeen, chapter eighteen; section nine, article twenty-three, chapter nineteen; section eight-a, article five-a, chapter twenty; sections one and three, article four, chapter twenty-seven; section one, article two, chapter thirty; section six, article four, chapter thirty; section five, article five, chapter thirty; section five, article six, chapter thirty; section five, article eight, chapter thirty; sections two and three, article nine, chapter thirty; section six, article ten, chapter thirty; section three, article eleven, chapter thirty; section three, article twelve, chapter thirty; section five, article thirteen-a, chapter thirty; section four, article four-

teen, chapter thirty; sections two and three, article fifteen, chapter thirty; section four, article sixteen, chapter thirty; section five, article seventeen, chapter thirty; section four, article twenty, chapter thirty; section seven, article twenty-one, chapter thirty; section six, article twenty-two, chapter thirty; section twelve, article one, chapter thirty-two; section two, article twelve, chapter thirty-three; sections nine and eleven, article one, chapter thirty-five; sections one, four and seven, article seven, chapter thirty-six; sections one and two, article four, chapter forty-one; section twelve, article five, chapter forty-one; section seven, article ten, chapter forty-four; section four, article twelve, chapter forty-seven; sections eight, twelve and twelve-a, article one, chapter forty-eight; section seven, article four, chapter forty-eight; section two, article two, chapter forty-nine; section one, article three, chapter forty-nine; section two, article five, chapter forty-nine; sections twenty and twenty-three, article four, chapter fifty; section one, article one, chapter fifty-two; section seven, article two, chapter fifty-five; section two, article one, chapter fifty-eight; section one, article two, chapter fifty-eight; section twenty-two, article three, chapter sixty; section twelve, article seven, chapter sixty and section two, article seven, chapter sixty-one, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend chapter two of said code by adding thereto a new article, designated article three, all relating to defining "under disability," "infant" and "minor" to include or mean persons under the age of eighteen years; relating to a misdescription in pleadings; relating to residency requirements for reinstatement as a municipal policeman under civil service; relating to preference for members of armed forces in applying for membership in the department of public safety; reducing from twenty-one to eighteen the age required for qualification as a deputy sheriff under civil service, municipal policeman under civil service, municipal fireman under civil service, holder of a license in connection with nonintoxicating beer, member of department of public safety, holder of a license to operate a hospital, voluntary water quality monitor, attorney, dentist, pharmacist, embalmer, funeral director,

optometrist, certified public accountant, public accountant, veterinarian, chiropodist-podiatrist, architect, land surveyor, osteopathic physician and surgeon, midwife, chiropractor, sanitarian, physical therapist, psychologist, landscape architect, security salesman, insurance agent, broker or solicitor, real estate broker, and person entitled to perform marriage ceremony; relating to sanitarians, physical therapists and psychologists generally; relating to the age required to consent to an autopsy of a deceased parent and to methods of consenting with respect to autopsies generally; relating to the age at which a person may possess or have sold or given to him cigarettes and other tobacco products and accessories; relating to the age for a chauffeur's license to drive particular vehicles; relating to proof of age before commissioner of motor vehicles; relating to age involving the deaf and blind; relating to fees and testing involving dentists; reducing from twenty-one to eighteen the age at which consent of others is necessary for voluntary hospitalization or release from a state mental hospital; relating to the age at which a member of a church or other religious body has the right to vote on selling, conveying or encumbering property thereof or preventing conveyances of or creation of liens on the same; relating to the age for betting at race tracks; defining a minor as a person who has not attained the age of eighteen years for purposes of the uniform gifts to minors act; reducing from twenty-one to eighteen the age at which, if he or his descendant die unmarried and without issue, a pretermitted or afterborn child's statutory share would revert to the persons to whom it was given by a will; relating to the age under which a person is under disability for the purpose of impeaching or establishing a will; relating to the age of a child at which a guardianship terminates; relating to the age of a child at which a consent of others is necessary before marriage; relating to the age at which one may be adopted as an adult; relating to the effect of reducing legal capacity from twenty-one to eighteen on limitation of actions; relating to the age of parent at which the consent of the judge of a court having jurisdiction of adoption proceedings is not necessary for such parent to give up his child for adoption;

relating to the age of child under jurisdiction of department of welfare; relating to the age at which a person is still subject to the jurisdiction of a juvenile court; relating to the age below which a party may not act as his own attorney before a justice of the peace; relating to the age below which a party to an action in a justice of the peace court must have a guardian appointed for him; relating to the age at which persons are first liable to serve as jurors; relating to the age when attained by a ward at which a right of action on his guardian's or curator's bond first accrues; relating to the age of a party at which a judgment or decree need not be arrested or reversed for appearance of such person by attorney; relating to the age after which an infant is allowed to show cause against a decree or order; relating to the age under which a person may not be sold or served any alcoholic liquors; relating to age at which sales may be permitted in private clubs; relating to prohibitions concerning private clubs; relating to the age one must attain to qualify for a license to carry a dangerous weapon; relating to pleading and practice and harmless errors; granting to persons eighteen years of age full capacity to conduct or deal in their own affairs, but providing several savings or limiting provisions; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That section ten, article two, chapter two; section eight, article fourteen, chapter seven; section twelve, article fourteen, chapter eight; section seventeen, article fifteen, chapter eight; section twelve, article sixteen, chapter eleven; section five, article two, chapter fifteen; section one, article four-b, chapter sixteen; section two, article five-b, chapter sixteen; sections four and five, article nine, chapter sixteen; sections four and seven, article two, chapter seventeen-b; section ten, article eight, chapter eighteen; sections four and six, article seventeen, chapter eighteen; section nine, article twenty-three, chapter nineteen; section eight-a, article five-a, chapter twenty; sections one and three, article four, chapter twenty-seven; section one, article two, chapter thirty; section six, article four, chapter thirty; section five, article five, chapter thirty; section five, article six, chapter thirty; section five, article eight,

chapter thirty; sections two and three, article nine, chapter thirty; section six, article ten, chapter thirty; section three, article eleven, chapter thirty; section three, article twelve, chapter thirty; section five, article thirteen-a, chapter thirty; section four, article fourteen, chapter thirty; sections two and three, article fifteen, chapter thirty; section four, article sixteen, chapter thirty; section five, article seventeen, chapter thirty; section four, article twenty, chapter thirty; section seven, article twenty-one, chapter thirty; section six, article twenty-two, chapter thirty; section twelve, article one, chapter thirty-two; section two, article twelve, chapter thirty-three; sections nine and eleven, article one, chapter thirty-five; sections one, four and seven, article seven, chapter thirty-six; sections one and two, article four, chapter forty-one; section twelve, article five, chapter forty-one; section seven, article ten, chapter forty-four; section four, article twelve, chapter forty-seven; sections eight, twelve and twelve-a, article one, chapter forty-eight; section seven, article four, chapter forty-eight; section two, article two, chapter forty-nine; section one, article three, chapter forty-nine; section two, article five, chapter forty-nine; sections twenty and twenty-three, article four, chapter fifty; section one, article one, chapter fifty-two; section seven, article two, chapter fifty-five; section two, article one, chapter fifty-eight; section one, article two, chapter fifty-eight; section twenty-two, article three, chapter sixty; section twelve, article seven, chapter sixty and section two, article seven, chapter sixty-one, all of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that chapter two of said code be amended by adding thereto a new article, designated article three, all to read as follows:

CHAPTER 2. COMMON LAW, STATUTES, LEGAL HOLIDAYS AND DEFINITIONS, LEGAL CAPACITY.

ARTICLE 2. LEGAL HOLIDAYS; CONSTRUCTION OF STATUTES; DEFINITIONS.

§2-2-10. Rules for construction of statutes.

- 1 The following rules shall be observed in the construc-
- 2 tion of statutes, unless a different intent on the part of
- 3 the Legislature be apparent from the context:

4 (a) A word importing the singular number only may
5 be applied to several persons or things, as well as to
6 one person or thing; a word importing the plural num-
7 ber only may be applied to one person or thing as well
8 as to several; and a word importing the masculine gen-
9 der only may be applied to females as well as males;

10 (b) Words purporting to give a joint authority to
11 three or more persons confer such authority upon a ma-
12 jority of them, and not upon any less number;

13 (c) The words "written" or "in writing" include any
14 representation of words, letters or figures, whether by
15 printing, engraving, writing or otherwise. But when
16 the signature of any person is required, it must be in
17 his own proper handwriting, or his mark, attested, proved,
18 or acknowledged;

19 (d) The words "preceding," "succeeding" or "follow-
20 ing" used in reference to any section or sections of a
21 chapter or statute, mean next preceding, next succeed-
22 ing or next following that in which such reference is
23 made, unless a different interpretation be required by
24 the context;

25 (e) An officer shall be deemed to have qualified when
26 he has done all that the law required him to do before
27 he proceeds to exercise the authority and discharge the
28 duties of his office;

29 (f) The words "the governor" are equivalent to "the
30 executive of the state" or "the person having the execu-
31 tive power";

32 (g) The word "justice" is equivalent to the words
33 "justice of the peace," and the word "notary," to "notary
34 public";

35 (h) The word "state," when applied to a part of the
36 United States and not restricted by the context, includes
37 the District of Columbia and the several territories, and
38 the words "United States" also include the said district
39 and territories;

40 (i) The word "person" or "whoever" shall include
41 corporations, societies, associations and partnerships, if
42 not restricted by the context;

43 (j) The words "personal representative" include the
44 executor of a will, the administrator of the estate of a
45 deceased person, the administrator of such estate with
46 the will annexed, the administrator de bonis non of such
47 estate, whether there be a will or not, the sheriff or other
48 officer lawfully charged with the administration of the
49 estate of a deceased person, and every other curator or
50 committee of a decedent's estate for or against whom
51 suits may be brought for causes of action which accrued
52 to or against such decedent;

53 (k) The word "will" embraces a testament, a codicil,
54 an appointment by will or writing in the nature of a
55 will in exercise of a power, also any other testamentary
56 disposition;

57 (l) The word "judgment" includes decrees and orders
58 for the payment of money or the conveyance or delivery
59 of land or personal property, or some interest therein, or
60 any undertaking, bond or recognizance which has the legal
61 effect of a judgment;

62 (m) The words "under disability" include persons
63 under the age of eighteen years, insane persons, and
64 convicts while confined in the penitentiary;

65 (n) The words "insane person" include everyone who
66 is an idiot, lunatic, non compos or deranged;

67 (o) The word "convict" means a person confined in
68 the penitentiary of this or any other state, or of the
69 United States;

70 (p) The word "land" or "lands" and the words "real
71 estate" or "real property" include lands, tenements and
72 hereditaments, and all rights therto and interests therein
73 except chattel interests;

74 (q) The words "personal estate" or "personal prop-
75 erty" include goods, chattels, real and personal, money,
76 credits, investments and the evidences thereof;

77 (r) The word "property" or "estate" embraces both
78 real and personal estate;

79 (s) The word "offense" includes every act or omission
80 for which a fine, forfeiture or punishment is imposed
81 by law;

82 (t) The expression "laws of the state" includes the
83 constitution of the state and the constitution of the United
84 States, and treaties and laws made in pursuance thereof;

85 (u) The word "town" includes a city, village or town,
86 and the word "council," any body or board, whether
87 composed of one or more branches, who are authorized
88 to make ordinances for the government of a city, town
89 or village;

90 (v) When a council of a town, city or village, or
91 any board, number of persons or corporations, are au-
92 thorized to make ordinances, bylaws, rules, regulations
93 or orders, it shall be understood that the same must be
94 consistent with the laws of this state;

95 (w) The words "county court" include any existing
96 tribunal created in lieu of a county court; the words
97 "commissioner of the county court" and "county commis-
98 sioner" mean, and have reference to, the commissioners,
99 or one of them, composing the county court, in pursuance
100 of section twenty-two, article eight of the constitution
101 as amended, or any existing tribunal created in lieu of
102 a county court;

103 (x) The word "horse" embraces a mare and a geld-
104 ing;

105 (y) The words "railroad" and "railway" shall be con-
106 strued by the courts of this state to mean the same thing
107 in law; and, in any proceeding wherein a railroad com-
108 pany or a railway company is a party, it shall not be
109 deemed error to call a railroad company a railway
110 company or vice versa; nor shall any demurrer,
111 plea or any other defense be set up to a mo-
112 tion, pleading or indictment in consequence of such
113 misdescription;

114 (z) The sectional headings or headlines of the several
115 sections of this code printed in black-faced type are in-
116 tended as mere catchwords to indicate the contents of
117 the section and shall not be deemed or taken to be titles
118 of such sections, or as any part of the statute, and, unless
119 expressly so provided, they shall not be so deemed when
120 any of such sections, including the headlines, are amended
121 or reenacted.

122 (aa) The words "infant" and "minor" mean persons
 123 under the age of eighteen years as such words are used
 124 in this code or in rules and regulations promulgated by
 125 the supreme court of appeals.

ARTICLE 3. LEGAL CAPACITY.

§2-3-1. Legal capacity; savings provisions.

1 After the effective date of this section, except as other-
 2 wise specifically provided in this code, no person who is
 3 eighteen years of age or older shall lack legal capacity,
 4 by reason of his age, to enter into contracts, sell or pur-
 5 chase real property, create a lien, execute any legal or
 6 other written instrument, prosecute or defend legal ac-
 7 tions or deal in his own affairs in any manner whatso-
 8 ever.

9 The provisions of this section, and the provisions of
 10 this act reducing various prescribed age requirements to
 11 eighteen years of age, shall not, however, affect any
 12 rights, duties, obligations or interests accruing or vesting
 13 by virtue of any statute, act, event, transaction, order,
 14 judgment or decree prior to the effective date of this act
 15 or any cause of action which arose or any civil action
 16 instituted prior to the effective date of this act, and any
 17 such right, duty, obligation, interest, cause of action or
 18 civil action may be enforced, exercised, enjoyed, ter-
 19 minated, discharged, consummated, prosecuted or main-
 20 tained with like effect as if this act had not been enacted.
 21 Moreover, the provisions of this section shall not affect
 22 any acts performed or transactions entered into by a per-
 23 son under the age of twenty-one years prior to the effec-
 24 tive date of this act, and under no circumstances what-
 25 ever shall any of the changes made by this act have any
 26 effect upon any of the terms or provisions of or any con-
 27 ditions imposed by any last will and testament, trust
 28 agreement or any other written instrument of any kind
 29 or character executed prior to the effective date of this
 30 section. No change in the general age of legal capacity
 31 or in the definitions of the words "under disability," "in-
 32 fant" or "minor" contained in section ten, article two of
 33 this chapter shall alter any statute of limitations as to

34 causes of action arising before the effective date of this
35 act.

ARTICLE 14. CIVIL SERVICE FOR DEPUTY SHERIFFS.

§7-14-8. Form of application; age requirements; exceptions.

1 The civil service commission in each such county shall
2 require persons applying for admission to any competi-
3 tive examination provided for under this article or under
4 the rules and regulations of the commission to file in its
5 office, within a reasonable time prior to the proposed
6 competitive examination, a formal application in which
7 the applicant shall state under oath or affirmation:

8 (1) His full name, residence and post-office address;

9 (2) His United States citizenship, age and the place
10 and date of his birth;

11 (3) His health and his physical capacity for the posi-
12 tion of deputy sheriff;

13 (4) His business, employments and residences for at
14 least three previous years; and

15 (5) Such other information as may reasonably be re-
16 quired, relative to the applicant's qualifications and fit-
17 ness for the position of deputy sheriff.

18 Blank forms for such applications shall be furnished
19 by the commission, without charge, to all persons re-
20 questing the same. The commission may require, in con-
21 nection with the application, such certificates of citizens,
22 physicians or others, having pertinent knowledge con-
23 cerning the applicant, as the good of the service may
24 require.

25 No application for original appointment shall be re-
26 ceived on and after the effective date of this article, if
27 the person applying is less than eighteen years of age
28 or more than forty-five years of age at the date of his
29 application: *Provided*, That in the event any applicant
30 formerly served as a deputy sheriff for a period of more
31 than six months in the county to which he makes ap-
32 plication, and resigned as a deputy sheriff at a time when
33 there were no charges of misconduct or other misfeasance
34 pending against him, within a period of two years next
35 preceding the date of his application, and at the time of

36 his application resides within the county in which he
37 seeks appointment by reinstatement, then such applicant
38 shall be eligible for appointment by reinstatement in the
39 discretion of the civil service commission, even though
40 such applicant shall be over the age of forty-five years,
41 provided he is not sixty-five years of age or over, and
42 such applicant, providing his former term of service as
43 a deputy sheriff so justifies, may be reappointed by rein-
44 statement without a competitive examination, but such
45 applicant shall undergo a medical examination; and if
46 such applicant shall be so appointed by reinstatement as
47 aforesaid, he shall be the lowest in rank in the sheriff's
48 office next above the probationers of the office.

