

FILED

2002 MAR 26 A 9:33

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**

*REGULAR SESSION 2002*



**ENROLLED**

*COMMITTEE SUBSTITUTE FOR*

**SENATE BILL NO. 397**

(By Senator ROSS, ET AL)



**PASSED MARCH 9, 2002**

**In Effect From Passage**

FILED

2002 MAR 26 A 9:33

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 397**

(SENATORS ROSS, ANDERSON, MINARD, SNYDER, BOLEY  
AND MINEAR, *originals sponsors*)

---

[Passed March 9, 2002; in effect from passage.]

---

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, 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 or 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 certain legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; authorizing

33 P A 200 200  
MAY 2001

certain of the agencies to promulgate certain legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the legislative rule-making review committee and as amended by the Legislature; authorizing tax commissioner to promulgate legislative rule relating to pollution control facilities; authorizing tax commissioner to promulgate legislative rule relating to payment of taxes by credit card or debit card; authorizing tax commissioner to promulgate legislative rule relating to senior citizen tax credit for property taxes paid; authorizing tax commissioner to promulgate legislative rule relating to tobacco products excise tax; authorizing insurance commissioner to promulgate legislative rule relating to medical malpractice loss experience and loss expense annual reporting requirements; authorizing insurance commissioner to promulgate legislative rule relating to privacy of consumer financial and health information; authorizing insurance commissioner to promulgate legislative rule relating to external review of coverage denials; and authorizing lottery commission to promulgate legislative rule relating to limited video lottery.

*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 to read as follows:

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

**§64-7-1. Tax commissioner.**

- 1 (a) The legislative rule filed in the state register on the
- 2 twenty-third day of July, two thousand one, authorized
- 3 under the authority of section four, article six-a, chapter
- 4 eleven of this code, modified by the tax commissioner to
- 5 meet the objections of the legislative rule-making review
- 6 committee and refiled in the state register on the fourth
- 7 day of October, two thousand one, relating to the tax

8 commissioner (pollution control facilities, 110 CSR 6), is  
9 authorized.

10 (b) The legislative rule filed in the state register on the  
11 twenty-third day of July, two thousand one, authorized  
12 under the authority of sections five and five-n, article ten,  
13 chapter eleven of this code, modified by the tax commis-  
14 sioner to meet the objections of the legislative rule-making  
15 review committee and refiled in the state register on the  
16 fourth day of October, two thousand one, relating to the  
17 tax commissioner (payment of taxes by credit card or debit  
18 card, 110 CSR 10B), is authorized.

19 (c) The legislative rule filed in the state register on the  
20 twenty-third day of July, two thousand one, authorized  
21 under the authority of section twenty-one, article twenty-  
22 one, chapter eleven of this code, modified by the tax  
23 commissioner to meet the objections of the legislative rule-  
24 making review committee and refiled in the state register  
25 on the fourth day of October, two thousand one, relating  
26 to the tax commissioner (senior citizen tax for property  
27 taxes paid, 110 CSR 21B), is authorized with the following  
28 amendment:

29 On page three, section 5.1, line 2, after the word "that"  
30 by striking out the word "qualify" and inserting in lieu  
31 thereof the words "have qualified".

32 (d) The legislative rule filed in the state register on the  
33 twenty-third day of July, two thousand one, authorized  
34 under the authority of section five, article ten and section  
35 one, article seventeen, chapter eleven of this code, modi-  
36 fied by the tax commissioner to meet the objections of the  
37 legislative rule-making review committee and refiled in  
38 the state register on the twenty-sixth day of November,  
39 two thousand one, relating to the tax commissioner  
40 (tobacco products excise tax, 110 CSR 17), is authorized  
41 with the following amendments:

42 On page 11, by adding a new subdivision 4.6.5 to read as  
43 follows:

44 "Every taxpayer that pays excise tax on tobacco prod-  
45 ucts shall be allowed a discount of 4 percent on all tax  
46 due."

47 And,

48 On page 12, by striking out all of subdivision 4.7.4 and  
49 inserting in lieu thereof a new subdivision 4.7.4 to read as  
50 follows:

51 "Every taxpayer that pays excise tax on tobacco prod-  
52 ucts shall be allowed a discount of 4 percent on all tax  
53 due."

**§64-7-2. Insurance commissioner.**

1 (a) The legislative rule filed in the state register on the  
2 twenty-fifth day of July, two thousand one, authorized  
3 under the authority of section ten, article two and section  
4 six-a, article seventy-b, chapter thirty-three of this code,  
5 relating to the insurance commissioner (medical malprac-  
6 tice loss experience and loss expense annual reporting  
7 requirements, 114 CSR 23), is authorized.

8 (b) The legislative rule filed in the state register on the  
9 twenty-fifth day of July, two thousand one, authorized  
10 under the authority of section ten, article two, section one,  
11 article six-f, and section four, article eleven-a, chapter  
12 thirty-three of this code, modified by the insurance  
13 commissioner to meet the objections of the legislative rule-  
14 making review committee and refiled in the state register  
15 on the twenty-first day of December, two thousand one,  
16 relating to the insurance commissioner (privacy of con-  
17 sumer financial and health information, 114 CSR 57), is  
18 authorized.

19 (c) The legislative rule filed in the state register on the  
20 twenty-fifth day of July, two thousand one, authorized  
21 under the authority of section ten, article two and sections  
22 six and nine, article twenty-five-c, chapter thirty-three of  
23 this code, modified by the insurance commissioner to meet

24 the objections of the legislative rule-making review  
25 committee and refiled in the state register on the twenty-  
26 first day of December, two thousand one, relating to the  
27 insurance commissioner (external review of coverage  
28 denials, 114 CSR 58), is authorized with the following  
29 amendments:

30 On page seven, Section 5.2.b., in the second sentence  
31 following the words "numbers of two" by inserting the  
32 words "randomly selected" and following the words  
33 "external review organizations" by inserting the words  
34 "which have been approved pursuant to section 8 and  
35 which do not have a conflict of interest as described in  
36 subdivision d of subsection 9.1.,";

37 On page seven, by striking all of section 5.5, and renum-  
38 bering the subsequent sections accordingly;

39 On page fourteen, section 7.3, after the word "Code" by  
40 striking out "§33-25A-6" and inserting in lieu thereof  
41 "§33-25C-6";

42 And,

43 On page fourteen, section 8.1, after the word "Code" by  
44 striking out "§33-25A-6" and inserting in lieu thereof  
45 "§33-25C-6".

**§64-7-3. Lottery commission.**

1 The legislative rule filed in the state register on the  
2 twenty-sixth day of July, two thousand one, under the  
3 authority of section four hundred two, article twenty-two-  
4 b, chapter twenty-nine of this code, modified by the lottery  
5 commission to meet the objections of the legislative rule-  
6 making review committee and refiled in the state register  
7 on the twentieth day of December, two thousand one,  
8 relating to the lottery commission (limited video lottery,  
9 179 CSR 5), is authorized with the following amendments:

10 On page two, paragraph 2.5.c.2, after the word 'less' by  
11 changing the period to a colon and inserting the word 'or'  
12 and the following:

13 '2.5.d The person was not able to comply with subdivi-  
14 sion (a) of subsection 2.5 of this rule due to circumstances  
15 beyond the control of the person, and the inability to  
16 comply was not, in the determination of the commission,  
17 the result of a willful act or neglect by the person;

18 2.5.d.1 If the commission determines that the applicant  
19 relied on a paid tax preparer, the return will be considered  
20 timely filed when filed within six months beyond the limit  
21 set forth in subdivision 2.5.a if the paid preparer submits  
22 an affidavit to the commission, on a form acceptable to the  
23 commission, stating the applicant's return was not filed  
24 within twelve months of the end of the taxable year due to  
25 an error or omission on the part of the paid preparer; or

26 2.5.d.2 If the commission determines that the applicant's  
27 financial records were destroyed by fire, flood or other  
28 natural or man-made disaster, the return will be consid-  
29 ered timely filed when filed.';

30 And,

31 On page five, by striking out all of §179-5-3 and by  
32 renumbering the subsequent sections.

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

*[Signature]*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect from passage.

*[Signature]*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *is approved* ..... this the *25<sup>th</sup>* .....  
Day of *March* ....., 2002.

*[Signature]*  
.....  
Governor



PRESENTED TO THE  
GOVERNOR

Date 3/19/02

Time 9:05 AM