

2013 APR 29 PM 5:09

**WEST VIRGINIA LEGISLATURE**  
**EIGHTY-FIRST LEGISLATURE**  
**REGULAR SESSION, 2013**

—●—  
**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 355**

(SENATORS KESSLER (MR. PRESIDENT) AND M. HALL,  
BY REQUEST OF THE EXECUTIVE)

[PASSED APRIL 13, 2013; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB355

FILED  
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**ENROLLED**  
COMMITTEE SUBSTITUTE  
SECRETARY OF STATE

FOR

## **Senate Bill No. 355**

(SENATORS KESSLER (MR. PRESIDENT) AND M. HALL,  
BY REQUEST OF THE EXECUTIVE)

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[Passed April 13, 2013; in effect ninety days from passage.]

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AN ACT to amend and reenact §21-5-4 of the Code of West Virginia, 1931, as amended, relating to the time final wages are required to be paid to discharged employees; authorizing payment by mail if requested by the employee; providing that employers pay an employee all wages he or she earned at the time of quitting if the employee gives written notice of his or her intention to quit at least one pay period before quitting; defining "business day"; and making other technical changes.

*Be it enacted by the Legislature of West Virginia:*

· That §21-5-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

### **ARTICLE 5. WAGE PAYMENT AND COLLECTION.**

**§21-5-4. Cash orders; employees separated from payroll before paydays.**

- 1 (a) In lieu of lawful money of the United States, any
- 2 person, firm or corporation may compensate employees for
- 3 services by cash order which may include checks or money

4 orders on banks convenient to the place of employment  
5 where suitable arrangements have been made for the cashing  
6 of the checks by employees for the full amount of wages.

7 (b) Whenever a person, firm or corporation discharges an  
8 employee, the person, firm or corporation shall pay the  
9 employee's wages in full no later than the next regular  
10 payday or four business days, whichever comes first.  
11 Payment shall be made through the regular pay channels or,  
12 if requested by the employee, by mail. For purposes of this  
13 section, "business day" means any day other than Saturday,  
14 Sunday or any legal holiday as set forth in section one, article  
15 two, chapter two of this code.

16 (c) Whenever an employee quits or resigns, the person,  
17 firm or corporation shall pay the employee's wages in full no  
18 later than the next regular payday. Payment shall be made  
19 through the regular pay channels or, if requested by the  
20 employee, by mail. However, if the employee gives at least  
21 one pay period's written notice of intention to quit, the  
22 person, firm or corporation shall pay all wages earned by the  
23 employee at the time of quitting.

24 (d) When work of any employee is suspended as a result  
25 of a labor dispute, or when an employee for any reason  
26 whatsoever is laid off, the person, firm or corporation shall  
27 pay in full to the employee not later than the next regular  
28 payday, either through the regular pay channels or by mail if  
29 requested by the employee, wages earned at the time of  
30 suspension or layoff.

31 (e) If a person, firm or corporation fails to pay an  
32 employee wages as required under this section, the person,  
33 firm or corporation, in addition to the amount which was  
34 unpaid when due, is liable to the employee for three times  
35 that unpaid amount as liquidated damages. Every employee  
36 shall have a lien and all other rights and remedies for the

37 protection and enforcement of his or her salary or wages, as  
38 he or she would have been entitled to had he or she rendered  
39 service therefor in the manner as last employed; except that,  
40 for the purpose of liquidated damages, the failure shall not be  
41 deemed to continue after the date of the filing of a petition in  
42 bankruptcy with respect to the employer if he or she is  
43 adjudicated bankrupt upon the petition.

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

Member *Rocky Fieber*  
.....  
*Chairman Senate Committee*

*Danny Wells*  
.....  
*Chairman House Committee*

Originated in the Senate.

In effect ninety days from passage.

*Joseph M. Minard*  
.....  
*Clerk of the Senate*

*Gregg D. Bell*  
.....  
*Clerk of the House of Delegates*

*Jeffery D. K.*  
.....  
*President of the Senate*

*Robert L.*  
.....  
*Speaker of the House of Delegates*

OFFICE OF THE CLERK OF THE SENATE  
SECRETARIAT OF STATE

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FILED

The within *is approved* this the *29th*  
Day of *April*, 2013.

*Earl Ray Tomblin*  
.....  
*Governor*

PRESENTED TO THE GOVERNOR

APR 25 2013

Time 10:45 am