

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: West Virginia Division of Veterans Affairs TITLE NUMBER: 86

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: VA Headstones or Markers

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

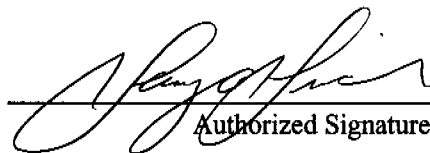
TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. 386

SECTION § 64-6-4, PASSED ON 04/07/05

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: Effective 04/28/05


Authorized Signature

\$2.60

**TITLE 86
LEGISLATIVE RULE
WEST VIRGINIA DIVISION OF VETERANS AFFAIRS**

FILED

**SERIES 4
VA HEADSTONES OR MARKERS**

2005 APR 27 P 1:41

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§86-4-1. General.

1.1. Scope. -- To establish guidelines for the administration of funds and payment for veteran headstones or markers.

1.2. Authority. -- W. Va. Code § 29-22A-10.

1.3. Filing Date -- April 27, 2005

1.4. Effective Date. -- April 28, 2005

§86-4-2. Definitions.

2.1. "Agency Application Form" means form prepared by the WV Division of Veterans Affairs for use in determining eligibility for said funds.

2.2. "Applicant" means a person who submits an application for financial assistance in setting of US Department of Veterans Affairs grave marker.

2.3. "Designated Agency" means an agency, department, division or office of state or local government, or a program supported by state funds, which is designated to provide financial assistance.

2.4. "Indigent Widow/Next of Kin" means survivor responsible for setting US Department of Veterans Affairs furnished headstone or marker and whose income is within the US federal poverty levels.

2.5. "Means Test and Geographic-based Means Test Threshold" means the threshold established by the Department of Veterans Affairs, Veterans Health Administration, and used to qualify applicants for headstones or markers. This information is published annually on their website at <http://www1.va.gov/vhapublications>

[/publications.cfm?Pub=1](#), and click on "Means Test." See Appendix 1.

§86-4-3. Priority in Setting Markers.

The director of Veterans Affairs shall determine the grave markers that have been in storage at the state's perpetual care cemeteries for the longest period of time and ensure those markers are installed on a priority basis as funding permits.

§86-4-4. Application Process

4.1. The director of Veterans Affairs shall make application forms available to applicants and shall process completed applications in accordance with a process and eligibility standard implemented by the designated agency. Applications are available by calling Veterans Affairs at (888) 838-2332, or may be obtained at any of the sixteen (16) Regional Offices of Veterans Affairs, or local funeral homes.

4.2. Any family member of a deceased veteran, a licensed funeral home or cemetery may make application, on an application form provided by the director of the Division of Veteran Affairs for an award from the John "Jack" Bennet Fund.

4.3. The award will pay the cost of the installation of the federal veterans' grave marker for an eligible veteran.

4.4. The application shall contain the following information: name of veteran; serial number; date of birth; date of death; enlistment and discharge dates; branch of service and rank; character of discharge; cemetery (name, address, county); grave number (lot, block, section); nearest relative and relative's address; designation of type of headstone, claimant's name, address, social

security number; applicant's monthly income information.

4.5. The director shall within ninety (90) days of receipt of a completed application, notify the applicant of the status of the application and the eligibility of the deceased veteran for an award from the John "Jack" Bennet Fund.

§86-4-5 Eligibility

5.1. The eligibility of a deceased veteran to receive a John "Jack" Bennet Fund award shall be based on the following elements:

5.1.1. Period of time the deceased veteran has been buried without having a federal grave marker in place,

5.1.2. Availability of other financial resources for payment of the setting of the federal grave marker, which shall be determined by the Means Test and Geographic-based Means Test Threshold for the calendar year in which the application is made, and

5.1.3. Availability of funds in the John "Jack" Bennet Fund Account.

5.2. The director of veterans affairs shall make discretionary award determinations based on the factors established in 5.1.1 through 5.1.3.

§86-4-6. Expenditure of Funds

Awards shall be based on the fund solvency and shall conform to the West Virginia Public Service Commission Rules for the Government of Fees for Installation of United States Department of Veterans Affairs Grave Markers, 150 CSR 28.