**CHAPTER 8. MUNICIPAL LAW, MUNICIPALITIES AND
COUNTIES; INTERGOVERNMENTAL RELATIONS.**

**ARTICLE 14. LAW AND ORDER; POLICE FORCE OR DEPART-
MENTS; POWERS, AUTHORITY AND DUTIES OF
LAW-ENFORCEMENT OFFICIALS AND POLICE-
MEN; POLICE MATRONS; SPECIAL SCHOOL
ZONE AND PARKING LOT OR PARKING BUILD-
ING POLICE OFFICERS; CIVIL SERVICE FOR
CERTAIN POLICE DEPARTMENTS.**

**§8-14-12. Form of application; age and residency require-
ments; exceptions.**

1 The policemen's civil service commission in each Class
2 I and Class II city shall require individuals applying for
3 admission to any competitive examination provided for
4 under the civil service provisions of this article or under
5 the rules and regulations of said commission to file in its
6 office, within a reasonable time prior to the proposed ex-
7 amination, a formal application in which the applicant
8 shall state under oath or affirmation:

- 9 (1) His full name, residence and post-office address;
- 10 (2) His United States citizenship, age and the place
11 and date of his birth;
- 12 (3) His state of health and his physical capacity for
13 the public service;
- 14 (4) His business and employments and residences for
15 at least three previous years; and

16 (5) Such other information as may reasonably be re-
17 quired, touching upon the applicant's qualifications and
18 fitness for the public service.

19 Blank forms for such applications shall be furnished
20 by the commission, without charge, to all individuals re-
21 questing the same. The commission may require, in con-
22 nection with such application, such certificates of citi-
23 zens, physicians and others, having pertinent knowledge
24 concerning the applicant, as the good of the service may
25 require.

26 No application for original appointment shall be re-
27 ceived if the individual applying is less than eighteen
28 years of age or more than thirty-five years of age at the
29 date of his application: *Provided*, That in the event any
30 applicant formerly served upon the paid police depart-
31 ment of the city to which he makes application, for a
32 period of more than his probationary period, and re-
33 signed from the department at a time when there were
34 no charges of misconduct or other misfeasance pending
35 against such applicant, within a period of two years next
36 preceding the date of his application, and at the time of
37 his application resides within the corporate limits of the
38 city in which the paid police department to which he
39 seeks appointment by reinstatement is located, then such
40 individual shall be eligible for appointment by reinstate-
41 ment in the discretion of the policemen's civil service
42 commission, even though such applicant shall be over
43 the age of thirty-five years, and such applicant, providing
44 his former term of service so justifies, may be appointed
45 by reinstatement to the paid police department without
46 a competitive examination, but such applicant shall un-
47 dergo a medical examination; and if such individual shall
48 be so appointed by reinstatement to the paid police de-
49 partment, he shall be the lowest in rank in the depart-
50 ment next above the probationers of the department.

51 Any applicant for original appointment ~~or for rein-~~
52 ~~statement under the preceding proviso of this section~~
53 must have been a resident for one year, during some
54 period of time prior to the date of his application, of the
55 city in which he seeks to become a member of the paid
56 police department: *Provided*, That if the commission

65
C. J. ...
J. ...

Call for reinstatement under the preceding proviso of this section

57 deems it necessary it may consider for original appoint-
58 ment applicants who are not residents of the city but who
59 have been residents of the county in which the city or
60 any portion of the territory thereof is located for a period
61 of at least one year.

**ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPART-
MENTS; CIVIL SERVICE FOR PAID FIRE DEPART-
MENTS.**

**§8-15-17. Form of application; age and residency require-
ments; exceptions.**

1 The firemen's civil service commission in each municipi-
2 pality shall require individuals applying for admission
3 to any competitive examination provided for under the
4 civil service provisions of this article or under the rules
5 and regulations of the commission to file in its office,
6 within a reasonable time prior to the proposed examina-
7 tion, a formal application in which the applicant shall
8 state under oath or affirmation:

- 9 (1) His full name, residence and post-office address;
- 10 (2) His United States citizenship, age and the place
11 and date of his birth;
- 12 (3) His state of health, and his physical capacity for
13 the public service;
- 14 (4) His business and employments and residences for
15 at least three previous years; and
- 16 (5) Such other information as may reasonably be
17 required, touching upon the applicant's qualifications and
18 fitness for the public service.

19 Blank forms for such applications shall be furnished by
20 the commission, without charge, to all individuals request-
21 ing the same. The commission may require, in connection
22 with such application, such certificates of citizens, phy-
23 sicians and others, having pertinent knowledge concern-
24 ing the applicant, as the good of the service may require.

25 No application for original appointment shall be re-
26 ceived if the individual applying is less than eighteen
27 years of age or more than thirty-five years of age at the
28 date of his application: *Provided*, That in the event any
29 applicant formerly served upon the paid fire department

30 of the municipality to which he makes application, for a
31 period of more than six months, and resigned from the
32 department at a time when there were no charges of
33 misconduct or other misfeasance pending against such
34 applicant, within a period of two years next preceding
35 the date of his application, and at the time of his ap-
36 plication resides within the corporate limits of the munici-
37 pality in which the paid fire department to which he
38 seeks appointment by reinstatement is located, then such
39 individual shall be eligible for appointment by rein-
40 statement in the discretion of the firemen's civil service
41 commission, even though such applicant shall be over
42 the age of thirty-five years, and such applicant, providing
43 his former term of service so justifies, may be appointed
44 by reinstatement to the paid fire department without a
45 competitive examination, but such applicant shall un-
46 dergo a medical examination; and if such individual shall
47 be so appointed by reinstatement to the paid fire depart-
48 ment, he shall be the lowest in rank in the department
49 next above the probationers of the department.

50 Any applicant for original appointment must have
51 been a resident for one year, during some period of time
52 prior to the date of his application, of the municipality
53 in which he seeks to become a member of the paid fire
54 department: *Provided*, That if the commission deems it
55 necessary it may consider for original appointment ap-
56 plicants who are not residents of the municipality but
57 who have been residents of the county in which the
58 municipality or any portion of the territory thereof is
59 located for a period of at least one year.

CHAPTER 11. TAXATION.

ARTICLE 16. NONINTOXICATING BEER.

§11-16-12. Form of application for license; fee and bond; re- fusal of license.

1 A license may be issued by the commissioner to any
2 person who submits an application therefor, accompanied
3 by a license fee, and, where required, a bond, stating
4 under oath:

5 (a) The name and residence of the applicant, how
6 long he has resided there, that he has been a resident of
7 the state for a period of two years next preceding the
8 date of his application, that he is eighteen years of age,
9 and, if a firm, association, partnership or corporation,
10 the residence of the members or officers for a period of
11 two years next preceding the date of such application:
12 *Provided*, That if any person, firm, partnership, associa-
13 tion or corporation applies for a license as a distributor,
14 such person, or in the case of a firm, partnership, asso-
15 ciation, the members or officers thereof, shall state under
16 oath that he or they have been bona fide residents of
17 the state for four years preceding the date of such applica-
18 tion;

19 (b) The place of birth of applicant and that he is a
20 citizen of the United States and, if a naturalized citizen,
21 when and where naturalized; and, if a corporation, or-
22 ganized or authorized to do business under the laws of
23 the state, when and where incorporated, with the name
24 and address of each officer; that each officer is a citizen
25 of the United States and a person of good moral char-
26 acter; and if a firm, association or partnership, the place
27 of birth of each member of the firm, association or part-
28 nership, that each member is a citizen of the United
29 States and if a naturalized citizen, when and where
30 naturalized, each of whom must qualify and sign the
31 application: *Provided*, That the requirements as to
32 residence shall not apply to the officers of a corpora-
33 tion which shall apply for a Class B retailer's license,
34 but the officers, agent, or employee who shall manage
35 and be in charge of the licensed premises shall possess
36 all of the qualifications required of an individual applicant
37 for a retailer's license, including the requirement as to
38 residence;

39 (c) The particular place for which the license is de-
40 sired and a detailed description thereof;

41 (d) The name of the owner of the building and, if
42 the owner is not the applicant, that such applicant is
43 the actual and bona fide lessee of the premises;

44 (e) That the place or building in which it is proposed
45 to do business conforms to all laws of health and fire

46 regulations applicable thereto, and is a safe and proper
47 place or building, and is not within three hundred feet
48 of any school or church, measured from front door to
49 front door, along the street or streets: *Provided*, That
50 this requirement shall not apply to a Class B licensee,
51 or to any place now occupied by a beer licensee, so long
52 as it is continuously so occupied: *Provided, however*,
53 That the prohibition against locating any such proposed
54 business in a place or building within three hundred feet
55 of any school shall not apply to any college or university
56 that has notified the commissioner, in writing, that it
57 has no objection to the location of any such proposed
58 business in a place or building within three hundred
59 feet of such college or university;

60 (f) That the applicant has never been convicted of
61 a felony, or a violation of the liquor laws either federal
62 or state;

63 (g) That the applicant is the only person in any
64 manner pecuniarily interested in the business so asked
65 to be licensed, and that no other person shall be in any
66 manner pecuniarily interested therein during the con-
67 tinuance of the license;

68 (h) That the applicant has not during five years next
69 immediately preceding the date of said application had
70 a nonintoxicating beer license revoked, nor during the
71 same period been convicted of any criminal offense.

72 The foregoing provisions and requirements are man-
73 datory prerequisites for the issuance of a license, and in
74 the event any applicant fails to qualify under the same,
75 license shall be refused. In addition to the information
76 furnished in any application, the commissioner may make
77 such additional and independent investigation of each
78 applicant, and of the place to be occupied, as deemed
79 necessary or advisable; and for this reason each and
80 all applications, with license fee and bond, must be filed
81 thirty days prior to the beginning of any fiscal year,
82 and if application is for an unexpired portion of any
83 fiscal year, issuance of license may be withheld for such
84 reasonable time as necessary for investigation.

85 The commissioner may refuse a license to any applicant
86 under the provisions of this article if he shall be of
87 the opinion:

88 (a) That the applicant is not a suitable person to be
89 licensed; or,

90 (b) That the place to be occupied by the applicant
91 is not a suitable place; or is within three hundred feet
92 of any school or church, measured from front door to
93 front door along the street or streets: *Provided*, That
94 this requirement shall not apply to a Class B licensee,
95 or to any place now occupied by a beer licensee, so long
96 as it is continuously so occupied: *Provided, however*,
97 That the prohibition against locating any such place to
98 be occupied by an applicant within three hundred feet
99 of any school shall not apply to any college or university
100 that has notified the commissioner, in writing, that it
101 has no objection to the location of any such place within
102 three hundred feet of such college or university; or,

103 (c) That the license should not be issued for reason of
104 conduct declared to be unlawful by this article.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. DEPARTMENT OF PUBLIC SAFETY.

§15-2-5. Qualifications, appointment, initial grade and promotions of members.

1 Preference in making appointments shall be given
2 wherever possible to honorably discharged members of
3 the armed forces of the United States army and navy.
4 Each applicant for appointment shall be a person not
5 less than eighteen nor more than thirty years of age, of
6 sound constitution, of good moral character, and shall be
7 required to pass such mental and physical examinations
8 as may be provided for by the rules and regulations
9 promulgated by the retirement board provided for under
10 section twenty-seven of this article: *Provided*, That a
11 former member to whom, at or after termination of his
12 previous service, there were not refunded moneys con-
13 tributed by him to the retirement fund, may, at the discre-
14 tion of the superintendent, be again enlisted if upon sub-

15 tracting the period of his former service from the age of
16 such former member when he shall present himself to
17 the superintendent to be again enlisted shall leave a re-
18 mainder not exceeding thirty. The superintendent is au-
19 thorized to pay at public expense all reasonable fees and
20 costs incurred in the making of such examinations of ap-
21 plicants. No person shall be barred from becoming a
22 member of the department of public safety because of
23 his religious or political convictions.

24 No person shall be appointed or enlisted to member-
25 ship in the department at a grade or rank above the grade
26 of trooper and no trooper shall be promoted to any other
27 grade or rank until he shall have served at least two
28 years as a member of the department at the grade of
29 trooper.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 4B. AUTOPSIES ON BODIES OF DECEASED PERSONS.

§16-4B-1. Autopsy on body of deceased persons in interest of medical science; who may perform; consent re- quired; who may give consent.

1 In case of the death of any person in the state of West
2 Virginia, the attending physician, or if there be none, any
3 physician, if he deems it advisable in the interest of
4 medical science, may perform or cause to be performed
5 an autopsy on the body of such deceased person without
6 liability therefor, provided consent to such autopsy is first
7 obtained in writing or by telephone, if the telephone au-
8 thorization is verified by a second person, from (1) the
9 surviving spouse of deceased; (2) if there be no surviving
10 spouse, then any child of deceased over the age of eighteen
11 years: *Provided*, That the child's permission shall not be
12 valid, if any other child of the deceased over the age of
13 eighteen years objects prior to said autopsy and the objec-
14 tion shall be made known in writing to the physician who
15 is to perform the autopsy; (3) if there be no surviving
16 spouse, nor any child of deceased over the age of eighteen
17 years, then the mother or father of deceased; (4) if there
18 be no surviving spouse, nor any child over the age of eigh-

19 teen years, nor mother or father, then the duly appointed
20 and acting fiduciary of the estate of the deceased; or (5)
21 if there be no surviving spouse, nor any child over the age
22 of eighteen years, nor mother or father, nor duly appointed
23 and acting fiduciary of the estate of deceased, then the
24 person, firm, corporation or agency legally responsible for
25 the financial obligation incurred in disposing of the body
26 of deceased.

27 In the event the spouse, child or parent of deceased be
28 mentally incompetent then the person authorized to con-
29 sent to such autopsy shall be the next in the order of
30 priority hereinabove defined.

ARTICLE 5B. HOSPITALS AND SIMILAR INSTITUTIONS.

**§16-5B-2. Hospitals and institutions to obtain license; qualifi-
cations of applicant.**

1 No person, partnership, association, corporation, or
2 any local governmental unit or any division, department,
3 board or agency thereof may continue to operate an ex-
4 isting hospital, sanatorium or extended care facility op-
5 erated in connection with a hospital, or open a hospital,
6 sanatorium, or extended care facility operated in con-
7 nection with a hospital after July one, one thousand nine
8 hundred sixty-seven, unless such operation shall have
9 been approved and regularly licensed by the state as
10 hereinafter provided.

11 Before a license shall be issued under this article, the
12 person applying, if an individual, shall submit evidence
13 satisfactory to the state department of health that he is
14 not less than eighteen years of age, of reputable and re-
15 sponsible character, and otherwise qualified. In the event
16 the applicant is an association, corporation or govern-
17 mental unit, like evidence shall be submitted as to the
18 members thereof and the persons in charge. Every ap-
19 plicant shall, in addition, submit satisfactory evidence of
20 his ability to comply with the minimum standards and
21 with all rules and regulations lawfully promulgated here-
22 under.

ARTICLE 9. OFFENSES GENERALLY.

§16-9-4. Sale or gift of cigarette, cigarette paper, pipe or tobacco to person under eighteen; penalty.

1 No person, firm or corporation shall sell, give or furnish,
2 or cause to be sold, given or furnished, to any person
3 under the age of eighteen years, any cigarette, cigarette
4 paper, or any other paper prepared to be filled with
5 smoking tobacco for cigarette use, cigar, pipe or tobacco
6 in any form. Any person, firm or corporation violating
7 any of the provisions of this section shall be guilty of a
8 misdemeanor, and, upon a conviction thereof, shall be
9 fined not less than ten nor more than twenty-five dollars
10 for the first offense, and for each subsequent offense not
11 less than twenty-five nor more than three hundred dollars.

§16-9-5. Smoking or possession of cigarette or cigarette paper by person under eighteen; penalty; immunity.

1 No person under the age of eighteen years shall smoke,
2 or have about his person or premises, any cigarette or
3 cigarette paper or any other form prepared to be filled
4 with smoking tobacco for cigarette use. Any person
5 violating the provisions of this section shall be punished
6 by a fine of not exceeding five dollars: *Provided*, That
7 if any such person shall fully, freely and truthfully dis-
8 close the name of the person, firm or corporation from
9 whom he obtained any such cigarette or cigarette paper,
10 he shall be immune from further prosecution or punish-
11 ment for said offense.

