

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #7

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1/4/91

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OFFICE OF THE SECRETARY OF STATE

NOTICE OF AN EMERGENCY RULE

AGENCY: West Virginia State Board of Investments TITLE NUMBER: 113

CITE AUTHORITY: W. Va. Code Chapter 12-6-5 et seq

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: I

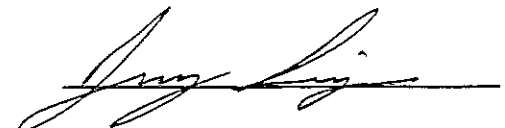
TITLE OF RULE BEING FILED AS AN EMERGENCY: Administration of
the Consolidated Fund by the West Virginia State Board of Investments.

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

With the passage of SB-8 by the second special session of the 1990 legislature, various sections of Chapter 12 were changed transferring authority for cash management and investments to the State Board of Investments. On December 19, 1990, the Board authorized the implementation of these changes to occur on January 3, 1991. Since these rules are an integral part of these changes, they had to be filed on an emergency basis.

Use Additional Sheets If Necessary.



APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Administration of the Consolidated Fund.

Type of Rule: X Legislative Interpretive Procedural

Agency Board of Investments Address State Capitol Complex
 State Capitol Building, Charleston, WV 25305

1. Effect of Proposed Rule:	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

N/A

2. Explanation of above estimates: These rules repeals and replaces the original rules filed in 1978. It is not anticipated that these rules will require the expenditure of any additional funds.

3. Objectives of these rules: The general purpose of these rules is to aid in the implementation of the legislative findings and purpose set forth in Section One, Article One, Chapter Twelve of the Code, wherein the Board is authorized to develop and maintain modern systems, consistent with sound financial practices, for the collection, disbursement, management and investment of public moneys. The rules of this series implement such legislative intent by prescribing procedures for the administration of the Consolidated Fund by the Board and participation in the Consolidated Fund by State Agencies (other than pension funds) and local governments.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

These proposed rules will continue to allow the funds of the State to be fully invested and accounted for on a more accurate basis.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

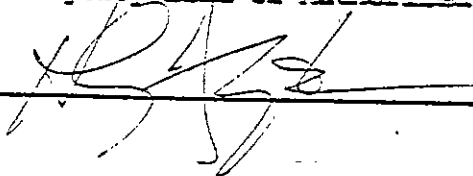
These proposed rules will allow for the investment of local government funds in a separate pool. Thereby, providing for more accountability for these funds.

C. Economic Impact on Citizens/Public at Large.

See 4A

Date: 10/29/90

Signature of Agency Head or Authorized Representative



DATE: January 3, 1991

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia State Board of Investments

EMERGENCY RULE TITLE: Administration of the consolidated fund by the West Virginia State Board of Investments.

1. Date of filing: January 3, 1991
2. Statutory authority for promulgating the emergency rule: Chapter 12-6-5 et seq W. Va. Code
3. Date of filing of proposed legislative rule: 11-30-90
4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?
Repeals current legislative rules and replaces with new language.
5. Has the same or similar emergency rule previously been filed and expired?
No
6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.
With the passage of SB-8 by the second special session of the 1990 legislature, various sections of Chapter 12 were changed transferring authority for cash management and investments to the State Board of Investments. On December 19, 1990, the Board authorized the implementation of these changes to occur on January 3, 1991. Since these rules are an integral part of these changes, they had to be filed on an emergency basis.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

N/A

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

Due to the second special session of the 1990 legislature, the Board of Investments was required to hire its own staff and all investment activity and cash management was transferred from the Treasurer's Office to the Board of Investments. In order to implement these legislative changes which effect the immediate cash flow of the State and the investment of the State's Moneys, these rules must be promulgated on an emergency basis. Otherwise, the State will be without available funds to pay bills OR investment.

The general purpose of these rules is to aid in the implementation of the legislative findings and purpose set forth in Section One, Article One, Chapter Twelve of the Code, wherein the Board is authorized to develop and maintain modern systems, consistent with sound financial practices, for the collection, disbursement, management and investment of public moneys. The rules of this series implement such legislative intent by prescribing procedures for the administration of the Consolidated Fund by the Board and participation in the Consolidated Fund by State agencies (other than pension funds) and local governments.

