WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2008

COMMITTEE SUBSTITUTE
FOR
ENROLLED
Senate Bill No. 417

(Senators Minard, Fanning, Prezioso, Unger, Boley and Facemyer, original sponsors)

[Passed March 8, 2008; in effect from passage.]
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[Passed March 8, 2008; in effect from passage.]

AN ACT to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, 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; 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 Alcohol Beverage Control Commission to promulgate a legislative rule relating to retail licensee operations; authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to farm wineries; authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to the sale of wine; authorizing the Insurance Commissioner to promulgate a legislative rule relating to guaranteed loss ratios as applied to individual sickness and accident insurance policies; authorizing the Insurance Commissioner to promulgate a legislative rule relating to mental health parity; authorizing the Insurance Commissioner to promulgate a legislative rule relating to recognition of preferred mortality tables for use in determining minimum reserve liabilities; authorizing the Insurance Commissioner to promulgate a legislative rule relating to the replacement of life insurance policies and annuity contracts; authorizing the Insurance Commissioner to promulgate a legislative rule relating to military sales practices; authorizing the Insurance Commissioner to promulgate a legislative rule relating to suitability in annuity transactions; authorizing the Insurance Commissioner to promulgate a legislative rule relating to life insurance disclosures; authorizing the Insurance Commissioner to promulgate a legislative rule relating to life insurance illustrations; authorizing the Insurance
Commissioner to promulgate a legislative rule relating to examiners and examinations; authorizing the Insurance Commissioner to promulgate a legislative rule relating to the licensing and conduct of insurance producers, agencies and solicitors; authorizing the Insurance Commissioner to promulgate a legislative rule relating to fingerprinting requirements for applications for an insurance producer license; authorizing the Insurance Commissioner to promulgate a legislative rule relating to advertisement of life insurance and annuities; authorizing the Lottery Commission to promulgate a legislative rule relating to racetrack table games; and authorizing the State Tax Division to promulgate a legislative rule relating to the exchange of information agreement between the Commissioner of the Tax Division of the Department of Revenue and the Commissioner of the Division of Labor of the Department of Commerce, the Commissioner of the Insurance Commission of the Department of Revenue, the Commissioner of the Division of Motor Vehicles of the Department of Transportation, the Commissioner of the Bureau of Employment Programs and the Office of the Governor.

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 REVENUE TO PROMULGATE LEGISLATIVE RULES.

§64-7-1. Alcohol Beverage Control Commission.

1 (a) The legislative rule filed in the State Register on the twenty-sixth day of July, two thousand seven, authorized under the authority of section six, article
three-a, chapter sixty of this code, modified by the Alcohol Beverage Control Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-second day of January, two thousand eight, relating to the Alcohol Beverage Control Commission (retail licensee operations, 175 CSR 1), is authorized.

(b) The legislative rule filed in the State Register on the twenty-sixth day of July, two thousand seven, authorized under the authority of section twenty-three, article eight, chapter sixty of this code, modified by the Alcohol Beverage Control Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-second day of January, two thousand eight, relating to the Alcohol Beverage Control Commission (farm wineries, 175 CSR 3), is authorized.

(c) The legislative rule filed in the State Register on the twenty-sixth day of July, two thousand seven, authorized under the authority of section six, article three-a, chapter sixty of this code, modified by the Alcohol Beverage Control Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-second day of January, two thousand eight, relating to the Alcohol Beverage Control Commission (sale of wine, 175 CSR 4), is authorized.

§64-7-2. Insurance Commissioner.

(a) The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, 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 seventh day of December,
two thousand seven, relating to the Insurance
Commissioner (guaranteed loss ratios as applied to
individual sickness and accident insurance policies, 114
CSR 31), is authorized.

(b) The legislative rule filed in the State Register on
the twenty-seventh day of July, two thousand seven,
authorized under the authority of section ten, article
two, chapter thirty-three of this code, relating to the
Insurance Commissioner (mental health parity, 114
CSR 64), is authorized.

