WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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Nov 21 10 07 AM '97

OFFICE OF 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)

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 NEW RULE BEING PROPOSED: 9

TITLE OF RULE BEING PROPOSED: Definition of Employer Under the West Virginia Human Rights Act

THE ABOVE PROPOSED LEGISLATIVE RULE, 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.

David W. Grimmett

Authorized Signature

$2.60

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WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

State Capitol - Room MB-49
Charleston, West Virginia 25305
(304) 347-4840

Senator: Mike Ross, Co-Chairman
Delegate: Mark Hunt, Co-Chairman
Counsel: Debra A. Graham

Joseph A. Altizer, Associate Counsel
Rita Pauley, Associate Counsel
Audrey R. Ross, Admin. Assistant

November 5, 1997

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Mr. Herman Jones, Director
WV Human Rights Commission
1321 Plaza East, Room 108A
Charleston, WV 25301

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: *Definition of Employer Under the WV HR Act (77CSR9)*

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
   (a) as originally filed ____
   (b) as modified by the agency __X__
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. ____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. ____
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. ____
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. ____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION
1321 Plaza East
Room 108 A
Charleston, WV 25301-1400

Cecil H. Underwood
Governor

TELEPHONE (304) 558-2616
FAX (304) 558-0085
TDD - (304) 558-2976

Herman H. Jones
Executive Director

November 19, 1997

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 9, Proposed Legislative Rule
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 Under the West Virginia Human Rights Act," I hereby authorize said modifications and the filing of the modified rule with your office and with the Legislative Rule-Making Review Committee.

Please do not hesitate to contact me if you have any questions. Thank you for your consideration in this matter.

Sincerely,

David W. Grubb for
Joan E. Ohl, Secretary
West Virginia Department of Health
and Human Resources

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

TITLE 77
LEGISLATIVE RULE
WEST VIRGINIA HUMAN RIGHTS COMMISSION
SERIES 9

~~RULE REGARDING THE~~ DEFINITION OF EMPLOYER UNDER THE WEST VIRGINIA HUMAN RIGHTS ACT

§ 77-9-1. General

1.1. Scope -- ~~The following~~ This legislative rule ~~regulation sets forth a rule for complying with the definitions provisions of the West Virginia Human Rights Act, West Virginia Code § 5-11-3 *et seq.*, and is intended to~~ 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 -- This ~~regulation~~ rule is issued under authority of W. Va. Code ~~§§~~ 5-11-8(h). ~~and 29A-3-1 *et seq.*~~

1.3. Filing Date -- This ~~regulation~~ rule is promulgated on the ____ day of _____, filed on the ____ day of _____, in the Secretary of State's Office.

1.4. Effective Date -- This ~~regulation~~ rule becomes effective on _____.

§ 77-9-2. Definition

2.1. "Employer" means the state, or any political subdivision ~~thereof~~ of the state, and any person employing twelve or more persons~~, regardless of the work schedules of the employees,~~ within the state at any time during the period of the complainant's employment within one calendar year preceding the date of the alleged discriminatory act., regardless of the work schedules of the employees.