PUBLIC HEARING
RULES AND REGULATION FOR
THE BOARD OF INVESTMENTS
AND THE STATE TREASURER'S OFFICE

A public hearing was held on November 29, 1990, at 9:30 a.m. in the State Capitol Complex Conference Center, Building 7, Room D.

Those present were:

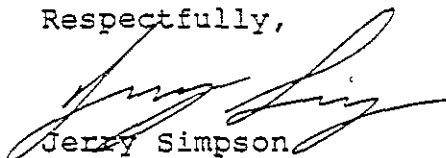
Jerry Simpson, State Treasurer's Office
Mark Asaad, State Treasurer's Office
Brenda Warren, State Treasurer's Office

Mr. Simpson called the meeting to order. Mr. Simpson made mention of the rules individually and received or made mention of any comments at that time.

There were no comments received except for the Selection of State Depositories for Disbursement Accounts through Competitive Bidding. There was a comment received from Bowles, Rice, McDavid, Graff & Love who are attorneys for the West Virginia Bankers Association and they made a recommendation as to a change in the method of compensation, Section 4.02, and this will be taken into appropriate consideration.

There being no comments from those present, the hearing was closed at 9:45 a.m.

Respectfully,



Jerry Simpson
Assistant State Treasurer

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-6
Series I
(1990)

Subject: Rules for the Administration of the Consolidated
Fund by the West Virginia State Board of
Investments.

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-6
Series I
(1990)

Subject: Rules for the Administration of the Consolidated Fund by the West Virginia State Board of Investments.

Section 1. General

1.01. Scope - These rules implement the provisions of the Code of West Virginia, 1931 as amended, §12-6-1 et seq. relating to the Consolidated Fund established by §12-6-8(b).

1.02. Authority - West Virginia Code §12-6-5 and §12-6-8.

1.03. Purpose - The general purpose of these rules is to aid in the implementation of the legislative findings and purpose set forth in the West Virginia Code §12-1-1, wherein the West Virginia State Board of Investments and the Treasurer are authorized to develop and maintain modern systems, consistent with sound financial practices, for the collection, disbursement, management and investment of public moneys. These rules and regulations implement such legislative intent by prescribing procedures for the administration of the Consolidated Fund by the Board and participation in the Consolidated Fund by State agencies (other than pension funds) and local governments.

1.04. Filing Date -

1.05. Effective Date -

1.06. Repeal of Former Rule - This legislative rule repeals and replaces West Virginia 113 CSR1 "Rules For the Administration of the Consolidated Fund by the West Virginia Board of Investments" filed April 13, 1990 and effective April 13, 1990.

Section 2. Definitions

For purposes of these rules, unless a different meaning clearly appears from the context:

"Board" means the West Virginia State Board of Investments;

"Code" means the West Virginia Code of 1931, as amended;

"Consolidated Fund" means the investment fund managed by the Board and established pursuant to the West Virginia Code §12-6-8;

"Local Government" means and includes a county, municipality, or any agency, authority, board, commission or instrumentality of a county or municipality, and regional councils created pursuant to the provisions of West Virginia Code §8-25-1 et. seq. police officers' pensions and relief funds and fire fighters' pension and relief funds;

"Local Government Account" means the special account for the common investment of local government funds within the Consolidated Fund established pursuant to West Virginia Code §12-6-8(b);

"Participant" means all State agencies, local governments and other entities or individuals investing moneys or assets with the Consolidated Fund;

"Securities" has the same meaning set forth in West Virginia Code §12-6-2;

"Select U. S. Government Agency Obligation" means and includes any evidence of indebtedness issued by any of the following: the Government National Mortgage Association (GNMA), and Resolution Trust Corporation Securities (RTC);

"Treasurer" means the Treasurer of the State of West Virginia;

"U. S. Government Agency Obligation" means and includes any obligation of any United State government agency guaranteed as to the payment of both principal and interest, directly or indirectly, by the United States of America, including but not limited to the following: the Government National Mortgage Association (GNMA); the Federal Farm Credit Bank (FFCB); Federal Land Banks (FLB); the Federal Home Loan Mortgage Corporation (FHLMC); the Federal National Mortgage Association (FNMA); Federal Home Loan Banks (FHLB); Federal Intermediate Credit Banks; Banks For Cooperatives; Tennessee Valley Authority (TVA); United States Postal Service; Farmers Home Administration (FHA); Export-Import Bank; Federal Financing Bank; Student Loan Marketing Association (SLMA); Resolution Trust Corporation Securities (RTC); and Veterans Administration (VA); and

"U. S. Government Obligations" means and includes any direct obligation of, or obligation guaranteed as to payment of both principal and interest by, the United States of America.