**CHAPTER 17B. MOTOR VEHICLE OPERATORS' AND
CHAUFFEURS' LICENSES.**

**ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RE-
NEWAL.**

**§17B-2-4. Age limit for chauffeurs driving school buses and
transporting persons or property for compensa-
tion; issuance of chauffeur's license to licensees
under prior law.**

1 No person who is under the age of eighteen years shall
2 drive any school bus transporting school children or any

3 motor vehicle when in use for the transportation of per-
4 sons or property for compensation nor in either event
5 until he has been licensed as a chauffer for either such
6 purpose and the license so indicates. The department
7 shall not issue a chauffeur's license for either such pur-
8 pose unless the applicant has had at least one year of driv-
9 ing experience prior thereto.

10 Notwithstanding the provisions of this section, a per-
11 son who qualifies under all provisions of this chapter ex-
12 cept this section, and who at the time of the enactment
13 of this chapter possesses a valid chauffeur's license issued
14 under a prior act of the Legislature, may be issued a chauf-
15 feur's license as provided in section twelve of this article.

§17B-2-7. Examination of applicants.

1 (a) Upon the exhibiting by the applicant under the
2 age of eighteen years, of his or her birth certificate, or a
3 certified copy thereof, as evidence that the applicant is of
4 lawful age, the department of public safety shall exam-
5 ine every applicant for an operator's or chauffeur's li-
6 cense, except as otherwise provided in this section. Such
7 examination shall include a test of the applicant's eye-
8 sight, his ability to read and understand highway signs
9 regulating, warning, and directing traffic, his knowledge
10 of the traffic laws of this state, and shall include an ac-
11 tual demonstration of ability to exercise ordinary and rea-
12 sonable control in the operation of a motor vehicle, and
13 such further physical and mental examination as the
14 department of motor vehicles deems necessary to deter-
15 mine the applicant's fitness to operate a motor vehicle
16 safely upon the highways.

17 (b) The commissioner shall adopt and promulgate
18 regulations concerning the examination of applicants for
19 operator's and chauffeur's licenses and the qualifications
20 required of such applicants, and the examination of such
21 applicants by the department of public safety shall be in
22 accordance with such regulations.

CHAPTER 18. EDUCATION.

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-10. Compulsory education of deaf and blind; offenses; penalties; names of deaf and blind.

1 Every parent, guardian or other person having control
2 of any mentally normal minor over six years of age, who
3 is defective in sight or hearing to the extent that he can-
4 not be benefited by instruction in the public schools, shall
5 be required to send such minor to the West Virginia
6 schools for the deaf and the blind at Romney. Such minor
7 shall continue to attend such schools for a term of at least
8 thirty-six weeks each year until he has completed the
9 course of instruction prescribed for such schools by the
10 state board of education, or has been discharged by the
11 superintendent of said school.

12 Any such deaf or blind minor shall be exempt from
13 attendance at said schools for any of the following rea-
14 sons: (a) Instruction by a private tutor or in another
15 school approved by the state board of education for a time
16 equal to that required by the first paragraph of this sec-
17 tion; (b) physical incapacity for school work; (c) any
18 other reason deemed good and sufficient by the superin-
19 tendent of such schools, with the approval of the state
20 board of education.

21 Any parent, guardian or other persons in charge of such
22 minor or minors who fails or refuses to comply with the
23 requirements of this section shall be guilty of a misde-
24 meanor, and, upon conviction thereof, shall be fined not
25 less than ten nor more than thirty dollars for each offense.
26 Failure for the period of one week within the school year
27 to send such minor to school shall constitute an offense:
28 *Provided*, That the time necessary for such minor to travel
29 from his home to the school shall not be counted as time
30 absent from school.

31 Any person who induces or attempts to induce such
32 blind or deaf minor to absent himself from school, or who
33 employs or harbors such minor unlawfully, while said
34 school is in session, shall be guilty of a misdemeanor, and,

35 upon conviction thereof, shall be fined not less than twenty
36 nor more than fifty dollars for each offense.

37 It shall be the duty of school attendance directors and
38 assistants, prosecuting attorneys, and any special atten-
39 dance directors appointed by said school for the deaf and
40 blind to enforce the provisions of this section.

41 The county superintendent of schools shall furnish to
42 the superintendents of the state-supported schools for the
43 deaf and/or blind and to the state superintendent of
44 schools the names of persons in his county between the
45 ages of six and eighteen reported to him to be deaf and
46 blind with the names and addresses of their parents or
47 guardians.

**ARTICLE 17. WEST VIRGINIA SCHOOLS FOR THE DEAF AND
THE BLIND.**

§18-17-4. Period of attendance; special admissions.

1 The pupils of said schools may continue therein until
2 completion of the prescribed course of study, or a lesser
3 period of time which the condition and progress of the
4 pupil may justify, as determined by the state board of
5 education and the superintendent. After all applicants
6 between the prescribed ages of six and seventeen years,
7 inclusive, have been enrolled, if there are additional ac-
8 commodations, the superintendent may enroll other deaf
9 pupils and blind pupils who may be of suitable age to re-
10 ceive any advantage from the institution, and upon such
11 terms as the state board of education may prescribe; but
12 it shall be distinctly understood that such persons shall
13 withdraw from the institution in the order of their admis-
14 sion to make room for new applicants between the ages
15 prescribed.

§18-17-6. Registration of deaf and blind by assessors.

1 In addition to their other duties the county assessors
2 of the state are hereby required to register the names of
3 all deaf persons and blind persons under eighteen years
4 of age in their respective counties, with the degree and
5 cause of deafness and blindness in each case, as far as can
6 be ascertained from the heads of the families or from
7 other persons whom the county assessors may conveni-

8 ently consult, their ages, the names of their parents or
9 guardians, their post-office addresses, and such other facts
10 as may be useful in making the institution efficient in the
11 education of the deaf and of the blind. They shall com-
12 plete the registration on or before June one of each year
13 and forward their report to the state superintendent of
14 schools and to the superintendent of the West Virginia
15 schools for the deaf and the blind on or before July one
16 of each year. The superintendent shall immediately com-
17 municate with the parents or guardians of all the deaf
18 persons and the blind persons mentioned in the assessor's
19 report, with a view of their admission as pupils into said
20 schools.

CHAPTER 19. AGRICULTURE.

ARTICLE 23. HORSE RACING.

§19-23-9. Pari-mutuel system of wagering authorized; licensee authorized to deduct commissions from pari-mutuel pools; retention of breakage, auditing; minors.

1 (a) The pari-mutuel system of wagering upon the
2 results of any horse race at any horse race meeting con-
3 ducted or held by any licensee is hereby authorized, if
4 and only if such pari-mutuel wagering is conducted by
5 such licensee within the confines of such licensee's horse
6 racetrack, and the provisions of section one, article ten,
7 chapter sixty-one of this code, relating to gaming, shall
8 not apply to the pari-mutuel system of wagering in man-
9 ner and form as provided for in this article at any horse
10 race meeting within this state where horse racing shall
11 be permitted for any purse by any licensee. A licensee
12 shall permit or conduct only the pari-mutuel system of
13 wagering within the confines of such licensee's horse race-
14 track at which any horse race meeting is conducted or
15 held.

16 (b) A licensee is hereby expressly authorized to de-
17 duct a commission from the pari-mutuel pools, as fol-
18 lows:

19 (1) The commission deducted by any licensee from
20 the pari-mutuel pools on thoroughbred racing shall not

21 exceed sixteen percent of the total of such pari-mutuel
22 pools for the day. Out of such commission, the licensee
23 shall pay the pari-mutuel pools tax provided for in sub-
24 section (b), section ten of this article, and shall deposit
25 one percent of such commission in a special fund to be
26 established by the licensee and to be used for the aug-
27 mentation of the regular purses offered by the licensee.
28 The remainder of the commission shall be retained by
29 the licensee.

30 (2) The commission deducted by any licensee from
31 the pari-mutuel pools on harness racing shall not exceed
32 seventeen percent of the total of such pari-mutuel pools
33 for the day. Out of such commission, the licensee shall
34 pay the pari-mutuel pools tax provided for in subsection
35 (c), section ten of this article. The remainder of the com-
36 mission shall be retained by the licensee.

37 (c) In addition to any such commission, a licensee
38 shall also be entitled to retain the legitimate breakage,
39 which shall be made and calculated to the dime.

40 (d) The director of audit, and any other auditors em-
41 ployed by the racing commission who shall also be cer-
42 tified public accountants or experienced public accoun-
43 tants, shall have free access to the space or enclosure
44 where the pari-mutuel system of wagering is conducted
45 or calculated at any horse race meeting for the purpose
46 of ascertaining whether or not the licensee is deducting
47 and retaining only a commission as provided in this sec-
48 tion and is otherwise complying with the provisions of
49 this section. They shall also, for the same purposes only,
50 have full and free access to all records and papers per-
51 taining to such pari-mutuel system of wagering, and shall
52 report to the racing commission in writing, under oath,
53 whether or not the licensee has deducted and retained
54 any commission in excess of that permitted under the
55 provisions of this section or has otherwise failed to com-
56 ply with the provisions of this section.

57 (e) No licensee shall permit or allow any individual
58 under the age of eighteen years to wager at any horse
59 racetrack, knowing or having reason to believe that such
60 individual is under the age of eighteen years.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 5A. WATER POLLUTION CONTROL ACT.

§20-5A-8a. Voluntary water quality monitors; appointment; duties; compensation.

1 The chief is hereby authorized to appoint voluntary
2 water quality monitors to serve at the will and pleasure
3 of the chief. All such monitors appointed pursuant hereto
4 shall be eighteen years of age or over and shall be bona
5 fide residents of this state.

6 Such monitors are authorized to take water samples of
7 the waters of this state at such times and at such places
8 as the chief shall direct and to forward such water samples
9 to the chief for analysis.

10 The chief is authorized to provide such monitors with
11 such sampling materials and equipment as he deems nec-
12 essary: *Provided*, That such equipment and materials shall
13 at all times remain the property of the state and shall be
14 immediately returned to the chief upon his direction.

15 Such monitors shall not be construed to be employees
16 of this state for any purpose except that the chief is
17 hereby authorized to pay such monitors a fee not to ex-
18 ceed fifty cents for each sample properly taken and for-
19 warded to him as hereinabove provided.

20 The chief shall conduct schools to instruct said moni-
21 tors in the methods and techniques of water sample tak-
22 ing and issue to said monitors an identification card or
23 certificate showing their appointment and training.

24 Upon a showing that any water sample as herein pro-
25 vided was taken in conformity with standard and recog-
26 nized procedures, such sample shall be admissible in any
27 court of this state for the purpose of enforcing the pro-
28 visions of this article.

CHAPTER 27. MENTALLY ILL PERSONS.

ARTICLE 4. VOLUNTARY HOSPITALIZATION.

§27-4-1. Authority to receive voluntary patients.

1 The superintendent of a state hospital, subject to the
2 availability of suitable accommodations, and subject

3 further to the rules and regulations promulgated by the
4 director of mental health, shall admit for diagnosis, care
5 and treatment any individual:

6 (1) Over eighteen years of age who is mentally ill,
7 mentally retarded or who has symptoms of mental illness
8 or mental retardation and makes application for hospi-
9 talization; or

10 (2) Under eighteen years of age who is mentally ill
11 or mentally retarded or who has symptoms of mental
12 illness or mental retardation and there is application
13 therefor in his behalf (a) by the parents of such per-
14 son, or (b) if only one parent is living, then by
15 such parent, or (c) if the parents be living separate and
16 apart, by the one to whom was awarded the custody of
17 such person, or (d) if there is a guardian entitled to
18 the custody of such person, then by such guardian.

§27-4-3. Right to release on application.

1 A voluntary patient who requests his release or whose
2 release is requested in writing, by his parents, parent,
3 guardian, spouse, or adult next of kin shall be released
4 forthwith except that:

5 (1) If the patient was admitted on his own applica-
6 tion and the request for release is made by a person
7 other than the patient, release shall be conditioned upon
8 the agreement of the patient thereto;

9 (2) If the patient is under eighteen years of age, his
10 release prior to becoming eighteen years of age may be
11 conditioned upon the consent of the person or persons
12 who applied for his admission;

13 (3) If, within ninety-six hours of the receipt of the
14 request, the superintendent of the state hospital in which
15 the patient is confined files with the clerk of the county
16 court of the county in which the patient is a resident,
17 or the clerk of the county court of the county where the
18 hospital is situated, an application for involuntary hos-
19 pitalization as provided in section four, article five of
20 this chapter, release may be postponed pending a de-
21 cision on the application by the mental hygiene com-
22 mission.

23 Notwithstanding any other provision of this chapter,
24 legal proceedings for hospitalization shall not be com-
25 menced with respect to a voluntary patient unless re-
26 lease of the patient has been requested by him or the
27 individual or individuals who applied for his admission.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 2. ATTORNEYS AT LAW.

§30-2-1. Certificate of good moral character; examination of applicants for license; licenses; diploma privilege of graduates of West Virginia college of law.

1 Any person desiring to obtain a license to practice law
2 in the courts of this state shall appear before the circuit
3 court of the county in which he has resided for the last
4 preceding year and prove to the satisfaction of such
5 court, or to the satisfaction of a committee of three at-
6 torneys practicing before such court, appointed by the
7 court, that he is a person of good moral character, that
8 he is eighteen years of age, and that he has resided in
9 such county for one year next preceding the date of his
10 appearance; and upon the presentation of such proof, the
11 court shall enter an order on its record accordingly. The
12 supreme court of appeals shall prescribe and publish
13 rules and regulations for the examination of all appli-
14 cants for admission to practice law, which shall include
15 the period of study and degree of preparation required
16 of applicants previous to being admitted, as well as the
17 method of examinations, whether by the court or other-
18 wise. And the supreme court of appeals may, upon the
19 production of a duly certified copy of the order of the
20 circuit court, hereinbefore mentioned, and upon being
21 satisfied that the applicant has shown, upon an exami-
22 nation conducted in accordance with such rules and
23 regulations, that he is qualified to practice law in the
24 courts of this state, and upon being further satisfied that
25 such rules and regulations have been complied with in
26 all respects, grant such applicant a license to practice law
27 in the courts of this state, and such license shall show
28 upon its face that all the provisions of this section and

29 of the said rules have been complied with: *Provided*,
 30 That any person who shall produce a duly certified copy
 31 of such order of the circuit court, and also a diploma of
 32 graduation from the college of law of West Virginia
 33 University, shall, upon presentation thereof in any of
 34 the courts of this state, be entitled to practice in any
 35 and all courts of this state, and the order so admitting
 36 him shall state the facts pertaining to the same.

**ARTICLE 4. DENTISTS, DENTAL HYGIENISTS AND DENTAL
 CORPORATIONS.**

**§30-4-6. Qualifications of applicant for license; examinations;
 examination fee; licensing.**

1 An applicant for a dental license shall be of good moral
 2 character, a citizen of the United States or an individual
 3 who has declared his intention to become and who shows
 4 progress toward becoming a citizen of the United States,
 5 at least eighteen years of age at the time of making
 6 application, and be a graduate of, and possess an accep-
 7 table dental diploma from the faculty of a dental school
 8 approved by the board. The board may require the ap-
 9 plication to be accompanied by sufficient evidence of these
 10 qualifications.

11 The applicant shall transmit with his application an
 12 examination fee of thirty-five dollars, which sum the board
 13 is authorized to expend in an investigation of the appli-
 14 cant's qualifications. No portion of this fee is refundable.

15 An applicant whose application has been accepted by the
 16 board shall be given an examination on subjects selected
 17 by the board from among those currently being taught
 18 in approved dental schools which shall test the quali-
 19 fications of the applicant to practice dentistry. The test-
 20 ing body for such examinations shall be decided by the
 21 board under rules and regulations promulgated by it.

22 The board may recognize a certificate granted by the
 23 national board of dental examiners in lieu of the written
 24 portion of the required examination.

25 An applicant obtaining a satisfactory grade on such
 26 examination and otherwise fulfilling the requirements of
 27 the board shall be granted a license by the board to prac-

28 tice dentistry, which license shall bear a serial number,
29 the full name of the licensee, the date of issuance of the
30 license, the seal of the board and the signatures of a
31 majority of the members of the board.

32 The board shall not issue a license to any person found
33 guilty of cheating, deception or fraud in the examination
34 or on any part of the application. All manuscripts used
35 in any examination and all applications for licensure shall
36 be filed for a period of two years by the secretary of the
37 board for the purpose of reference and inspection.

