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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987

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ENROLLED

SENATE BILL NO. 761

(By Senators Tucker and Holmes)

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PASSED May 13 1987

In Effect Passage



ENROLLED
Senate Bill No. 761
(By SENATORS TUCKER AND HOLMES)

[Passed May 13, 1987; in effect from passage.]

AN ACT to amend and reenact sections fifteen and fifteen-a, article three, chapter twenty-nine-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section fifteen-b; to amend and reenact sections five-e (one) (five), eleven (one-a) (one), eleven (one-a) (twenty-nine-a), eleven (ten) (five), eleven (twelve) (twenty-four), sixteen (one) (seven), sixteen (three-a) (two), sixteen (five) (three), sixteen (five-b) (eight), sixteen (twenty-nine-a) (five), seventeen-a (two) (nine), nineteen (one-a) (three), nineteen (one-a) (four), nineteen (sixteen-b) (four), twenty (one) (seven), twenty (two) (twelve), twenty (two) (twenty-three-a), twenty (five) (five), twenty (five-a) (three), twenty (five-c) (six), twenty (five-e) (six), twenty-two (one) (thirteen), twenty-two (one) (sixteen), twenty-two (nine) (six), twenty-two-a (three) (forty), twenty-seven (nine) (one), twenty-seven (seventeen) (three), twenty-nine (three) (five), twenty-nine (six) (ten), thirty (six) (three), thirty (seven-a) (five), thirty-one-a (eight-b) (five), thirty-three (two) (ten), thirty-three (thirty) (fifteen), forty-six-a (six) (one hundred three) and forty-six-a (seven) (one hundred two), article two, chapter sixty-four of said code, all relating generally to the promulgation of administrative rules and regulations by the various executive or administrative agencies and the procedures relating thereto; providing that emergency rules promulgated by the secretary of state be reviewed by and may be disapproved by the attorney general; the legislative mandate or authorization for the promulgation of certain legislative

rules by various executive and administrative agencies of the state; authorizing certain of such agencies to promulgate certain legislative rules in the form that the rules were filed in the state register; authorizing certain of such agencies to promulgate legislative rules as amended by the Legislature; authorizing certain of such agencies to promulgate certain legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; directing certain of such agencies to promulgate certain legislative rules filed in the office of the secretary of state during the regular session of the Legislature held in the year one thousand nine hundred eighty-seven; authorizing the West Virginia industrial and trade jobs development corporation to promulgate certain legislative rules relating to the general administration of the West Virginia capital company act and to the establishment of application procedures to implement the act as modified; authorizing the state tax commissioner to promulgate certain legislative rules relating to a listing of interests in natural resources for the first statewide reappraisal and providing for penalties; authorizing the state tax commissioner to promulgate certain legislative rules relating to the review of appraisals by county commissions sitting as administrative appraisal review boards as modified; authorizing the state tax commissioner to promulgate certain legislative rules relating to review of reappraisals by a circuit court on certiorari as modified; authorizing the state tax commissioner to promulgate certain legislative rules relating to the administrative review of appeals by the state tax commissioner as modified; authorizing the state tax commissioner to promulgate certain legislative rules relating to the additional review and implementation of property reappraisals as modified; authorizing the state tax commissioner to promulgate certain legislative rules relating to providing guidelines for assessors to assure fair and uniform property values; authorizing the state tax commissioner to promulgate certain legislative rules relating to business and occupation taxes as modified; authorizing the state tax commissioner to promulgate certain legislative rules governing the registration of transient vendors as modified; authorizing the state board of health to promulgate certain legislative rules relating to establishing methods and standards for chemical tests for

intoxication as modified; authorizing the director of the department of health to promulgate certain legislative rules governing the hazardous material treatment information repository as modified; authorizing the state board of health to promulgate certain legislative rules relating to vital statistics as modified; authorizing the state board of health to promulgate certain legislative rules governing hospital licensure and relating to allowing hospitals to have licensed health care professionals, other than licensed physicians, on their staff, as modified; authorizing the state board of health to promulgate certain legislative rules governing hospital licensure as modified; authorizing the West Virginia hospital finance authority to promulgate certain legislative rules governing the establishment of fee schedule and cost allocation applicable to issuance of bonds by West Virginia hospital finance authority as modified; authorizing the commissioner of motor vehicles to promulgate certain legislative rules relating to the seizure of a driver's license and the issuance of a temporary driver's license as modified; authorizing the commissioner of motor vehicles to promulgate certain legislative rules relating to a federal safety standards inspection program as modified; authorizing the commissioner of agriculture to promulgate certain legislative rules relating to ginseng as modified; authorizing the commissioner of agriculture to promulgate certain legislative rules relating to the West Virginia pesticide use and application act as modified; authorizing the director of the department of natural resources to promulgate certain legislative rules relating to the WV/ NPDES program for coal mines and preparation plants and the refuse and waste therefrom with certain amendments thereto; authorizing the director of the department of natural resources to promulgate certain legislative rules relating to procedures for transporting and dealing in furbearing animals; authorizing the commercial whitewater advisory board to promulgate certain legislative rules relating to commercial whitewater outfitters as modified; authorizing the water resources board to promulgate certain legislative rules relating to water quality standards as modified; authorizing the water resources board to promulgate certain legislative rules relating to the state national pollutant discharge elimination system (NPDES) program as modified; authorizing the water resources board

to promulgate certain legislative rules relating to special regulations; authorizing the water resources board to promulgate certain legislative rules relating to the underground injection control program; authorizing the water development authority to promulgate certain legislative rules relating to requirements governing disbursement of loans and grants to governmental agencies for the acquisition or construction of water development projects; authorizing the director of the department of natural resources to promulgate certain legislative rules relating to hazardous waste management as modified; authorizing the director of the department of natural resources to promulgate certain legislative rules relating to hazardous waste management; authorizing the director of the department of natural resources to promulgate certain legislative rules relating to hazardous waste management which were filed in the state register on the fifth day of March, one thousand nine hundred eighty-seven, which rules modify the previously filed rules entitled "Hazardous Waste Management, Series 35"; authorizing the director of the division of oil and gas of the department of energy to promulgate certain legislative rules governing oil and gas wells and other wells as modified; authorizing the director of the division of oil and gas of the department of energy to promulgate certain legislative rules governing certification of gas wells; authorizing the director of the division of oil and gas of the department of energy to promulgate certain legislative rules governing underground injection control as modified; authorizing the director of the division of oil and gas of the department of energy to promulgate certain legislative rules governing the state national pollutant discharge elimination system (NPDES) program as modified; authorizing the commissioner of the department of energy to promulgate certain legislative rules governing miscellaneous water pollution control; authorizing the commissioner of the department of energy to promulgate certain legislative rules governing dam control as modified; authorizing the commissioner of the department of energy to promulgate certain legislative rules governing solid waste management as modified; authorizing the commissioner of the department of energy to promulgate certain legislative rules governing hazardous waste management as modified; authorizing the commissioner of the department of energy to promulgate certain legislative rules governing the state

national pollutant discharge elimination system (NPDES) for mines and minerals as modified; authorizing the commissioner of the department of energy to promulgate certain legislative rules relating to the standards for certification of coal mine electricians as modified; authorizing the commissioner of the department of energy to promulgate certain legislative rules governing the safety training program for prospective underground coal miners in West Virginia; authorizing the commissioner of the department of energy to promulgate legislative rules governing the safety training program for prospective surface coal miners in West Virginia; authorizing the promulgation of certain legislative rules and regulations relating to the standards for certification of underground belt examiners for underground coal mines; authorizing the state board of health to promulgate certain legislative rules relating to the licensure of behavioral health centers as modified; authorizing the state fire commission to promulgate certain legislative rules relating to the hazardous substance emergency response training program as modified; authorizing the civil service commission to promulgate certain legislative rules governing the civil service system as modified; authorizing the West Virginia board of embalmers and funeral directors to promulgate certain legislative rules relating to the governing of the board of embalmers and funeral directors as modified; authorizing the West Virginia board of examiners for licensed practical nurses to promulgate certain legislative rules governing policies relating to licensure of the licensed practical nurse as modified; authorizing the West Virginia board of examiners for licensed practical nurses to promulgate certain legislative rules governing legal standards of nursing practice for the licensed practical nurse; authorizing the West Virginia board of examiners for licensed practical nurses to promulgate certain legislative rules governing fees for services rendered by the board; authorizing the commissioner of banking to promulgate certain legislative rules implementing the West Virginia community reinvestment act as modified; authorizing the insurance commissioner to promulgate certain legislative rules relating to examiners' compensation, qualification and classification as modified; authorizing the state board of risk and insurance management to promulgate certain

legislative rules governing the mine subsidence insurance program as modified; authorizing the attorney general to promulgate certain legislative rules relating to the prevention of unfair or deceptive acts or practices in home improvement and home construction transactions as modified; and authorizing the attorney general to promulgate certain legislative rules relating to the prevention of unfair or deceptive acts or practices in the sale of damaged goods or products as modified .”

