WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2008

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4290

(By Delegates Swartzmiller, Stalnaker, Kominar, Varner, Manchin, Palumbo, Pino, Caputo and Browning)

Passed March 8, 2008

In Effect Ninety Days from Passage
AN ACT to amend and reenact §12-3A-2 and §12-3A-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §12-3A-7, all relating to electronic commerce; granting the Auditor and Treasurer the discretion to require certain electronic filing, with waivers and exceptions; and authorizing the use of electronic commerce in the sale or disposal of property.

Be it enacted by the Legislature of West Virginia:

That §12-3A-2 and §12-3A-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §12-3A-7, all to read as follows:

ARTICLE 3A. FINANCIAL ELECTRONIC COMMERCE.

As used in this article, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

(a) "Document" means any authentication, certificate, claim, form, invoice, record, report, requisition, security, statement or other similar item that may be in a tangible or electronic form.

(b) "Electronic" means electrical, digital, magnetic, wireless, optical, electromagnetic, biometric, or any other technology that is similar to these technologies.

(c) "Electronic commerce" means using electronic techniques for accomplishing business transactions, including electronic mail or messaging, electronic bulletin board, Internet technology, electronic funds transfers, electronic data interchange (EDI) techniques, and any other related electronic technologies.

(d) "Security procedure" means a methodology or procedure for the purpose of:

(1) Preventing access by unauthorized parties;

(2) Verifying that an electronic record or electronic signature is that of a specific party or created by a specific electronic point of origin; or

(3) Detecting error or alteration in the communication, content, or storage of an electronic record since a specific point in time.

(e) "WEB commerce" means electronic commerce on the Internet.

(a) The State Auditor and the State Treasurer shall implement electronic commerce capabilities for each of their offices to facilitate the performance of their duties under this code. The State Treasurer shall competitively bid the selection of vendors needed to provide the necessary banking, investment and related goods and services, and the provisions of article one-b, chapter five, and articles three and seven, chapter five-a of this code shall not apply, unless requested by the State Auditor or State Treasurer.

(b) A document or a signature received, issued or used by the Auditor or the Treasurer shall be considered an original and may not be denied legal effect on the ground that it is in electronic form.

c) The Auditor or Treasurer may, in his or her discretion, require documents filed with or submitted to his or her respective office be filed or submitted in a prescribed electronic format.

d) The Auditor or Treasurer, in his or her discretion, may waive:

(1) Any requirements for a document filed or submitted in an electronic format; or

(2) Any requirements for the certification, notarization or verification of a document filed or submitted in an electronic format.

e) The head of each spending unit is responsible for adopting and implementing security procedures to ensure adequate integrity, security, confidentiality, and auditability of the business transactions of his or her spending unit when utilizing electronic commerce.
§12-3A-7. Method of sale or disposal of personal property.

(a) Notwithstanding any other provision in this code to the contrary, the Treasurer, or any other state spending unit that has the authority to sell or dispose of personal property in its possession, may do so by using electronic commerce.

(b) The sale of property by the Treasurer, or other state spending unit, by using electronic commerce is, for all purposes, deemed a sale of personal property within the State of West Virginia.
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.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 31st day of May, 2008.

Governor
PRESENTED TO THE GOVERNOR

MAR 25 2008

Time 10:30am