

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: SECRETARY OF STATE TITLE NUMBER: 153

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 NEW RULE BEING PROPOSED: 2

TITLE OF RULE BEING PROPOSED: FEES RELATING TO ELECTRONIC
RECORDS

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

AUTHORIZATION IS CITED IN (house or senate bill number) SB 329

SECTION 64-9-2(a), PASSED ON MARCH 14, 1998

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: APRIL 3, 1998

Ken Hechler

\$2.80

CHRONOLOGICAL INDEX
SECRETARY OF STATE
153-5

Notice of Comment Period	June 30, 1997
Comment Period Ending	July 31, 1997
Agency Approval	July 31, 1997
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Governor Signed Bill	April 2, 1998
Final Filed Rule	April 3, 1998

**TITLE 153
LEGISLATIVE RULES
SECRETARY OF STATE**

**SERIES 2
FEES RELATING TO ELECTRONIC RECORDS**

§153-2-1. General.

1.1. Scope. This legislative rule establishes the fees to be charged for online access to electronic records maintained by the Secretary of State and for the sale of electronic records for the purpose of resale.

1.2. Authority. -- W. Va. Code §59-1-2.

1.3. Filing Date. --

1.4. Effective Date. --

§153-2-2. Definitions.

2.1. For the purpose of this rule:

2.1.1. "Electronic record" means any record maintained in a database by the Secretary of State which becomes available for access electronically at a remote location, and which may include those portions of the complete record as are public and are considered appropriate to include in the viewable database, as determined by the Secretary of State.

2.1.2. "Online access" means access to view any available electronic record from a remote site via the Internet, modem, or other means of data communication.

2.1.3. "Subscriber" means one person, company, agency or other entity which applies for access for one or more users to any database maintained by the Secretary of State for which a charge is applied on an annual

subscription basis, or on a time of use basis if the charges are paid by prepayment.

2.1.4. "User" means each concurrent use by a subscriber using a single access identification.

2.1.5. "Available" means the condition of having met the hardware, software, development and database development requirements necessary for secure and convenient access to the information system and each division's records for public viewing, and is not to imply any required beginning date for the access.

§153-2-3. Records of the Administrative Law Division.

3.1. The charges for access to electronic records of the Administrative Law Division are based on the requirement of W. Va. Code §29A-2-7 that the costs of the services of the division be recovered from the fees charged for the sale of publications.

3.2. The Secretary of State may make publications available on-line through an annual subscription for unlimited access, or through an on-line billing per time unit of access, depending on the technological considerations at the time.

3.3. The annual subscription for on-line access runs from January 1 through December 31, with the customer's first year subscription prorated.

3.4. The annual subscription fees are as follows:

3.4.1. For the Code of State rules, on-line access only, three hundred fifty dollars (\$350);

3.4.2. For the Code of State Rules, for purchasers of the printed 12-volume set, on-line access, one hundred seventy-five dollars (\$175);

3.4.3. For the Index to the Code of State rules, no charge;

3.4.4. For the index to the Opinions of the Ethics Commission, one hundred fifty dollars (\$150);

3.4.5. For the index to the Decisions of the State Grievance Board, no charge;

3.4.6. For the State Register, on-line access only, two hundred fifty dollars (\$250);

3.4.7. For the State Register, for purchasers of the printed subscription, on-line access, one hundred twenty-five dollars (\$125); and

3.4.8. For the calendar of emergency meeting notices, no charge.

3.5. If on-line billing is made available, the charge for access to the electronic records of the administrative law division shall be fifteen cents (\$.15) per minute.

3.6. The Secretary of State shall make electronic records of the Administrative Law Division available at no charge to members of the Legislature for their personal official use only, and not for distribution.

§153-2-4. Records of the Corporations Division.

4.1. The fees for access to records of the Corporations Division are based on the need for convenient access to key elements of those records by the public, the legal and banking community, and other users in order to reduce the personnel time and expense for telephone inquiries regarding those records.

4.2. The annual subscription for access to the electronic records of the corporation division for each user shall be one hundred dollars (\$100) per year.

4.3. If on-line billing is made available, the charge for access to electronic records of the corporation division for each user shall be fifteen cents (\$.15) per minute.

§153-2-5. Records of the Uniform Commercial Code (UCC) Division.

5.1. The fees for access to records of the UCC Division are based on a balance of the need for convenient access to key elements of those records in order to reduce the personnel time and expense for telephone inquiries regarding those records and the necessity for the division to maintain sufficient revenue to be staffed and maintained by revenue.

5.2. The annual subscription for access to the electronic records of the UCC Division for each user shall be two hundred dollars (\$200) per year.

5.3. If on-line billing is made available, the charge for access to electronic records of the UCC Division for each user shall be fifteen cents (\$.15) per minute.

§153-2-6. Records of the Charitable Organizations, Elections, and Executive Records Divisions and Other Public Information.

6.1. The records of the Charitable Organizations Division are public information maintained for the purpose of preventing fraud in the conduct of charitable solicitations and fund-raising.

6.1.1. When available, the Secretary of State shall make the index information relating to charitable organizations and professional fund raisers available over the Internet at no charge.

6.2. The records of the Election Division are public information relating to the conduct of elections, candidate filings and other filings made with the Secretary of State.

6.2.1. When available, the Secretary of State shall make the index information relating to elections, candidate filing, and campaign finance filing available over the Internet at no charge.

6.2.2. The Secretary of State shall not make lists of registered voters available online, however, lists of registered voters in electronic format may be purchased under the provisions of W. Va. Code §3-2-30.

6.3. The records of the Executive Records Division are public information relating to the actions and appointments of the executive branch.

6.3.3. When available, the Secretary of State shall make the index information relating to executive records available over the Internet at no charge.

6.4. The Secretary of State may make other public records available online as he or she determines appropriate and practical.

§153-2-7. Subscriber Accounts; Multiple Users and Access to Records of Multiple Divisions.

7.1. To become a subscriber to one or more of the record groups requiring fees, the person, firm or other entity shall file an application on a form prescribed by the Secretary of State.

7.2. Upon payment of the necessary fees or upon the satisfaction of any prepayment arrangements required for time of use billing, the Secretary of State shall provide a subscriber identification code and any required security password to the subscriber.

7.3. The Secretary of State shall maintain a record of all subscribers, along with a record of fees paid, and the beginning and ending dates of any annual subscription.

7.4. Subscribers who seek access to multiple record types through an annual subscription may obtain a discount of fifteen percent (15%) of the total for two record types, and twenty-five percent (25%) of the total for three (3) or more record types.

7.5. The following discounts are available for subscribers with four (4) or more users:

4 - 9 users	10% discount
10 - 25 users	15% discount
26 or more users	20% discount

153-2-8. Purchase of database index records for resale.

8.1. As required by W. Va. Code §59-1-3, any person, firm or other entity who purchases copies of any index or database and who intends to provide or subsequently provides or makes those records available to any other person for a monetary or other valuable return

shall first apply to the Secretary of State for a resale agreement.

8.2. The applicant shall agree to be bound by a contract for repayment to the state for each instance of a resale.

8.2.1. The Secretary of State may require the applicant to supply detailed information relating to the data system in which the records are to be maintained, the anticipated frequency of access, the availability and use of automatic access tracking software within the applicant's system, the billing arrangements and prices of sales, and any other information which might be necessary for contract review.

8.2.2. The Secretary of State may enter into a contract with the reseller for a reasonable return to the state of West Virginia for each instance of a resale.

8.3. Purchasers of the voter records maintained in the statewide uniform voter data system may not resell those records, as provided by W. Va. Code §3-2-30.