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 29A. STATE ADMINISTRATIVE PROCEDURES.

ARTICLE 3. RULE MAKING.

§29A-3-15. Emergency legislative rules; procedure for promulgation; definition.

- 1 (a) Any agency with authority to propose legislative
- 2 rules may, without hearing, find that an emergency exists
- 3 requiring that emergency rules be promulgated and
- 4 promulgate the same in accordance with this section. Such

5 emergency rules, together with a statement of the facts and
6 circumstances constituting the emergency, shall be filed in
7 the state register and shall become effective immediately
8 upon such filing. Such emergency rules may adopt, amend
9 or repeal any legislative rule, but the circumstances
10 constituting the emergency requiring such adoption,
11 amendment or repeal shall be stated with particularity and
12 be subject to de novo review by any court having original
13 jurisdiction of an action challenging their validity. Fifteen
14 copies of the rules and of the required statement shall be
15 filed forthwith with the legislative rule-making review
16 committee.

17 An emergency rule shall be effective for not more than
18 fifteen months and shall expire earlier if any of the
19 following occurs:

20 (1) The secretary of state, acting under the authority
21 provided for in section fifteen-a of this article, or the
22 attorney general, acting under the authority provided for in
23 section fifteen-b of this article, disapproves the emergency
24 rule because (A) the agency has exceeded the scope of its
25 statutory authority in promulgating the emergency rule; (B)
26 an emergency does not exist justifying the promulgation of
27 such rule; or (C) the rule was not promulgated in
28 compliance with the provisions of this section.

29 (2) The agency has not previously filed and fails to file a
30 notice of public hearing on the proposed rule within sixty
31 days of the date the proposed rule was filed as an emergency
32 rule; in which case the emergency rule expires on the sixty-
33 first day.

34 (3) The agency has not previously filed and fails to file
35 the proposed rule with the legislative rule-making review
36 committee within one hundred eighty days of the date the
37 proposed rule was filed as an emergency rule; in which case
38 the emergency rule expires on the one hundred eighty-first
39 day.

40 (4) The Legislature has authorized or directed
41 promulgation of an authorized legislative rule dealing with
42 substantially the same subject matter since such emergency
43 rule was first promulgated, and in which case the
44 emergency rule expires on the date the authorized rule is
45 made effective.

46 (5) The Legislature has, by law, disapproved of such
47 emergency rule; in which case the emergency rule expires
48 on the date the law become effective.

49 (b) Any amendment to an emergency rule made by the
50 agency shall be filed in the state register and does not
51 constitute a new emergency rule for the purpose of
52 acquiring additional time or avoiding the expiration dates
53 in subdivision (1), (2), (3) or (4), subsection (a) of this section.

54 (c) Once an emergency rule expires due to the
55 conclusion of fifteen months or due to the effect of
56 subdivision (1), (2), (3) or (4), subsection (a) of this section,
57 the agency may not refile the same or similar rule as an
58 emergency rule.

59 (d) Emergency legislative rules currently in effect under
60 the prior provisions of this section may be refiled under the
61 provisions of this section.

62 (e) The provision of this section shall not be used to
63 avoid or evade any provision of this article or any other
64 provisions of this code, including any provisions for
65 legislative review and approval of proposed rules. Any
66 emergency rule promulgated for any such purpose may be
67 contested in a judicial proceeding before a court of
68 competent jurisdiction.

69 (f) The legislative rule-making review committee may
70 review any emergency rule to determine (1) whether the
71 agency has exceeded the scope of its statutory authority in
72 promulgating the emergency rule; (2) whether there exists
73 an emergency justifying the promulgation of such rule; and
74 (3) whether the rule was promulgated in compliance with
75 the requirements and prohibitions contained in this section.
76 The committee may recommend to the agency, the
77 Legislature, or the secretary of state such action as it may
78 deem proper.

79 (g) For the purposes of this section, an emergency exists
80 when the promulgation of a rule is necessary for the
81 immediate preservation of the public peace, health, safety
82 or welfare or is necessary to comply with a time limitation
83 established by this code or by a federal statute or regulation
84 or to prevent substantial harm to the public interest.

**§29A-3-15a. Disapproval of emergency rules by the secretary
of state; judicial review.**

1 (a) Upon the filing of an emergency rule by an agency,
2 under the provisions of section fifteen of this article, by any
3 agency, except for the secretary of state, the secretary of
4 state shall review such rule and, within forty-two days of

5 such filing, shall issue a decision as to whether or not such
6 emergency rule should be disapproved. An emergency rule
7 filed by the secretary of state shall be reviewed by the
8 attorney general as provided for in section fifteen-b of this
9 article.

10 (b) The secretary of state shall disapprove an emergency
11 rule if he determines:

12 (1) That the agency has exceeded the scope of its
13 statutory authority in promulgating the emergency rule;

14 (2) That an emergency does not exist justifying the
15 promulgation of the rule; or

16 (3) That the rule was not promulgated in compliance
17 with the provisions of section fifteen of this article.

18 (c) If the secretary of state determines, based upon the
19 contents of the rule or the supporting information filed by
20 the agency, that the emergency rule should be disapproved,
21 he may disapprove such rule without further investigation,
22 notice or hearing. If, however, the secretary of state
23 concludes that the information submitted by the agency is
24 insufficient to allow a proper determination to be made as
25 to whether the emergency rule should be disapproved, he
26 may make further investigation, including, but not limited
27 to, requiring the agency or other interested parties to
28 submit additional information or comment or fixing a date,
29 time and place for the taking of evidence on the issues
30 involved in making a determination under the provisions of
31 this section.

32 (d) The determination of the secretary of state shall be
33 reviewable by the supreme court of appeals under its
34 original jurisdiction, based upon a petition for a writ of
35 mandamus, prohibition of certiorari, as appropriate. Such
36 proceeding may be instituted by:

37 (1) The agency which promulgated the emergency rule;

38 (2) A member of the Legislature; or

39 (3) Any person whose personal property interests will
40 be significantly affected by the approval or disapproval of
41 the emergency rule by the secretary of state.

**§29A-3-15b. Disapproval of emergency rules by the attorney
general; judicial review.**

1 (a) Upon the filing of an emergency rule by the secretary
2 of state under the provisions of section fifteen of this article,
3 the attorney general shall review such rule and, within

4 forty-two days of such filing, shall issue a decision as to
5 whether or not such emergency rule should be disapproved.

6 (b) The attorney general shall disapprove an emergency
7 rule if he determines:

8 (1) That the secretary of state has exceeded the scope of
9 its statutory authority in promulgating the emergency rule;

10 (2) That an emergency does not exist justifying the
11 promulgation of the rule; or

12 (3) That the rule was not promulgated in compliance
13 with the provisions of section fifteen of this article.

14 (c) If the attorney general determines, based upon the
15 contents of the rule or the supporting information filed by
16 the secretary of state, that the emergency rule should be
17 disapproved, he may disapprove such rule without further
18 investigation, notice or hearing. If, however, the attorney
19 general concludes that the information submitted by the
20 secretary of state is insufficient to allow a proper
21 determination to be made as to whether the emergency rule
22 should be disapproved, he may make further investigation,
23 including, but not limited to, requiring the secretary of state
24 or other interested parties to submit additional information.
25 or comment or fixing a date, time and place for the taking of
26 evidence on the issues involved in making a determination
27 under the provisions of this section.

28 (d) The determination of the attorney general shall be
29 reviewable by the supreme court of appeals under its
30 original jurisdiction, based upon a petition for a writ of
31 mandamus, prohibition or certiorari, as appropriate. Such
32 proceeding may be instituted by:

33 (1) The secretary of state;

34 (2) A member of the Legislature; or

35 (3) Any person whose personal property interests will
36 be significantly affected by the approval or disapproval of
37 the emergency rule by the attorney general.

CHAPTER 64. LEGISLATIVE RULES.

ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE LEGISLATIVE RULES.

§64-2-5e(1)(5). West Virginia industrial and trade jobs development corporation.

1 The legislative rules filed in the state register on the
2 fifteenth day of October, one thousand nine hundred

3 eighty-six, modified by the West Virginia industrial and
 4 trade jobs development corporation to meet the objections
 5 of the legislative rule-making review committee and refiled
 6 in the state register on the twelfth day of January, one
 7 thousand nine hundred eighty- seven, relating to the West
 8 Virginia industrial and trade jobs development corporation
 9 (general administration of the West Virginia capital
 10 company act and establishment of application procedures
 11 to implement the act), are authorized.

§64-2-11(1a)(1). State tax commissioner.

1 (a) The legislative rules filed in the state register on the
 2 twelfth day of March, one thousand nine hundred eighty-
 3 five, relating to the state tax commissioner (identification
 4 and appraisal of farmland subsequent to the base year of
 5 statewide reappraisal) are authorized and directed to be
 6 promulgated with the following amendments:

7 Title page, Subject; following the word "Farmland,"
 8 insert the words "and of Structures Situated Thereon."

9 Page i, Subject; following the word "Farmland," insert
 10 the words "and of Structures Situated Thereon."

11 Page i, TABLE OF CONTENTS, Section 10; following the
 12 words "Valuation of Farmland" add the words "and of
 13 Structures Situated Thereon."

14 Page 10.1, Title; following the word "FARMLAND"
 15 insert the words "AND STRUCTURES SITUATED
 16 THEREON."

17 Page 10.1, Section 10, Title; following the word
 18 "Farmland" add the words "and Structures Situated
 19 Thereon."

20 Page 10.1, Section 10.01(b); following the word
 21 "farmland" insert the words "and structures situated
 22 thereon."

23 Page 10.2, Section 10.02(a), first sentence; following the
 24 word "farmland" insert the words "and structures situated
 25 thereon."

26 Page 10.3, Section 10.02(b), first sentence; following the
 27 word "farmland" insert the words "and structures situated
 28 thereon." Delete the words "for purposes of the statewide
 29 reappraisal."

30 Page 10.3, Section 10.02(b), last sentence; following the
 31 word "farmland" insert the words "and structures situated
 32 thereon."

33 Page 10.8, Section 10.04(5)(B), last sentence; delete the
34 period and add “or the incapability to be adapted to
35 alternative uses.”

36 Page 10.9, Section 10.04(6), first sentence; following the
37 words “land currently being used” insert the words “as part
38 of a farming operation,”.

39 Page 10.9, Section 10.04(6), following the last sentence;
40 add the sentence “For the purposes of this definition,
41 ‘contiguous tracts’ are farmlands which are in close
42 proximity, but not necessarily adjacent: *Provided*, That all
43 such contiguous tracts are operated as part of the same farm
44 management plan.”

45 Page 10.10, Section 10.04(8), is amended to read in its
46 entirety as follows:

47 “(8) *Farm buildings*.—The term “farm buildings” shall
48 mean structures which directly contribute to the operation
49 of the farm, and shall include tenant houses and quarters
50 furnished farm employees without rent as a part of the
51 terms of their employment.”

52 Page 10.11, Section 10.04; delete the word “November”
53 and insert in lieu thereof the word “September.” Delete the
54 period following the word “valuation” and add the words
55 “for the assessment year beginning July first of each year.”

56 Page 10.11, Section 10.04, insert the following
57 subdivision; “(12) Application Form: The application form
58 required to be filed with the assessor on or before
59 September first of each year shall require certification that
60 the farm complies with criteria set forth in Section 10.05(c)
61 of these regulations, and renewal applications from year to
62 year shall be sufficient upon statement certifying that no
63 change has been made in the use of farm property which
64 would disqualify ‘farm use’ classification for assessment
65 purposes.” Renumber the subdivisions of Section 10.04
66 following the new 10.04(12); formerly 10.04(12) through
67 10.04(28), to 10.04(13) through 10.04(29) respectively.

68 Page 10.14, Section 10.04(28) (formerly 10.04(27));
69 following the words “woodland products” insert a comma
70 and the words “such as nuts or fruits harvested” and add a
71 comma following the words “human consumption” on Page
72 10.15.

73 Page 10.16, Section 10.05, subsection (a), following the
74 words “land is used for farm purposes” by striking the
75 period and inserting in lieu thereof a colon and the

76 following: "*Provided*, That the true and actual value of all
77 farm used, occupied and cultivated by their owners or bona
78 fide tenants shall be arrived at according to the fair and
79 reasonable value of the property for the purpose for which it
80 is actually used regardless of what the value of the property
81 would be if used for some other purpose; and that the true
82 and actual value shall be arrived at by giving consideration
83 to the fair and reasonable income which the same might be
84 expected to earn under normal conditions in the locality
85 wherein situated, if rented: *Provided, however*, That
86 nothing herein shall alter the method of assessment of lands
87 or minerals owned by domestic or foreign corporations."

88 Page 10.16, Section 10.05(b), first clause; following the
89 words "following factors shall be" insert the words
90 "indicative of but not conclusive" and delete the word
91 "considered."

92 Page 10.16, Section 10.05(b)(2); delete the period and add
93 the words "such as soil conservation, farmland
94 preservation or federal farm lending agencies."

95 Page 10.17, Section 10.05(b)(7); delete the section and
96 insert in lieu thereof the words "(7) Whether or not the
97 farmer practices 'custom farming' on the land in question."

98 Page 10.17, Section 10.05(b)(9); following the word
99 "type" add a comma and insert the word "utility."

100 Page 10.17, Section 10.05(b)(11), first sentence; following
101 the word "sales" insert the words "for nonfarm uses."

102 Page 10.17, Section 10.05(b)(12)(A); following the words
103 "part of" insert the words "or appurtenant to."

104 Page 10.17, Section 10.05(b)(12)(B); following the words
105 "contiguous to" insert the words "or operated in common
106 with."

107 Page 10.18, Section 10.05, subsection (c), the first
108 sentence of which is amended in its entirety to read as
109 follows: "Qualifying farmland and the structures situated
110 thereon shall be subject to farm use valuation, with primary
111 consideration being given to the income which the property
112 might be expected to earn, in the locality wherein situate, if
113 rented."

114 Page 10.18, Section 10.05(b)(12)(B); delete the semicolons
115 and the words "it was purchased at the same time as the
116 tract so used." Delete the period following the word
117 "purposes" and add the words "or any nonfarm use."

118 Page 10.19, Section 10.05(c)(2); following the words
119 "Provided, That no" delete the word "reason" and insert in
120 lieu thereof the words "individual event."

121 Page 10.20, Section 10.05(c)(4)(C); following the words
122 "(1,000) minimum production value" insert the words "or
123 the small farm five hundred dollars (\$500) minimum
124 production and sale."

125 Page 10.23, Section 10.05(d)(3)(B), third sentence;
126 following the word "If" insert the words "timber from."
127 Delete the period following the word "purpose" and add the
128 words "or is being converted to farm production uses."

129 Page 10.26, Section 10.05(f)(2) is amended in its entirety
130 to read as follows:

131 "(2) *Farm buildings*.—Rental value of farm buildings
132 and other improvements on the farmland shall be valued by
133 determining the replacement cost of the building or
134 structure by usual farm construction practices, and farm
135 labor standards and subtracting 1 therefrom depreciation.
136 Both of these determinations shall be made in accordance
137 with the tax department's real property 2 appraisal manual
138 as filed in the state register in accordance with chapter 29A
139 of the code of West Virginia, 1931, as amended, and as it
140 relates to agricultural buildings and structures. One (1) acre
141 of land shall be assigned to all buildings as a unit situate on
142 the property, regardless of the actual acreage occupied by
143 such buildings and shall be appraised at its farm-use
144 valuation based on the highest class of farmland present on
145 the farm."

146 Page 10.28, Section 10.05(f)(3)(B)(1); following the words
147 "or more of the" insert the word "usual."

148 Page 10.28, Section 10.05(f)(3)(B)(2); following the words
149 "(50%) of the" insert the word "usual."

150 Page 10.29, Section 10.05(f)(3)(C)(1)(a); following the
151 words "(50%) or more of the" insert the word "usual".

152 Page 10.29, Section 10.05(f)(3)(C)(1)(b); following the
153 words "(50%) of the" insert the word "usual".

154 Page 10.31, Section 10.05(f)(3)(C)(2)(b); following the last
155 sentence insert the sentence "An individual employed other
156 than in farming is not an unincorporated business."

157 Page 10.35, Section 10.07, Title; following the word
158 "Farmland" insert the words "and Structures Situated
159 Thereon."

160 Page 10.35, Section 10.07(a), first sentence; following the
161 word "farmland" insert the words "and structures situated
162 thereon."

163 Page 10.46, Subject; following the word "Farmland"
164 insert the words "and Structures Situated Thereon."

165 (b) The legislative rules filed in the state register on the
166 twenty-sixth day of March, one thousand nine hundred
167 eighty-six, relating to the state tax commissioner (listing of
168 interests in natural resources for the first statewide
169 reappraisal; provision for penalties) are authorized.

170 (c) The legislative rules filed in the state register on the
171 twenty-sixth day of March, one thousand nine hundred
172 eighty-six, modified by the state tax commissioner to meet
173 the objections of the legislative rule-making review
174 committee and refiled in the state register on the twelfth
175 day of February, one thousand nine hundred eighty-seven,
176 relating to the state tax commissioner (review of appraisals
177 by county commissions sitting as administrative appraisal
178 review boards), are authorized.

