

FILED

2010 APR -2 PM 4: 08

WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SB 407

—●—
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 407

(SENATORS MINARD, SNYDER, PREZIOSO, UNGER,
BOLEY AND K. FACEMYER, *original sponsors*)

[Passed March 13, 2010; in effect from passage.]

2010 APR -2 PM 4: 08

OFFICE OF THE CLERK
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 407

(SENATORS MINARD, SNYDER, PREZIOSO,
UNGER, BOLEY AND K. FACEMYER, *original sponsors*)

[Passed March 13, 2010; 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; 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 with various modifications presented to and recommended by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register and as amended by the Legislature; authorizing the State Tax Department to promulgate a legislative rule relating to the

film industry investment tax credit; authorizing the State Tax Department to promulgate a legislative rule relating to the Consumers Sales and Service Tax and Use Tax - drugs, durable medical goods, mobility-enhancing equipment and prosthetic devices per se exemption; motor vehicles per se exemption; authorizing the State Tax Department to promulgate a legislative rule relating to the residential solar energy tax credit; authorizing the State Tax Department to promulgate a legislative rule relating to the corporation net income tax; authorizing the Directors of the West Virginia Health Insurance Plan to promulgate a legislative rule relating to a premium subsidy; authorizing the Directors of the West Virginia Health Insurance Plan to promulgate a legislative rule relating to a preexisting conditions exclusion; authorizing the Insurance Commissioner to promulgate a legislative rule relating to variable life insurance; authorizing the Insurance Commissioner to promulgate a legislative rule relating to annuity disclosure; 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 coordination of health benefits; authorizing the Insurance Commissioner to promulgate a legislative rule relating to the West Virginia Life and Health Insurance Guaranty Association Act notice requirements; 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 viatical settlements; authorizing the Insurance Commissioner to promulgate a legislative rule relating to the preventive care pilot program; authorizing the Insurance Commissioner to promulgate a legislative rule relating to the use of senior-specific certifications and professional designations in the sale of life insurance and annuities; authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to nonintoxicating beer licensing and operations procedures;

authorizing the West Virginia State Athletic Commission to promulgate a legislative rule relating to the administration of the commission; and authorizing the Lottery Commission to promulgate a legislative rule relating to limited gaming facilities.

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. State Tax Department.

1 (a) The legislative rule filed in the State Register on July
2 30, 2009, authorized under the authority of section nine,
3 article thirteen-x, chapter eleven of this code, modified by
4 the State Tax Department to meet the objections of the
5 Legislative Rule-Making Review Committee and refiled in
6 the State Register on January 21, 2010, relating to the
7 State Tax Department (Film Industry Investment Tax
8 Credit, 110 CSR 13X), is authorized.

9 (b) The legislative rule filed in the State Register on June
10 23, 2009, authorized under the authority of section five,
11 article ten, chapter eleven of this code, modified by the
12 State Tax Department to meet the objections of the
13 Legislative Rule-Making Review Committee and refiled in
14 the State Register on November 30, 2009, relating to the
15 State Tax Department (Consumer Sales and Service Tax
16 and Use Tax - Drugs, Durable Medical Goods, Mobility
17 Enhancing Equipment and Prosthetic Devices Per Se
18 Exemption; and Motor Vehicles Per Se Exemption, 110
19 CSR 15C), is authorized.

20 (c) The legislative rule filed in the State Register on July
21 30, 2009, authorized under the authority of section three,
22 article thirteen-z, chapter eleven of this code, modified by

23 the State Tax Department to meet the objections of the
24 Legislative Rule-Making Review Committee and refiled in
25 the State Register on November 30, 2009, relating to the
26 State Tax Department (Residential Solar Energy Tax
27 Credit, 110 CSR 21D), is authorized with the following
28 amendments:

29 On page two, beginning on line twenty, by striking out
30 subdivision 2.2.d in its entirety and redesignating the
31 remaining subdivisions accordingly;

32 On page five, subsection 4.2, line twenty-one, following
33 the word “incentive”, by changing the comma to a period
34 and striking out the remainder of the sentence;

