

HB 2570

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WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1999



ENROLLED

House Bill No. 2570

(By Delegates Hunt, Compton, Jenkins,
Linch, Faircloth and Riggs)



Passed March 10, 1999

In Effect from Passage

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CLERK OF THE HOUSE
SECRETARY OF STATE

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 2570

(BY DELEGATES HUNT, COMPTON, JENKINS,
LINCH, FAIRCLOTH AND RIGGS)

[Passed March 10, 1999; in effect from passage.]

AN ACT to amend and reenact sections one, two and three, article seven, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, 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 a legislative rule relating to permissible additional charges in connection with a consumer credit sale; authorizing the division of banking to

promulgate a legislative rule relating to the sale of insurance products by state-chartered banks; authorizing the insurance commissioner to promulgate a legislative rule relating to individual accident and sickness insurance minimum standards; authorizing insurance commissioner to promulgate a legislative rule relating to AIDS; authorizing the insurance commissioner to promulgate a legislative rule relating to individual and employer group minimum benefits accident and sickness insurance policies; insurance commissioner to promulgate a legislative rule relating to group accident and sickness insurance minimum policy coverage standards; authorizing insurance commissioner to promulgate a legislative rule relating to recognizing annuity mortality tables for use in determining reserve liabilities for annuities; authorizing the insurance commissioner to promulgate a legislative rule relating to group accident and sickness insurance issuance, portability and marketing requirements; insurance commissioner to promulgate a legislative rule relating to the guaranteed issue of individual accident and sickness insurance; authorizing the insurance commissioner to promulgate a legislative rule relating to quality assurance; authorizing the state tax commissioner to promulgate a legislative rule relating to the valuation of active and reserve coal property for ad valorem property tax purposes; authorizing the state tax commissioner to promulgate a legislative rule relating to the valuation of producing and reserve oil and natural gas for ad valorem property tax purposes; authorizing the state tax commissioner to promulgate a legislative rule relating to the valuation of natural resources property other than coal, oil or natural gas for ad valorem property tax purposes; authorizing the tax commissioner to promulgate a legislative rule relating to the electronic data processing system network for property tax administration; authorizing the state tax commissioner to promulgate a legislative rule relating to the property tax valuation of certain manufacturing property; authorizing the state tax commission to promulgate a legislative rule relating to tax credits for new value-added wood manufacturing facilities; authorizing the state tax commissioner to promulgate a legislative rule relating to tax credits for new steel, aluminum or polymer manufacturing operations; authorizing the state tax commissioner to promulgate a legislative rule

relating to the value of timberland and managed timberland; authorizing the state tax commissioner to promulgate a legislative rule relating to the valuation of public utility property for ad valorem property tax purposes; and authorizing the department of tax and revenue to promulgate a legislative rule relating to the registration of telemarketers.

Be it enacted by the Legislature of West Virginia:

That sections one, two and three, article seven, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

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

§64-7-1. Division of banking.

1 (a) The legislative rule filed in the state register on the
2 thirty-first day of July, one thousand nine hundred ninety-eight,
3 authorized under the authority of section four, article two,
4 chapter thirty-one-a of this code, relating to the division of
5 banking (permissible additional charges in connection with a
6 consumer credit sale, 106 CSR 11), is authorized.

7 (b) The legislative rule filed in the state register on the
8 thirty-first day of July, one thousand nine hundred ninety-eight,
9 authorized under the authority of section thirteen, article four,
10 chapter thirty-one-a of this code, modified by the division of
11 banking to meet the objections of the legislative rule-making
12 review committee and refiled in the state register on the seventh
13 day of October, one thousand nine hundred ninety-eight,
14 relating to the division of banking (sale of insurance products
15 by state-chartered banks, 106 CSR 2), is authorized.

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

1 (a) The legislative rule filed in the state register on the
2 thirtieth day of July, one thousand nine hundred ninety-eight,
3 authorized under the authority of section five, article one-c,
4 chapter eleven of this code, modified by the state tax commis-
5 sioner to meet the objections of the legislative rule-making

6 review committee and refiled in the state register on the seventh
7 day of January, one thousand nine hundred ninety-nine, relating
8 to the state tax commissioner (valuation of active and reserve
9 coal property for ad valorem property tax purposes, 110 CSR
10 1I), is authorized with the amendment set forth below:

11 “On page twelve, section 4.1.7.1.e, line seven, following
12 the words “Tax Commissioner” and the period, by inserting the
13 following words: “Beginning in Tax Year 2003, the inflation
14 rate shall be estimated through analysis of the most recent three
15 calendar years of an appropriate United States Department of
16 Labor, Bureau of Labor Statistics price index, as determined by
17 the Tax Commissioner.”

18 (b) The legislative rule filed in the state register on the
19 thirtieth day of July, one thousand nine hundred ninety-eight,
20 authorized under the authority of section five, article one-c,
21 chapter eleven of this code, modified by the state tax commis-
22 sioner to meet the objections of the legislative rule-making
23 review committee and refiled in the state register on the
24 thirtieth day of October, one thousand nine hundred ninety-
25 eight, relating to the state tax commissioner (valuation of
26 producing and reserve oil and natural gas for ad valorem
27 property tax purposes, 110 CSR 1J), is authorized.

28 (c) The legislative rule filed in the state register on the
29 twenty-ninth day of July, one thousand nine hundred ninety-
30 eight, authorized under the authority of sections five and five-a,
31 article one-c, chapter eleven of this code, modified by the state
32 tax commissioner to meet the objections of the legislative rule-
33 making review committee and refiled in the state register on the
34 thirtieth day of October, one thousand nine hundred ninety-
35 eight, relating to the state tax commissioner (valuation of
36 natural resources property other than coal, oil or natural gas for
37 ad valorem property tax purposes, 110 CSR 1K), is authorized.

38 (d) The legislative rule filed in the state register on the
39 twenty-ninth day of July, one thousand nine hundred ninety-
40 eight, authorized under the authority of section twenty-one,
41 article one-a, and section four, article one-c, chapter eleven of
42 this code, modified by the state tax commissioner to meet the

43 objections of the legislative rule-making review committee and
44 refiled in the state register on the seventeenth day of November,
45 one thousand nine hundred ninety-eight, relating to the state tax
46 commissioner (electronic data processing system network for
47 property tax administration, 110 CSR 2), is authorized.

48 (e) The legislative rule filed in the state register on the
49 twenty-first day of July, one thousand nine hundred ninety-
50 eight, authorized under the authority of section five, article six-
51 f, chapter eleven of this code, modified by the state tax commis-
52 sioner to meet the objections of the legislative rule-making
53 review committee and refiled in the state register on the seventh
54 day of January, one thousand nine hundred ninety-nine, relating
55 to the state tax commissioner (property tax valuation of certain
56 manufacturing property, 110 CSR 6F), is authorized.

57 (f) The legislative rule filed in the state register on the
58 twenty-first day of July, one thousand nine hundred ninety-
59 eight, authorized under the authority of sections seven, eight
60 and ten, article thirteen-m, chapter eleven of this code, modified
61 by the state tax commissioner to meet the objections of the
62 legislative rule-making review committee and refiled in the
63 state register on the seventeenth day of November, one thou-
64 sand nine hundred ninety-eight, relating to the state tax com-
65 missioner (tax credits for new value-added wood manufacturing
66 facilities, 110 CSR 13M), is authorized.

67 (g) The legislative rule filed in the state register on the
68 twenty-first day of July, one thousand nine hundred ninety-
69 eight, authorized under the authority of sections seven, eight
70 and ten, article thirteen-n, and sections seven, eight and ten,
71 article thirteen-o, chapter eleven of this code, modified by the
72 state tax commissioner to meet the objections of the legislative
73 rule-making review committee and refiled in the state register
74 on the seventeenth day of November, one thousand nine
75 hundred ninety-eight, relating to the state tax commissioner (tax
76 credits for new steel, aluminum or polymer manufacturing
77 operations, 110 CSR 13N), is authorized with the amendment
78 set forth below:

79 “On page 2, section 2.3 by striking out the entire section
80 and inserting in lieu thereof the words “2.3 “Full-time em-
81 ployee” means a permanent hourly employee of an eligible
82 taxpayer, who is a West Virginia domiciled resident, and works
83 in a new value-added steel product manufacturing facility in
84 this state, or in a new value-added steel product line of an
85 existing manufacturing facility in this state, more than eighteen
86 hundred hours during the entire twelve-month period ending on
87 the last day of the taxable year of the eligible employer,
88 whether these hours are hours worked at the manufacturing
89 facility, or include hours of employer paid vacation leave or
90 other employer paid leave. Full-time employee does not include
91 an employee who is a part-time, seasonal or temporary em-
92 ployee.”,

93 And,

94 On page four, section 5.1, following the word “Code” by
95 striking out “§11-13M-7” and inserting in lieu thereof “§11-
96 13N-7”.”

97 (h) The legislative rule filed in the state register on the
98 twenty-ninth day of July, one thousand nine hundred ninety-
99 eight, authorized under the authority of section eleven-b, article
100 one-c, chapter eleven of this code, modified by the state tax
101 commissioner to meet the objections of the legislative rule-
102 making review committee and refiled in the state register on the
103 seventeenth day of November, one thousand nine hundred
104 ninety-eight, relating to the state tax commissioner (value of
105 timberland and managed timberland, 110 CSR 1H), is autho-
106 rized with the amendment set forth below:

107 “on page 7, section 10, by inserting the following sentence
108 at the end of the section:

109 ‘In no case may managed timberland values for Class III
110 and IV property be lower than \$225 per acre for Grade 1; \$150
111 per acre for Grade 2; \$75 per acre for Grade 3, and Class II
112 properties may not be lower than \$200 per acre for Grade 1;
113 \$140 per acre for Grade 2; and \$50 per acre for Grade 3.’”

114 (i) The legislative rule filed in the state register on the
115 twenty-ninth day of July, one thousand nine hundred ninety-

116 eight, authorized under the authority of section seven-b, article
 117 six, section one, article six-g, and section five, article one-c,
 118 chapter eleven of this code, modified by the state tax commis-
 119 sioner to meet the objections of the legislative rule-making
 120 review committee and refiled in the state register on the
 121 fifteenth day of January, one thousand nine hundred ninety-
 122 nine, relating to the state tax commissioner (valuation of public
 123 utility property for ad valorem property tax purposes, 110 CSR
 124 1M), is authorized with the amendment set forth below:

125 On page two, by striking-out all of subsection 2.5;

126 On page two, by striking-out all of subsection 2.7 and
 127 inserting in lieu thereof a new subsection 2.7 to read as follows:

128 “§2.7 **“Fair market value”** means the highest price in
 129 terms of money that a property will bring in a competitive and
 130 open market, assuming that the buyer and seller are acting
 131 prudently and knowledgeably, allowing sufficient time for the
 132 sale and assuming that the price is not affected by undue
 133 stimulations.”;

134 On page four, subsection 3.1, after the word “generally,” by
 135 inserting the words “when the cost approach is used,”;

136 On page four, subsection 3.1, after the word “purposes,” by
 137 striking-out the period and inserting in lieu thereof a colon and
 138 the word “however,”;

139 On page four, by striking-out all of subdivision 3.1.1, and
 140 inserting in lieu thereof new subdivision 3.1.1 to read as
 141 follows:

142 “ 3.1.1 When the income approach is used, the unit of value
 143 shall be allocated to the state of West Virginia using operating
 144 plant data after which,”

145 On page five, subdivision 3.1.2, by striking-out the word
 146 “property” and inserting in lieu thereof the words “physical
 147 plant”;

148 On page five, by striking-out all of subdivision 4.2.1 and
 149 inserting in lieu thereof a new subdivision 4.2.1 to read as
 150 follows:

151 “4.2.1 **Cost approach.** — Recognizing that public service
152 corporations are predominantly cost regulated, when the cost
153 approach is used in the valuation process, original cost less
154 applicable depreciation shall be employed. In applying the cost
155 approach, the tax commissioner shall consider three (3) types
156 of depreciation; (a) physical deterioration, (b) functional
157 obsolescence, and (c) economic obsolescence.”;

158 On page five, subdivision 4.2.2 after the word “interest” by
159 striking-out the word “expense” and inserting in lieu thereof
160 “on long-term debt”;

161 On page six, by striking-out all of subdivision 4.2.4;

162 On page six, subdivision 4.2.5 after the word “process” by
163 changing the colon to a period and by striking-out the remain-
164 der of the subdivision;

165 On page eight, by striking-out all of subdivision 4.3.13;

166 And,

167 On page ten, by adding the new subsection 6.5 to read as
168 follows:

169 “The tax commissioner, for good cause shown, may grant
170 an extension of filing deadlines.”

171 (j) The legislative rule filed in the state register on the
172 thirty-first day of July, one thousand nine hundred ninety-eight,
173 authorized under the authority of sections three hundred one
174 and three hundred three, article six-f, chapter forty-six-a of this
175 code, modified by the department of tax and revenue to meet
176 the objections of the legislative rule-making review committee
177 and refiled in the state register on the twelfth day of January,
178 one thousand nine hundred ninety-nine, relating to the depart-
179 ment of tax and revenue (registration of telemarketers, 119 CSR
180 301), is authorized.

§64-7-3. Insurance commissioner.

1 (a) The legislative rule filed in the state register on the
2 thirtieth day of July, one thousand nine hundred ninety-eight,
3 authorized under the authority of section ten, article two,

4 chapter thirty-three of this code, relating to the insurance
5 commissioner (individual accident and sickness insurance
6 minimum standards, 114 CSR 12), is authorized.

7 (b) The legislative rule filed in the state register on the
8 thirtieth day of July, one thousand nine hundred ninety-eight,
9 authorized under the authority of section ten, article two,
10 chapter thirty-three of this code, relating to the insurance
11 commissioner (AIDS, 114 CSR 27), is authorized.

12 (c) The legislative rule filed in the state register on the
13 thirtieth day of July, one thousand nine hundred ninety-eight,
14 authorized under the authority of section ten, article two,
15 chapter thirty-three of this code, relating to the insurance
16 commissioner (individual and employer group minimum
17 benefits accident and sickness insurance policies, 114 CSR 33),
18 is authorized.

19 (d) The legislative rule filed in the state register on the
20 thirtieth day of July, one thousand nine hundred ninety-eight,
21 authorized under the authority of section seventeen, article
22 sixteen, chapter thirty-three of this code, relating to the insur-
23 ance commissioner (group accident and sickness insurance
24 minimum policy coverage standards, 114 CSR 39), is autho-
25 rized.

26 (e) The legislative rule filed in the state register on the
27 thirtieth day of July, one thousand nine hundred ninety-eight,
28 authorized under the authority of section nine-a, article seven,
29 chapter thirty-three of this code, relating to the insurance
30 commissioner (recognizing annuity mortality tables for use in
31 determining reserve liabilities for annuities, 114 CSR 45), is
32 authorized.

33 (f) The legislative rule filed in the state register on the
34 thirtieth day of July, one thousand nine hundred ninety-eight,
35 authorized under the authority of section ten, article two,
36 chapter thirty-three of this code, relating to the insurance
37 commissioner (group accident and sickness insurance issuance,
38 portability and marketing requirements, 114 CSR 54), is
39 authorized.

40 (g) The legislative rule filed in the state register on the
41 thirtieth day of July, one thousand nine hundred ninety-eight,
42 authorized under the authority of section ten, article two,
43 chapter thirty-three of this code, relating to the insurance
44 commissioner (guaranteed issue of individual accident and
45 sickness insurance, 114 CSR 55), is authorized.

46 (h) The legislative rule filed in the state register on the
47 thirtieth day of July, one thousand nine hundred ninety-eight,
48 authorized under the authority of section ten, article two,
49 chapter thirty-three of this code, modified by the insurance
50 commissioner to meet the objections of the legislative rule-
51 making review committee and refiled in the state register on the
52 eighteenth day of December, one thousand nine hundred ninety-
53 eight, relating to the insurance commissioner (quality assur-
54 ance, 114 CSR 53), is authorized.

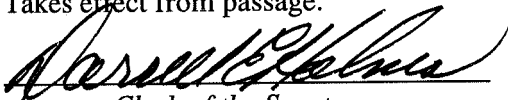
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee

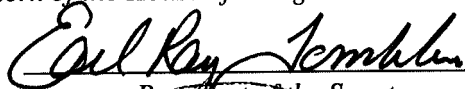

Chairman House Committee

Originating in the House.

Takes effect from passage.

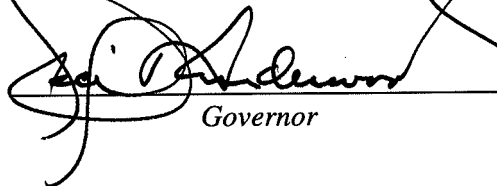

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 2nd
day of April, 1999.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/30/99

Time 3:30 pm