

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #7

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OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

NOTICE OF AN EMERGENCY RULE

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

CITE AUTHORITY: W. Va. Code Chapter 12-2-2 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: VIII

TITLE OF RULE BEING FILED AS AN EMERGENCY: Establishment of
Imprest Funds

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: Establishment of Imprest Funds

Type of Rule: Legislative Interpretive Procedural

Agency: Board of Investments Address

State Capitol - 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 proposed rules repeals and replaces the original rules filed in 1984. 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 proposed rules is to aid in the implementation of the legislative findings and purpose set forth in Section Two, Article Two, Chapter Twelve of the Code, wherein the Board is authorized to establish, control and audit imprest funds.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.
N/A

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

N/A

C. Economic Impact on Citizens/Public at Large.

N/A

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: Establishment of Imprest Funds

1. Date of filing: January 3, 1991

2. Statutory authority for promulgating the emergency rule: W. Va. Code 12-2-2 et seq

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 proposed rules is to aid in the implementation of the legislative findings and purpose set forth in Section Two, Article Two, Chapter Twelve of the Code, wherein the Board is authorized to establish, control and audit imprest funds.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-2
Series VIII

Subject: Establishment of Imprest Funds

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-2
Series VIII

Subject: Establishment of Imprest Funds

Section 1. General.

1.01. Scope - These legislative rules implement the provisions of section two, article two, chapter twelve of the Code of West Virginia, 1931, as amended, wherein the Board of Investments is required to establish and audit imprest funds.

1.02. Authority - West Virginia code §12-2-2.

1.03. General Purpose - The purpose of these rules is to carry out the legislative intent, as stated in the aforementioned Code section, so that the Board of Investments may establish, control, and audit imprest funds.

1.04. Filing Date -

1.05. Effective Date -

1.06. Repeal of Former Rule - This Legislative rule repeals and replaces West Virginia 112 CSR3 "Establishment of Imprest Funds" effective March 10, 1984.

Section 2. Definitions

For purposes of these rules, unless a different meaning is clearly required by the context:

"Agency" means and includes any department, board, commission, division, branch office or other separate unit of a State agency, and any officer or employee, thereof, who or which collects moneys due the State;

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

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

"Imprest fund" means a cash change fund in a fixed amount maintained at the agency. Such fund may also be used for the purpose of cashing checks for students at State colleges and universities in West Virginia.

Section 3. Establishment of Imprest Funds

Any State agency requiring the establishment of an imprest fund shall make application to the Board on the forms prescribed by the Board. Such forms shall indicate the name, purpose, desired balance of, and the person responsible for the imprest fund as well as the agency name. Upon being satisfied that the application is complete and that the need for the imprest fund is valid, the Board shall notify the agency of the approval for establishment of the imprest fund. By sending copies of the approval notice, it shall also notify the State Auditor and Legislative Auditor.

Any college or university with the approval of the Board may provide a check-cashing service at that institution. Also, any institution may charge fees for such service for

each check cashed and for each check returned for insufficient funds. That institution shall designate certain employees who are to provide the service and have charge of such funds.

The fees received for such service shall be maintained separate from the cash fund and an itemized account of such receipts shall be maintained. Any check determined by the Board or their designee to be uncollectible shall be charged against the fund. If the amount of cash fund (after charges for uncollectible checks) exceeds established amount at the conclusion of any audit, the institution shall deposit such excess to the account from which the fund was established.

Any shortages due to human error may be corrected by charging them against the fees received for such service.

Section 4. Increasing or Decreasing the Balance

Whenever an agency determines that there is a need to increase or decrease the balance of an imprest fund, the agency shall make application to the Board on the forms prescribed by the Board. Such forms shall indicated the agency name, name of the imprest fund, current authorized balance, requested balance to be authorized, the reasons therefore, and the amount of increase or decrease. By sending copies of the approved form, the Board shall notify the State Auditor and Legislative Auditor.

Section 5. Change of Person Responsible for the Imprest Fund

Whenever an agency has a change in personnel responsible for an imprest fund, the agency shall notify the Board of the change on a form prescribed by them. Such form shall indicate the agency name, name of the imprest fund, the balance of the imprest fund on the date of the change in personnel, the signatures of the person being relieved of responsibility and the person assuming the responsibility, along with the dates said signatures were affixed. By copy of the approved form, the Board shall notify the Legislative Auditor.

Section 6. Audit and Recordkeeping

The Board or their designee shall annually audit all imprest funds. Any overage shall be deposited to the account from which the fund was established. Any shortage due to human error may be corrected by replenishing the fund through the procedures established by the Board of Investments. The Board shall send a copy of such audits to the Legislative Auditor. The Board or their designee shall prepare a list of all imprest funds showing the location and amount as of fiscal year end, retaining such list as a permanent record of the Board's office until such time as the Legislative Auditor shall have complemented an audit of the imprest funds of all agencies and institutions involved.

WEST VIRGINIA ADMINISTRATIVE REGULATIONS
West Virginia State Board of Investments

Chapter 12-2
Series VIII

Subject: Establishment of Imprest Funds

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(Plus all the volunteer
help we can get)

DECISION

EMERGENCY RULE DECISION
(ERD 10-91)

AGENCY: West Virginia State Board of Investments

RULE: New Rule, Series 8, Establishment of Imprest Funds
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.

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 §12-2-2 of the WV Code further states in part:

All officials and employees of the state authorized by statute to accept moneys due the State of West Virginia shall keep a daily itemized record of such moneys so received for deposit in the state treasury and shall deposit within twenty-four hours with the state board of investments all moneys received or collected by them for or on behalf of the state for any purpose whatsoever. The treasurer and board of investments shall promulgate rules and regulations, in accordance with the provisions of §29A-1-1 et seq. of this code governing the procedure for such deposits.

par. 10 It is the determination of the Secretary of State that the Board has not exceeded its statutory authority in promulgating this emergency rule.

par. 11 (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. 12 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. 13 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. 14 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. 15 This decision shall be cited as Emergency Rule Decision 10-91 or ERD 10-91 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

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1991 JAN 23 PM 2:55
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(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 8, Establishment of Imprest Funds

DATE FILED AS AN EMERGENCY RULE: January 3, 1991

DECISION NO. 10-91

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.

A handwritten signature in cursive script that reads "Ken Hechler".

KEN HECHLER
Secretary of State

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1991 JAN 23 PM 2:54
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE