

TITLE 142

PROPOSED LEGISLATIVE RULE
ATTORNEY GENERAL
SERIES 14

Title: Proposed legislative rule pertaining to limitation of action and recovery of investigative costs and a reasonable attorney's fee by the Attorney General in enforcement actions.

§ 142-14-1. General.

1.1 Scope - This rule shall apply in any action brought by the Attorney General under the West Virginia Antitrust Act, W. Va. Code §§ 47-18-1, -23 (1978), or authorized by federal law.

1.2 Authority - W. Va. Code § 47-18-20 (1978).

1.3 Filing Date - April 9, 1991.

1.4 Effective Date - April 9, 1991.

1.5 Purpose - The purpose of this rule is to clarify, implement, apply, and make specific the provisions of W. Va. Code § 47-18-11 (1978) relating to limitation of action under the West Virginia Antitrust Act and authorizing the courts of this state to award a reasonable attorney's fee to the Attorney General in enforcement actions.

1.6 Construction - This rule shall be liberally construed to effectuate the beneficial purposes of the West Virginia Antitrust Act.

1.7 Severability - If, for any reason, any section, sentence, clause, phrase, or provision of this rule or the application thereof to any person or circumstances is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other sections, sentences, clauses, phrases, or provisions or their application to any other person or circumstance, and to this end, each and every section, sentence, clause, phrase, or provision of this rule is hereby declared severable.

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§ 142-14-2. Continuing Violations.

A cause of action alleging a continuing violation of the West Virginia Antitrust Act shall be available within four years after the last date on which an antitrust injury was suffered. In such instances, money damages and penalties may be recovered for antitrust injuries which preceded the four-year limitation period set forth by W. Va. Code § 47-18-11 (1978).

§142-14-3. Investigative Costs and Attorney's Fees.

When any court issues an injunction or penalty in any enforcement action brought pursuant to W. Va. Code § 47-18-8 (1978), the court may also award the Attorney General the reasonable costs and expenses of the investigation and litigation and a reasonable attorney's fee.