



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL
RULE**

AGENCY: Secretary Of State

TITLE-SERIES: 153-09

RULE TYPE: Interpretive Amendment to Existing Rule: No Repeal of existing rule: No

RULE NAME: Authorized Use of the Great Seal of the State of
West Virginia

CITE STATUTORY AUTHORITY: WV Const Art. II, Sec. 7; WV Code 5-2-1

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

December 26, 2017

TITLE 153
INTERPRETIVE RULE
SECRETARY OF STATE

SERIES 09
AUTHORIZED USE OF THE
GREAT SEAL OF THE STATE OF WEST VIRGINIA

§153-9-1. General.

1.1. Scope. -- This interpretive rule defines when the Great Seal of the State of West Virginia may be used as authorized by the Secretary of State as the keeper of the seal. As provided herein, the seal may essentially only be used for: 1) official governmental purposes; and 2) official governmental stationery. The seal may not be used, as provided below, for: 1) any commercial purposes; 2) campaign purposes; or 3) advertising.

1.2. Authority. -- W.Va. Constitution Article II, Sec. 7; W.Va. Code § 5-2-1.

1.3. Filing Date. -- November 27, 2017

1.4. Effective Date. -- December 26, 2017

§153-9-2. Definitions.

2.1. The following words shall have the following meanings for the purposes of this rule:

2.1.a. “Great Seal” shall include the Seal of the State of West Virginia, and any substantially similar facsimile thereof.

2.1.b. “Local governmental agency” includes any local governmental agency, including counties, municipalities, special districts or other separate units of local government created or established by the West Virginia Constitution and/or West Virginia Code, and authorized staff members of such entities.

2.1.c. “Official government business cards” means business cards in use by a current state governmental agency when specific written approval for use of the Great Seal has been granted by the head of that agency.

2.1.d. “Official government publications” are publications published by or on behalf of the State of West Virginia.

2.1.e. “Official government stationery” means stationery intended for use by a state governmental agency when specific written approval for use of the Great Seal has been granted by the head of that agency.

2.1.f. “Political or campaign purposes” shall include all uses related to a past, present, or future political campaign.

2.1.g. “Publications serving a governmental purpose” are those publications not published by the State of West Virginia, which the SOS, within its discretion, determines are of significant interest to the state, including but not limited to educational publications, where use of the Great Seal would not mislead the public to believe that the publication carries official State sanction or approval.

2.1.h. “Secretary of State” or “SOS” means the constitutional office holder of the position of Secretary of State of West Virginia, and/or his or her Deputy Secretary of State.

2.1.i. “State governmental agency” includes any state agency formed by the West Virginia Constitution and/or West Virginia Code, and authorized staff members of those entities.

§153-9-3. Procedures to Obtain Permission for Use of the Seal.

3.1. No person, without express written authorization from the Secretary of State or a Deputy Secretary of State (“SOS”), may manufacture, use, display or otherwise employ a facsimile or reproduction of the Seal of the State of West Virginia (“Great Seal”), except as provided in this rule.

3.2. Any person desiring to obtain approval from the SOS for the manufacture or use of a facsimile or reproduction of the Great Seal shall make application on the form prescribed by the SOS. The form, Application for Manufacture or Use of the Great Seal of the State of West Virginia, is incorporated by reference herein and is available from the SOS.

3.3. SOS approval for use of the Great Seal is for a term of 4 years, unless otherwise stated by the SOS, and can be renewed upon the completion and approval of a new application.

3.4. Applications and supporting documents shall be filed with the Office of the Chief Counsel, West Virginia Secretary of State, State Capitol Building, Charleston, West Virginia, 25305.

3.5 Standards for Approval. The applicant may be granted permission to manufacture or use the Great Seal if the applicant affirmatively demonstrates to the SOS that the Great Seal will be used for a proper purpose. In order to determine what constitutes a proper purpose, the Department shall consider, at a minimum, the following:

3.5.a. The specific item to be manufactured;

3.5.b. The manner in which the Great Seal is to be displayed on the item to be manufactured;

3.5.c. The nature of the proposed use, including manner, purpose and place of use;

3.5.d. Whether the public would tend to be misled by the appearance of the Great Seal on the product to believe that the product carries official State sanction or approval;

3.5.e. Whether the use of the Great Seal would tend to mislead the public into believing that a person, meeting, project or event carries official State sanction or approval;

3.5.f. Whether the dignity of the Great Seal will be preserved if approval is granted;

3.5.g. Whether the requested use of the Great Seal will promote a stated governmental goal..

3.6. SOS approval should not be expected for the use of the Great Seal for the following:

3.6.a. Political or campaign purposes;

3.6.b. Stationery other than official government stationery;

3.6.c. Decorative automobile license tags;

3.6.d. Business cards other than official government business cards;

3.6.e. Designation of landmarks not listed in the National Registry of Historical Places or designated as a historical site under a local ordinance;

3.6.f. T-shirts, jackets or other clothing which might lead the public to believe that the person wearing such apparel is an official of the state;

3.6.g. Publications other than official state government agency publications or publications serving a governmental purpose;

3.6.h. Advertising;

3.6.i. News releases; or

3.6.j. Any commercial purpose.

3.7. State and Local Government Agencies. Subject to the requirements above, state and local governmental agencies as defined above, may use and display the Great Seal in connection with official business without application to the SOS, when specific written approval for use of the Great Seal has been granted by the head of the respective governmental entity.

§153-9-4. Review.

4.1. Approval by this rule shall not become a vested property right in the grantee and approval may be revoked at the discretion of the SOS at any time. The SOS may revoke any approval issued if the use no longer promotes a stated proper governmental goal as determined by the SOS. Approval shall also be revoked where the SOS finds that the holder or his/her agent submitted false, incomplete, or inaccurate information in the application or has violated state law, SOS rules, regulations or conditions of approval relating to the use of the Great Seal.

4.2. Any person or entity unlawfully using the Great Seal without prior approval of the SOS, may be subject to an action at law or at equity brought by the SOS in the appropriate court of competent jurisdiction seeking injunctive relief and any other remedies available.

4.3. If any person or entity has been granted approval for use of the Great Seal, and such approval is subsequently rescinded or revoked by the SOS, such person or entity shall immediately cease and desist using or manufacturing the Great Seal until and unless authorized by the SOS or a court of competent jurisdiction.

4.4. Extraordinary Remedies. -- An aggrieved person or entity may institute an action for *mandamus* relief in the Circuit Court of Kanawha County if the actions or decision of the SOS is alleged to violate rights provided by the West Virginia Constitution or West Virginia Code.

§153-9-5. Fees.

5.1. Applicable fees shall be charged by the SOS pursuant to W.Va. Code §59-1-1.

§153-9-6. Severability.

6.1. These rules are considered to be severable. In the event these rules are inconsistent with or contrary to any statute, the provisions of the statute shall be applied.

6.2. These rules, including any time frames herein, are intended to serve only as guidelines for procedural functions of the SOS. Nothing herein is intended to vest any person with any right, substantive or otherwise which is greater than otherwise exists in law.

Request for Use of the Great Seal of the State of West Virginia

Mac Warner
Secretary of State



Requestor: _____

Address: _____

Phone: _____

Date Requested: _____

Reason for use of the Seal of the State of West Virginia:

Action taken: _____

Request taken by: _____

Approved by: _____

Please fill out information, and fax to (304) 558-0900 or mail to: Secretary of State
State Capitol Building
Charleston, WV 25305