



WEST VIRGINIA SECRETARY OF STATE

KRIS WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Treasurer TITLE-SERIES: 112-02
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: Substitute Checks-Exceptional Items Fund

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: §12-4-11

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

§12-4-11 grants authority for the State Treasurer to promulgate a legislative rule to administer the exceptional items fund.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? Yes

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? Yes

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD:

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED:

COMMENTS RECEIVED:

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING:

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

N/A

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

The legislative rule sets forth the procedures for the issuance of substitute checks in cases where checks originally issued are erroneous, lost, destroyed, stolen, or forged.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

W.Va. Code §12-4-11 requires the promulgation of rules and regulations for the issuance of substitute checks in cases where checks originally issued are erroneous, lost, destroyed, stolen, or forged.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

None

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

None

D. FISCAL NOTE DETAIL:

| Effect of Proposal | Fiscal Year | | |
|------------------------------------|--|--|--|
| | 2026 Increase/Decrease (use "-") | 2027 Increase/Decrease (use "-") | Fiscal Year (Upon Full Implementation) |
| 1. Estimated Total Cost | 0 | 0 | 0 |
| Personal Services | 0 | 0 | 0 |
| Current Expenses | 0 | 0 | 0 |
| Repairs and Alterations | 0 | 0 | 0 |
| Assets | 0 | 0 | 0 |
| Other | 0 | 0 | 0 |
| 2. Estimated Total Revenues | 0 | 0 | 0 |

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

James G Fuerhoff -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 112
LEGISLATIVE RULE
STATE TREASURER'S OFFICE

SERIES 2
SUBSTITUTE CHECKS – EXECEPTIONAL ITEMS FUND

§112-2-1. General.

- 1.1. Scope. -- This rule implements the provisions of W. Va. Code §12-4-11.
- 1.2. Authority. – W. Va. Code §12-4-11.
- 1.3. Filing Date. – ~~April 7, 2022~~
- 1.4. Effective Date. – ~~April 7, 2022~~
- 1.5. Sunset Provision. – This rule shall terminate and have no further force or effect on August 1, 2027~~32~~.

§112-2-2. Definitions.

- 2.1. “Agency” means and includes any department, board, commission, division, branch office, or other separate unit of State government, and any officer or employee of an agency, who or which collects moneys due the State.
- 2.2. “Financial institution” means a state or national bank or a state or federal savings and loan association.
- 2.3. “Auditor” means the West Virginia State Auditor or his or her designee.
- 2.4. “Substitute check” refers to the state check that is reissued after an original state check is cancelled.
- 2.5. “Treasurer” means the West Virginia State Treasurer or his or her designee.

§112-2-3. Procedures for Substitute Checks

- 3.1. An agency desiring to obtain a substitute check shall submit a request to the Treasurer.
- 3.2. When the Treasurer is notified that an originally issued state check is erroneous, lost, mutilated, stolen, destroyed, or involves forgery, or that payment is no longer required, the Treasurer shall issue a stop payment order to the financial institution on which the check was drawn.
- 3.3. If the financial institution honors the stop payment order, the Auditor and the Treasurer shall issue the substitute check on the account on which the original check was written.

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3.4. If the financial institution refuses to honor the stop payment order because the check has been presented and cashed, the Treasurer shall notify the agency of the refusal and shall send a copy of the paid check to the agency. The agency shall notify the payee that the check has already been paid. If the payee claims the check endorsement was forged, the payee shall furnish an affidavit in the form specified by the Treasurer to the agency, which shall submit the affidavit to the Treasurer. If the Treasurer finds the affidavit acceptable and upon completion of an investigation that finds the payee is not at fault, the Auditor and the Treasurer shall issue a replacement check on the account on which the original check was written.

3.5. The Treasurer may pursue claims arising out of stolen or forged state checks against any entity involved.