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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



## ENROLLED

*Committee Substitute for*  
SENATE BILL NO. 171

(By Senator ROSS, ET AL)



PASSED MARCH 7, 1996  
In Effect FROM Passage

171 SB

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SECRETARY OF STATE

## ENROLLED

COMMITTEE SUBSTITUTE  
FOR

### Senate Bill No. 171

(SENATORS ROSS, ANDERSON, BOLEY, BUCKALEW,  
GRUBB AND MACNAUGHTAN, *original sponsors*)

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[Passed March 7, 1996; in effect from passage.]

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AN ACT to amend and reenact article seven, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section four, all relating generally to the promulgation of administrative rules by the various executive or administrative agencies and the procedures relating thereto; legislative mandate or authorization for the promulgation of certain legislative rules by various executive and administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the state register; authorizing certain of the agencies to promulgate legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate legislative rules with various modifications

presented to and recommended by the legislative rule-making review committee; authorizing the division of banking to promulgate legislative rules relating to the legal lending limit, as modified; authorizing the division of banking to promulgate legislative rules relating to permissible additional charges in connection with a consumer credit sale, as modified; authorizing the division of banking to promulgate legislative rules relating to the West Virginia industrial bank and industrial loan company act, as modified; authorizing the division of banking to promulgate legislative rules relating to the West Virginia consumer credit and protection act, as modified; authorizing the division of banking to promulgate legislative rules relating to the West Virginia consumer credit and protection act and the industrial bank and industrial loan company act, as modified; authorizing the tax division to promulgate legislative rules relating to the international fuel tax agreement, as modified; authorizing the tax division to promulgate legislative rules relating to bingo, as modified; authorizing the tax division to promulgate legislative rules relating to the tax credit for employing former members of the Colin Anderson center, as modified; authorizing the tax division to promulgate legislative rules relating to pollution control facilities, as modified; authorizing the tax division to promulgate legislative rules relating to the business and occupation tax, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to actuarial opinions and memoranda, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to examiners' compensation, qualifications and classification, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to excess line brokers, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to continuing education for insurance agents, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to recognizing mortality tables for use in

determining reserve liability for annuities, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to substandard risk motor vehicle insurance notice requirements, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to minimum reserve standards for individual and group health insurance contracts, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to filing procedures for health maintenance organizations, as modified; authorizing the insurance commissioner to promulgate legislative rules relating to health maintenance organizations, as modified; authorizing the lottery commission to promulgate legislative rules relating to licensees and the Americans with disabilities act, as modified; and authorizing the lottery commission to promulgate legislative rules relating to the state lottery, as modified.

*Be it enacted by the Legislature of West Virginia:*

That article seven, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section four, all to read as follows:

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

**§64-7-1. Division of banking.**

1 (a) The legislative rules filed in the state register on the  
2 thirty-first day of July, one thousand nine hundred  
3 ninety-five, authorized under the authority of section  
4 twenty-six, article four, chapter thirty-one-a of this  
5 code, modified by the division of banking to meet the  
6 objections of the legislative rule-making review commit-  
7 tee and refiled in the state register on the first day of  
8 December, one thousand nine hundred ninety-five,  
9 relating to the division of banking (legal lending limit,  
10 106CSR9), are authorized.

11 (b) The legislative rules filed in the state register on the  
12 twenty-eighth day of July, one thousand nine hundred  
13 ninety-five, authorized under the authority of section  
14 four, article two, chapter thirty-one-a of this code,  
15 modified by the division of banking to meet the objec-  
16 tions of the legislative rule-making review committee  
17 and refiled in the state register on the first day of  
18 December, one thousand nine hundred ninety-five,  
19 relating to the division of banking (permissible addi-  
20 tional charges in connection with a consumer credit sale,  
21 106CSR11), are authorized.

22 (c) The legislative rules filed in the state register on the  
23 twenty-eighth day of July, one thousand nine hundred  
24 ninety-five, authorized under the authority of section  
25 twenty-six, article seven, chapter thirty-one of this code,  
26 modified by the division of banking to meet the objec-  
27 tions of the legislative rule-making review committee  
28 and refiled in the state register on the first day of  
29 December, one thousand nine hundred ninety-five,  
30 relating to the division of banking (West Virginia indus-  
31 trial bank and industrial loan company act, 106CSR5),  
32 are authorized.

33 (d) The legislative rules filed in the state register on the  
34 twenty-eighth day of July, one thousand nine hundred  
35 ninety-five, authorized under the authority of section  
36 four, article two, chapter thirty-one-a of this code,  
37 modified by the division of banking to meet the objec-  
38 tions of the legislative rule-making review committee  
39 and refiled in the state register on the first day of  
40 December, one thousand nine hundred ninety-five,  
41 relating to the division of banking (West Virginia con-  
42 sumer credit and protection act, 106CSR4), are autho-  
43 rized.

44 (e) The legislative rules filed in the state register on the  
45 twenty-eighth day of July, one thousand nine hundred  
46 ninety-five, authorized under the authority of section  
47 twenty-six, article seven, chapter thirty-one of this code,  
48 modified by the division of banking to meet the objec-

49 tions of the legislative rule-making review committee  
 50 and refiled in the state register on the first day of  
 51 December, one thousand nine hundred ninety-five,  
 52 relating to the division of banking (West Virginia con-  
 53 sumer credit and protection act and the industrial bank  
 54 and industrial loan company act, 106CSR2), are autho-  
 55 rized.

**§64-7-2. Department of tax and revenue; tax division; and  
 state tax commissioner.**

1 (a) The legislative rules filed in the state register on the  
 2 twenty-eighth day of July, one thousand nine hundred  
 3 ninety-five, authorized under the authority of section  
 4 twelve, article fourteen-b, chapter eleven of this code,  
 5 modified by the tax division to meet the objections of the  
 6 legislative rule-making review committee and refiled in  
 7 the state register on the twenty-second day of Septem-  
 8 ber, one thousand nine hundred ninety-five, relating to  
 9 the tax division (international fuel tax agreement,  
 10 110CSR14B), are authorized.

11 (b) The legislative rules filed in the state register on the  
 12 twenty-eighth day of July, one thousand nine hundred  
 13 ninety-five, authorized under the authority of section  
 14 twenty-three, article twenty, chapter forty-seven of this  
 15 code, modified by the tax division to meet the objections  
 16 of the legislative rule-making review committee and  
 17 refiled in the state register on the twenty-fourth day of  
 18 January, one thousand nine hundred ninety-six, relating  
 19 to the tax division (bingo, 110CSR16), are authorized  
 20 with the amendments set forth below:

21 "On page seven, subdivision 3.1.9, by striking out the  
 22 word 'are' and inserting in lieu thereof the word 'is';

23 On page nineteen, subsection 11.1, by striking out the  
 24 words 'limited occasion licenses' and inserting in lieu  
 25 thereof the words 'limited occasion licensees';

26 On page twenty-three, subdivision 16.1.4, by striking  
 27 out the words 'these regulations' and inserting in lieu  
 28 thereof the words 'this rule';

29 And,

30 On page twenty-five, subsection 18.1, by striking out  
31 the words 'these regulations' and inserting in lieu thereof  
32 the words 'this rule'."

33 (c) The legislative rules filed in the state register on the  
34 twenty-eighth day of July, one thousand nine hundred  
35 ninety-five, authorized under the authority of section  
36 three, article thirteen-i, chapter eleven of this code,  
37 modified by the tax division to meet the objections of the  
38 legislative rule-making review committee and refiled in  
39 the state register on the twenty-second day of Septem-  
40 ber, one thousand nine hundred ninety-five, relating to  
41 the tax division (tax credit for employing former mem-  
42 bers of Colin Anderson center, 110CSR13I), are autho-  
43 rized.