**ARTICLE 5. PHARMACISTS, ASSISTANT PHARMACISTS AND
DRUGSTORES.**

**§30-5-5. Qualifications for registration as pharmacist; certifi-
cates of registration.**

1 In order to be registered as a pharmacist within the
2 meaning of this article, a person shall be a citizen of the
3 United States, not less than eighteen years of age, shall
4 present to the board of pharmacy satisfactory evidence
5 that he is a graduate of a recognized school of pharmacy
6 as defined by the board of pharmacy, and in addition
7 thereto he shall have had at least one year of practical
8 experience in a pharmacy or drugstore under the in-
9 struction and supervision of a registered pharmacist and
10 shall pass satisfactorily an examination by or under the
11 direction of the board of pharmacy. Each application for
12 examination must be accompanied by a fee of fifty dollars
13 and the same forwarded to the secretary according to law.

14 Every applicant for registration as a pharmacist shall
15 present to the board of pharmacy satisfactory evidence
16 that he is a person of good moral character and not ad-
17 dicted to drunkenness or the use of narcotic drugs. The
18 board shall issue certificates of registration to all persons
19 who successfully pass the required examination and are
20 otherwise qualified, and to all those whose certificates or
21 licenses the board shall accept in lieu of an examination
22 as provided in the next succeeding section.

ARTICLE 6. EMBALMERS AND FUNERAL DIRECTORS.

§30-6-5. Embalmers and funeral directors to be licensed; qualifications and requirements for license; advertising; renewal of license; registration as apprentice; courtesy cards.

1 No person shall engage in or hold himself out as en-
2 gaging in, or discharge any of the duties of the business
3 or profession of embalming, or preserving in any manner
4 dead human bodies in this state, whether for himself
5 or in the employ of another, unless he holds an embal-
6 mer's license issued to him by the board, and shall at
7 the date of its issuance have complied with the provisions
8 of this article.

9 No person shall engage in, or hold himself out as en-
10 gaging in, or discharge any of the duties of the business
11 or profession of funeral directing in this state, unless he
12 holds a funeral director's license issued to him by the
13 board, and shall at the date of its issuance have complied
14 with the provisions of this article, or conduct a funeral
15 unless he be a licensed funeral director.

16 No person shall be entitled to an embalmer's license
17 unless he:

- 18 (1) Is eighteen years of age or over;
- 19 (2) A citizen of the United States;
- 20 (3) Of good moral character and temperate habits;
- 21 (4) Holds a high school diploma or its equivalent;
- 22 (5) Has had not less than sixty hours' credit of edu-
23 cational training in an accredited university or college,
24 such credit shall be in such subjects only as are recog-
25 nized in the university or college where taken, as credit
26 toward a baccalaureate degree;
- 27 Has completed a one-year course of apprenticeship
28 under the supervision of a licensed embalmer actively
29 and lawfully engaged in the practice of embalming in
30 this state, such apprenticeship to consist of diligent at-
31 tention to the work in the course of regular and steady
32 employment and not as a side issue to another employ-
33 ment, and under which said apprenticeship he shall have
34 taken an active part in the operation of embalming not

35 less than twenty-five dead human bodies, under the su-
36 pervision of a licensed embalmer;

37 (7) Possesses a diploma of graduation from a school
38 of embalming which requires as a prerequisite to gradua-
39 tion the completion of a course of study not less than
40 twelve months' duration, and which said school of em-
41 balming must be one duly approved by the board;

42 (8) Passes such examination as the board shall deem
43 necessary to ascertain his qualification and ability to
44 engage in the practice of embalming.

45 The board shall issue licenses separately to embalmers
46 and to funeral directors.

47 An applicant for a funeral director's license must fur-
48 nish satisfactory proof to the board that his business or
49 profession of funeral directing is to be conducted in a
50 fixed place or establishment equipped for the care and
51 preparation for burial or disposition of dead human
52 bodies. What shall be deemed "necessary equipment"
53 shall be defined in the rules and regulations of the board,
54 the same to be in compliance with the public health laws
55 of the state or the rules of the state board of health of
56 West Virginia. This shall not be so construed as to
57 deny an applicant for a funeral director's license such
58 a license because he is not the owner, or part owner, of
59 an establishment or proposed funeral business.

60 Licenses issued under the provisions of this article
61 shall not be transferable or assignable.

62 No person shall be eligible to receive a license as a
63 funeral director unless he:

64 (1) Holds an embalmer's license issued by this board;

65 (2) Has been duly registered with the board as an
66 apprentice;

67 (3) Has served not less than a one-year apprenticeship
68 under the personal supervision of a licensed funeral
69 director actively and lawfully engaged in the business or
70 profession of funeral directing in this state, such ap-
71 prenticeship to consist of diligent attention to the work
72 in the course of regular and steady employment and not
73 as a side issue to another employment.

74 All funeral homes or establishments or any other places
75 pertaining to funeral directing or the conducting of

76 funerals, shall display in all advertising the name of the
77 licensed funeral director who is actually in charge of
78 the establishment. All branch establishments must dis-
79 play the name of the funeral director who is actually in
80 charge. At least one licensed funeral director shall su-
81 pervise each main establishment and at least one licensed
82 funeral director shall directly supervise each branch es-
83 tablishment.

84 No licensed funeral director or licensed embalmer
85 shall be permitted to register or have registered more
86 than five apprentices under his license at the same time.

87 Any person now holding a license as an embalmer,
88 funeral director, or assistant funeral director, shall not
89 be required to make a new application, or submit to an
90 examination, but shall, upon the payment of the fee
91 therefor, be entitled to a renewal of his license upon the
92 terms and conditions herein provided for the renewal of
93 licenses of those who may be licensed after the effective
94 date of this article, but all such persons shall be sub-
95 ject to every provision of this article, and such rules and
96 regulations as the board may adopt in pursuance of this
97 article.

98 No person shall be registered as an apprentice funeral
99 director or apprentice embalmer unless he is eighteen
100 years of age, or over, a citizen of the United States, of
101 good moral character and temperate habits, and the holder
102 of a high school diploma or its equivalent.

103 The board may issue annual nonrenewable courtesy
104 cards to licensed funeral directors and licensed embal-
105 mers of the states bordering on West Virginia, upon ap-
106 plication for same made on form prescribed by the board.
107 The annual fee for such courtesy cards shall be twenty-
108 five dollars and said fee shall be paid at the time appli-
109 cation is made therefor. Applications for said courtesy
110 cards shall be approved by the board before the same
111 may be issued, and said courtesy cards shall be issued
112 under the following conditions: Holders of courtesy
113 cards shall not be permitted to open or operate a place
114 of business for the purpose of conducting funerals or
115 embalming bodies in the state of West Virginia, nor shall
116 they be permitted to maintain an office or agency in this

117 state. A violation of this section shall be sufficient cause
118 for the board to revoke or cancel the courtesy card of
119 the violator.

ARTICLE 8. OPTOMETRISTS.

§30-8-5. Qualifications of applicant for registration; examination.

1 An applicant for registration shall present satisfactory
2 evidence that he is at least eighteen years of age, of good
3 moral character and temperate habits, and has graduated
4 from a high school or secondary school, or has completed
5 an equivalent course of study approved by the West
6 Virginia board of optometry, and has graduated from a
7 school or college of optometry approved by said board.
8 No school or college of optometry shall be approved by
9 the board unless it has a minimum requirement of a
10 course of study of two thousand clock hours, distributed
11 over two school years of eight months' duration each. The
12 examination shall cover such subjects as the anatomy of
13 the eyes, the use of the ophthalmoscope, retinoscope,
14 ophthalmometer, and trial lenses, the general laws of
15 optics and refraction, and such other subjects as the board
16 may deem proper. If the applicant successfully passes
17 such examination, and is otherwise qualified, the board
18 shall register him as a duly qualified optometrist, and
19 shall issue to him a certificate of registration authorizing
20 him to practice optometry in this state.

ARTICLE 9. ACCOUNTANTS.

§30-9-2. Certified public accountants; requirements for certification; use of title "certified public accountant"; applicability of article to previous holders of certificates.

1 The certificate of "certified public accountant" shall be
2 granted by the board to any person:
3 (1) Who is a citizen of the United States or who has
4 duly declared his intention of becoming such citizen, and
5 who is domiciled in the state of West Virginia, or has a
6 place of business therein at the time of making applica-
7 tion;

8 (2) Who is over the age of eighteen years;

9 (3) Who is of good moral character;

10 (4) Who is a graduate of a high school with a four-
11 year course, or who, in the opinion of the board, has had
12 equivalent education;

13 (5) Who shall have for at least two years preceding
14 the date of his application been engaged in practice as
15 a public accountant or shall have been employed as a
16 staff accountant of a practicing certified public accoun-
17 tant or public accountant; or who shall have been actively
18 employed for at least four years preceding the date of
19 his application by the United States treasury department
20 as an internal revenue agent; or who shall have been
21 actively employed for at least four years preceding the
22 date of his application by any federal or state super-
23 visory agency or instrumentality as an auditor or ex-
24 aminer, whose duties entail the audit or verification of
25 accounts and records and the preparation, based thereon,
26 of reports to such agency or instrumentality for the pur-
27 poses of supervision or regulation: *Provided*, That the
28 experience required in this subsection shall include the
29 preparation of balance sheets and operating statements
30 from general books, or who, in the opinion of the board,
31 has had experience equivalent to that required in the
32 foregoing, and the board shall recognize that the equival-
33 ent experience may be obtained independently of em-
34 ployment with a practicing certified public accountant,
35 public accountant, the United States treasury department,
36 or any federal or state supervisory agency or instrumen-
37 tality, as hereinabove set forth; and,

38 (6) Who has passed an examination in theory of ac-
39 counts, accounting practice, auditing, commercial law
40 and/or such other related subjects as the board may deem
41 advisable. All matters relating to the examination and
42 certification of applicants for the certificate of certified
43 public accountant shall be handled by only those mem-
44 bers of the state board of accountancy who are holders
45 of a certificate of certified public accountant.

46 No applicant shall be examined in the subjects stated
47 in subsection (6) until the board shall have been satis-

48 fied in respect to the requirements stated in subsections
49 (1) to (5), inclusive, except, however, that any person
50 possessing the necessary qualifications, except the prac-
51 tical experience, who has completed an accountancy
52 course in a university or college of recognized standing,
53 or graduated from an accountancy school acceptable to
54 the board, may be examined in the subjects specified in
55 subsection (6) and upon receiving a satisfactory grade
56 shall be granted the certificate of certified public accoun-
57 tant.

58 Five years after the enactment of this article the edu-
59 cational requirement for taking the examination for a
60 certificate shall be a degree or certificate conferred by a
61 college, university or other educational institution ap-
62 proved by the board, with a major in accounting, or what
63 the board determines to be the equivalent of the fore-
64 going, or with a nonaccounting major supplemented by
65 what the board determines to be the equivalent of an
66 accounting major, including related courses in all areas
67 of business administration: *Provided*, That this require-
68 ment shall not apply to persons duly registered as public
69 accountants before January first, one thousand nine hun-
70 dred sixty.

71 Any person who has received from the board a certifi-
72 cate as a certified public accountant shall be designated
73 and known as a certified public accountant; and every
74 person holding such certificate, and every copartnership
75 of accountants in which all members practicing in this
76 state hold such a certificate, may assume and use the title
77 of certified public accountant or the abbreviation thereof,
78 "C. P. A." Any certified public accountant may also be
79 known as a "public accountant."

80 Persons, who, on the effective date of this article, held
81 certified public accountants' certificates theretofore is-
82 sued by the board of this State shall not be required to
83 obtain additional certificates under this article, but shall
84 otherwise be subject to all provisions of this article; and
85 such certificates theretofore issued shall, for all purposes,
86 be considered certificates issued under this article and
87 subject to the provisions hereof.

§30-9-3. Public accountants; registration; use of title “public accountant.”

1 A person shall be deemed to be in practice as a public
2 accountant within the meaning and intent of this article:

3 (a) Who holds himself out to the public in any man-
4 ner as one skilled in the knowledge, science and practice
5 of accounting, and as qualified and ready to render pro-
6 fessional service therein as a public accountant for
7 compensation; or

8 (b) Who maintains an office for the transaction of
9 business as a public accountant; or

10 (c) Who offers to the public to perform for com-
11 pensation, or who does perform for the public for com-
12 pensation, professional services that involve or require an
13 examination, verification, investigation or review of finan-
14 cial transactions and accounting records; or

15 (d) Who prepares reports on examinations of books
16 or records of account, balance sheets, and other financial,
17 accounting and related schedules, exhibits and state-
18 ments, or reports which are to be used for publication,
19 credit purposes or are to be filed with any governmental
20 agency; or

21 (e) Who, in general or as an incident to such work,
22 renders professional assistance to the public for com-
23 pensation in any or all matters relating to accounting
24 procedure and to the recording and presentation of
25 financial facts or data.

26 Any person who is a resident of this state, or has a
27 place of business therein, who has attained the age of
28 eighteen years, and who is of good moral character, and
29 who holds himself out within this state to be in practice
30 on the date this article is enacted as a public accountant
31 as heretofore defined, may register with the board as a
32 public accountant on or before January first, one
33 thousand nine hundred sixty.

34 After the date this article is enacted and until January
35 first, one thousand nine hundred sixty-seven, any person
36 possessing the necessary qualifications for taking the ex-
37 amination for a certificate of certified public accountant,

38 as provided in section two shall be registered by the
39 board as a public accountant.

40 Any person who has been duly registered by the board
41 as a public accountant shall be designated and known
42 as a public accountant; and every person so registered
43 and every copartnership of accountants in which all mem-
44 bers practicing in this state have been so registered, may
45 assume and use the title of public accountant or the
46 abbreviation thereof, "P. A."

ARTICLE 10. VETERINARIANS.

**§30-10-6. Application for license; qualifications; determination
as to qualifications of applicants and action to be
taken.**

1 Any resident of this state desiring a license to practice
2 veterinary medicine in this state shall make written ap-
3 plication therefor to the board. The application shall
4 show that the applicant is (1) either a graduate of a
5 school of veterinary medicine accredited by the American
6 veterinary medical association or a graduate of a foreign
7 veterinary school who holds a certificate of competence
8 issued by the educational commission for foreign veter-
9 inary graduates, (2) eighteen years of age or over, (3)
10 a citizen of the United States or an applicant for citizen-
11 ship, and (4) a person of good moral character, and shall
12 contain such other information and proof as the board
13 may require by reasonable rules and regulations pro-
14 mulgated as aforesaid. The application shall be accom-
15 panied by the appropriate fee specified in the fee schedule
16 established and published by the board.

17 If the board determines that an applicant possesses the
18 proper qualifications, it shall admit the applicant to the
19 next examination, or if the applicant is eligible for a li-
20 cense without examination under the provisions of section
21 eight of this article, the board may forthwith grant him
22 a license. If an applicant is found not qualified to take
23 the examination or for a license without examination,
24 the secretary-treasurer shall immediately notify the ap-
25 plicant in writing of such finding and the grounds there-
26 for. An applicant found not qualified may demand a

27 hearing on the question of his qualifications in accordance
 28 with the provisions of section twelve of this article. The
 29 application fee of any applicant found not qualified shall
 30 be returned to such applicant.

ARTICLE 11. CHIROPODISTS-PODIATRISTS.

§30-11-3. Qualifications of applicant for license.

1 An applicant for license shall furnish to the medical
 2 licensing board satisfactory proof that he is: (a)
 3 Eighteen years of age or over; (b) of good moral char-
 4 acter; (c) a graduate of a school of chiropody or podiatry
 5 registered and approved by the West Virginia medical
 6 licensing board or that he has taken and passed the ex-
 7 amination in another state, territory or foreign country
 8 having by law requirements of qualifications equal to the
 9 requirements of this state, has been in the practice of
 10 chiropody or podiatry for a period of at least five years
 11 in such state, territory or foreign country and is at the
 12 time of application and examination in good standing in
 13 said state, territory or foreign country; (d) possessed of
 14 a minimum high school education recognized by the state
 15 department of education as being a proper standard and
 16 at least two years of academic work of collegiate grade
 17 in a standard college of arts and sciences, so recognized
 18 as being a proper standard by the state department of
 19 education: *Provided*, That the requirement of two years
 20 of academic work of collegiate grade in a standard college
 21 of arts and sciences shall not apply to applicants who on
 22 or before June seventh, one thousand nine hundred fifty-
 23 seven, had been accepted and entered into an approved,
 24 accredited college of chiropody, podiatry, or chiropody-
 25 podiatry, pursued his studies and after said date received
 26 his degree.