Section 3. Participation in the Consolidated Fund

3.01. Participation by State Agencies - The Board of Investments may allow State agencies to participate in the Consolidated Fund upon written requests by such State agencies. The Board of Investments is not required to execute written request for deposit or withdrawals until the next business day. Written requests for deposits or withdrawals shall state the amount which the agency wishes to make available for investment, or the amount which it wishes to withdraw, as the case may be. Such requests shall also contain such other information the Board of Investments considers necessary. The Board of Investments may require advance notice as determined by the Board for withdrawals of one million (\$1,000,000.00) or more.

3.02. Participation by Local Governments

(a) Local governments may commence participation in the Consolidated Fund by completing and returning to the Board of Investments an "account request form". The form of the "account request form" shall be prescribed by the Board of Investments, shall require such information as it considers necessary, and shall be made available to any local government upon request. The Board of

Investments shall require each local government to submit copies of resolutions, orders or other proof of authorization or election to participate in the Consolidated Fund. Upon receipt of the account request form and other required information, the Board of Investments shall review and approve the account request form and if approved, the Board of Investments shall assign an account number to the local government within the Local Government Account of the Consolidated Fund. Local governments which require more than one account may request the establishment of additional accounts as needed, subject to the discretion of the Board of Investments.

(b) All notifications of deposit of funds by local governments into the Local Government Account, shall be made by a telephone call to the Board of Investments. The Board of Investments is not required to execute such request until the next business day. All telephone notifications of deposits shall be confirmed in writing by the local government and sent by mail on the same day the notification is made. The Board of Investments shall prescribe the forms which local governments shall use for the confirmation of such deposits by mail. All notifications of withdrawals of funds by the local governments from the Local Government Account shall be made by written request. The Board of Investments shall prescribe the forms to be used for withdrawals. The time

constraints for the deposits or withdrawal of funds shall be made by the Board of Investments. The Board of Investments may require advance notice as determined by the Board for withdrawals of one million (\$1,000,000.00) or more.

*Outlook
by wire transfer*

(c) All deposits by local governments into the Local Government Account shall be made by means approved by the Board. All wired funds transferred by local governments shall be collected balances available for wire transfer and immediate credit at the Federal Reserve Bank. All checks accepted by the Board, shall be credited to the Local Government Account within two business days, following receipt by the Board of Investments.

*- collect
in the
by*

(d) Withdrawals by local governments from the Local Government Account shall be made by check, Automated Clearing House, wire transfer, or any other method approved by the Board, of immediately available funds by the Board of Investments to the local government's account in the Consolidated Fund, including the local government's prorata share of the gains and losses incurred by the Fund. The Board of Investments may require advance notice as determined by the Board for withdrawals of one million dollars (\$1,000,000.00) or more. Withdrawals of less than one hundred dollars (\$100.00) shall be made by check or Automated Clearing House.

Section 4. Accounting

4.01. Nature of Ownership - Each Participant shall own an undivided interest in the portfolio of the Consolidated Fund based on the Participant's prorata contribution of assets at any time. Ownership shall be expressed in terms of units. Each Participant, by completing and returning an "Account Request Form" to the Board of Investments, has consented to the methods of sharing gains and losses and all other accounting methods required or adopted by the Board.

4.02. Accounting System - The Board of Investments shall implement an accounting system based on generally-accepted accounting principals.

4.03. Trading Gains and Losses - The Board of Investments shall recognize all gains and losses within the month in which they occur.

4.04. Distribution of Earnings; Monthly Statement - The Board shall distribute net earnings/losses monthly either by credit/debit to the principal account of the Participant or by means determined by the Board. The choice of method of such distribution shall be at the Board's discretion. The Board of Investments shall furnish to each Participant a monthly statement of earnings, deposits and withdrawals for each account. Monthly statements shall also include an accurate statement of the yield for the preceding month for the investment pool in which the Participant is investing.

Section 5. Investment of Consolidated Fund

5.01. General Investment Policies, Objectives and Restrictions - All investment pools in the Consolidated Fund shall be individually subject to the policies, objectives and restrictions set forth herein.

