WEST VIRGINIA LEGISLATURE
Regular Session, 2004

ENROLLED
Committee Substitute for
SENATE BILL NO. 357

(By Senator Minarde, et al.)

PASSED March 11, 2006

In Effect From Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 357

(SENATORS MINARD, FANNING, PREZIOSO, UNGER, BOLEY AND MINEAR, original sponsors)

[Passed March 11, 2006; in effect from passage.]

AN ACT to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, all relating generally to the promulgation of administrative rules by the Department of Revenue 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 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 the Insurance Commissioner to promulgate a legislative rule relating to unfair trade practices; authorizing the Insurance Commissioner to promulgate a legislative rule relating to licensing and conduct of individual insurance producers, agencies and solicitors; authorizing the Insurance Commissioner to promulgate a legislative rule relating to the West Virginia Essential Property Insurance Association; authorizing the Insurance Commissioner to promulgate a legislative rule relating to Medicare supplement insurance; authorizing the Insurance Commissioner to promulgate a legislative rule relating to nonrenewal of property insurance policies; authorizing the Insurance Commissioner to promulgate a legislative rule relating to private passenger automobile and property insurance - biannual rate filing requirements; authorizing the Insurance Commissioner to promulgate a legislative rule relating to replacement of life insurance policies and annuity contracts; authorizing the Racing Commission to promulgate legislative rule relating to greyhound racing; authorizing the Tax Commissioner to promulgate a legislative rule relating to business registration certificate - suspension for failure to pay personal property taxes; and authorizing the Tax Commissioner to promulgate a legislative rule relating to valuation of active and reserve coal for ad valorem property tax purposes.

Be it enacted by the Legislature of West Virginia:

That article 7, chapter 64 of the Code of West Virginia, 1931, 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. Insurance Commissioner.

1 (a) The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized
under the authority of section ten, article two, chapter
thirty-three of this code and section four-a, article eleven
of said chapter, modified by the Insurance Commissioner
to meet the objections of the Legislative Rule-Making
Review Committee and refiled in the State Register on the
twentieth day of January, two thousand six, relating to the
Insurance Commissioner (unfair trade practices, 114 CSR
14), is authorized, with the following amendment:

On page two, subsection 2.3., by striking out the words
“for which premiums were paid by the claimant or on the
claimant’s behalf”;

On page two, subsection 2.8., by striking out the words
“for which premiums were not paid by the claimant or on
the his or her behalf”;

On page two, subsection 2.9., before the word “compen-
sation”, by inserting the word “the”;  

On page three, subsection 4.4., by striking out the words
“in the policy or set” and, after the words “statute or”, by
inserting the word “legislative”;

On page five, subsection 6.1, by adding the following
sentence: ‘This section is not intended to conflict with the
statutory requirements of the Medical Professional
Liability Act, W. Va. Code §§55-7B-1 to -11, as the same
relate to the assertion and investigation of medical profes-
sional liability claims.’;

On page five, subsection 6.3, after the word ‘limits’ by
inserting the words “and, with respect to medical profes-
sional liability claims, subject to applicable statutory
requirements set forth in the Medical Professional Liabil-
ity Act, W. Va. Code §§55-7B-1 to -11,’

On page five, subdivision 6.4.b., after the word
“whether”, by striking out the words “or not”;

On page eight, by striking out subsection 6.17. in its
entirety and by renumbering the subsequent subsection;
On page eight, after subsection 6.18., by adding a new subsection, designated subsection 6.18, to read as follows:

6.18. Motor vehicle repair shops. - An insurer may furnish to the claimant the names of one or more conveniently located motor vehicle repair shops that will perform the repairs; however no insurer may require the claimant to use a particular repair shop or location to obtain the repairs;

And,

On page eleven, subdivision 7.3., by striking out the words "of the insurer's choice" and inserting in lieu thereof the words "recommended by the insurer".

(b) The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of section ten, article two, 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 twentieth day of January, two thousand six, relating to the Insurance Commissioner (licensing and conduct of individual insurance producers, agencies and solicitors, 114 CSR 2), is authorized.