ARTICLE 12. ARCHITECTS.

§30-12-3. Qualifications of applicant for registration.

1 Any citizen of the United States or any person who
 2 has declared his intention of becoming a citizen, who is
 3 at least eighteen years of age and of good moral character,
 4 may apply for a certificate of registration or for such ex-
 5 amination as shall be requisite for such certificate under

6 this article; but before receiving such certificate the ap-
7 plicant shall submit satisfactory evidence of having com-
8 pleted the course in a high school or the equivalent
9 thereof, and of having subsequently thereto completed
10 such course in mathematics, history and language as may
11 be prescribed by the board of examination and registra-
12 tion of architects. The examination for the above aca-
13 demic requirements shall be held by the board. In lieu
14 of such examination the board may accept satisfactory
15 diplomas or certificates, from institutions approved by the
16 board, covering the course or subject matter prescribed
17 for examination.

ARTICLE 13A. LAND SURVEYORS.

**§30-13A-5. Qualifications of applicants for licenses; exceptions;
applications; fees; examinations.**

- 1 (a) To be eligible for a license to engage in the prac-
2 tice of land surveying, the applicant must:
- 3 (1) Be at least eighteen years of age;
 - 4 (2) Be of good moral character;
 - 5 (3) Have been a resident of the United States for one
6 year immediately preceding the date of application;
 - 7 (4) Not have been convicted of a crime involving
8 moral turpitude;
 - 9 (5) Have four years or more experience in the prac-
10 tice of land surveying under the supervision of a licensee,
11 or a person eligible for a license hereunder, or a person
12 authorized in another state or country to engage in the
13 practice of land surveying; and each year of satisfactory
14 study in an accredited surveying curriculum may be
15 substituted for one year of experience, but only two
16 years of such experience requirement may be fulfilled
17 by such study; and
 - 18 (6) Have passed the examination prescribed by the
19 board, which examination shall cover the basic subject
20 matter of land surveying and land surveying skills and
21 techniques.
- 22 (b) The following persons shall be eligible for a li-
23 cense to engage in the practice of land surveying without
24 examination:

25 (1) Any applicant who is licensed, certificated or
26 registered to engage in the practice of land surveying
27 in any other state or country, if the requirements to
28 obtain a license or certificate or to become registered
29 in such other state or country are found by the board
30 to be at least as great as those prescribed in this article.

31 (2) Any applicant who is a graduate of an accredited
32 surveying curriculum and has at least two years of ex-
33 perience in the practice of land surveying under the su-
34 pervision of a licensee, or a person eligible for a license
35 hereunder, or a person authorized in another state or
36 country to engage in the practice of land surveying, if
37 such applicant meets the requirements of subdivisions
38 (1), (2), (3) and (4), subsection (a) of this section.

39 (3) Any applicant who has been engaged in the prac-
40 tice of land surveying in West Virginia for at least six
41 years prior to the filing of such application, if such ap-
42 plication for a license is made within three years after
43 the effective date of this article and if such person meets
44 the requirements of subdivisions (1), (2), (3) and (4),
45 subsection (a) of this section. Such applicant must also
46 furnish the names and addresses of ten persons who have
47 engaged such applicant as a land surveyor, together with
48 satisfactory records of such land surveying work.

49 (c) Any applicant for any such license shall submit
50 an application therefor on forms provided by the board.
51 Such applications shall be verified and shall contain a
52 statement of the applicant's education and experience,
53 the names of five persons for reference (at least three of
54 whom shall be licensees, or persons eligible for a license
55 hereunder, or persons authorized in another state or
56 country to engage in the practice of land surveying, who
57 have knowledge of his work) and such other information
58 as the board may from time to time by reasonable rule
59 and regulation prescribe.

60 (d) An applicant shall pay to the board with his ap-
61 plication a license fee of twenty dollars, which fee shall
62 be returned if he is denied a license.

63 (e) Examinations shall be held at least once each year
64 at such time and place as the board shall determine.
65 The scope of the examination and methods of procedure

66 shall be determined by the board. An applicant who
67 fails to pass an examination may reapply at any time and
68 shall furnish additional information as requested by the
69 board. Each such application shall be accompanied by
70 a license fee of twenty dollars, which fee shall be re-
71 turned if the applicant is again denied a license.

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-4. Application for examination.

1 Each applicant for examination by the board shall sub-
2 mit an application therefor on forms prepared and fur-
3 nished by the board, accompanied by evidence verified
4 by oath and satisfactory to the board, establishing that
5 the applicant has satisfied the following requirements:
6 (a) That he is eighteen years of age or over; (b) that
7 he is of good moral character; (c) that he has graduated
8 from an approved osteopathic college; and (d) that he
9 has paid to the board a fee of fifty dollars for examination.

ARTICLE 15. MIDWIVES.

§30-15-2. Definition of midwife; limitation of article.

1 For the purposes of this article, a midwife shall be any
2 person at least eighteen years of age, other than a physi-
3 cian, who shall attend or agree to attend any woman at
4 or during childbirth, and who shall accept any compen-
5 sation or other remuneration for her services: *Provided,*
6 That nothing contained in this article shall prevent a
7 neighbor or friend from rendering assistance in such cases
8 in an emergency.

**§30-15-3. License to practice midwifery; qualifications of appli-
cants.**

1 No person, other than a licensed physician, shall practice
2 midwifery in the state of West Virginia unless such per-
3 son shall be duly licensed to practice midwifery as here-
4 inafter provided.

5 Every person, other than a licensed physician, who
6 wishes to practice midwifery shall make written applica-
7 tion to the West Virginia board of health for a license to
8 practice midwifery. The application shall be sworn to

9 before a notary public and shall be accompanied by a
10 registration fee of one dollar. Every applicant for a li-
11 cense to practice midwifery shall possess the following
12 qualifications:

13 (a) She shall not be less than eighteen years of age;

14 (b) She shall be able to read and write;

15 (c) She shall be clean and constantly show evidence,
16 general appearance and in her home, of habits of cleanli-
17 ness;

18 (d) She shall either possess a diploma from a school
19 for midwives recognized by the state director of health,
20 or shall have attended, under the instruction of a duly
21 licensed and registered physician, not fewer than five
22 mothers and newborn infants during lying-in periods of
23 at least ten days each, and shall present a written state-
24 ment from said physician or physicians that she has re-
25 ceived such instruction in said five cases, with the name,
26 date and address of each case, and establishing the fact
27 that she is reasonably skillful and competent, to the sat-
28 isfaction of the state director of health;

29 (e) She shall present evidence satisfactory to the West
30 Virginia board of health that she is of good moral char-
31 acter, has good health, and is free from communicable
32 disease, in such form as the state director of health, or such
33 person designated by him, by rule or regulation may pre-
34 scribe.

ARTICLE 16. CHIROPRACTORS.

§30-16-4. Application for license; qualifications of applicant.

1 Any person wishing to practice chiropractic in this
2 state shall apply to the secretary of the board for a li-
3 cense so to practice. Each applicant shall establish the
4 fact to the board that he has satisfied the following re-
5 quirements: (a) That he is eighteen years of age or over;
6 (b) that he is of good moral character; (c) that he is a
7 graduate of an accredited high school giving a four-year
8 course or has an education equivalent to the same; (d)
9 that he has attended for at least two academic years an
10 academic college equal in standing to the West Virginia

11 University; (e) that he is a graduate of a chiropractic
12 school or college approved by the West Virginia board
13 of chiropractic examiners and accredited by the Amer-
14 ican chiropractic association or the international chiro-
15 practic association which requires for graduation a resi-
16 dent course of not less than four academic years of nine
17 months each, and active attendance at the same for a
18 minimum of four thousand hours of fifty minutes each
19 of classroom and laboratory instruction: *Provided*, That
20 this requirement shall not be construed to disqualify ap-
21 plicants that graduated from choropractic schools or col-
22 leges before the passage of this article which taught a
23 resident course of at least three academic years of eight
24 months each or a minimum of two thousand hours of fifty
25 minutes each and required active attendance upon the
26 same. Attendance at the academic college as set forth in
27 requirement (d) shall be prior to completion of the chiro-
28 practic training as set forth in requirement (e): *Pro-*
29 *vided*, That this requirement of sequence of attendance
30 at an academic college and chiropractic school or college
31 shall not apply to those applicants who at the time of pas-
32 sage of this article have completed or are in the process
33 of fulfilling the requirements set forth in (e) above; nor
34 shall such requirement of sequence of attendance at aca-
35 demic college and chiropractic school or college apply
36 to such applicants who have, subsequent to the passage
37 of this article, commenced the fulfillment of requirement
38 (c) under the educational provisions of the federal ser-
39 vicemen's readjustment act now in force or as may here-
40 after be amended, or such federal act of similar effect,
41 benefit or purpose as may hereafter be enacted by Con-
42 gress.

ARTICLE 17. SANITARIANS.

§30-17-5. Eligibility and qualifications for registration.

1 The board shall accept for review the application of
2 any person eighteen years of age or more whose appli-
3 cation is submitted with the necessary fee.

4 The board shall issue a certificate of registration as a
5 professional sanitarian, together with a numbered iden-

6 tification card, to any applicant of good moral char-
7 acter:

8 (1) Who qualifies for and successfully passes a merit
9 system or civil service examination given under the au-
10 thority of this state, and who has satisfactorily completed
11 a six-month probationary period of employment as a san-
12 itarian prior to the date of his application; or

13 (2) Who is a graduate of a college or university, duly
14 accredited by the proper regional accrediting agency or
15 by the West Virginia state board of education, who has
16 credit for not less than thirty semester or forty-five
17 quarter hours of work in the physical, biological, social
18 and sanitary sciences; or

19 (3) Who has credit for not less than three full years
20 of academic work at a college or university, duly ac-
21 credited by the proper regional accrediting agency or by the
22 West Virginia state board of education, including credit
23 for not less than twenty semester or thirty quarter hours
24 of work in the physical, biological, social and sanitary
25 sciences, and who has satisfactorily completed a six-
26 month probationary period of employment as a sanitarian
27 prior to the date of his application; or

28 (4) Who has credit for not less than two full years of
29 academic work at a college or university, duly accredited
30 by the proper regional accrediting agency or by the West
31 Virginia state board of education, including credit for
32 not less than ten semester or fifteen quarter hours of work
33 in the physical, biological, social and sanitary sciences,
34 and who has satisfactorily completed a six-month proba-
35 tionary period of employment as a sanitarian prior to the
36 date of his application.

37 Any person who meets all qualifications for registra-
38 tion as a professional sanitarian, except the experience
39 requirements, may upon making application and paying
40 a total fee of ten dollars be granted a temporary certifi-
41 cate of registration as an apprentice sanitarian. Such
42 temporary registration shall, unless sooner revoked for
43 cause, remain in effect for a period not to exceed one year,
44 and upon payment of the required fee may be renewed
45 annually for a period not to exceed two additional years.

ARTICLE 20. PHYSICAL THERAPISTS.

§30-20-4. Qualifications of applicants for license; applications; fee.

1 To be eligible for license by the board as a physical
2 therapist, each applicant must:

3 (a) Be at least eighteen years old.

4 (b) Be of good moral character.

5 (c) Not be addicted to the intemperate use of alcohol
6 or narcotic drugs.

7 (d) Be a citizen of the United States or have obtained
8 a declaration of intention of becoming a citizen.

9 (e) Present evidence that he is a graduate of a school
10 of physical therapy approved by the American physical
11 therapy association and the board: *Provided*, That any
12 person who received his education in physical therapy
13 outside of the United States may qualify for a license by
14 fulfilling those requirements of the American physical
15 therapy association and the medical board, including
16 successful completion of a period of supervised clinical
17 experience and a written examination provided by the
18 board.

19 (f) Either (1) pass to the satisfaction of the board an
20 examination conducted by it to determine his fitness for
21 practice as a physical therapist; or (2) be entitled to be
22 licensed without examination as provided in section
23 seven of this article.

24 Unless entitled to be licensed under section seven of
25 this article, a person who desires to be licensed as a
26 physical therapist shall apply to the board, in writing, on
27 a blank furnished by the board. He shall embody in that
28 application evidence under oath, satisfactory to the board,
29 of his possessing the qualifications preliminary to exam-
30 ination required by this section. He shall pay to the board
31 a fee of fifty dollars at the time of filing his application,
32 no part of which shall be refunded.

ARTICLE 21. PSYCHOLOGISTS.

§30-21-7. Qualifications of applicants; exceptions; applications; fee.

1 To be eligible for a license to engage in the practice
2 of psychology, the applicant must:

3 (1) Be at least eighteen years of age;

4 (2) Be of good moral character;

5 (3) Be a holder of a doctor of philosophy degree or
6 its equivalent or a master's degree in psychology from
7 an accredited institution of higher learning, with ade-
8 quate course study at such institution in psychology, the
9 adequacy of any such course study to be determined
10 by the board;

11 (4) When the degree held is a doctor of philosophy
12 degree or its equivalent, have at least two years' experi-
13 ence subsequent to receiving said degree in the perfor-
14 mance of any of the psychological services described in
15 subdivision (e), section two of this article, including those
16 activities excluded from the definition of the term "prac-
17 tice of psychology" in said subdivision (e), and, when
18 the degree held is a master's degree, have at least
19 eight years' experience subsequent to receiving said de-
20 gree in the performance of any of the psychological
21 services described in said subdivision (e), including those
22 activities excluded from the definition of the term "prac-
23 tice of psychology" in said subdivision (e);

24 (5) Have passed the examination prescribed by the
25 board, which examination shall cover the basic subject
26 matter of psychology and psychological skills and tech-
27 niques;

28 (6) Not have been convicted of a felony or crime in-
29 volving moral turpitude; and

30 (7) Not, within the next preceding six months, have
31 taken and failed to pass the examination required by sub-
32 division (5), subsection (a) of this section.

33 (b) The following persons shall be eligible for a
34 license to engage in the practice of psychology without
35 examination:

36 (1) Any applicant who holds a doctor of philosophy
37 degree or its equivalent from an institution of higher
38 learning, with adequate course study at such institution
39 in psychology and who is a diplomate of the "American
40 Board of Examiners in Professional Psychology";
41 and

42 (2) Any person who holds a license or certificate to
43 engage in the practice of psychology issued by any other
44 state, the requirements for which license or certificate
45 are found by the board to be at least as great as those
46 provided in this article.

47 (c) Any person who is engaged in the practice of
48 psychology in this state, or is engaged in any of the ac-
49 tivities described in subdivision (e), (1), (2) or (3),
50 section two of this article, in this state, on the
51 effective date of this article and has been so engaged
52 for a period of two consecutive years immediately
53 prior thereto shall be eligible for a license to engage
54 in the practice of psychology without examination and
55 without meeting the requirements of subdivision (4),
56 subsection (a) of this section, if application for such
57 license is made within six months after the effective
58 date of this article and if such person meets the re-
59 quirements of subdivisions (1), (2), (3) and (6), sub-
60 section (a) of this section: *Provided*, That an equivalent
61 of a masters degree in psychology may be considered by
62 the board, only for the purpose of this subsection (c), as
63 meeting the requirements of subdivision (3) of subsec-
64 tion (a) of this section.

65 (d) Any applicant for any such license shall submit
66 an application therefor at such time (subject to the time
67 limitation set forth in subsection (c) of this section),
68 in such manner, on such forms and containing such in-
69 formation as the board may from time to time by rea-
70 sonable rule and regulation prescribe, and pay to the
71 board an application fee of fifty dollars, not refundable.

ARTICLE 22. LANDSCAPE ARCHITECTS.

§30-22-6. Qualifications of applicants; exceptions; applications; fee.

1 (a) To be eligible for a license as a landscape archi-
2 tect, the applicant must:

3 (1) Be at least eighteen years of age;

4 (2) Be of good moral character;

5 (3) Not, within the next preceding twelve months,
6 have had his application for a license or a certificate or
7 for registration to engage in the practice of landscape
8 architecture or as a landscape architect refused, sus-
9 pended or revoked in any state of the United States;

10 (4) Either (i) be a holder of an undergraduate degree
11 or graduate degree in landscape architecture from an
12 accredited institution of higher learning, with adequate
13 course study at such institution in landscape architecture,
14 the adequacy of any such course study to be determined
15 by the board; and when the degree held is an under-
16 graduate degree, have had at least two years' experience
17 subsequent to receiving such degree in the practice of
18 landscape architecture under the supervision of a land-
19 scape architect or a person having qualifications ac-
20 ceptable to the board and similar to the qualifications of
21 a landscape architect, and, when the degree held is a
22 graduate degree, have had at least one year's experience
23 subsequent to receiving such graduate degree in the prac-
24 tice of landscape architecture under the supervision of a
25 landscape architect or a person having qualifications ac-
26 ceptable to the board and similar to the qualifications of
27 a landscape architect; or (ii) have had at least ten years'
28 experience in the practice of landscape architecture, of
29 a grade and character to qualify him to assume respon-
30 sibility for the work involved in the practice of land-
31 scape architecture, at least six years of which shall have
32 been under the supervision of a landscape architect or a
33 person having qualifications acceptable to the board and
34 similar to the qualifications of a landscape architect; and

35 (5) Have passed the examination prescribed by the
36 board, which examination shall cover the theory and prac-
37 tice of landscape architecture.