179 (d) The legislative rules filed in the state register on the
180 twenty-sixth day of March, one thousand nine hundred
181 eighty-six, modified by the state tax commissioner to meet
182 the objections of the legislative rule-making review
183 committee and refiled in the state register on the twelfth
184 day of February, one thousand nine hundred eighty-seven,
185 relating to the state tax commissioner (review of appraisals
186 by a circuit court on certiorari), are authorized with the
187 following amendment:

188 On page 3, §18.3.1 is stricken in its entirety and a new
189 §18.3.1 is inserted in lieu thereof to read as follows:

190 "18.3.1 *Who May Request Review.*—The property
191 owner, Tax Commissioner, protestor or intervenor may
192 request the county commission to certify the evidence and
193 remove and return the record to the circuit court of the
194 county on a writ of certiorari. Parties to the proceeding
195 wherein review by the circuit court is sought shall pay costs
196 and fees as they are incurred: *Provided*, That the circuit
197 court upon rendering judgment or making any order may
198 award costs to any party in accordance with the provisions
199 of W. Va. Code §53-3-5."

200 (e) The legislative rules filed in the state register on the
201 twenty-sixth day of March, one thousand nine hundred
202 eighty-six, modified by the state tax commissioner to meet

203 the objections of the legislative rule-making review
204 committee and refiled in the state register on the twelfth
205 day of February, one thousand nine hundred eighty-seven,
206 relating to the state tax commissioner (administrative
207 review of appraisals by the state tax commissioner), are
208 authorized.

209 (f) The legislative rules filed in the state register on the
210 eighteenth day of August, one thousand nine hundred
211 eighty-six, modified by the state tax commissioner to meet
212 the objections of the legislative rule-making review
213 committee and refiled in the state register on the twelfth
214 day of February, one thousand nine hundred eighty-seven,
215 relating to the state tax commissioner (additional review
216 and implementation of property appraisals), are
217 authorized.

§64-2-11(1a)(29a). State tax commissioner.

1 The legislative rules filed in the state register on the
2 eleventh day of August, one thousand nine hundred eighty-
3 six, relating to the state tax commissioner (guidelines for
4 assessors to assure fair and uniform personal property
5 values) are authorized.

§64-2-11(10)(5). State tax commissioner.

1 (a) The legislative rules filed in the state register on the
2 twenty-eighth day of September, one thousand nine
3 hundred eighty-four, relating to the state tax commissioner
4 (estimated personal income tax), are authorized with the
5 amendments set forth below:

6 55.02(a)(2)(on page 182.2) line 18, after the word
7 "profession" strike the words "on his own account" and the
8 comma(,).

9 55.12(b)(1)(page 182.35) at the end of the section, change
10 the period to a comma, and add the following language:
11 "and in the case of a court appointed agent, a copy of the
12 court order of appointment is sufficient."

13 55.12(c)(page 182.36) after the word "for", strike the
14 word "erroneous".

15 (b) The legislative rules filed in the state register on the
16 twenty-eighth day of September, one thousand nine
17 hundred eighty-four, modified by the state tax
18 commissioner to meet the objections of the legislative rule-
19 making review committee and refiled in the state register on

20 the fourteenth day of November, one thousand nine
21 hundred eighty-four, and on the twenty-first day of March,
22 one thousand nine hundred eighty-five, relating to the state
23 tax commissioner (estimated corporation net income tax),
24 are authorized.

25 (c) The legislative rules filed in the state register on the
26 fourth day of February, one thousand nine hundred eighty-
27 six, modified by the state tax commissioner to meet the
28 objection of the legislative rule-making review committee
29 and refiled in the state register on the fourteenth day of
30 January, one thousand nine hundred eighty-seven, relating
31 to the state tax commissioner (business and occupation tax)
32 are authorized.

§64-2-11(12)(24). State tax commissioner.

1 The legislative rules filed in the state register on the
2 eighteenth day of August, one thousand nine hundred
3 eighty-six, modified by the state tax commissioner to meet
4 the objections of the legislative rule-making review
5 committee and refiled in the state register on the tenth day
6 of December, one thousand nine hundred eighty-six,
7 relating to the state tax commissioner (registration of
8 transient vendors), are authorized.

§64-2-16(1)(7). State board of health.

1 (a) The legislative rules filed in the state register on the
2 second day of June, one thousand nine hundred eighty-two,
3 relating to the state board of health (waste water treatment
4 works operations), are authorized.

5 (b) The legislative rules filed in the state register on the
6 second day of June, one thousand nine hundred eighty-two,
7 relating to the state board of health (laboratory reporting of
8 syphilis and gonorrhea) are authorized.

9 (c) The legislative rules filed in the state register on the
10 second day of June, one thousand nine hundred eighty-two,
11 relating to the state board of health (public water supply
12 operators) with the modification of §11.02 as presented to
13 the legislative rule-making review committee on the ninth
14 day of November, one thousand nine hundred eighty-two,
15 are authorized.

16 (d) The legislative rules filed in the state register on the
17 twenty-second day of October, one thousand nine hundred
18 eighty-two, relating to the state board of health (sewage

19 systems) with the modification presented to the legislative
20 rule-making review committee on the sixth day of
21 December, one thousand nine hundred eighty-two, are
22 authorized except lines ten through seventeen, page eight of
23 the rules, shall be stricken in their entirety and the
24 remaining paragraphs renumbered. These rules were
25 proposed by the state board of health pursuant to sections
26 seven and nine, article one, chapter sixteen of this code.

27 (e) The legislative rules filed in the state register on the
28 second day of June, one thousand nine hundred eighty-two,
29 relating to the state board of health (approval of
30 laboratories), are authorized. These rules were proposed by
31 the state board of health pursuant to section one, article
32 seven, chapter sixteen and section six-a, article one,
33 chapter forty-eight of this code.

34 (f) The legislative rules filed in the state register on the
35 thirteenth day of August, one thousand nine hundred
36 eighty-two, and filed with amendments on the eleventh day
37 of January, one thousand nine hundred eighty-three,
38 relating to the state board of health (nursing home
39 licensure), are authorized with the amendment of §5.15.02
40 of those rules as set forth below:

41 By striking the word "and" at the end of subdivision (f),
42 by changing the period at the end of subdivision (g) to a
43 semicolon, and by adding the following after subdivision
44 (g): "(h) one (1) member who represents social work
45 services."

46 These rules were proposed by the state board of health
47 pursuant to section seven, article one, chapter sixteen and
48 section three, article five-c, chapter sixteen of this code.

49 (g) The legislative rules filed in the state register on the
50 third day of October, one thousand nine hundred eighty-
51 four, relating to the state board of health (trauma center or
52 facility designation), are authorized.

53 (h) The legislative rules filed in the state register on the
54 seventh day of September, one thousand nine hundred
55 eighty-three, relating to the state board of health (well
56 water regulations) are authorized with the amendments set
57 forth below:

58 §4.1. In the first sentence delete the word "obtaining"
59 and insert in lieu thereof the words "applying for." In the
60 second sentence after "4.3" add "and 4.5."

61 §4.2. At the end of the second sentence, strike the period
62 and add the words “unless emergency conditions prevail as
63 noted under §4.3.”

64 With the balance of §4.2 and create a new §4.3 with the
65 following changes: In the first sentence delete the word
66 “deadline” and insert in lieu thereof the word
67 “requirements.” Add after the first sentence the sentence,
68 “Emergency conditions and unavoidable circumstances are
69 those conditions involving acts of God, water outages or
70 disruption of water service, unsatisfactory water quality or
71 quantity or public health threats.” In the third sentence
72 delete the word “exceed” and insert in lieu thereof the
73 words “be made in excess of.”

74 Renumber §4.3 as §4.4 and add the following two
75 sentences at the end of the section: “Such standards shall
76 constitute the minimum standards for the installation, the
77 alteration or the deepening of water wells. Any plans
78 approved by the director pursuant to these regulations shall
79 be in substantial compliance with the heretofore mentioned
80 standards.”

81 Renumber §4.4 as §4.5, §4.5 as §4.6, §4.6 as §4.7, §4.7 as
82 §4.8 and §4.8 as §4.9.

83 §5.2. Delete the words “four(4)” and insert in lieu
84 thereof the words “two(2)” and delete the words “active,
85 continuous.”

86 (i) The legislative rules filed in the state register on the
87 nineteenth day of December, one thousand nine hundred
88 eighty-three, relating to the state board of health
89 (procedures for recovery of corneal tissue for transplant)
90 are authorized.

91 (j) The legislative rules filed in the state register on the
92 twenty-first day of December, one thousand nine hundred
93 eighty-four, relating to the state board of health (reportable
94 diseases) are authorized.

