WEST virginia legislature

2023 regular session

ENROLLED

Committee Substitute

for

Senate Bill 345

BY Senator Woodrum

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

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

The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §32A-2-7 of this code, modified by the Division of Financial Institutions to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 19, 2022, relating to the Division of Financial Institutions (money transmission services, [106 CSR 23](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=106-23)), is authorized.

§64-7-2. Insurance Commissioner.

(a) The legislative rule filed in the State Register on July 19, 2022, authorized under the authority of §33-2-10 of this code, relating to the Insurance Commission (suitability in annuity transactions, [114 CSR 11B](https://apps.sos.wv.gov/adlaw/csr/ruleview.aspx?document=17666)), is authorized with the amendment set forth below:

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

(b) The legislative rule filed in the State Register on July 19, 2022, authorized under the authority of §33-51-10 of this code, modified by the Insurance Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 20, 2022, relating to the Insurance Commission (pharmacy auditing entities and pharmacy benefit managers, [114 CSR 99](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=114-99)), is authorized.

(c) The legislative rule filed in the State Register on August 17, 2022, authorized under the authority of §51-10-8 of this code, modified by the Insurance Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Insurance Commission (bail bondsmen in criminal cases, [114 CSR 103](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=114-103)), is authorized with the amendments set forth below:

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

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

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

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

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

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

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

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

And,

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

§64-7-3. Lottery Commission.

The legislative rule filed in the State Register on July 21, 2022, authorized under the authority of §29-22D-4 of this code, relating to the Lottery Commission (West Virginia lottery sports wagering, [179 CSR 09](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=179-09)), is authorized.

§64-7-4. Tax Commissioner.

(a) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §11-1C-5 of this code, modified by the Tax Commissioner to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Tax Commissioner (Valuation of producing and reserve oil, natural gas liquids, and natural gas for ad valorem property tax purposes, [110 CSR 01J](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=110-01J)), is authorized.

(b) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §11-13X-9 of this code, modified by the Tax Commissioner to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 26, 2022, relating to the Tax Commissioner (West Virginia Film Industry Investment Act, [110 CSR 13X](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=110-13X)), is authorized with the amendment set forth below:

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

(c) The legislative rule filed in the State Register on March 25, 2022, authorized under the authority of §11-13DD-5 of this code, relating to the Tax Commissioner (Farm-to-Food Bank tax credit, [110 CSR 13DD](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=110-13DD)), is authorized.

(d) The legislative rule filed in the State Register on March 25, 2022, authorized under the authority of §11-22-5 of this code, relating to the Tax Commissioner (property transfer tax, [110 CSR 22](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=110-22)), is authorized.

(e) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §11-10-11c of this code, modified by the Tax Commissioner to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 26, 2022, relating to the Tax Commissioner (municipal sales and use tax administration, [110 CSR 28](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=110-28)), is authorized.

(f) The legislative rule filed in the State Register on March 25, 2022, authorized under the authority of §11B-1-8 of this code, relating to the Tax Commissioner (personnel rule for the Tax Division, [110 CSR 42](http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=110-42)), is authorized.