38 (b) The following persons shall be eligible for a
39 license as a landscape architect without examination:

40 (1) Any person who was once licensed under the
41 provisions of this article, who temporarily abandoned
42 the practice of landscape architecture and did not renew
43 his license, provided he satisfies the board that he remains
44 qualified to engage in the practice of landscape archi-
45 tecture; and

46 (2) Any person who holds a license or certificate or
47 is registered to engage in the practice of landscape archi-
48 tecture issued by or effected in any other state, the re-
49 quirements for which license, certificate or registration
50 are found by the board to be at least as great as those
51 provided in this article.

52 (c) Any person meeting the qualifications set forth in
53 subdivisions (1), (2) and (3), subsection (a) of this sec-
54 tion, who submits evidence satisfactory to the board
55 that for at least one year prior to the effective date of
56 this article he regularly engaged in the practice of land-
57 scape architecture as a principal livelihood shall be en-
58 titled to be licensed under the provisions of this article,
59 without meeting the qualifications set forth in subdivi-
60 sions (4) and (5), subsection (a) of this section, if he
61 files such application with the board within six months
62 from and after the effective date of this article.

63 (d) Any applicant for any such license shall submit
64 an application therefor at such time (subject to the time
65 limitation set forth in subsection (c) of this section),
66 in such manner, on such forms and containing such in-
67 formation as the board may from time to time by rea-
68 sonable rule and regulation prescribe, and pay to the
69 board a license fee of forty dollars, which fee shall be
70 returned to the applicant if he is denied a license.

**CHAPTER 32. SPECULATIVE SECURITIES AND
FRAUDULENT SALES; FACE-AMOUNT CERTIFICATES;
ISSUANCE AND SALE OF CHECKS, DRAFTS,
MONEY ORDERS, ETC.**

**ARTICLE 1. SECURITIES; DEFINITIONS; REGISTRATION; UN-
LAWFUL ACTS; PENALTIES; LIABILITIES.**

**§32-1-12. Registration of dealers and salesmen; requirements
and fees generally; consent to service of process;
register; renewals; examinations; responsibilities
as to bills, confirmations, etc.; exceptions.**

1 No dealer or salesman shall engage in business in this
2 state as such dealer or salesman or sell any securities, in-
3 cluding securities exempted in section three of this article,
4 or transact a brokerage or trading business or do a bus-
5 iness of buying or selling securities listed or traded in on
6 any stock exchange, except in transactions exempt under
7 section four of this article, unless he has been registered
8 as a dealer or salesman in the office of the commissioner
9 pursuant to the provisions of this section.

10 An application for registration as a dealer shall be
11 filed in writing with the commissioner, in such form as
12 he may prescribe, duly verified by oath, which shall
13 state the principal office of the applicant, wherever sit-
14 uated, and the location of the principal office and all
15 branch offices in this state, if any, the name or style of
16 doing business, the names, residences and business ad-
17 dresses of all persons interested in the business as prin-
18 cipals, copartners, officers and directors, specifying as
19 to each his capacity and title, the general plan and char-
20 acter of business and the length of time the dealer has
21 been engaged in business, a financial statement in detail
22 showing the actual conditions of the dealer, classification
23 and condition of all margin or installment accounts,
24 partner, officer and director accounts, a list of securities
25 sold in West Virginia during the preceding year and so
26 far as possible, a list of those to be sold or offered for
27 sale when the registration is completed, and such informa-
28 tion to be given in such detail as the commissioner may
29 require. The commissioner may also require such ad-
30 ditional information as to applicant's previous history,

31 record and association, as he may deem necessary to es-
32 tablish the good repute in business of the applicant. The
33 commissioner may require every applicant for registra-
34 tion as a salesman to pass a written examination as a re-
35 quirement for issuance of such license. Every applicant
36 for registration as a salesman must be eighteen years of
37 age, and shall not, at the time of examination, be em-
38 ployed by any securities dealer other than the one by
39 whom he was employed at the time of making applica-
40 tion.

41 Every dealer, at the time of filing his application, shall
42 file with the commissioner of securities his irrevocable
43 written consent to service of process as prescribed by
44 section nine of this article.

45 If the commissioner shall find that the applicant is of
46 good repute, has furnished sufficient proof of financial
47 responsibility, and has complied with the provisions of
48 this section including the payment of the fee hereinafter
49 provided, he may register such applicant as a dealer.

50 Upon written application of a registered dealer and pay-
51 ment of the proper fees, the commissioner may register
52 as salesmen of such dealer such natural persons as shall
53 appear to the commissioner to be qualified and of good
54 character.

55 The partners of a partnership and the executive officers
56 of a corporation or other association registered as a dealer
57 may act as salesmen during such time as such partnership,
58 corporation or association is so registered without further
59 registration as salesmen. The salesmen registered by a
60 dealer may sell any securities for which the dealer regis-
61 tering such salesmen is registered.

62 The names and addresses of all persons approved for
63 registration as dealers or salesmen and all orders with
64 respect thereto shall be recorded in a register of dealers
65 and salesmen, which shall be open to public inspection.
66 Every registration under this section shall expire on the
67 thirtieth day of June in each year, but new registrations
68 for the succeeding year shall be issued upon written ap-
69 plication and upon payment of the fee as hereinafter
70 provided, and by filing of further statements or furnish-
71 ing any further information specifically required by the

72 commissioner. Applications for renewals must be made
73 not less than thirty days before the first day of the en-
74 suing year, otherwise they shall be treated as original
75 applications. The fee for each dealer's registration and
76 for each dealer's annual renewal shall be one hundred
77 dollars. The fee for each salesman's registration shall be
78 twenty dollars, and the fee for each salesman's annual
79 renewal shall be ten dollars. When an application is
80 denied, the commissioner shall retain the registration or
81 renewal fee deposited.

82 Changes in registration occasioned by changes in per-
83 sonnel of a partnership or in the principals, copartners,
84 officers or directors of any dealer may be made from time
85 to time by written applications setting forth the facts
86 with respect to such change.

87 Every dealer registered under this section shall be sub-
88 ject to examination as to his financial condition or meth-
89 ods of business by the commissioner or by his duly autho-
90 rized representative at the time the commissioner may
91 deem it advisable. The expense of the examination shall
92 be paid by the applicant and the failure or refusal of
93 such applicant to pay such expense upon the demand of
94 the commissioner shall work a forfeiture of his right to
95 registration under this section.

96 Every dealer or salesman shall send a copy of all bills,
97 confirmations or orders on transactions with any em-
98 ployee or active official of any bank, trust company or
99 savings institution, to the president of the institution
100 by which the person is employed or in which the person
101 is an official, and a copy shall also be sent to the commis-
102 sioner of banking of the state of West Virginia. These
103 copies of bills, confirmations or orders shall be sent at
104 the same time as the original. Any dealer or salesman
105 wilfully violating the provisions of this paragraph shall
106 have his registration revoked by the commissioner and
107 may be liable to such bank, trust company or savings
108 institution for any losses or damages incurred in any case
109 where such dealer or salesman failed to comply with this
110 provision.

111 This section shall not apply to a person or his agent
112 selling exclusively his own contracts, if such contracts

113 are exempt from this chapter by subdivision (g), section
114 three.

115 This section shall not apply to an unincorporated per-
116 son selling exclusively undivided interest in oil, gas or
117 other mineral rights if such unincorporated person is the
118 bona fide owner of the lease, interest, royalty or prop-
119 erty in which he is selling interests.

CHAPTER 33. INSURANCE.

ARTICLE 12. AGENTS, BROKERS, SOLICITORS AND EXCESS LINE.

§33-12-2. Qualifications.

1 For the protection of the people of West Virginia, the
2 commissioner shall not issue, renew or permit to exist
3 any agent's, broker's or solicitor's license except to an in-
4 dividual who:

5 (a) Is eighteen years of age or more.

6 (b) Is a resident of West Virginia, except that a bro-
7 ker's license shall be issued only to nonresidents, and
8 except for nonresident life and accident and sickness
9 agents as provided in section eight of this article.

10 (c) Is, in the case of an agent applicant, appointed
11 as agent by a licensed insurer for the kind or kinds of
12 insurance for which application is made, subject to issu-
13 ance of license, or, in the case of a solicitor applicant,
14 appointed as solicitor by a licensed resident agent, sub-
15 ject to issuance of license.

16 (d) Does not intend to use the license principally for
17 the purpose, in the case of life or accident and sickness
18 insurance, of procuring insurance on himself, members
19 of his family or his relatives; or, as to insurance other
20 than life and accident and sickness, upon his property or
21 insurable interests of those of his family or his relatives
22 or those of his employer, employees or firm, or corpora-
23 tion in which he owns a substantial interest, or of the
24 employees of such firm or corporation, or on property or
25 insurable interests for which the applicant or any such
26 relative, employer, firm or corporation is the trustee,
27 bailee or receiver. For the purposes of this provision, a

28 vendor's or lender's interest in property sold or being sold
 29 under contract or which is the security for any loan, shall
 30 not be deemed to constitute property or an insurable in-
 31 terest of such vendor or lender.

32 (e) Satisfies the commissioner that he is trustworthy
 33 and competent. The commissioner may, at his discretion,
 34 test the competency of an applicant for a license under
 35 this section by examination. If such examination is re-
 36 quired by the commissioner, each examinee shall pay a
 37 five dollar examination fee for each examination. The
 38 commissioner shall pay said examination fee into the state
 39 treasury for the benefit of the state fund, general revenue.

CHAPTER 35. PROPERTY OF RELIGIOUS, EDUCATIONAL AND CHARITABLE ORGANIZATIONS.

ARTICLE 1. RELIGIOUS ORGANIZATIONS.

§35-1-9. Power of trustee to sell, convey and encumber prop- erty.

1 The trustee or trustees of any church, religious sect,
 2 society, or denomination within this state, whenever di-
 3 rected by the ecclesiastical officer or the delegated or
 4 select body to whom the authority to administer the
 5 affairs of such church, religious sect, society, or denomina-
 6 tion is committed by its rules and ecclesiastical polity,
 7 or the trustee or trustees of any individual church, parish,
 8 congregation or branch of any religious sect, society or
 9 denomination within this state, whenever directed by a
 10 majority of the members of such individual church, parish,
 11 congregation or branch who are over eighteen years of
 12 age, or by the ecclesiastical officer or the delegated or
 13 select body to whom the authority to administer the
 14 affairs of such church, parish, congregation or branch is
 15 committed by the rules and ecclesiastical polity of such
 16 church, religious sect, society or denomination, may sell
 17 and convey any property, real or personal owned by such
 18 church, religious sect, society or denomination, or by such
 19 individual church, parish, congregation or branch, as the
 20 case may be, or upon like direction, may borrow money
 21 and execute a lien upon the church property to secure

22 the payment thereof; and all conveyances so made, or
23 liens so executed, by the persons who appear from the
24 records in the office of the county clerk to be the trustee
25 or trustees of the religious body making such conveyances
26 or executing such liens, shall be effective to pass from
27 such trustee or trustees such title or interest in the prop-
28 erty under his or their control as is purported to be con-
29 veyed or passed by such conveyances or instruments of
30 lien, and shall not be invalidated or affected by any defect
31 or informality in the proceedings for the selection or ap-
32 pointment of such person or persons as trustee or trustees,
33 or by any want of authority or lack of power in such
34 trustee or trustees.

**§35-1-11. Proceedings to prevent conveyances or creation of
liens.**

1 When any conveyance of, or any lien upon, the real
2 estate of any church, religious sect, society, or denomina-
3 tion, or of any individual church, parish, congregation or
4 branch, is proposed to be made or created by the trustee or
5 trustees thereof, and such conveyance or the creation of
6 such lien will, it is believed, violate or be inconsistent
7 with the conditions or purposes of the trust under which
8 the real estate is held, or the proper authorities or the
9 requisite number of members do not desire, or have not
10 directed, that a conveyance be made of or a lien be
11 created upon such real estate, or the rights of other
12 parties will thereby be affected, or for any other cause
13 the making of such conveyance or the creation of such
14 lien is improper; one fourth or more of the total number
15 of members of the conference, synod, presbytery, con-
16 vention, association, consultors or other ecclesiastical body
17 representing any church, religious sect, society or de-
18 nomination, when the property involved is that of the
19 church, religious sect, society or denomination as a whole;
20 or one fourth or more of the total number of members
21 who are over eighteen years of age of any individual
22 church, parish, congregation or branch, when the prop-
23 erty involved is that of such individual church, parish,
24 congregation or branch, may, in the name of two or more
25 of them, on behalf of themselves and the others similarly

26 objecting, file their petition in the circuit court of the
 27 county where such real estate is situated, or before the
 28 judge of such court in vacation, against the trustee or
 29 trustees, or the surviving or remaining trustee or trustees,
 30 setting up the reasons why such conveyance should not be
 31 made or such lien should not be created. The court or
 32 judge, on the filing of such petition, shall fix a time and
 33 place for the hearing of the same, and direct a copy of such
 34 petition and a notice of the time and place of such hearing
 35 to be served on such trustee or trustees a reasonable time
 36 in advance thereof; and at the time and place so fixed
 37 the court or judge shall proceed to hear the objections
 38 to the making of such conveyance or creation of such
 39 lien, and make such order in reference thereto as may
 40 be right and proper.

CHAPTER 36. ESTATES IN PROPERTY.

ARTICLE 7. WEST VIRGINIA UNIFORM GIFTS TO MINORS ACT.

§36-7-1. Definitions.

- 1 In this article, unless the context otherwise requires:
- 2 (a) An "adult" is a person who has attained the age of
 3 eighteen years.
- 4 (b) A "bank" is a bank, trust company, national bank-
 5 ing association, savings bank or industrial bank.
- 6 (c) A "broker" is a person lawfully engaged in the
 7 business of effecting transactions in securities for the ac-
 8 count of others. The term includes a bank which effects
 9 such transactions. The term also includes a person law-
 10 fully engaged in buying and selling securities for his own
 11 account, through a broker or otherwise, as a part of a
 12 regular business.
- 13 (d) "Court" means the circuit court.
- 14 (e) "The custodial property" includes:
- 15 (1) All securities, life insurance policies, annuity con-
 16 tracts and money under the supervision of the same cus-
 17 todian for the same minor as a consequence of a gift or
 18 gifts made to the minor in a manner prescribed in this
 19 article;

20 (2) The income from the custodial property; and

21 (3) The proceeds, immediate and remote, from the
22 sale, exchange, conversion, investment, reinvestment, sur-
23 render or other disposition of such securities, money, life
24 insurance policies, annuity contracts and income.

25 (f) A "custodian" is a person so designated in a man-
26 ner prescribed in this article; the term includes a suc-
27 cessor custodian.

28 (g) A "financial institution" is a bank, a building and
29 loan association, a federal savings and loan association, a
30 savings institution chartered and supervised as a savings
31 and loan or similar institution under federal law or the
32 laws of a state; an "insured financial institution" is one,
33 deposits (including a savings, share, certificate or deposit
34 account) in which are, in whole or in part, insured by the
35 federal deposit insurance corporation or by the federal
36 savings and loan insurance corporation.

37 (h) A "guardian" of a minor means the general guar-
38 dian, guardian, tutor or curator of his property or estate
39 appointed or qualified by a court of this State or another
40 state.

41 (i) An "issuer" is a person who places or authorizes
42 the placing of his name on a security (other than as a
43 transfer agent) to evidence that it represents a share,
44 participation or other interest in his property or in an
45 enterprise or to evidence his duty or undertaking to per-
46 form an obligation evidenced by the security, or who be-
47 comes responsible for or in place of any such person.

48 (j) A "legal representative" of a person is his executor
49 or the administrator, general guardian, guardian, com-
50 mittee, conservator, tutor or curator of his property or
51 estate.