44 (d) The legislative rules filed in the state register on the  
45 twenty-eighth day of July, one thousand nine hundred  
46 ninety-five, authorized under the authority of section  
47 four, article six-a, chapter eleven of this code, modified  
48 by the tax division to meet the objections of the legisla-  
49 tive rule-making review committee and refiled in the  
50 state register on the twenty-second day of September,  
51 one thousand nine hundred ninety-five, relating to the  
52 tax division (pollution control facilities, 110CSR6), are  
53 authorized.

54 (e) The legislative rules filed in the state register on the  
55 twenty-eighth day of July, one thousand nine hundred  
56 ninety-five, authorized under the authority of section  
57 five, article ten, chapter eleven of this code, modified by  
58 the tax division to meet the objections of the legislative  
59 rule-making review committee and refiled in the state  
60 register on the first day of December, one thousand nine  
61 hundred ninety-five, relating to the tax division (busi-  
62 ness and occupation tax, 110CSR13), are authorized.

**§64-7-3. Insurance commissioner.**

1 (a) The legislative rules filed in the state register on the  
2 twenty-seventh day of July, one thousand nine hundred

3 ninety-five, authorized under the authority of section  
4 nine, article seven, chapter thirty-three of this code,  
5 modified by the insurance commissioner to meet the  
6 objections of the legislative rule-making review commit-  
7 tee and refiled in the state register on the twenty-sev-  
8 enth day of November, one thousand nine hundred  
9 ninety-five, relating to the insurance commissioner  
10 (actuarial opinion and memorandum rule, 114CSR41),  
11 are authorized.

12 (b) The legislative rules filed in the state register on the  
13 twenty-seventh day of July, one thousand nine hundred  
14 ninety-five, authorized under the authority of section  
15 ten, article two, chapter thirty-three of this code, modi-  
16 fied by the insurance commissioner to meet the objec-  
17 tions of the legislative rule-making review committee  
18 and refiled in the state register on the twenty-seventh  
19 day of November, one thousand nine hundred ninety-  
20 five, relating to the insurance commissioner (examiners'  
21 compensation, qualifications and classification,  
22 114CSR15), are authorized.

23 (c) The legislative rules filed in the state register on the  
24 twenty-eighth day of July, one thousand nine hundred  
25 ninety-five, authorized under the authority of section  
26 eleven, article twelve, chapter thirty-three of this code,  
27 modified by the insurance commissioner to meet the  
28 objections of the legislative rule-making review commit-  
29 tee and refiled in the state register on the twenty-sev-  
30 enth day of November, one thousand nine hundred  
31 ninety-five, relating to the insurance commissioner  
32 (excess line brokers, 114CSR20), are authorized.

33 (d) The legislative rules filed in the state register on the  
34 twenty-eighth day of July, one thousand nine hundred  
35 ninety-five, authorized under the authority of section  
36 ten, article two, chapter thirty-three of this code, modi-  
37 fied by the insurance commissioner to meet the objec-  
38 tions of the legislative rule-making review committee  
39 and refiled in the state register on the twenty-seventh  
40 day of November, one thousand nine hundred ninety-

41 five, relating to the insurance commissioner (continuing  
42 education for insurance agents, 114CSR42), are autho-  
43 rized.

44 (e) The legislative rules filed in the state register on the  
45 twenty-eighth day of July, one thousand nine hundred  
46 ninety-five, authorized under the authority of section  
47 nine, article seven, chapter thirty-three of this code,  
48 modified by the insurance commissioner to meet the  
49 objections of the legislative rule-making review commit-  
50 tee and refiled in the state register on the twenty-sev-  
51 enth day of November, one thousand nine hundred  
52 ninety-five, relating to the insurance commissioner  
53 (recognizing mortality tables for use in determining  
54 reserve liability for annuities, 114CSR45), are autho-  
55 rized.