(a) Purpose - The Board's purpose is to invest and protect the assets of the Consolidated Fund for the benefit of the citizens of the State of West Virginia.

(b) Standard of Care - All investments are to be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which people of experience, prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

(c) Permissible Investments - The Consolidated Fund shall comply with West Virginia Code §12-6-9, as amended, and these rules and regulations, with regard to permissible investments.

(d) Social Responsibility - To the extent that investments are consistent with all other standards established by the Board, selection of investments should consider the best interests of the people of the State of West Virginia.

(e) Custody - The Board shall designate and maintain custodial arrangements in its sole discretion. However,

no investment advisor shall maintain custody of the securities of the Consolidated Fund.

(f) Investment Advisors - The Board may select and maintain investment advisors who shall act in accordance with the terms and conditions specified by the Board and the applicable requirements of State and Federal Law.

(g) Investment Objectives - All pools within the Consolidated Fund, except the single-purpose pools described in section 5.02(e) below, will be subject to the investment objectives listed below in descending order of priority:

(1) Preservation of Capital - To preserve the capital investment in the Consolidated Fund.

(2) Liquidity - To maintain sufficient liquidity to provide for all anticipated withdrawals or transfers and to invest in securities with sufficient marketability to provide for unexpected withdrawals.

(3) Diversification - To diversify the investment of the assets of the Consolidated Fund so as to minimize the risk of large losses.

(4) Turnover - To minimize transaction costs.

(5) Stability - To maintain a high level of security in the Consolidated Fund by minimizing risk and volatility insofar as possible.

(6) Rate of Return - To achieve a rate of return consistent with the rate of return objectives set by the Board.

(h) Investment Restrictions

(1) The Consolidated Fund shall abide by the investment restrictions of West Virginia Code §12-6-10 and as further set forth by the Board.

(2) Not more than 20% of the portfolio of the Consolidated Fund may be invested in any single industry sector. (The utility sector shall be subdivided for the purpose of this restriction between telephone, electric, gas distribution, and similar utility industry segments.)

(3) Not more than 3% of the portfolio of the Consolidated Fund may be invested in the securities issued by a single, private corporation or association.

(4) The Consolidated Fund shall maintain a reasonable balance between the various classes of fixed income securities, without over concentration.

(5) The Consolidated Fund shall abide by the quality restrictions of West Virginia Code §12-6-9.

(6) Investment in financial futures contracts, options and other similar investments is prohibited.

(7) Minimum Amount of Investment - The minimum amount for investment in the Consolidated Fund is One Hundred Dollars (\$100.00). There is no minimum time for which deposits will be retained.

5.02. Investment Pools - The Consolidated Fund is composed of various investment pools. It is the intent of the Board that there be separate portfolio guidelines for the administration of each investment pool in addition to the policies, objectives and restrictions set forth in Section 5.01 above. The Board of Investments shall administer each investment pool in the Consolidated Fund in accordance with the rules and regulations and such guidelines as may be further prescribed by the Board.

(a) Cash Liquidity Pool - This investment pool is composed of the operating funds of the State. Its purpose is to provide for the investment of all surplus funds of the State and daily cash needs of the State. This pool is limited to securities with maturities of not greater than one hundred eighty (180) days and the dollar weighted-average-maturity of the securities in the portfolio may not exceed fifty-nine (59) days. Also, the pool must meet all requirements outlined in the attached Tables I and II. Due to the presently existing non-liquid investments contained in the portfolio of this pool on the effective date of these rules and regulations, the current investment portfolio may not be considered when applying the maximum maturity

requirements of this subsection and the requirements outlined in the attached Table I (items 3 and 5) and Table II.

(b) Restricted Pool - This investment pool is composed of Participants whose funds may only be invested in U. S. Government Obligations, select U. S. Government Agency Obligations or repurchase agreements. This pool is limited to maturities of 5.0 years or less and the dollar weighted average maturity of the securities in the portfolio may not exceed 2.0 years. Also, the pool must meet all requirements outlined in the attached Table A. Due to the length of maturity of the securities currently contained in the portfolio of this pool on the effective date of these rules and regulations, the current portfolio of the pool may not be considered when applying the maximum maturity requirements of this subsection.