52 (k) A "life insurance policy or annuity contract"
53 means a life insurance policy or annuity contract issued
54 by an insurance company authorized to do business in
55 this state on the life of a minor to whom a gift of the
56 policy or contract is made in the manner prescribed in
57 this article or on the life of a member of the minor's
58 family.

59 (l) A "member" of a "minor's family" means any of
60 the minor's parents, grandparents, brothers, sisters, uncles
61 and aunts, whether of the whole blood or the half blood,
62 or by or through legal adoption.

63 (m) A "minor" is a person who has not attained the
64 age of eighteen years.

65 (n) A "security" includes any note, stock, treasury
66 stock, bond, debenture, evidence of indebtedness, col-
67 lateral trust certificate, transferable share, voting trust
68 certificate or, in general, any interest or instrument com-
69 monly known as security, or any certificate of interest or
70 participation in, any temporary or interim certificate,
71 receipt or certificate of deposit for, or any warrant or
72 right to subscribe to or purchase, any of the foregoing.
73 The term does not include a security of which the donor
74 is the issuer. A security is in "registered form" when it
75 specifies a person entitled to it or to the rights it evidences
76 and its transfer may be registered upon books maintained
77 for that purpose by or on behalf of the issuer.

78 (o) A "transfer agent" is a person who acts as au-
79 thenticating trustee, transfer agent, registrar or other
80 agent for an issuer in the registration of transfers of its
81 securities or in the issue of new securities or in the can-
82 cellation of surrendered securities.

83 (p) A "trust company" is a bank or corporation autho-
84 rized to exercise trust powers in this state.

§36-7-4. Duties and powers of custodian.

1 (a) The custodian shall collect, hold, manage, invest
2 and reinvest the custodial property.

3 (b) The custodian shall pay over to the minor for
4 expenditure by him, or expend for the minor's benefit,
5 so much of or all the custodial property as the custodian
6 deems advisable for the support, maintenance, education
7 and benefit of the minor in the manner, at the time or
8 times, and to the extent that the custodian in his discre-
9 tion deems suitable and proper, with or without court
10 order, with or without regard to the duty of himself or
11 of any other person to support the minor or his ability
12 to do so and with or without regard to any other income

13 or property of the minor which may be applicable or
14 available for any such purpose.

15 (c) The court, on the petition of a parent or guardian
16 of the minor or of the minor, if he has attained the age
17 of fourteen years, may order the custodian to pay over
18 to the minor for expenditure by him or to expend so much
19 of or all the custodial property as is necessary for the
20 minor's support, maintenance or education.

21 (d) To the extent that the custodial property is not
22 so expended, the custodian shall deliver or pay it over to
23 the minor on his attaining the age of eighteen years or,
24 if the minor dies before attaining the age of eighteen
25 years, he shall thereupon deliver or pay it over to the
26 estate of the minor: *Provided*, That the provisions of this
27 section shall not affect the terms and conditions of any
28 gift made pursuant to the West Virginia Uniform Gifts to
29 Minors Act as it appeared in this article prior to the
30 effective date of this section.

31 (e) The custodian, notwithstanding statutes restrict-
32 ing investments by fiduciaries, shall invest and reinvest
33 the custodial property as would a prudent man of dis-
34 cretion and intelligence who is seeking a reasonable in-
35 come and the preservation of his capital, except that he
36 may, in his discretion and without liability to the minor
37 or his estate, (i) retain a security given to the minor in a
38 manner prescribed in this article or (ii) hold money so
39 given in an account in the financial institution to which
40 it was paid or delivered by the donor.

41 (f) The custodian may sell, exchange, convert, sur-
42 render or otherwise dispose of custodial property in the
43 manner, at the time or times, for the price or prices and
44 upon the terms he deems advisable. He may vote in per-
45 son or by general or limited proxy a security which is
46 custodial property. He may consent, directly or through
47 a committee or other agent, to the reorganization, con-
48 solidation, merger, dissolution or liquidation of an issuer,
49 a security which is custodial property, and to the sale,
50 lease, pledge or mortgage of any property by or to such
51 an issuer, and to any other action by such an issuer. He
52 may execute and deliver any and all instruments in

53 writing which he deems advisable to carry out any of
54 his powers as custodian.

55 (g) The custodian shall register each security which
56 is custodial property and in registered form in the name
57 of the custodian, followed, in substance, by the words:
58 "as custodian for _____ under
59 (name of minor)

60 the West Virginia Uniform Gifts to Minors Act." Subject
61 to the provisions of subdivision (ii), subsection (e) of this
62 section, the custodian shall hold all money which is cus-
63 todial property in an account with a broker or in an in-
64 sured financial institution in the name of the custodian,
65 followed, in substance, by the words: "as custodian for
66 _____ under the West Virginia
67 (name of minor)

68 Uniform Gifts to Minors Act." The custodian shall keep
69 all other custodial property separate and distinct from
70 his own property in a manner to identify it clearly as
71 custodial property.

72 (h) The custodian shall keep records of all transac-
73 tions with respect to the custodial property and make
74 them available for inspection at reasonable intervals by
75 a parent or legal representative of the minor or by the
76 minor, if he has attained the age of fourteen years.

77 (i) A custodian has and holds as powers in trust, with
78 respect to the custodial property, in addition to the rights
79 and powers provided in this article, all the rights and
80 powers which a guardian has with respect to property
81 not held as custodial property.

82 (j) If the subject of the gift is a life insurance policy
83 or annuity contract, the custodian:

84 (1) In his capacity as custodian, has all the incidents
85 of ownership in the policy or contract to the same extent
86 as if he were the owner, except that the designated bene-
87 ficiary of any policy or contract on the life of the minor
88 shall be the minor's estate and the designated beneficiary
89 of any policy or contract on the life of a person other than
90 the minor shall be the custodian as custodian for the
91 minor for whom he is acting; and

92 (2) May pay premiums on the policy or contract out
93 of the custodial property.

§36-7-7. Resignation, death or removal of custodian; bond; appointment of successor custodian.

1 (a) Only an adult member of the minor's family, a
2 guardian of the minor or a trust company is eligible to
3 become successor custodian. A custodian may designate
4 his successor by executing and dating an instrument of
5 designation before a subscribing witness other than the
6 successor; the instrument of designation may but need
7 not contain the resignation of the custodian. If the
8 custodian does not so designate his successor before
9 he dies or becomes legally incapacitated, and the
10 minor has attained the age of fourteen years, the minor
11 may designate a successor custodian by executing an in-
12 strument of designation before a subscribing witness other
13 than the successor. A successor custodian has all the
14 rights, powers, duties and immunities of a custodian
15 designated in a manner prescribed by this article.

16 (b) The designation of a successor custodian as pro-
17 vided in subsection (a) takes effect as to each item of
18 the custodial property when the custodian resigns, dies
19 or becomes legally incapacitated and the custodian or
20 his legal representative:

21 (1) Causes the item, if it is a security in registered
22 form or a life insurance policy or annuity contract, to be
23 registered, with the issuing insurance company in the
24 case of a life insurance policy or annuity contract, in the
25 name of the successor custodian, followed, in substance, by
26 the words: "as custodian for....."

27 (name of minor)
28 under the West Virginia Uniform Gifts to Minors Act";
29 and

30 (2) Delivers or causes to be delivered to the successor
31 custodian any other item of the custodial property, to-
32 gether with the instrument of designation of the successor
33 custodian or a true copy thereof and any additional in-
34 struments required for the transfer thereof to the suc-
35 cessor custodian.

36 (c) A custodian who executes an instrument of desig-
37 nation of his successor containing the custodian's resigna-
38 tion as provided in subsection (a) shall promptly do all

39 things within his power to put each item of the custodial
40 property in the possession and control of the successor
41 custodian named in the instrument. The legal represen-
42 tative of a custodian who dies or becomes legally in-
43 capacitated shall promptly do all things within his power
44 to put each item of the custodial property in the posses-
45 sion and control of the successor custodian named in an
46 instrument of designation executed as provided in sub-
47 section (a) by the custodian or, if none, by the minor
48 if he has no guardian and has attained the age of four-
49 teen years, or in the possession and control of the guardian
50 of the minor if he has a guardian. If the custodian has
51 executed as provided in subsection (a) more than one
52 instrument of designation, his legal representative shall
53 treat the instrument dated on an earlier date as having
54 been revoked by the instrument dated on a later date.

55 (d) If a person designated as custodian or as successor
56 custodian by the custodian as provided in subsection (a)
57 is not eligible, dies or becomes legally incapacitated before
58 the minor attains the age of eighteen years and if the
59 minor has a guardian, the guardian of the minor shall
60 be successor custodian. If the minor has no guardian and
61 if no successor custodian who is eligible and has not died
62 or become legally incapacitated has been designated as
63 provided in subsection (a), a donor, his legal representa-
64 tive, the legal representative of the custodian or an adult
65 member of the minor's family may petition the court for
66 the designation of a successor custodian.

67 (e) A donor, the legal representative of a donor, a suc-
68 cessor custodian, an adult member of the minor's family,
69 a guardian of the minor or the minor, if he has attained
70 the age of fourteen years, may petition the court that, for
71 cause shown in the petition, the custodian be removed and
72 a successor custodian be designated or, in the alternative,
73 that the custodian be required to give bond for the per-
74 formance of his duties.

75 (f) Upon the filing of a petition as provided in this sec-
76 tion, the court shall grant an order, directed to the persons
77 and returnable on such notice as the court may require, to
78 show cause why the relief prayed for in the petition

79 should not be granted and, in due course, grant such relief
80 as the court finds to be in the best interests of the minor.

CHAPTER 41. WILLS.

ARTICLE 4. PROVISIONS AS TO PRETERMITTED CHILDREN.

§41-4-1. Where no child living when will made.

1 If any person die leaving a child, or his wife with child,
2 which shall be born alive, and leaving a will made when
3 such person had no child living, wherein any child he
4 might have is not provided for or mentioned, such child,
5 or any descendant of his, shall succeed to such portion of
6 the testator's estate as he would have been entitled to if
7 the testator had died intestate; and towards raising such
8 portion the devisees and legatees shall, out of what is de-
9 vised and bequeathed to them, contribute ratably, either
10 in kind or in money, as a court, in the particular case, may
11 deem most proper. But if any such child, or descendant,
12 die under the age of eighteen years, unmarried and with-
13 out issue, his portion of the estate, or so much thereof
14 as may remain unexpended in his support and education,
15 shall revert to the person or persons to whom it was given
16 by the will.

§41-4-2. Where child living when will made.

1 If a will be made when a testator has a child living,
2 and a child be born afterwards, such after-born child or
3 any descendant of his, if not provided for by any settle-
4 ment, and neither provided for nor expressly excluded by
5 the will, but only pretermitted, shall succeed to such por-
6 tion of the testator's estate as he would have been entitled
7 to if the testator had died intestate, toward raising which
8 portion the devisees and legatees shall, out of what is de-
9 vised and bequeathed to them, contribute ratably, either
10 in kind or in money, as a court, in the particular case,
11 may deem most proper. But if any such after-born
12 child or descendant die under the age of eighteen years,
13 unmarried and without issue, his portion of the estate, or
14 so much thereof as may remain unexpended in his sup-
15 port and education, shall revert to the person or persons
16 to whom it was given by the will.

ARTICLE 5. PRODUCTION, PROBATE AND RECORD OF WILLS.

§41-5-12. Impeachment or establishment in court—By person under disability or nonresident.

1 Notwithstanding the two preceding sections, any per-
2 son interested who, at the time of the judgment or order
3 is under the age of eighteen years, or is a convict or an
4 insane person, may file a complaint to impeach or es-
5 tablish the will, within one year after he becomes of age,
6 or other disability ceases; and any person interested who,
7 at that time, resided out of the state, or was proceeded
8 against by publication, may, unless he actually appeared as
9 a party or was personally summoned, file such complaint
10 within two years after the entry of such judgment or
11 order.

**CHAPTER 44. ADMINISTRATION OF ESTATES
AND TRUSTS.**

ARTICLE 10. GUARDIANS AND WARDS GENERALLY.

**§44-10-7. Management of ward's estate; maintenance, educa-
tion and custody; duration of guardianship; settle-
ment.**

1 Every guardian who is appointed as aforesaid, and gives
2 bond when it is required, shall have the possession, care
3 and management of his ward's estate, real and personal,
4 and out of the proceeds of such estate shall provide for
5 his maintenance and education; and shall have also, ex-
6 cept as otherwise provided in this article, the custody of
7 his ward. Unless the guardian shall die, be removed or
8 resign his trust (and the court before which he qualified
9 may allow him to resign), he shall continue in office until
10 his ward shall attain the age of eighteen years notwith-
11 standing the ward may marry before that time, or, in the
12 case of a testamentary guardianship, until the termina-
13 tion of the period limited therefor. At the expiration of
14 his trust, he shall deliver and pay all the estate and money
15 in his hands, or with which he is chargeable, to the person
16 or persons entitled thereto. But the father or mother of
17 any minor child or children shall be entitled to the cus-
18 tody of the person of such child or children, and to the

19 care of his or their education. If living together, the father
20 and mother shall be the joint guardians of the person of
21 their minor child or children, with equal powers, rights
22 and duties in respect to the custody, control, services,
23 earnings, and care of the education of such minor child or
24 children; and neither the father nor the mother shall have
25 any right paramount to that of the other in respect to such
26 custody, control, services or earnings, and care of the edu-
27 cation of such minor child or children. If the father and
28 mother be living apart, the court to which application is
29 made for the appointment of a guardian, or before which
30 any such matter comes in question, shall appoint, as guar-
31 dian of the person of the minor child or children of such
32 father and mother, that parent who is, in the court's opin-
33 ion, best suited for the trust, considering the welfare and
34 best interests of such minor child or children. No corpora-
35 tion or trust company shall as guardian of any minor
36 child or children be entitled to the custody, control, ser-
37 vices, earnings and care of the education of such minor
38 child or children, and when any corporation or trust com-
39 pany is guardian of the estate of any minor child or chil-
40 dren and neither of the parents of such child or children
41 is living, or is a suitable person to act as guardian of the
42 person of such child or children, then the court shall ap-
43 point a guardian of the person of such child or children
44 who shall be entitled to the custody, control, services,
45 earnings and care of the education of such minor child
46 or children. Any corporation or trust company appointed
47 as guardian of the estate of any minor child or children
48 shall, unless for such minor child or children a nonresi-
49 dent of this state may be appointed guardian, be a cor-
50 poration organized under the laws of this state and doing
51 business in this state.

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 12. REAL ESTATE COMMISSION, BROKERS AND SALESMEN.

§47-12-4. Qualifications for licenses.

1 Licenses shall be granted only to persons who are
2 trustworthy, of good character and competent to transact

3 the business of a real estate broker or real estate sales-
 4 man in such manner as to safeguard the interests of the
 5 public. Every applicant for a license as a real estate bro-
 6 ker shall be of the age of eighteen years or over, a citizen
 7 of the United States and shall have served a bona fide
 8 apprenticeship as a licensed real estate salesman for two
 9 years or shall produce to the real estate commission sat-
 10 isfactory evidence of real estate experience. No broker's
 11 license shall be issued to a partnership, association or cor-
 12 poration unless each member or officer thereof who will
 13 actively engage in the real estate business be licensed as
 14 a real estate salesman when and after said broker shall
 15 have been granted a broker's license.

CHAPTER 48. DOMESTIC RELATIONS.

ARTICLE 1. MARRIAGE.

§48-1-8. Consent of parents, parent or guardian.

1 If any person intending to marry be under eighteen
 2 years of age, and has not been previously married, the
 3 consent of the parents of such person, or of the parent
 4 living, or, if the parents be living separate and apart, of
 5 the one to whom was awarded the custody of such
 6 person, or, if there be a guardian entitled to the custody
 7 of such person, then of such guardian, shall be given
 8 either personally to the clerk of the county court or in
 9 writing subscribed by such parents, parent or guardian,
 10 as the case may be, and duly acknowledged before an
 11 officer authorized to take the acknowledgment of deeds.

§48-1-12. Persons authorized to celebrate marriages.

1 Any minister, priest or rabbi, over the age of eighteen
 2 years, who has complied with the provisions of section
 3 twelve-a of this article, or a judge of any court of record
 4 in this state, is authorized to celebrate the rites of mar-
 5 riage in all the counties of the state. No person, other
 6 than a minister, priest or rabbi, who has complied with
 7 the provisions of section twelve-a of this article, or a
 8 judge of any court of record in this state, shall hereafter
 9 celebrate the rites of marriage in this state, anything in
 10 any act of the Legislature or of any court to the contrary,
 11 notwithstanding.