35 On page nine, subsection 9.1, line thirteen, following the
36 words “until the” by striking out the following:

37 “earlier of the following:

38 9.1.a. Four taxable years have elapsed; or

39 9.1.b. The full”;

40 And,

41 On page nine, line twenty-two, by striking out subsec-
42 tion 9.4 in its entirety.

43 (d) The legislative rule filed in the State Register on July
44 31, 2009, authorized under the authority of section five,
45 article ten, chapter eleven of this code, modified by the
46 State Tax Department to meet the objections of the
47 Legislative Rule-Making Review Committee and refiled in
48 the State Register on January 21, 2010, relating to the
49 State Tax Department (Corporation Net Income Tax, 110
50 CSR 24), is authorized with the following amendments:

51 On page eight, 5.1.a.3, line eighteen, following the words
52 “superseding state”, by striking out the word “of” and
53 inserting in lieu thereof the word “or”;

54 On page sixteen, 7.5.c.1, line eleven, following the words
55 “~~such the~~”, by inserting the word “the”;

56 On page eighteen, 7.6.c.1, line twenty-three, by striking
57 out the word “employees” and inserting in lieu thereof the
58 word “employees”;

59 On page twenty-nine, 7a.1.a, line thirty-one, following
60 the words “apportionment method” by inserting the words
61 “are subject to apportionment as described in the follow-
62 ing paragraph”;

63 On page thirty, 7a.1.a.1, line ten, following the words
64 “special apportionment members” by striking out the
65 comma;

66 On page thirty-one, 8.4.a, line twenty-three, following
67 the words “which are determined” by striking out the
68 comma;

69 On page thirty-two, 8.5.a.2, line ten, following the words
70 “W. Va. Code §11-24-8(e)” by striking out the comma;

71 On page forty-one, 13a.1.a, line one, following the words
72 “insurance company” by striking out the comma;

73 On page forty-one, 13a.1.a, line three, following the
74 words “shall not be included” by inserting the word “in”;

75 On page forty-two, 13a.2.b.2, line twelve, following the
76 words “the stock of”, by striking out the words “~~such~~
77 that” and inserting in lieu thereof the word “the”;

78 On page forty-two, 13a.2.b.2, line fifteen, following the
79 words “income of”, by striking out the words “~~such this~~”
80 and inserting in lieu thereof the word “the”;

81 On page forty-three, 13a.3.a.6, line thirty-four, following
82 the words “~~below~~ in”, by striking out the word “~~para-~~
83 ~~graph~~” and inserting in lieu thereof the word “subpara-
84 graph”;

85 On page fifty-four, 13a.3.d.1, line fourteen, following the
86 word “member” by striking out the comma;

87 On page seventy, 13d.4.a.2, line thirteen, by reinserting
88 the word “see”;

89 On page ninety-nine, 13e.2.a.3, beginning on line three,
90 following the word “privileges”, by reinserting the word
91 “must” and striking out the word “shall”;

92 On page ninety-nine, 13e.2.a.3, line four, following the
93 words “and it”, by inserting the word “must” and
94 striking out the word “shall”;

95 On page one hundred, 13e.4.c, line seventeen, following
96 the words “group return” by striking out the comma;

97 On page one hundred, 13e.4.e, line twenty-two, following
98 the words “group return” by striking out the comma;

99 On page one hundred two, 13e.8, line twenty-two,
100 following the word “corporation” and the comma, by
101 striking out the word “then”;

102 On page one hundred ten, 26.4, line nineteen, following
103 the words “transactions include”, by inserting a colon;

104 On page one hundred ten, 26.4, line twenty, following
105 the word “property” and the semi-colon, by striking out
106 the words “sales or transfers” and inserting in lieu thereof
107 the words “the sale or transfer”;

108 On page one hundred ten, 26.4, line twenty-one, by
109 striking out the words “the owner or for consideration”
110 and inserting in lieu thereof the words “the owner; or
111 consideration”;

112 And,

113 On page one hundred fifteen, 27.2.c.6, line five, following
114 the word “annual”, by striking out the word “of”.

§64-7-2. Directors of the West Virginia Health Insurance Plan.