56 (f) The legislative rules filed in the state register on the  
57 twenty-eighth day of July, one thousand nine hundred  
58 ninety-five, authorized under the authority of section  
59 thirty-one-c, article six, chapter thirty-three of this  
60 code, modified by the insurance commissioner to meet  
61 the objections of the legislative rule-making review  
62 committee and refiled in the state register on the twenty-  
63 seventh day of November, one thousand nine hundred  
64 ninety-five, relating to the insurance commissioner  
65 (substandard risk motor vehicle insurance notice re-  
66 quirements, 114CSR37), are authorized.

67 (g) The legislative rules filed in the state register on the  
68 twenty-eighth day of July, one thousand nine hundred  
69 ninety-five, authorized under the authority of section  
70 nine, article seven, chapter thirty-three of this code,  
71 modified by the insurance commissioner to meet the  
72 objections of the legislative rule-making review commit-  
73 tee and refiled in the state register on the twenty-sev-  
74 enth day of November, one thousand nine hundred  
75 ninety-five, relating to the insurance commissioner  
76 (minimum reserve standards for individual and group  
77 health insurance contracts, 114CSR44), are authorized.

78 (h) The legislative rules filed in the state register on the

79 thirty-first day of July, one thousand nine hundred  
 80 ninety-five, authorized under the authority of section  
 81 twenty, article twenty-five-a, chapter thirty-three of this  
 82 code, modified by the insurance commissioner to meet  
 83 the objections of the legislative rule-making review  
 84 committee and refiled in the state register on the twenty-  
 85 seventh day of November, one thousand nine hundred  
 86 ninety-five, relating to the insurance commissioner  
 87 (filing procedures for health maintenance organizations,  
 88 114CSR46), are authorized.

89 (i) The legislative rules filed in the state register on the  
 90 thirty-first day of July, one thousand nine hundred  
 91 ninety-five, authorized under the authority of section  
 92 twenty, article twenty-five-a, chapter thirty-three of this  
 93 code, modified by the insurance commissioner to meet  
 94 the objections of the legislative rule-making review  
 95 committee and refiled in the state register on the twenty-  
 96 seventh day of November, one thousand nine hundred  
 97 ninety-five, relating to the insurance commissioner  
 98 (health maintenance organizations, 114CSR43), are  
 99 authorized.

#### §64-7-4. Lottery commission.

1 (a) The legislative rules filed in the state register on the  
 2 twenty-sixth day of May, one thousand nine hundred  
 3 ninety-five, under the authority of section ten, article  
 4 twenty-two, chapter twenty-nine of this code, modified  
 5 by the lottery commission to meet the objections of the  
 6 legislative rule-making review committee and refiled in  
 7 the state register on the fifteenth day of June, one  
 8 thousand nine hundred ninety-five, relating to the  
 9 lottery commission (licensees and the Americans with  
 10 disabilities act, 179CSR3), are authorized.

11 (b) The legislative rules filed in the state register on the  
 12 twenty-fourth day of July, one thousand nine hundred  
 13 ninety-five, under the authority of section five, article  
 14 twenty-two, chapter twenty-nine of this code, modified  
 15 by the lottery commission to meet the objections of the  
 16 legislative rule-making review committee and refiled in

17 the state register on the fourteenth day of September,  
18 one thousand nine hundred ninety-five, relating to the  
19 lottery commission (state lottery rule, 179CSR1), are  
20 authorized.

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

*Russ Schoonover*

Chairman Senate Committee

*Rudy Seacrest*  
Chairman House Committee

Originated in the Senate.

In effect from passage

*Carroll B. Bunch*  
Clerk of the Senate

*Bryson M. Bony*  
Clerk of the House of Delegates

*Carl Kay Tomblin*  
President of the Senate

*Rob Calton*  
Speaker House of Delegates

The within *is approved* this the *25th*  
*March*  
day of \_\_\_\_\_, 1996.

*Gaston Caperton*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/21/48

Time 9:45 am