12 Wherever in this article the terms "minister," "priest"
13 or "rabbi" shall appear, the same shall be understood and
14 held in all respects to include, without being limited to,
15 a leader or representative of a generally recognized spiri-
16 tual assembly, church or religious organization which does
17 not formally designate or recognize persons as ministers,
18 priests or rabbis.

**§48-1-12a. Qualifications of minister, priest or rabbi for cele-
brating marriages.**

1 When any minister, priest or rabbi shall, before the
2 county court of any county in this state, or the clerk of
3 any such court in vacation, produce proof that he is over
4 the age of eighteen, duly licensed by, and being in reg-
5 ular communion with, the religious society of which he
6 is a member, and give bond in the penalty of fifteen hun-
7 dred dollars, with surety approved by such court or clerk
8 thereof in vacation, such court or clerk may make an
9 order authorizing him to celebrate the rites of marriage
10 in all the counties of the state: *Provided*, That any min-
11 ister, priest or rabbi who gives proof before the county
12 court of any county in this state, or the clerk of any such
13 court in vacation, of his ordination or authorization by
14 his respective church, denomination, synagogue or relig-
15 ious society, shall be exempted from the giving of such
16 bond.

ARTICLE 4. ADOPTION.

§48-4-7. Adoption of adults.

1 Any adult person who is a resident of West Virginia
2 may petition the circuit court or any other court of
3 record having jurisdiction of adoption proceedings for
4 permission to adopt one who has reached the age of
5 eighteen years or over, and, if desired, to change the
6 name of such person. The consent of the person to be
7 adopted shall be the only consent necessary. The order
8 of adoption shall create the same relationship between
9 the adopting parent or parents and the person adopted
10 and the same rights of inheritance as in the case of an
11 adopted minor child. If a change in name is desired, the
12 adoption order shall so state.

CHAPTER 49. CHILD WELFARE.

ARTICLE 2. STATE RESPONSIBILITIES FOR THE PROTECTION AND CARE OF CHILDREN.

§49-2-2. Duration of custody or guardianship of children committed to state department.

1 A child committed to the state department for guardian-
2 ship, after termination of parental rights, shall remain
3 in the care of the department until he attains the age of
4 eighteen years, or is married, or is adopted, or guardian-
5 ship is relinquished through the court.

6 A child committed to the state department for custody
7 shall remain in the care of the department until he attains
8 the age of eighteen years, or until he is discharged be-
9 cause he is no longer in need of care.

ARTICLE 3. CHILD WELFARE AGENCIES.

§49-3-1. Private and public child welfare agencies.

1 Whenever a child welfare agency licensed to place
2 children for adoption or the state department of wel-
3 fare shall have been given the permanent care, custody
4 and guardianship of any child and the rights of the
5 parents of such child shall have been terminated by
6 order of a court of competent jurisdiction or by a legally
7 executed relinquishment of parental rights, the child
8 welfare agency or department of welfare may consent
9 to the adoption of such child pursuant to the statutes
10 regulating adoption proceedings. The parents or the sur-
11 viving parent of a child or the mother of an illegitimate
12 child may relinquish the child to a child welfare agency
13 licensed to place children for adoption, or to the de-
14 partment of welfare, by a written statement acknowl-
15 edged as deeds are required to be acknowledged by law:
16 *Provided*, That if either of the parents of such child is
17 under eighteen years of age, such relinquishment shall
18 not be valid unless and until the same shall have been
19 approved in writing by a judge of a court having juris-
20 diction of adoption proceedings in the county in which
21 such parent may reside or in which such relinquishment
22 is made. Notwithstanding any other provision in this

23 article, no minor parent or parents shall be required to
24 go before any court in order to execute a consent to the
25 adoption of his, her, or their child by an individual or
26 individuals.

ARTICLE 5. JUVENILE COURTS.

§49-5-2. "Child" defined; continuing jurisdiction of court.

1 "Child" means a person under the age of eighteen years.
2 When jurisdiction shall have been obtained by any court
3 of competent jurisdiction in the case of any child, such
4 child shall continue under the jurisdiction of the court
5 until he becomes eighteen years of age unless discharged
6 prior thereto or is committed to a correctional or other
7 institution. A person subject to the jurisdiction of the
8 juvenile court may be brought before it by either of the
9 following means and no other:

10 (a) By petition praying that the person be adjudged
11 neglected or delinquent;

12 (b) Certification from any other court before which
13 such person is brought, charged with the commission of
14 a crime.

CHAPTER 50. JUSTICES AND CONSTABLES.

ARTICLE 4. PLEADING AND PRACTICE.

§50-4-20. Appearing and conducting action or defense.

1 Any party to a civil action, and the defendant in a
2 criminal prosecution, before a justice, unless he be under
3 the age of eighteen years, may appear and conduct his
4 action or defense in person, or by agent or attorney.

§50-4-23. Appointment of guardian for infant parties.

1 Where a party to the action is under the age of
2 eighteen years, a guardian for the suit must be appointed
3 for him by the justice as follows:

4 (a) If the infant be plaintiff, the appointment must
5 be made before the summons is issued, on the applica-
6 tion of the infant, if he be of the age of fourteen years
7 or upwards; if under that age, on the application of
8 some friend. The consent in writing of the guardian to
9 the appointment, and his agreement to be responsible

10 for costs if he fail in the action, must be filed with the
11 justice;

12 (b) If the infant be defendant, the guardian must be
13 appointed and consent to act as such before the trial.
14 It is the right of the infant defendant to nominate his
15 own guardian, if the infant be fourteen years of age or
16 over, and the proposed guardian be present and consent
17 to serve, otherwise the justice shall appoint some suitable
18 person who gives such consent. The guardian for the
19 defendant shall not be liable for any costs in the action.

CHAPTER 52. JURIES.

ARTICLE 1. PETIT JURIES.

§52-1-1. Persons liable to service.

1 All persons, who are eighteen years of age and not over
2 sixty-five, and who are citizens of this state, shall be
3 liable to serve as jurors, except as hereinafter provided.

CHAPTER 55. ACTIONS, SUITS AND ARBITRATION; JUDICIAL SALES.

ARTICLE 2. LIMITATION OF ACTIONS AND SUITS.

§55-2-7. Actions on bonds of personal representatives and fiduciaries.

1 The right of action upon the bond of an executor, ad-
2 ministrator, guardian, curator or committee, or of a
3 sheriff acting as such, shall be deemed to have first
4 accrued as follows: Upon a bond of a guardian or curator
5 of a ward, from the time of the ward's attaining the age
6 of eighteen years, or from the termination of the guardi-
7 an's or curator's office, whichever shall happen first; and
8 upon the bond of any personal representative of a de-
9 cedent or committee of an insane person, the right of
10 action of a person obtaining execution against such rep-
11 resentative or committee, or to whom payment or de-
12 livery of estate in the hands of such representative or
13 committee shall be ordered by a court acting upon his
14 account, shall be deemed to have first accrued from the

15 return day of such execution, or from the time of the
16 right to require payment or delivery upon such order,
17 whichever shall happen first. And as to any suit against
18 such fiduciary himself, or his representative, which could
19 have been maintained if he had given no bond, there
20 shall be no other limitation than would exist if the pre-
21 ceding section were not passed. Where any such fidu-
22 ciary, or any other fiduciary, has settled an account
23 under the provisions of article four, chapter forty-four
24 of this code, a suit to hold such fiduciary or his sureties
25 liable for any balance stated in such account to be in his
26 hands shall be brought within ten years after the account
27 has been confirmed. The right to recover money paid
28 under fraud or mistake shall be deemed to accrue, both
29 at law and in equity, at the time such fraud or mistake
30 is discovered, or by the exercise of due diligence ought
31 to have been discovered.

CHAPTER 58. APPEAL AND ERROR.

ARTICLE 1. ERRORS NOT REVERSIBLE.

§58-1-2. Harmless error.

1 No judgment or decree shall be arrested or reversed
2 for the appearance of either party, being under the age
3 of eighteen years, by attorney, if the verdict (where
4 there is one), or the judgment or decree, be for him and
5 not to his prejudice; or because it does not appear that
6 an issue has been made up on matter alleged in any plead-
7 ing when, without objection by any party, the case has
8 been tried in the absence of such issue and it is apparent
9 from the record and the evidence (a) that the trial was
10 conducted as if an issue had been made upon such matter,
11 or (b) that no evidence pertaining to such matter was
12 offered and it is reasonably apparent that the parties have
13 treated such matter as waived or abandoned; or for any
14 informality in the entry of the judgment or decree by
15 the clerk; or for the omission of the name of any juror;
16 or because it may not appear that the verdict was ren-
17 dered by the number of jurors required by law; or for any
18 defect, imperfection, or omission in the pleadings, which
19 could not be properly regarded on any motion under

20 rule twelve of the West Virginia rules of civil procedure
21 for trial courts of record, or on a demurrer in any case
22 in which a demurrer is appropriate.

ARTICLE 2. REVIEW IN LOWER COURT.

**§58-2-1. Reservation to infants of right to show cause against
decree or order.**

1 It shall not be necessary to insert in any decree or
2 order a provision allowing an infant to show cause
3 against it within a certain time after he attains the age
4 of eighteen years. But in any case in which, but for this
5 section, such provision would have been proper, the in-
6 fant may, within eight months after attaining the age of
7 eighteen years, show such cause in like manner as if the
8 decree or order contained such provision. This right of
9 an infant shall not be affected by section seven, article
10 twelve, chapter fifty-five of this code.

**CHAPTER 60. STATE CONTROL OF ALCOHOLIC
LIQUORS.**

ARTICLE 3. SALES BY COMMISSIONER.

§60-3-22. Sales to certain persons prohibited.

1 Alcoholic liquors shall not be sold to a person who is:
2 (1) Less than eighteen years of age;
3 (2) An habitual drunkard;
4 (3) Intoxicated;
5 (4) Addicted to the use of narcotic drugs;
6 (5) Mentally incompetent.

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-12. Certain acts of licensee prohibited; penalties.

1 (a) It shall be unlawful for any licensee, or agent,
2 employee or member thereof, on such licensee's premises
3 to:
4 (1) Sell or offer for sale any alcoholic liquors other than
5 from the original package or container;
6 (2) Authorize or permit any disturbance of the peace;
7 obscene, lewd, immoral or improper entertainment, con-
8 duct or practice; gambling or any slot machine, multiple

9 coin console machine, multiple coin console slot machine
10 or device in the nature of a slot machine;

11 (3) Sell, give away, or permit the sale of, gift to, or
12 the procurement of any alcoholic liquors, for any minor,
13 mental incompetent, or person who is physically inca-
14 pacitated due to the consumption of alcoholic liquor, or
15 the use of drugs;

16 (4) Sell, give or dispense alcoholic liquors in or on
17 any licensed premises or in any rooms directly con-
18 nected therewith, between the hours of three o'clock a.m.
19 and one o'clock p.m. on any Sunday;

20 (5) Permit the consumption by, or serve to, on the
21 licensed premises any alcoholic liquors, covered by this
22 article, to any person under the age of eighteen years;

23 (6) With the intent to defraud, alter, change or mis-
24 represent the quality, quantity or brand name of any
25 alcoholic liquor;

26 (7) Sell or offer for sale any alcoholic liquor to any
27 person who is not a duly elected or approved dues pay-
28 ing member in good standing of said private club or a
29 guest of such member; or

30 (8) Violate any reasonable rule or regulation of the
31 commissioner.

32 (b) It shall further be unlawful for any licensee to
33 advertise in any news media or other means, outside of
34 the licensee's premises, the fact that alcoholic liquors
35 may be purchased thereat.

36 (c) Any person who violates any of the foregoing
37 provisions shall be guilty of a misdemeanor, and, upon
38 conviction thereof, shall be punished by a fine of not less
39 than one hundred dollars nor more than five hundred
40 dollars, or by imprisonment in the county jail for a
41 period not to exceed one year, or by both fine and im-
42 prisonment.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-2. License to carry weapons; how obtained.

1 Any person desiring to obtain a state license to carry
2 any such weapon as is mentioned in the first section of

3 this article, within one or more counties in this state, shall
4 first publish a notice setting forth his name, residence
5 and occupation, and that on a certain day he will apply
6 to the circuit court of his county for such state license.
7 Such notice shall be published as a Class I legal adver-
8 tisement in compliance with the provisions of article three,
9 chapter fifty-nine of this code, and the publication area
10 for such publication shall be the county in which such
11 person resides. Such notice shall be published at least
12 ten days before such application is made. After the pub-
13 lication of such notice and at the time stated in such
14 notice, upon application to such court, it may grant such
15 license to such person, in the following manner, to
16 wit:

17 The applicant shall file with such court his application
18 in writing, duly verified, which application shall show:

19 (a) That such applicant is a citizen of the United
20 States of America;

21 (b) That the applicant has been a bona fide resident of
22 this state for at least one year next prior to the date of
23 such application, and of the county sixty days next prior
24 thereto;

25 (c) That the applicant is over eighteen years of age;
26 that he is a person of good moral character, of temperate
27 habits, not addicted to intoxication, and has not been con-
28 victed of a felony or of any offense involving the use on
29 his part of such weapon in an unlawful manner, and shall
30 prove to the satisfaction of the court that he is gainfully
31 employed in a lawful occupation and has been so engaged
32 for a period of five years next preceding the date of his
33 application;

34 (d) The purpose or purposes for which the applicant
35 desires to carry such weapon, the necessity therefor, and
36 the county or counties in which such license is desired to
37 be effective.

38 Upon the hearing of such application the court shall
39 hear evidence upon all matters stated in such application
40 and upon any other matter deemed pertinent by the court,
41 and if such court be satisfied from the proof that there
42 is good reason and cause for such person to carry such

43 weapon, and all of the other conditions of this article be
44 complied with, the court, or the judge thereof in vacation,
45 may grant such license for such purposes, and no other,
46 as such court, or the judge in vacation, may set out in the
47 license (and the word "court" as used in this article shall
48 include the circuit judge thereof, acting either in term or
49 vacation); but, before such license shall be effective such
50 person shall pay to the sheriff, and the court shall so cer-
51 tify in its order granting the license, the sum of twenty
52 dollars, and shall also file a bond with the clerk of such
53 court, in the penalty of three thousand five hundred dol-
54 lars, with good security, signed by a responsible person
55 or persons, or by some surety company, authorized to do
56 business in this state, conditioned that such applicant will
57 not carry such weapon except in accordance with his ap-
58 plication and as authorized by the court, and that he will
59 pay all costs and damages accruing to any person by the
60 accidental discharge or improper, negligent or illegal use
61 of such weapon or weapons. Any such license granted
62 shall be good for one year, unless sooner revoked, as here-
63 inafter provided, and be coextensive with the county in
64 which granted, and such other county or counties as the
65 court shall designate in the order granting such license;
66 except that upon a proper showing the court granting
67 such license to any person regularly employed as a se-
68 curity guard may, in its discretion, in the order granting
69 such license extend the period of the validity of such
70 license for a period not to exceed four years, under such
71 terms and conditions as the court deems proper; except
72 that regularly appointed deputy sheriffs having license
73 shall be permitted to carry such revolver or other weapons
74 at any place, within the state, while in the performance
75 of their duties as such deputy sheriffs; and except that
76 any such license granted to regularly appointed railway
77 police shall be coextensive with the state. All license fees
78 collected hereunder shall be paid by the sheriff and ac-
79 counted for to the auditor as other license taxes are col-
80 lected and paid, and the state tax commissioner shall pre-
81 pare all suitable forms for licenses, bonds and certificates
82 showing that such license has been granted and shall do
83 anything else in the premises to protect the state and see
84 to the enforcement of this section.

85 The clerk of the circuit court shall, immediately after
86 license is granted as aforesaid, furnish the superintendent
87 of the department of public safety a certified copy of the
88 order of the court granting such license, for which service
89 the clerk shall be paid a fee of two dollars which shall be
90 taxed as cost in the proceeding. It shall be the duty of
91 the clerk of each circuit court to furnish to the superin-
92 tendent of the department of public safety, at any time so
93 required, a certified list of all such licenses issued in his
94 county.

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

Russell G. Beall
Chairman Senate Committee

Shyllis J. Rutledge
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard Barron
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

E. Ross McCant
President of the Senate

Lewis G. McMane
Speaker House of Delegates

The within approved this the 27th
March, 1972.
day of _____

Hubert H. Moore, Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 3/20/72

Time 2:50 p.m.

MAR 29 9 30 AM '72
OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

MAR 29 9 30 AM '72

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA