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
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
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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.

(a) The legislative rule filed in the state register on the twenty-third day of July, two thousand one, authorized under the authority of section four, article six-a, chapter eleven of this code, modified by the tax commissioner to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourth day of October, two thousand one, relating to the tax
commissioner (pollution control facilities, 110 CSR 6), is authorized.

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

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

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

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

On page 11, by adding a new subdivision 4.6.5 to read as follows:
“Every taxpayer that pays excise tax on tobacco products shall be allowed a discount of 4 percent on all tax due.”

And,

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

“Every taxpayer that pays excise tax on tobacco products shall be allowed a discount of 4 percent on all tax due.”

§64-7-2. Insurance commissioner.

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

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

(c) The legislative rule filed in the state register on the twenty-fifth day of July, two thousand one, authorized under the authority of section ten, article two and sections six and nine, article twenty-five-c, chapter thirty-three of this code, modified by the insurance commissioner to meet
the objections of the legislative rule-making review committee and refiled in the state register on the twenty-sixth day of July, two thousand one, under the authority of section four hundred two, article twenty-two-b, chapter twenty-nine of this code, modified by the lottery commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of December, two thousand one, relating to the insurance commissioner (external review of coverage denials, 114 CSR 58), is authorized with the following amendments:

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

On page seven, by striking all of section 5.5, and renumbering the subsequent sections accordingly;

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

And,

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

§64-7-3. Lottery commission.

The legislative rule filed in the state register on the twenty-sixth day of July, two thousand one, under the authority of section four hundred two, article twenty-two-b, chapter twenty-nine of this code, modified by the lottery commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of December, two thousand one, relating to the lottery commission (limited video lottery, 179 CSR 5), is authorized with the following amendments:
On page two, paragraph 2.5.c.2, after the word 'less' by changing the period to a colon and inserting the word 'or' and the following:

2.5.d The person was not able to comply with subdivision (a) of subsection 2.5 of this rule due to circumstances beyond the control of the person, and the inability to comply was not, in the determination of the commission, the result of a willful act or neglect by the person;

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

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

And,

On page five, by striking out all of §179-5-3 and by renumbering the subsequent sections.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 25th Day of March, 2002.

Governor
PRESENTED TO THE
GOVERNOR
Date 2/1/62
Time 9:05 AM