(c) The legislative rule filed in the State Register on
the twenty-seventh day of July, two thousand seven,
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 seventh day of December,
two thousand seven, relating to the Insurance
Commissioner (recognition of preferred mortality tables
for use in determining minimum reserve liabilities, 114
CSR 69A), is authorized.

(d) The legislative rule filed in the State Register on
the twenty-seventh day of July, two thousand seven,
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 seventh day of December,
two thousand seven, relating to the Insurance
Commissioner (replacement of life insurance policies
and annuity contracts, 114 CSR 8), is authorized.

(e) The legislative rule filed in the State Register on
the twenty-seventh day of July, two thousand seven,
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 seventh day of December,
two thousand seven, relating to the Insurance
Commissioner (military sales practices, 114 CSR 82), is
authorized.

(f) The legislative rule filed in the State Register on
the twenty-seventh day of July, two thousand seven,
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 seventh day of December,
two thousand seven, relating to the Insurance
Commissioner (suitability in annuity transactions, 114
CSR 11B), is authorized.

(g) The legislative rule filed in the State Register on
the twenty-seventh day of July, two thousand seven,
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 seventh day of December,
two thousand seven, relating to the Insurance
Commissioner (life insurance disclosures, 114 CSR
(h) The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, 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 seventh day of December, two thousand seven, relating to the Insurance Commissioner (life insurance illustrations, 114 CSR 11C), is authorized with the following amendment:

On page 17, section 11, by striking section 11 in its entirety and inserting in lieu thereof the following:

'S114-11C-11. Failure to comply.

1. A violation of paragraphs 5.2 or 5.3, section 5 of this rule by an insurer constitutes a statement or omission which misrepresents the benefits, advantages, conditions or terms of a life insurance policy.'.

(i) The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section ten, article two, chapter thirty-three of this code, relating to the Insurance Commissioner (examiners and examinations, 114 CSR 15), is authorized.

(j) The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section ten, article two, chapter thirty-three of this code, relating to the Insurance Commissioner (licensing and conduct of
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insurance producers, agencies and solicitors, 114 CSR 2), is authorized.

(k) The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, 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 seventh day of December, two thousand seven, relating to the Insurance Commissioner (fingerprinting requirements for applications for insurance producer license, 114 CSR 2A), is authorized.

(l) The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, 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 seventh day of December, two thousand seven, relating to the Insurance Commissioner (advertisement of life insurance and annuities, 114 CSR 11), is authorized.

§64-7-3. Lottery Commission.

The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section four, article twenty-two-c, 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
twenty-sixth day of December, two thousand seven, relating to the Lottery Commission (racetrack table games, 179 CSR 8), is authorized with the following amendments:

On page twelve, by striking out subsection 2.65 in its entirety;

On page fifteen, by striking subsection 3.11 in its entirety and renumbering the subsequent subsections accordingly;

On page seventeen, by striking out section 179-8-9 in its entirety and renumbering the subsequent sections accordingly;

And,

On page ninety-four, section one hundred ten, by striking out the words 'section eleven' and inserting in lieu thereof the words 'sections one hundred fourteen through one hundred twenty-six'.

§64-7-4. State Tax Department.

The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand seven, authorized under the authority of section five-s, article ten, chapter eleven of this code, modified by the State Tax Department to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-ninth day of December, two thousand seven, relating to the State Tax Department (exchange of information agreement between the Commissioner of the Tax Division of the

11 Department of Revenue and the Commissioner of the
12 Division of Labor of the Department of Commerce, the
13 Commissioner of the Insurance Commission of the
14 Department of Revenue, the Commissioner of the
15 Division of Motor Vehicles of the Department of
16 Transportation, the Commissioner of the Bureau of
17 Employment Programs and the Office of the Governor,
18 110 CSR 50D), is authorized.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chandy White
Chairman Senate Committee

Chandy White
Chairman House Committee

Originated in the Senate.

In effect from passage.

Dorsett E. Holmes
Clerk of the Senate

Clerk of the House of Delegates

Earl Ray Tomblin
President of the Senate

Speaker House of Delegates

The within is approved this
the 27th Day of March, 2008.

Robert A. Macchiaroli
Governor