(c) State Agency Trust Pool - This investment pool is composed of funds held in trust by State agencies. Investments in this pool are restricted to investments in U. S. Government Obligations, U. S. Government Agency Obligations or repurchase agreements. This pool is limited to maturities of not greater than one hundred eighty (180) days. The dollar weighted-average-maturity of the portfolio may not exceed fifty-nine (59) day. Also, the pool must meet all requirements outlined in the attached Table I and II. Due to the presently existing non-liquid

investments contained in the portfolio of this pool on the effective date of these rules and regulations, the current investment portfolio may not be considered when applying the maximum maturity requirements of this subsection.

(d) Local Government Investment Pool - This investment pool is composed of funds invested by local governments. This pool is limited to maturities of not greater than one hundred eighty (180) days. The dollar weighted-average-maturity of the portfolio may not exceed fifty-nine (59) days. Also, the pool must meet all requirements outlined in the attached Tables I and II. Due to the presently existing non-liquid investments contained in the portfolio of this pool on the effective date of these rules and regulations, the current investment portfolio may not be considered when applying the maximum maturity requirements of this subsection.

(e) Single Purpose Pools - These investment pools are designed to meet the needs of individual State agencies. The Board of Investments shall invest only in the type of securities identified by the State agency controlling the pool, as recommended by the State agency and as necessary to meet the needs of each individual pool as to type of security and length of maturity, provided that such investments consist solely of those permitted by these rules.

(f) Other Investment Pools - The Board is further authorized to establish additional investment pools as the need may arise, provided that within eighteen months after their establishment these rules and regulations are amended to reflect their existence and appropriate investment guidelines are established for each pool. This provision does not apply to any new single purpose pool established pursuant to Section 5.02(c) of this rule.

(g) Instructions for Use of Tables - The percentage in the "Minimum" column are the minimum percentages which the Board must maintain in each type of investment instrument. For example, the 15% figure in Table I, Line 1, means that the Board of Investments must at all times keep at least 15% of the investment pool invested in U. S. Government Obligations. If the minimum percentage is "0", as in Table I, Line 2, the Board of Investments is not required to invest any moneys of the pool in securities of that type of investment.

The percentages in the "Maximum" column are the maximum percentages of the pool which may be maintained in each type of investment instrument. For example, in Table I, Line 1, the 100% figure in the "Maximum" column means that the Board of Investments may keep the entire pool invested in U. S. Government obligations.

If the maximum percentage is "10", as in Table I, Line 4, this means that the Board of Investments is

permitted to invest in instruments of that type up to a maximum of 10% of the pool.

In Table I, the "Code Reference" column refers to the section of the West Virginia Code which authorized the kind of instrument described under the "Instrument" column.

TABLE I
GUIDELINES FOR DIVERSIFICATION
ACCORDING TO KIND OF INVESTMENT INSTRUMENT

	<u>Instrument</u>	<u>Code Reference</u>	<u>Minimum</u>	<u>Maximum</u>
1.	U. S. Government Obligation	\$12-6-9(a)	0%	100%
2.	U. S. Agency Obligation	\$12-6-9(b)	0%	100%
3.	Corporate bonds, notes debentures, commercial paper, and other evi- dence of indebtedness	\$12-6-9(g) \$12-6-10(1)	0%	75%
4.	Commercial paper and other corporate ob- ligations maturing in less than one year	\$12-6-9(g) \$12-6-10(2)	0%	20%
5.	Obligations of any single private corporation	\$12-6-10(3)	0%	3%
6.	Fully collateralized WV certificates of deposit maturing in less than one year	\$12-6-9(h)	0%	30%
7.	Repurchase agreements	\$12-6-5(9)	0%	100%
8.	Reverse repurchase agreement	\$12-6-5(10)	0%	15%

TABLE II
GUIDELINES FOR DIVERSIFICATION
ACCORDING TO QUALITY OF CORPORATE DEBT INSTRUMENTS
AUTHORIZED BY TABLE I

<u>Instrument</u>	<u>Minimum</u>	<u>Maximum</u>
1. Corporate bonds and notes rated "AAA"	0%	100%
2. Corporate bonds and notes rated "AA"	0%	50%
3. Corporate bonds and notes rated "A"	0%	30%
4. Commercial paper rated in highest grade ("P-1" or equivalent)	0%	20%

Any Corporate debt instrument that is downgrade following purchase may be liquidated at the Board of Investments discretion if such downgrading puts the debt instruments out of compliance with Table II.