95 (k) The legislative rules filed in the state register on the
96 third day of October, one thousand nine hundred eighty-
97 four, relating to the state board of health (retail food store
98 sanitation) are authorized.

99 (l) The legislative rules filed in the state register on the
100 seventeenth day of July, one thousand nine hundred eighty-
101 six, modified by the state board of health to meet the
102 objections of the legislative rule-making review committee

103 and refiled in the state register on the sixteenth day of
104 October, one thousand nine hundred eighty-six, relating to
105 the state board of health (methods and standards for
106 chemical tests for intoxication) are authorized.

§64-2-16(3a)(2). Director of health.

1 The legislative rules filed in the state register on the
2 thirteenth day of August, one thousand nine hundred
3 eighty-six, modified by the director of the department of
4 health to meet the objections of the legislative rule-making
5 review committee and refiled in the state register on the
6 sixteenth of October, one thousand nine hundred eighty-
7 six, relating to the director of the department of health
8 (hazardous material treatment information repository) are
9 authorized.

§64-2-16(5)(3). State board of health.

1 The legislative rules filed in the state register on the ninth
2 day of December, one thousand nine hundred eighty-six,
3 modified by the state board of health to meet the objections
4 of the legislative rule-making review committee and refiled
5 in the state register on the twenty-third day of December,
6 one thousand nine hundred eighty-six, relating to the state
7 board of health (vital statistics) are authorized.

§64-2-16(5b)(8). State board of health.

1 (a) The legislative rules filed in the state register on the
2 eighteenth day of April, one thousand nine hundred eighty-
3 six, modified by the state board of health to meet the
4 objections of the legislative rule-making review committee
5 and refiled in the state register on the seventeenth day of
6 October, one thousand nine hundred eighty-six, relating to
7 the state board of health (hospital licensure) are authorized.

8 (b) The legislative rules filed in the state register on the
9 ninth day of December, one thousand nine hundred eighty-
10 six, modified by the state board of health to meet the
11 objections of the legislative rule-making review committee
12 and refiled in the state register on the twenty-third day of
13 December, one thousand nine hundred eighty-six, relating
14 to the state board of health (hospital licensure and allowing
15 hospitals to have licensed hospital professionals, other than
16 licensed physicians, on their medical staff) are authorized.

§64-2-16(29a)(5). West Virginia hospital finance authority.

1 The legislative rules filed in the state register on the tenth
2 day of June, one thousand nine hundred eighty-six,
3 modified by the West Virginia hospital finance authority to
4 meet the objections of the legislative rule-making review
5 committee and refiled in the state register on the ninth day
6 of January, one thousand nine hundred eighty-seven,
7 relating to the West Virginia hospital finance authority
8 (establishment of fee schedule and cost allocation
9 applicable to issuance of bonds) are authorized.

§64-2-17a(2)(9). Commissioner of motor vehicles.

1 (a) The legislative rules filed in the state register on the
2 second day of December, one thousand nine hundred
3 eighty-two, relating to the commissioner of motor vehicles
4 (denial of driving privileges), are authorized with the
5 amendments set forth below:

6 By inserting the words "licensed in the United States"
7 after the phrase "physician of the applicant's choice," on
8 page five, line two, and page seven, line one; and by striking
9 out the words "licensed vision specialist" and inserting in
10 lieu thereof the words "an optometrist or ophthalmologist
11 licensed in the United States," on page five, line three, and
12 on page seven, line two. These rules were proposed by the
13 commissioner pursuant to section nine, article two, chapter
14 seventeen-a and section six, article three-c, chapter
15 seventeen-b of this code.

16 (b) The legislative rules filed in the state register on the
17 twentieth day of November, one thousand nine hundred
18 eighty-four, relating to the commissioner of motor vehicles
19 (titling a vehicle), are authorized.

20 (c) The legislative rules filed in the state register on the
21 fifth day of August, one thousand nine hundred eighty-five,
22 modified by the commissioner of motor vehicles to meet the
23 objections of the legislative rule-making review committee
24 and refiled in the state register on the fourth day of October,
25 one thousand nine hundred eighty-five, relating to the
26 commissioner of motor vehicles (eligibility for
27 reinstatement following suspension or revocation of
28 driving privileges), are authorized.

29 (d) The legislative rules filed in the state register on the
30 twenty-fifth day of July, one thousand nine hundred
31 eighty-six, modified by the commissioner of motor vehicles

32 to meet the objections of the legislative rule-making review
33 committee and refiled in the state register on the ninth day
34 of October, one thousand nine hundred eighty-six, relating
35 to the commissioner of motor vehicles (seizure of a driver's
36 license and issuance of a temporary driver's license), are
37 authorized.

38 (e) The legislative rules filed in the state register on the
39 twenty-fifth day of July, one thousand nine hundred
40 eighty-six, modified by the commissioner of motor vehicles
41 to meet the objections of the legislative rule-making review
42 committee and refiled in the state register on the ninth day
43 of October, one thousand nine hundred eighty-six, relating
44 to the commissioner of motor vehicles (federal safety
45 standards inspection program) are authorized.

**§64-2-19(1a)(3). Division of forestry; department of
agriculture.**

1 The rules authorized by the Legislature in section
2 nineteen (one-a) (four) of this article were also proposed by
3 the commissioner of agriculture pursuant to section three,
4 article one-a, chapter nineteen of this code.

**§64-2-19(1a)(4). Division of forestry; department of
agriculture.**

1 The legislative rules filed in the state register on the
2 eighteenth day of August, one thousand nine hundred
3 eighty-six, modified by the director of the division of
4 forestry of the department of agriculture to meet the
5 objections of the legislative rule-making review committee
6 and refiled in the state register on the fifth day of January,
7 one thousand nine hundred eighty-seven, relating to the
8 director of the division of forestry of the department of
9 agriculture (ginseng), are authorized. These rules were
10 proposed by the director of the division of forestry of the
11 department of agriculture pursuant to sections three and
12 four, article one-a, chapter nineteen of the code.

§64-2-19(16b)(4). Commissioner of agriculture.

1 (a) The legislative rules filed in the state register on the
2 fifth day of January, one thousand nine hundred eighty-
3 four, relating to the commissioner of agriculture (use of
4 certain picloram products), are authorized.

5 (b) The legislative rules filed in the state register on the
6 eighteenth day of June, one thousand nine hundred eighty-

7 six, modified by the commissioner of agriculture to meet the
8 objections of the legislative rule-making review committee
9 and refiled in the state register on the fifth day of January,
10 one thousand nine hundred eighty-seven, relating to the
11 commissioner of agriculture (West Virginia pesticide use
12 and application act), are authorized.

§64-2-20(1)(7). Department of natural resources.

1 (a) The legislative rules filed in the state register on the
2 twenty-sixth day of September, one thousand nine hundred
3 eighty-four, relating to the department of natural resources
4 (public use of state parks, forests, hunting and fishing
5 areas), are authorized.

6 (b) The legislative rules filed in the state register on the
7 ninth day of September, one thousand nine hundred eighty-
8 five, relating to the department of natural resources (WV/
9 NPDES regulations for the coal mining point source
10 category and related sewage facilities), are authorized.

11 (c) The legislative rules filed in the state register on the
12 thirtieth day of December, one thousand nine hundred
13 eighty-six, relating to the department of natural resources
14 (WV/NPDES program for coal mines and preparation
15 plants, and the refuse and waste therefrom), are authorized
16 with the amendments set forth below:

17 On page four, §1.9.1.a by inserting the words “five
18 thousand dollars or” after the words “significant portion of
19 income’ means” and

20 On page four, §1.9.1.a by inserting the words “whichever
21 is less,” after the words “ten percent or more of gross
22 personal income for a calendar year”.

§64-2-20(2)(12). Director of the department of natural resources.

1 The legislative rules filed in the state register on the
2 seventh day of August, one thousand nine hundred eighty-
3 six, relating to the director of the department of natural
4 resources (procedures for transporting and dealing in
5 furbearing animals), are authorized.

**§64-2-20(2)(23a). Department of natural resources;
commercial whitewater advisory
board.**

1 The legislative rules filed in the state register on the
2 twentieth day of December, one thousand nine hundred

3 eighty-six, modified by the commercial whitewater
4 advisory board to meet the objections of the legislative
5 rule-making review committee and refiled in the state
6 register on sixteenth day of January, one thousand nine
7 hundred eighty-seven, relating to the commercial
8 whitewater advisory board (commercial whitewater
9 outfitters), are authorized with the following amendments:
10 On page 1, §2.1, by striking all of §2.1 and inserting in lieu
11 thereof the following: “2.1 Commercial whitewater
12 outfitter means any person, partnership, corporation or
13 other organization, or any combination thereof, duly
14 authorized and operating from within or from without the
15 state, which for monetary profit or gain, provides
16 whitewater expeditions or rents whitewater craft or
17 equipment for use in whitewater expeditions on any river,
18 portions of rivers or waters of the state.”