1 (a) The legislative rule filed in the State Register on July
2 17, 2009, authorized under the authority of section seven-
3 b, article forty-eight, chapter thirty-three of this code,
4 modified by the Directors of the West Virginia Health
5 Insurance Plan to meet the objections of the Legislative
6 Rule-Making Review Committee and refiled in the State
7 Register on January 25, 2010, relating to the Directors of
8 the West Virginia Health Insurance Plan (Premium
9 Subsidy, 113 CSR 1), is authorized.

10 (b) The legislative rule filed in the State Register on July
11 17, 2009, authorized under the authority of section ten,
12 article two, chapter thirty-three of this code, modified by
13 the Directors of the West Virginia Health Insurance Plan
14 to meet the objections of the Legislative Rule-Making
15 Review Committee and refiled in the State Register on
16 January 26, 2010, relating to the Directors of the West
17 Virginia Health Insurance Plan (Pre-existing Conditions
18 Exclusion, 113 CSR 2), is authorized.

§64-7-3. Insurance Commissioner.

1 (a) The legislative rule filed in the State Register on July
2 17, 2009, authorized under the authority of section ten,
3 article two, chapter thirty-three of this code, modified by
4 the Insurance Commissioner to meet the objections of the
5 Legislative Rule-Making Review Committee and refiled in
6 the State Register on January 26, 2010, relating to the
7 Insurance Commissioner (Variable Life Insurance, 114
8 CSR 11D), is authorized.

9 (b) The legislative rule filed in the State Register on July
10 17, 2009, authorized under the authority of section ten,
11 article two, chapter thirty-three of this code, modified by
12 the Insurance Commissioner to meet the objections of the
13 Legislative Rule-Making Review Committee and refiled in
14 the State Register on January 25, 2010, relating to the

15 Insurance Commissioner (Annuity Disclosure, 114 CSR
16 11E), is authorized.

17 (c) The legislative rule filed in the State Register on July
18 17, 2009, authorized under the authority of section ten,
19 article two, chapter thirty-three of this code, modified by
20 the Insurance Commissioner to meet the objections of the
21 Legislative Rule-Making Review Committee and refiled in
22 the State Register on January 26, 2010, relating to the
23 Insurance Commissioner (Medicare Supplement Insurance,
24 114 CSR 24), is authorized.

25 (d) The legislative rule filed in the State Register on July
26 17, 2009, authorized under the authority of section ten,
27 article two, chapter thirty-three of this code, relating to
28 the Insurance Commissioner (Coordination of Health
29 Benefits, 114 CSR 28), is authorized with the following
30 amendments:

31 On page one, subsection 1.1, after the word “after” by
32 striking out the words “the effective date of this rule” and
33 inserting in lieu thereof the words “January 21, 2011,”;

34 And,

35 On page one, subsection 1.1, after the word “before” by
36 striking out the words “the effective date of this rule” and
37 inserting in lieu thereof the words “January 21, 2011,”.

38 (e) The legislative rule filed in the State Register on July
39 31, 2009, authorized under the authority of section ten,
40 article two, chapter thirty-three of this code, relating to
41 the Insurance Commissioner (West Virginia Life and
42 Health Insurance Guaranty Association Act Notice
43 Requirements, 114 CSR 36), is authorized.

44 (f) The legislative rule filed in the State Register on July
45 17, 2009, authorized under the authority of section ten,
46 article two, chapter thirty-three of this code, modified by
47 the Insurance Commissioner to meet the objections of the

48 Legislative Rule-Making Review Committee and refiled in
49 the State Register on December 17, 2009, relating to the
50 Insurance Commissioner (Mental Health Parity, 114 CSR
51 64), is authorized.

