

# WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

**Senate Bill 345**

BY SENATOR WOODRUM

[Passed March 10, 2023; in effect from passage]

FILED

2023 MAR 23 P 3:37

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

SB 345

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1 AN ACT to amend and reenact §64-7-1 *et seq.* of the Code of West Virginia, 1931, as amended,  
2 all relating generally to authorizing certain agencies of the Department of Revenue to  
3 promulgate legislative rules; authorizing the rules as filed, as modified, and as modified  
4 and amended by the Legislative Rule-Making Review Committee, and as amended by the  
5 Legislature; relating to authorizing the Division of Financial Institutions to promulgate a  
6 legislative rule relating to money transmission services; relating to authorizing the  
7 Insurance Commissioner to promulgate a legislative rule relating to suitability in annuity  
8 transactions; relating to authorizing the Insurance Commissioner to promulgate a  
9 legislative rule relating to pharmacy auditing entities and pharmacy benefit managers;  
10 relating to authorizing the Insurance Commissioner to promulgate a legislative rule relating  
11 to bail bondsmen in criminal cases; relating to authorizing the Lottery Commission to  
12 promulgate a legislative rule relating to West Virginia Lottery sports wagering; relating to  
13 authorizing the Tax Commissioner to promulgate a legislative rule relating to the valuation  
14 of producing and reserve oil, natural gas liquids, and natural gas for ad valorem property  
15 tax purposes; relating to authorizing the Tax Commissioner to promulgate a legislative  
16 rule relating to West Virginia Film Industry Investment Act; relating to authorizing the Tax  
17 Commissioner to promulgate a legislative rule relating to the Farm-to-Food Bank tax  
18 credit; relating to authorizing the Tax Commissioner to promulgate a legislative rule  
19 relating to property transfer tax; relating to authorizing the Tax Commissioner to  
20 promulgate a legislative rule relating to municipal sales and use tax administration; and  
21 relating to authorizing the Tax Commissioner to promulgate a legislative rule relating to a  
22 personnel rule for the Tax Division.

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

**ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF REVENUE TO PROMULGATE  
LEGISLATIVE RULES.**

**§64-7-1. Division of Financial Institutions.**

1           The legislative rule filed in the State Register on July 27, 2022, authorized under the  
2 authority of §32A-2-7 of this code, modified by the Division of Financial Institutions to meet the  
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on  
4 September 19, 2022, relating to the Division of Financial Institutions (money transmission  
5 services, 106 CSR 23), is authorized.

**§64-7-2. Insurance Commissioner.**

1           (a) The legislative rule filed in the State Register on July 19, 2022, authorized under the  
2 authority of §33-2-10 of this code, relating to the Insurance Commission (suitability in annuity  
3 transactions, 114 CSR 11B), is authorized with the amendment set forth below:

4           On page 1, section 2, by striking out the words "Nothing in this rule shall be construed to  
5 create or imply a private cause of action for a violation of this rule or to subject a producer to civil  
6 liability under the best interest standard of care outline in Section 5 of this rule or under standards  
7 governing the conduct of a fiduciary or a fiduciary relationship."

8           (b) The legislative rule filed in the State Register on July 19, 2022, authorized under the  
9 authority of §33-51-10 of this code, modified by the Insurance Commission to meet the objections  
10 of the Legislative Rule-Making Review Committee and refiled in the State Register on September  
11 20, 2022, relating to the Insurance Commission (pharmacy auditing entities and pharmacy benefit  
12 managers, 114 CSR 99), is authorized.

13           (c) The legislative rule filed in the State Register on August 17, 2022, authorized under  
14 the authority of §51-10-8 of this code, modified by the Insurance Commission to meet the  
15 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on  
16 October 4, 2022, relating to the Insurance Commission (bail bondsmen in criminal cases, 114  
17 CSR 103), is authorized with the amendments set forth below:

18           On page 1, section 2, subdivision 2.4.1, by striking out the words "also referred to as  
19 "surety bondsmen.";

20 On page 1, section 2, subdivision 2.4.2, by striking out the words "also referred to as  
21 "professional bondsmen.";

22 On page 2, section 2, by striking out subsection 2.9, and inserting in lieu thereof a new  
23 subsection 2.9 to read as follows: "2.9. "Professional bondsman" means any person who has  
24 been approved and licensed by the Commissioner, and who pledges cash, an irrevocable letter  
25 of credit, an annuity purchased through an insurance company licensed and in good standing in  
26 this State, a bond issued by an insurance company licensed and in good standing in this State,  
27 or real estate with the Commissioner as security for bail bonds written in connection with a judicial  
28 proceeding, and charges, receives or is promised money or other things of value in exchange for  
29 his or her services.";