§64-2-20(5)(5). Water resources board.

1 The legislative rules filed in the state register on the
2 seventeenth day of October, one thousand nine hundred
3 eighty- five, and modified by the state water resources
4 board to meet the objections of the legislative rule-making
5 review committee and refiled in the state register on the
6 twenty-fourth day of February, one thousand nine hundred
7 eighty-seven, relating to the state water resources board
8 (special regulations) are authorized. These rules were
9 proposed by the state water resources board pursuant to
10 section three, article five-a, and section five, article five, of
11 chapter twenty of this code.

§64-2-20(5a)(3). Water resources board.

1 (a) The legislative rules filed in the state register on the
2 sixth day of January, one thousand nine hundred eighty-
3 three, relating to the state water resources board
4 (underground injection control program), are authorized.
5 (b) The legislative rules filed in the state register on the
6 fifteenth day of November, one thousand nine hundred
7 eighty- three, relating to the state water resources board
8 (special regulations), are authorized.
9 (c) The legislative rules filed in the state register on the
10 third day of August, one thousand nine hundred eighty-
11 three, relating to the state water resources board
12 (groundwater protection standards), are authorized.

13 (d) The legislative rules filed in the state register on the
14 fifteenth day of November, one thousand nine hundred
15 eighty- three, relating to the state water resources board
16 (state national pollutant discharge elimination system
17 (NPDES) program), are authorized.

18 (e) The Legislature hereby authorizes and directs the
19 state water resources board to promulgate rules relating to
20 water quality standards in exact conformity with the rules
21 relating to water quality standards tendered to the
22 secretary of state on the seventh day of March, one thousand
23 nine hundred eighty-four by the executive secretary of the
24 state water resources board, to be received and filed for
25 inclusion in the state register by the secretary of state.

26 (f) The legislative rules filed in the state register on the
27 seventh day of January, one thousand nine hundred eighty-
28 five, modified by the water resources board to meet the
29 objections of the legislative rule-making review committee
30 and refiled in the state register on the thirteenth day of
31 February, one thousand nine hundred eighty-five, relating
32 to the water resources board (water quality standards), are
33 authorized.

34 (g) The legislative rules filed in the state register on the
35 seventeenth day of October, one thousand nine hundred
36 eighty- five, modified by the state water resources board to
37 meet the objections of the legislative rule-making review
38 committee and refiled in the state register on the eighth day
39 of January, one thousand nine hundred eighty-seven, and
40 further modified by the state water resources board to meet
41 the objections of the legislative rule-making review
42 committee and refiled in the state register on the twenty-
43 fourth day of February, one thousand nine hundred eighty-
44 seven, relating to the state water resources board (water
45 quality standards), are authorized.

46 (h) The legislative rules filed in the state register on the
47 seventeenth day of October, one thousand nine hundred
48 eighty- five, modified by the state water resources board to
49 meet the objections of the legislative rule-making review
50 committee and refiled in the state register on the eighth day
51 of January, one thousand nine hundred eighty-seven, and
52 further modified by the state water resources board to meet
53 the objections of the legislative rule-making review
54 committee and refiled in the state register on the twenty-
55 fourth day of February, one thousand nine hundred eighty-

56 seven, relating to the state water resources board (state
57 national pollutant discharge elimination system (NPDES)
58 program), are authorized.

59 (i) The legislative rules filed in the state register on the
60 seventeenth day of October, one thousand nine hundred
61 eighty- five, and modified by the state water resources
62 board to meet the objections of the legislative rule-making
63 review committee and refiled in the state register on the
64 twenty-fourth day of February, one thousand nine hundred
65 eighty-seven, relating to the state water resources board
66 (underground injection control program), are authorized.

67 (j) The legislative rules filed in the state register on the
68 seventeenth day of October, one thousand nine hundred
69 eighty- five, and modified by the state water resources
70 board to meet the objections of the legislative rule-making
71 review committee and refiled in the state register on the
72 twenty-fourth day of February, one thousand nine hundred
73 eighty-seven, relating to the state water resources board
74 (special regulations), are authorized. These rules were
75 proposed by the state water resources board pursuant to
76 section three, article five-a, and section five, article five, of
77 chapter twenty of this code.

§64-2-20(5c)(6). Water development authority.

1 (a) The legislative rules filed in the state register on the
2 thirtieth day of August, one thousand nine hundred eighty-
3 four, relating to the water development authority (hardship
4 grant funds), are authorized.

5 (b) The legislative rules filed in the state register on the
6 fourteenth day of August, one thousand nine hundred
7 eighty-six, relating to the water development authority
8 (requirements governing disbursements of loans and grants
9 to governmental agencies for the acquisition or
10 construction of water development projects), are
11 authorized.

§64-2-20(5e)(6). Department of natural resources.

1 (a) The legislative rules filed in the state register on the
2 sixth day of January, one thousand nine hundred eighty-
3 four, relating to the department of natural resources
4 (hazardous waste management), are authorized.

5 (b) The legislative rules filed in the state register on the
6 sixth day of January, one thousand nine hundred eighty-

7 four, relating to the air pollution control commission (to
8 prevent and control air pollution from hazardous waste
9 treatment, storage or disposal facilities)(series XXV), are
10 authorized with the amendments set forth below:

11 Page 3, §1.06, change the § title from "Enforcement" to
12 "Procedure"; place an "(a)" in front of the existing
13 paragraph and add the following:

14 "(b) Permit applications filed pursuant to this
15 regulation shall be processed in accordance with the
16 permitting procedures as set forth in code §20-5E of this
17 regulation. Permit procedures set forth in code §16-20 and
18 any other regulation of this commission are not applicable
19 to any permit application filed pursuant to this regulation."

20 Such rules shall also include a section which shall read as
21 follows:

22 "The commission shall report to the legislative rule-
23 making review committee as required by that committee,
24 but in no event later than the first day of the regular session
25 of the Legislature in the year one thousand nine hundred
26 eighty-five. Such report shall include information
27 regarding the commission's data gathering efforts, the
28 development of compliance programs, the progress in
29 implementation, and such other matters as the committee
30 may require, pertaining to the regulations hereby
31 authorized."

32 (c) The legislative rules filed in the state register on the
33 third day of December, one thousand nine hundred eighty-
34 four, modified by the department of natural resources to
35 meet the objections of the legislative rule-making review
36 committee and refiled in the state register on the thirteenth
37 day of February, one thousand nine hundred eighty-five,
38 relating to the department of natural resources (hazardous
39 waste management), are authorized.

40 (d) The legislative rules filed in the state register on the
41 eleventh day of December, one thousand nine hundred
42 eighty-five, modified by the department of natural
43 resources to meet the objections of the legislative rule-
44 making review committee and refiled in the state register on
45 the twentieth day of February, one thousand nine hundred
46 eighty-six, relating to the department of natural resources
47 (hazardous waste management), are authorized.

48 (e) The legislative rules filed in the state register on the
49 fifth day of March, one thousand nine hundred eighty-six,

50 relating to the department of natural resources (hazardous
51 waste management), are authorized.

52 (f) The legislative rules filed in the state register on the
53 tenth day of October, one thousand nine hundred eighty-
54 five, relating to the department of natural resources
55 (hazardous waste management: small quantity generators
56 and waste minimization certification), are authorized with
57 the amendments set forth below:

58 On page 1, § 3.1.4b, delete the word “or” in the reference to
59 “paragraph (g) or (j)” and insert in lieu thereof the words
60 “and, if applicable.”

61 (g) The legislative rule filed in the state register on the
62 twenty-sixth day of September, one thousand nine hundred
63 eighty-six, modified by the department of natural resources
64 to meet the objections of the legislative rule-making review
65 committee and refiled in the state register on the ninth day
66 of December, one thousand nine hundred eighty-six,
67 relating to the department of natural resources (hazardous
68 waste management regulations), are authorized.

69 (h) The legislative rule filed in the state register on the
70 ninth day of January, one thousand nine hundred eighty-
71 seven, relating to the department of natural resources
72 (hazardous waste management regulations), are
73 authorized.

74 (i) The legislative rule filed in the state register on the
75 fifth day of March, one thousand nine hundred eighty-
76 seven, relating to the department of natural resources
77 (hazardous waste management regulations, Series 35) are
78 authorized.

**§64-2-22(1)(13). Department of energy; director of the division
of oil and gas.**

1 (a) The legislative rules filed in the state register on the
2 eleventh day of August, one thousand nine hundred eighty-
3 six, modified by the director of the division of oil and gas of
4 the department of energy to meet the objections of the
5 legislative rule-making review committee and refiled in the
6 state register on the fifteenth day of December, one
7 thousand nine hundred eighty-six, relating to the director
8 of the division of oil and gas of the department of energy (oil
9 and gas wells and other wells), are authorized.