52 (g) The legislative rule filed in the State Register on July
53 24, 2009, authorized under the authority of section seven-
54 teen, article thirteen-c, chapter thirty-three of this code,
55 relating to the Insurance Commissioner (Viatical Settle-
56 ments, 114 CSR 80), is authorized with the following
57 amendments:

58 On page two, subsection 2.6., after the word “viators” by
59 striking out the words “by viatical settlement providers”;

60 On page four, subsection 4.2., subdivision b., after the
61 word “domicile” by striking out the words “and a West
62 Virginia business license from the Secretary of State’s
63 Office”;

64 On page five, by striking out subdivision 4.2.c. in its
65 entirety;

66 And, by renumbering the remaining subdivisions;

67 On page five, subsection 4.2., subdivision f., by striking
68 out the words “all information” and inserting in lieu
69 thereof the word “informational”;

70 On page five, subsection 4.2., subdivision f., after the
71 word “viators” by inserting the words “describing the
72 viatical settlement process”;

73 On page five, subsection 4.3., subdivision b., after the
74 word “five” by inserting the word “consecutive”;

75 On page six, by striking out subsection 4.6. in its en-
76 tirety;

77 And, by renumbering the remaining subsections;

78 On page six, subsection 4.8., after the word “license.” by
79 striking out the words “All viatical settlement broker
80 licenses, as fixed by the Commissioner, shall expire at
81 midnight on the thirty first day of May next following the
82 date of issuance.” and inserting in lieu thereof the words
83 “The date upon which the viatical settlement broker
84 license shall expire for individuals and entities shall be at
85 the discretion of the Commissioner.”;

86 On page six, subsection 4.10., subdivision a., after the
87 word “directions” by striking out the word “posited” and
88 inserting in lieu thereof the word “posted”;

89 On page nine, subsection 6.2., after the word “broker” by
90 inserting the words “and each insurance producer whose
91 viatical settlement activities are incidental to their
92 business activities”;

93 On page twelve, section 9, after the word “A” by striking
94 out the word “person” and inserting in lieu thereof the
95 words “viatical settlement provider”;

96 On page twelve, section 9, after the word “similar” by
97 striking the word “ro” and inserting in lieu thereof the
98 word “to”;

99 And,

100 On page fourteen, subsection 12.1., subdivision b., after
101 the words “case of” by striking the word “in” and insert-
102 ing in lieu thereof the word “an”.

103 (h) The legislative rule filed in the State Register on July
104 17, 2009, authorized under the authority of section ten,
105 article two, chapter thirty-three of this code, modified by
106 the Insurance Commissioner to meet the objections of the
107 Legislative Rule-Making Review Committee and refiled in
108 the State Register on January 25, 2010, relating to the
109 Insurance Commissioner (Preventive Care Pilot Program,
110 114 CSR 87), is authorized.

111 (i) The legislative rule filed in the State Register on July
112 17, 2009, authorized under the authority of section ten,
113 article two, chapter thirty-three of this code, modified by
114 the Insurance Commissioner to meet the objections of the
115 Legislative Rule-Making Review Committee and refiled in
116 the State Register on December 12, 2009, relating to the
117 Insurance Commissioner (Use of Senior-Specific Certifica-
118 tions and Professional Designations in the Sale of Life
119 Insurance and Annuities, 114 CSR 89), is authorized.

§64-7-4. Alcohol Beverage Control Commission.

1 The legislative rule filed in the State Register on July 16,
2 2009, authorized under the authority of section twenty-
3 two-a, article sixteen, chapter eleven of this code, modi-
4 fied by the Alcohol Beverage Control Commission to meet
5 the objections of the Legislative Rule-Making Review
6 Committee and refiled in the State Register on January 21,
7 2010, relating to the Alcohol Beverage Commission
8 (Nonintoxicating Beer Licensing and Operations Proce-
9 dures, 176 CSR 1), is authorized.

§64-7-5. Athletic Commission.

1 The legislative rule filed in the State Register on July 31,
2 2009, authorized under the authority of section twenty-
3 four, article five-a, chapter twenty-nine of this code,
4 modified by the Athletic Commission to meet the objec-
5 tions of the Legislative Rule-Making Review Committee
6 and refiled in the State Register January 8, 2010, relating
7 to the Athletic Commission (Administrative Rules of the
8 West Virginia State Athletic Commission, 177 CSR 1), is
9 authorized.

§64-7-6. Lottery Commission.

