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OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: West Virginia Human Rights Commission TITLE NUMBER: 77

CITE AUTHORITY: W. Va. Code §§ 5-11-8(h); 29A-3-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES ___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 7

TITLE OF RULE BEING PROPOSED: Definition of Employer

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

Paul L. Nesbe

Authorized Signature

$2.60

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TITLE 77
LEGISLATIVE RULE
WEST VIRGINIA HUMAN RIGHTS COMMISSION
SERIES 7

THE DEFINITION OF EMPLOYER UNDER THE WEST VIRGINIA HUMAN RIGHTS ACT

§ 77-7-1. General

1.1. Scope -- This legislative rule interprets and implements the provisions of the West Virginia Human Rights Act, particularly W. Va. Code § 5-11-3(d) related to the definition of employer, and is to assist all persons in understanding their rights, obligations and duties under the law.

1.2. Authority -- W. Va. Code § 5-11-8(h).

1.3. Filing date --

1.4. Effective date --

§ 77-7-2. Definition; Manner of Calculating Employees.

2.1. "Employer" means the state, or any political subdivision of the state, and any person employing twelve or more persons within the state for twenty or more calendar weeks in the calendar year in which the act of discrimination allegedly took place or the preceding calendar year: Provided, That such terms shall not be taken, understood or construed to include a private club.

2.2. For purposes of this rule, the number of employees shall be calculated by including all persons with whom the employer has an employment relationship, whether or not the person is performing tasks or receiving compensation from the employer on a particular day. Individuals employed by his or her parent, spouse or child shall not be counted.

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Bob Wise
Governor

Office of the Secretary
State Capitol Complex, Building 3, Room 206
Charleston, West Virginia 25305
Telephone: (304) 558-0684 Fax: (304) 558-1130

Paul L. Nusbaum
Secretary

January 15, 2002

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

Ms. Judy Cooper, Director
Administrative Law Division
Office of the Secretary of State
Building 1, Suite 157-K
State Capitol Complex
Charleston, West Virginia 25305

Re: Title 77, Series 7, Proposed Legislative Rule on Definition of Employer of the West Virginia Human Rights Commission

Dear Ms. Cooper:

Having reviewed the amendments made by the Legislative Rule-Making Review Committee to the West Virginia Human Rights Commission's proposed Legislative Rule "Definition of Employer," I hereby authorize said modifications and the filing of the modified rule with your office and with the Legislative Rule-Making Review Committee.

If you have any questions, please call Paul R. Sheridan, Senior Assistant Attorney General, at 558-0546. Thank you for your consideration in this matter.

Sincerely,

Paul L. Nusbaum
Secretary

PLN:sab

Enclosures