10 (b) The legislative rules filed in the state register on the
11 eleventh day of August, one thousand nine hundred eighty-

12 six, modified by the director of the oil and gas division of the
13 department of energy to meet the objections of the
14 legislative rule-making review committee and refiled in the
15 state register on the fifteenth day of December, one
16 thousand nine hundred eighty-six, relating to the director
17 of the division of oil and gas of the department of energy
18 (certification of gas wells), are authorized.

19 (c) The legislative rules filed in the state register on the
20 eleventh day of August, one thousand nine hundred eighty-
21 six, modified by the director of the division of oil and gas of
22 the department of energy to meet the objections of the
23 legislative rule-making review committee and refiled in the
24 state register on the fifteenth day of December, one
25 thousand nine hundred eighty-six, relating to the director
26 of the division of oil and gas of the department of energy
27 (underground injection control), are authorized.

28 (d) The legislative rules filed in the state register on the
29 eleventh day of August, one thousand nine hundred eighty-
30 six, modified by the director of the division of oil and gas of
31 the department of energy to meet the objections of the
32 legislative rule-making review committee and refiled in the
33 state register on the fifteenth day of December, one
34 thousand nine hundred eighty-six, relating to the director
35 of the division of oil and gas of the department of energy
36 (state national pollutant discharge elimination system
37 (NPDES) program), are authorized.

§64-2-22(1)(16). Commissioner of the department of energy.

1 (a) The legislative rules filed in the state register on the
2 eleventh day of August, one thousand nine hundred eighty-
3 six, modified by the commissioner of the department of
4 energy to meet the objections of the legislative rule-making
5 review committee and refiled in the state register on the
6 fifteenth day of December, one thousand nine hundred
7 eighty-six, relating to the commissioner of the department
8 of energy (miscellaneous water pollution control), are
9 authorized.

10 (b) The legislative rules filed in the state register on the
11 eleventh day of August, one thousand nine hundred eighty-
12 six, modified by the commissioner of the department of
13 energy to meet the objections of the legislative rule-making
14 review committee and refiled in the state register on the
15 fifteenth day of December, one thousand nine hundred

16 eighty-six, relating to the commissioner of the department
17 of energy (dam control), are authorized.

18 (c) The legislative rules filed in the state register on the
19 eleventh day of August, one thousand nine hundred eighty-
20 six, modified by the commissioner of the department of
21 energy to meet the objections of the legislative rule-making
22 review committee and refiled in the state register on the
23 fifteenth day of December, one thousand nine hundred
24 eighty-six, relating to the commissioner of the department
25 of energy (solid waste management), are authorized.

26 (d) The legislative rules filed in the state register on the
27 eleventh day of August, one thousand nine hundred eighty-
28 six, modified by the commissioner of the department of
29 energy to meet the objections of the legislative rule-making
30 review committee and refiled in the state register on the
31 fifteenth day of December, one thousand nine hundred
32 eighty-six, relating to the commissioner of the department
33 of energy (hazardous waste management), are authorized.

34 (e) The rules authorized by the Legislature in section
35 twenty-two-a (three) (forty) of this article were also
36 proposed by the commissioner of the department of energy
37 pursuant to section sixteen, article one, chapter twenty-two
38 of this code.

§64-2-22(9)(6). Commissioner of the department of energy.

1 (a) The legislative rules filed in the state register on the
2 fourteenth day of November, one thousand nine hundred
3 eighty-six, modified by the commissioner of the department
4 of energy to meet the objections of the legislative rule-
5 making review committee and refiled in the state register on
6 the sixteenth day of December, one thousand nine hundred
7 eighty-six, relating to the commissioner of the department
8 of energy (standards for certification of coal mine
9 electricians), are authorized with the following
10 amendments:

11 "Page one, §2.1, subsection (a), following the second
12 word, 'electrician' by striking the colon and inserting the
13 following: 'under the supervision required by section 4.1(d)
14 of these rules' and a colon.

15 Page one, §2.1, subsection (a), by deleting all of
16 subdivision 6) and renumbering the subsequent
17 subdivisions.

18 Page two, §2.1, subsection (a), by deleting all of
19 subdivision (9).

20 Page two, §2.1, subsection (b), by deleting all of
21 subdivision 14) and inserting in lieu thereof a new
22 subdivision 14) to read as follows: '14) Replace blown fuses
23 on trolley poles and nips.'

24 Page five, §4.1, subsection (d), line three, following the
25 words 'certified electrician prior' by inserting the words 'to
26 any work being performed and again prior'."

27 (b) The legislative rules filed in the state register on the
28 fifteenth day of December, one thousand nine hundred
29 eighty-six, modified by the commissioner of the department
30 of energy to meet the objections of the legislative rule-
31 making review committee and refiled in the state register on
32 the twenty-first day of January, one thousand nine hundred
33 eighty-seven, relating to the commissioner of the
34 department of energy (safety training program for
35 prospective underground coal miners in West Virginia), are
36 authorized.

37 (c) The legislative rules filed in the state register on the
38 fifteenth day of December, one thousand nine hundred
39 eighty-six, modified by the commissioner of the department
40 of energy to meet the objections of the legislative rule-
41 making review committee and refiled in the state register on
42 the twenty-first day of January, one thousand nine hundred
43 eighty-seven, relating to the commissioner of the
44 department of energy (safety training program for
45 prospective surface coal miners in West Virginia), are
46 authorized.

47 (d) The legislative rules filed in the state register on the
48 third day of April, one thousand nine hundred eighty-seven,
49 relating to the department of energy (standards for
50 certification of underground belt examiners for
51 underground coal mines) are authorized.

§64-2-22a(3)(40). Commissioner of the department of energy.

1 The legislative rules filed in the state register on the
2 twelfth day of January, one thousand nine hundred eighty-
3 seven, modified by the commissioner of the department of
4 energy to meet the objections of the legislative rule-making
5 review committee and refiled in the state register on the
6 twentieth day of February, one thousand nine hundred
7 eighty-seven, relating to the commissioner of the

8 department of energy (state national pollutant discharge
9 elimination system (NPDES) for mines and minerals), are
10 authorized.

§64-2-27(9)(1). State board of health.

1 (a) The legislative rules filed in the state register on the
2 fourteenth day of November, one thousand nine hundred
3 eighty-three, relating to the state board of health (licensure
4 of behavioral health centers), are authorized with the
5 amendments set forth below:

6 Page 45, § 12.8.2. In the first sentence delete the words
7 “without delay” and insert in lieu thereof the words “within
8 twenty-four hours after receiving a report of a complaint.”

9 (b) The legislative rules filed in the state register on the
10 twenty-first day of November, one thousand nine hundred
11 eighty-six, modified by the state board of health to meet the
12 objections of the legislative rule-making review committee
13 and refiled in the state register on the twenty-third day of
14 December, one thousand nine hundred eighty-six, relating
15 to the state board of health (licensure of behavioral health
16 centers), are authorized.

§64-2-27(17)(3). State board of health.

1 The legislative rules filed in the state register on the
2 fourteenth day of November, one thousand nine hundred
3 eighty-three and on the twenty-first day of November, one
4 thousand nine hundred eighty-six and authorized by the
5 Legislature in section twenty-seven (nine) (one) of this
6 article, were also proposed by the state board of health
7 pursuant to section three, article seventeen, chapter
8 twenty-seven of this code.

§64-2-29(3)(5). State fire commission.

1 (a) The legislative rules filed in the state register on the
2 third day of January, one thousand nine hundred eighty-
3 four, relating to the state fire commission (state fire code)
4 are authorized with the amendments set forth below:

5 Page 1, § 106, line 1, after the word “to” add the words
6 “personal care homes caring for five or less patients or”;
7 and

8 Page 26, § 11.06(3)A.(3). Strike the period at the end of the
9 sentence and add the words “except for existing sleeping
10 rooms owned by the state and located in dormitories or state
11 parks.”

12 (b) The legislative rules filed in the state register on the
13 first day of August, one thousand nine hundred eighty-six,
14 modified by the state fire commission to meet the objection
15 of the legislative rule-making review committee and refiled
16 in the state register on the twenty-eighth day of October,
17 one thousand nine hundred eighty-six, relating to the state
18 fire commission (hazardous substance emergency response
19 training program), are authorized.

§64-2-29(6)(10). Civil service commission.

1 The legislative rules filed in the state register on the
2 nineteenth day of November, one thousand nine hundred
3 eighty-six, modified by the civil service commission to meet
4 the objection of the legislative rule-making review
5 committee and refiled in the state register on the fifteenth
6 day of December, one thousand nine hundred eighty-six,
7 relating to the civil service commission (civil service
8 system), are authorized.