(c) The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of section ten, article two, chapter thirty-three of this code and section three, article twenty-a of said chapter, relating to the Insurance Commissioner (West Virginia Essential Property Insurance Association, 114 CSR 21), is authorized.

(d) The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of section ten, article two, chapter thirty-three of this code, section three-d, article sixteen of said chapter and section five-b, article twenty-eight of said chapter, relating to the Insurance Commissioner
(Medicare supplement insurance, 114 CSR 24), is authorized.

(e) The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of section ten, article two, chapter thirty-three of this code and section four-a, article seventeen-a of said chapter, relating to the Insurance Commissioner (nonrenewal of property insurance policies, 114 CSR 74), is authorized.

(f) The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of section four-a, article twenty, chapter thirty-three of this code, relating to the Insurance Commissioner (private passenger automobile and property insurance - biannual rate filing requirements, 114 CSR 75), is authorized.

(g) The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of section five-a, article eleven, 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 twentieth day of January, two thousand six, relating to the Insurance Commissioner (replacement of life insurance policies and annuity contracts, 114 CSR 8), is authorized.

§64-7-2. Racing Commission.

The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of section six, article twenty-three, chapter nineteen of this code, modified by the Racing Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the eighteenth day of January, two thousand six, relating to the Racing Commission (greyhound racing, 178 CSR 2), is authorized, with the following amendment:
On page forty-two, subsection 51.6., by striking out the words “were six (6) months of age. Provided, that effective January 1, 2007, in order to participate in the West Virginia Greyhound Breeding Development Fund, a greyhound born on or after that date must be from a litter that was whelped in the State of West Virginia and remained domiciled in West Virginia at least until the puppies”;

On page forty-three, subdivision 51.7.7., by striking out the words “six consecutive months of occupancy in West Virginia starting from the date of whelping. Provided that effective January 1, 2007, with regard to a greyhound born on or after that date, affirm that the greyhound was whelped in West Virginia and that the greyhound was not removed from West Virginia to a place outside West Virginia at any time prior to the completion of”;

On page forty-three, subsection 51.7.8., by striking out the words “six (6) months of age, it is the owner’s or the lessee’s responsibility to notify the Racing Commission within ten (10) days of removal and that any West Virginia bred greyhound that is removed to a location outside of West Virginia prior to the completion of six consecutive months of occupancy in West Virginia starting from the date of whelping shall be disqualified by the Racing Commission from participation in the West Virginia Greyhound Breeding Development Fund. Provided that effective January 1, 2007, with regard to a greyhound born on or after that date, affirm that the owner or lessee further understands that if any West Virginia bred greyhound is removed from West Virginia prior to”;

On page forty-four, subdivision 51.7.11., after the words “State for”, by striking out the word “at”;

On page forty-eight, table 51.4., paragraph 4, by striking out the word “Virgjnia” and inserting in lieu thereof the word “Virginia”;
On page forty-eight, table 51.4., paragraph 5, by striking out the words “both bred and”;
On page forty-eight, table 51.4., paragraph 5, by striking out the words “six (6)” and inserting in lieu thereof the words “twelve (12)”;
On page forty-nine, table 51.5., paragraph 5, by striking out the words “both bred and”;
And,
On page forty-nine, table 51.5., paragraph 5, by striking out the words “six (6)” and inserting in lieu thereof the words “twelve (12)”.

§64-7-3. Tax Commissioner.

(a) The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of section five, article twelve, 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 twentieth day of December, two thousand five, relating to the Tax Commissioner (business registration certificate - suspension for failure to pay personal property taxes, 110 CSR 12D), is authorized.

(b) The legislative rule filed in the State Register on the twenty-ninth day of July, two thousand five, authorized under the authority of section eleven, article one-a, chapter eleven of this code, relating to the Tax Commissioner (valuation of active and reserve coal property for ad valorem property tax purposes, 110 CSR 11), is authorized, with the following amendment:

On page seventeen, subparagraph 4.2.3.16., by striking out the words “that is above local drainage”.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate 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 Day of April, 2006.

Governor