1 The legislative rule filed in the State Register on July 27,
2 2009, authorized under the authority of section five,
3 article twenty-five, chapter twenty-nine of this code,
4 modified by the Lottery Commission to meet the objec-

5 tions of the Legislative Rule-Making Review Committee
6 and refiled in the State Register on January 20, 2010,
7 relating to the Lottery Commission (Limited Gaming
8 Facility Rule, 179 CSR 4), is authorized with the following
9 amendments:

10 On page fifty-one, line seven, following the word
11 “through”, by striking out the numeral “37” and inserting
12 in lieu thereof the numeral “38”;

13 On page fifty-one, beginning on line eight, by striking
14 out section thirty-eight in its entirety;

15 On page eighty-one, 57.5.c, line thirty-four, following
16 the word “section”, by striking out the word “fifty-three”
17 and inserting in lieu thereof the word “thirty-three”;

18 On page eighty-four, 57.6.d, line six, following the word
19 “fifteen”, by striking out the word “thirty-three” and
20 inserting in lieu thereof the word “sixteen”;

21 On page one hundred twelve, 88.2.b, line thirteen,
22 following the word “paragraphs”, by striking out the
23 numerals “88.l.i.2 to 88.l.i.4” and inserting in lieu thereof
24 the numerals “88.l.g.2 to 88.l.g.4”;

25 On page one hundred thirty-three, beginning on line
26 seventeen, by striking out the following:

27 ~~115.5.c.2.~~ 115.5.b.1. Dice;

28 ~~115.5.c.3.~~ 115.5.b.1. Tokens;

29 ~~115.5.c.4.~~ 115.5.b.1. Playing cards; and

30 ~~115.5.c.5.~~ 115.5.b.1. Positions on the roulette wheel.”
31 and inserting in lieu thereof the following:

32 ~~115.5.c.2.~~ 115.5.b.2. Dice;

33 ~~115.5.c.3.~~ 115.5.b.3. Tokens;

34 ~~115.5.c.4.~~ 115.5.b.4. Playing cards; and

35 ~~115.5.c.5.~~ 115.5.b.5. Positions on the roulette wheel.”;

36 On page one hundred forty-one, line two, following the
37 numeral “~~119.3.b.~~” by striking out the numeral “119.2.a.”
38 and inserting in lieu thereof the numeral “119.2.b.”;

39 On page one hundred forty-one, line three, following the
40 numeral “~~119.3.c.~~” by striking out the numeral “119.2.a.”
41 and inserting in lieu thereof the numeral “119.2.c.”;

42 On page one hundred forty-three, line twenty, following
43 the numeral “~~121.3.a.3.~~” by striking out the numeral
44 “121.3.a.4.” and inserting in lieu thereof the numeral
45 “121.3.a.2.”;

46 On page one hundred forty-three, line twenty-one,
47 following the numeral “~~121.3.a.4.~~” by striking out the
48 numeral “121.3.a.5.” and inserting in lieu thereof the
49 numeral “121.3.a.3.”;

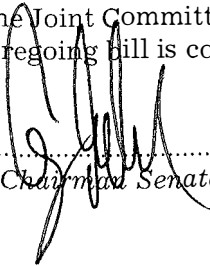
50 On page one hundred fifty-eight, 145.1, line thirty-one,
51 by striking out the numeral “§25-25-22a” and inserting in
52 lieu the numeral “§29-25-22a”;

53 And,

54 On page one hundred seventy, 173.1, line thirty-one,
55 following the word “gambling”, by inserting a comma.

Enr. Com. Sub. for S. B. No. 407] 14


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

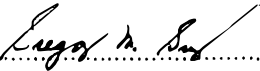

.....
Chairman Senate Committee

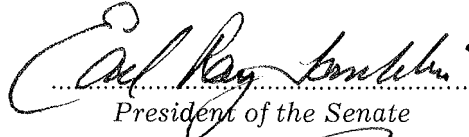

.....
Chairman House Committee

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 *2nd*
Day of *July*, 2010.


.....
Governor

PRESENTED TO THE
GOVERNOR

APR 01 2010

Time 4:10 pm