TABLE A
GUIDELINES FOR DIVERSIFICATION
ACCORDING TO KIND OF INVESTMENT INSTRUMENT

<u>Instrument</u>	<u>Code Reference</u>	<u>Minimum</u>	<u>Maximum</u>
1. U. S. Government			
Obligation	\$12-6-9(a)	15%	100%
2. Select U. S. Government			
Agency Obligation	\$12-6-9(b)	0%	100%
3. Repurchase agreements	\$12-6-5(9)	0%	75%
4. Reverse repurchase			
agreements	\$12-6-5(10)	0%	15%

Section 6. Miscellaneous

6.01. Payment of Expenses from Earnings - The Board of Investments shall deduct expenses incurred in the administration of the Consolidated Fund from the gross earnings of the fund prior to distribution of the earnings each month. Such fees shall be established by the Board on a pro rata basis.

6.02. Reserve for Losses - The Board is authorized to establish, by appropriate accounting method, a reserve for loan losses. No interest shall be included in earnings calculations on any loans that are delinquent by sixty days or more, or for which the Board's staff determine collection to be doubtful.

6.03. Board Reports - The Board of Investments shall provide the Board a monthly report reflecting all purchases, sales, and trades for each investment pool. Also, a copy of the portfolio for each investment pool, reflecting the market value for each investment, shall be provided to the Board.

6.04. Authorized Financial Institutions and Brokers - The Board of Investments may not do business with any financial institution or brokerage firm that has not been approved by the Board. At the first Board meeting of each fiscal year, the Board's staff shall provide for the Board's review a complete list of all financial institutions and brokerage firms currently on the approved list.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-6
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par. 7 It is the determination of the Secretary of State that the Board has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.

par. 8 (B) Statutory Authority -- WV Code §12-6-5(5) reads:

(5) Promulgate and enforce bylaws and rules for the management and conduct of its affairs.

par. 9 It is the determination of the Secretary of State that the Board has not exceeded its statutory authority in promulgating this emergency rule.

par. 10 (C) Emergency: WV Code 29A-3-15(g) defines "emergency" as follows:

(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.

par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 12 The facts and circumstances as presented by the Board are as follows:

With the passage of S.B. 8 by the second special session of the 1990 Legislature, various sections of Chapter 12 were changed transferring authority for cash management and investments to the State Board of Investments. On December 19, 1990, the Board authorized the implementation of these changes to occur on January 3, 1991. Since these rules are an integral part of these changes, they had to be filed on an emergency basis.

par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in 29A-3-15(g) . . . "immediate preservation of public peace, health, safety or welfare" and "to prevent substantial harm to public interest."

par. 14 This decision shall be cited as Emergency Rule Decision 6-91 or ERD 6-91 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the WV State Board of Investments, the Attorney General and the Legislative Rule Making Review Committee.



KEN HECHLER
SECRETARY OF STATE

Entered _____

FILED

1991 JAN 23 PM 2:54

OFFICE OF THE SECRETARY OF STATE

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

SHEREE COHEN
Special Assistant

(Plus all the volunteer
help we can get)

January 15, 1991

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Board of Investments

RULE: New Rule, Series 1, Administration of the Consolidated
Fund by the West Virginia State Board of Investments

DATE FILED AS AN EMERGENCY RULE: January 3, 1991

DECISION NO. 6-91

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.

Handwritten signature of Ken Hechler in cursive.

KEN HECHLER
Secretary of State

FILED
1991 JAN 23 PM 2:54
OFFICE OF THE SECRETARY OF STATE

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DECISION EMERGENCY RULE DECISION (ERD 6-91)

AGENCY: West Virginia State Board of Investments
RULE: New Rule, Series 1, Administration of the Consolidated
Fund by the West Virginia State Board of Investments
FILED AS AN EMERGENCY RULE: January 3, 1991

- par. 1 The WV Board of Investments (Board) has filed the above new rule as an emergency.
- par. 2 West Virginia Code 29A-3-15A requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [29A-3-15a(a)].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the ERD is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.
- par. 6 The Board has filed this emergency rule with supporting documents with the Secretary of State on January 3, 1991, and with the LRMRC on January 3, 1991.