§64-2-30(6)(3). Board of embalmers and funeral directors.

1 (a) The legislative rules filed in the state register on the
2 twenty-seventh day of July, one thousand nine hundred
3 eighty-four, modified by the board of embalmers and
4 funeral directors to meet the objections of the legislative
5 rule-making review committee and refiled in the state
6 register on the ninth day of January, one thousand nine
7 hundred eighty-five, relating to the board of embalmers
8 and funeral directors (apprenticeship), are authorized.

9 (b) The legislative rules filed in the state register on the
10 sixteenth day of October, one thousand nine hundred
11 eighty-five, modified by the board of embalmers and
12 funeral directors to meet the objections of the legislative
13 rule-making review committee and refiled in the state
14 register on the eighteenth day of July, one thousand nine
15 hundred eighty-six, relating to the board of embalmers and
16 funeral directors (governing the board of embalmers and
17 funeral directors), are authorized.

§64-2-30(7a)(5). West Virginia board of examiners for licensed practical nurses.

1 (a) The legislative rules filed in the state register on the
2 thirtieth day of July, one thousand nine hundred eighty-six,
3 modified by the West Virginia board of examiners for

4 licensed practical nurses to meet the objections of the
5 legislative rule-making review committee and refiled in the
6 state register on the thirtieth day of September, one
7 thousand nine hundred eighty-six, relating to the West
8 Virginia board of examiners for licensed practical nurses
9 (policies relating to licensure of the licensed practical
10 nurse), are authorized.

11 (b) The legislative rules filed in the state register on the
12 thirtieth day of July, one thousand nine hundred eighty-six,
13 relating to the West Virginia board of examiners for
14 licensed practical nurses (legal standards of nursing
15 practice for the licensed practical nurse) are authorized.

16 (c) The legislative rules filed in the state register on the
17 thirtieth day of July, one thousand nine hundred eighty-six,
18 relating to the West Virginia board of examiners for
19 licensed practical nurses (fees for services rendered by the
20 board) are authorized.

§64-2-31a(8b)(5). Commissioner of banking.

1 The legislative rules filed in the state register on the
2 seventh day of November, one thousand nine hundred
3 eighty-six, modified by the commissioner of banking to
4 meet the objections of the legislative rule-making review
5 committee and refiled in the state register on the eleventh
6 day of December, one thousand nine hundred eighty-six,
7 relating to the commissioner of banking (implementing the
8 West Virginia community reinvestment act), are
9 authorized.

§64-2-33(2)(10). Insurance commissioner.

1 (a) The legislative rules filed in the state register on the
2 eighteenth day of October, one thousand nine hundred
3 eighty-three, relating to the insurance commissioner
4 (excess line brokers), are authorized.

5 (b) The legislative rules filed in the state register on the
6 eighteenth day of August, one thousand nine hundred
7 eighty-six, modified by the insurance commissioner to meet
8 the objection of the legislative rule-making review
9 committee and refiled in the state register on the twelfth
10 day of December, one thousand nine hundred eighty-six,
11 relating to the insurance commissioner (examiners'
12 compensation, qualification and classification), are
13 authorized.

§64-2-33(30)(15). State board of risk and insurance management.

1 The legislative rules filed in the state register on the
2 twenty-sixth day of November, one thousand nine hundred
3 eighty-five, modified by the state board of risk and
4 insurance management to meet the objections of the
5 legislative rule-making review committee and refiled in the
6 state register on the eighth day of December, one thousand
7 nine hundred eighty-six, relating to the state board of risk
8 and insurance management (mine subsidence insurance
9 program), are authorized.

§64-2-46a(6)(103). Attorney general.

1 (a) The legislative rules filed in the state register on the
2 nineteenth day of September, one thousand nine hundred
3 eighty-six, modified by the attorney general to meet the
4 objections of the legislative rule-making review committee
5 and refiled in the state register on the first day of December,
6 one thousand nine hundred eighty-six, relating to the
7 attorney general (prevention of unfair or deceptive acts or
8 practices in home improvement and home construction
9 transactions), are authorized. These rules were proposed by
10 the attorney general pursuant to section one hundred three,
11 article six and section one hundred two, article seven of
12 chapter forty-six-a of this code with the following
13 amendments:

14 “Amending the title to the proposed legislative rule
15 wherever said title may appear, on lines three and four
16 thereof, by striking the words ‘and home construction’.

17 On the index page following ‘3.’ by striking the words
18 ‘and home construction’.

19 On page 1, §1.2, line three, after the first word
20 ‘transactions’ on line three, by striking the comma and the
21 words ‘and home construction transactions’ and on line
22 five, by striking the period and inserting the words ‘but
23 shall not cover new construction of single-family dwellings
24 or rebuilding all or substantially all of an existing or
25 preexisting single-family dwelling.’

26 Page 2, section 2.2 by striking all of lines seven and eight
27 and inserting in lieu thereof the following:

28 ‘unless: (a) it appears in printed or typed face larger than
29 the largest type used in the written contract, apart’.

30 On page 2, section 2.4, by striking all of section 2.4 and
31 inserting in lieu thereof a new section 2.4, to read as follows:
32 '2.4 "Home Construction" means, for the purpose of this
33 Rule, the repair, remodeling or the building of additions to
34 existing single-family dwelling units, including single-
35 family homes, condominium units or any other dwelling
36 unit to be used by any person primarily for personal or
37 family use, but shall not include new single-family home
38 construction or the rebuilding of all or substantially all of
39 an existing or preexisting single-family dwelling.'

40 Page 3, section 2.6, on line two thereof, after the second
41 comma by inserting the word 'replacement'.

42 Page 3, section 3., by striking the words 'and home
43 construction' from the section heading.

44 Page 3, section 3.1, lines one and two, by striking the
45 words 'or home construction'.

46 Page 4, section 3.1.4, on lines one and two thereof, by
47 striking the words 'or home construction'.

48 Page 4, section 3.1.8, on line two thereof, by striking the
49 words 'or home construction'.

50 Page 4, section 3.1.9, on lines two and three thereof, by
51 striking the words 'or home construction'.

52 Page 5, section 3.1.12, on lines one and two thereof, by
53 striking the words 'or home construction'.

54 Page 6, section 3.1.26, by striking all of section 3.1.26 and
55 renumbering the subsequent subsections.

56 Page 7, section 3.1.29, on lines one and two thereof, by
57 striking the words 'or home construction'.

58 Page 7, section 3.1.29, on line six thereof, following the
59 word 'contract' by inserting a period and striking the
60 remainder of the section.

61 Page 7, following section 3.1.29 by adding a new section
62 to be designated section 3.1.29, to read as follows:

63 'failed to file a certificate in the office of the Clerk of the
64 County Commission in the county in which the principal
65 place of business of the seller is located, setting forth the
66 assumed name in or by which the business is being
67 conducted in conformity with the provisions of Chapter 47,
68 Article 8, Section 2 of the Code of West Virginia, 1931, as
69 amended.'

70 Page 7, section 3.2, on lines two and three thereof, by
71 striking the words, 'or home solicitation sale of home
72 construction' and the comma on line three.

73 Page 9, section 4.1, on line eight thereof, by deleting the
74 period and inserting the following:
75 'to the extent permitted by statute' and a period."
76 Page 10, section 4.2, on line 9 thereof, by striking the
77 period and inserting the following:
78 "to the extent permitted by statute" and a period.
79 (b) The legislative rules filed in the state register on the
80 twenty-third day of September, one thousand nine hundred
81 eighty-six, modified by the attorney general to meet the
82 objections of the legislative rule-making review committee
83 and refiled in the state register on the first day of December,
84 one thousand nine hundred eighty-six, relating to the
85 attorney general (prevention of unfair or deceptive acts or
86 practices in the sale of damaged goods or products), are
87 authorized. These rules were proposed by the attorney
88 general pursuant to section one hundred three, article six
89 and section one hundred two, article seven of chapter forty-
90 six-a of the code.

§64-2-46a(7)(102). Attorney general.

1 The legislative rules authorized by the Legislature in
2 section forty-six-a (six) (one hundred three) of this article
3 were also proposed by the attorney general pursuant to
4 section one hundred two, article seven, chapter forty-six-a
5 of this code.

Handwritten signatures and initials are visible at the bottom of the page.

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

Bruce O. Williams
Chairman Senate Committee

Lyle Satter
Chairman House Committee

Originated in the Senate.

In effect from passage.

Frank C. Mach
Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

Dan Tonkonil
President of the Senate

Robert C. Chal
Speaker House of Delegates

The within *approved* this the *25th*
day of *May*, 1987.

Arch A. Pearce Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 5/20/87

Time 9:43 a.m.

RECEIVED

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OFFICE OF THE
SHERIFF