30 On page 2, section 2, by striking out subsection 2.10, and inserting in lieu thereof a new  
31 subsection 2.10 to read as follows: "2.10. "Securities" or "approved securities" means cash, an  
32 irrevocable letter of credit, an annuity purchased through an insurance company licensed and in  
33 good standing in this State, a bond issued by an insurance company licensed and in good  
34 standing in this State, a qualified power of attorney issued by an insurer pursuant to a producer  
35 underwriting agreement, or real estate located in this State that is unencumbered in, at least, the  
36 amount of minimum financial responsibility required as set forth in this rule.";

37 On page 2, section 2, by striking out subsection 2.11, and inserting in lieu thereof a new  
38 subsection 2.11 to read as follows:

39 "2.11. "Surety bondsman" means a person who:

40 2.11.1. Has been approved and licensed by the Commissioner as an insurance producer  
41 with a property and casualty line of authority and appointed by an insurer to execute or  
42 countersign bail bonds for the insurer through a qualified power of attorney in connection with  
43 judicial proceedings and charges, receives or is promised money or other things of value in  
44 exchange for his or her services; or

45           2.11.2. Posts approved security by providing the Commissioner with a qualified power of  
46 attorney issued by an insurer pursuant to a producer underwriting agreement and being approved  
47 and licensed by the Commissioner as an insurance producer with a limited lines surety line of  
48 authority and appointed by an insurer to execute or countersign bail bonds for the insurer in  
49 connection with judicial proceedings and charges, receives or is promised money or other things  
50 of value in exchange for his or her services.";

51           And,

52           On page 3, section 3, paragraph 3.2.1.b, by striking out the words "is a licensed insurance  
53 producer with a property and casualty line of authority, and".

**§64-7-3. Lottery Commission.**

1           The legislative rule filed in the State Register on July 21, 2022, authorized under the  
2 authority of §29-22D-4 of this code, relating to the Lottery Commission (West Virginia lottery  
3 sports wagering, 179 CSR 09), is authorized.

**§64-7-4. Tax Commissioner.**

1           (a) The legislative rule filed in the State Register on July 29, 2022, authorized under the  
2 authority of §11-1C-5 of this code, modified by the Tax Commissioner to meet the objections of  
3 the Legislative Rule-Making Review Committee and refiled in the State Register on October 17,  
4 2022, relating to the Tax Commissioner (Valuation of producing and reserve oil, natural gas  
5 liquids, and natural gas for ad valorem property tax purposes, 110 CSR 01J), is authorized.

6           (b) The legislative rule filed in the State Register on July 26, 2022, authorized under the  
7 authority of §11-13X-9 of this code, modified by the Tax Commissioner to meet the objections of  
8 the Legislative Rule-Making Review Committee and refiled in the State Register on September  
9 26, 2022, relating to the Tax Commissioner (West Virginia Film Industry Investment Act, 110 CSR  
10 13X), is authorized with the amendment set forth below:

11           On page 6, section 4, paragraph 4.1.3.b.2, by striking the word "commercials,".

12 (c) The legislative rule filed in the State Register on March 25, 2022, authorized under the  
13 authority of §11-13DD-5 of this code, relating to the Tax Commissioner (Farm-to-Food Bank tax  
14 credit, 110 CSR 13DD), is authorized.

15 (d) The legislative rule filed in the State Register on March 25, 2022, authorized under the  
16 authority of §11-22-5 of this code, relating to the Tax Commissioner (property transfer tax, 110  
17 CSR 22), is authorized.

18 (e) The legislative rule filed in the State Register on July 26, 2022, authorized under the  
19 authority of §11-10-11c of this code, modified by the Tax Commissioner to meet the objections of  
20 the Legislative Rule-Making Review Committee and refiled in the State Register on September  
21 26, 2022, relating to the Tax Commissioner (municipal sales and use tax administration, 110 CSR  
22 28), is authorized.

23 (f) The legislative rule filed in the State Register on March 25, 2022, authorized under the  
24 authority of §11B-1-8 of this code, relating to the Tax Commissioner (personnel rule for the Tax  
25 Division, 110 CSR 42), is authorized.

The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.

*Joe Linn*  
.....  
Clerk of the Senate

*Steve Hordie*  
.....  
Clerk of the House of Delegates

Originated in the Senate.

In effect from passage.

**FILED**  
2023 MAR 23 P 3:37  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

*G.P.B.*  
.....  
President of the Senate

*Ken Harlow*  
.....  
Speaker of the House of Delegates

The within is *approved* this the *23rd*  
Day of *March*, 2023.

*James Justice*  
.....  
Governor



PRESENTED TO THE GOVERNOR

MAR 16 2023

Time 10:18 a m