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TITLE 158
LEGISLATIVE RULE
WEST VIRGINIA ETHICS COMMISSION

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SERIES 3
PURCHASE, SALE OR LEASE OF PERSONAL PROPERTY

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§ 158-3-1. General.

1.1. Scope. -- This legislative rule establishes guidelines for the purchase, sale or lease of personal property by full-time public officials or employees from persons under their regulatory control or from persons who either have a contract or who are seeking to contract with the public agency by whom they are employed.

1.2. Authority. -- W. Va. Code §6B-2-5(h)

1.3. Filing Date. --

1.4. Effective Date. --

§ 158-3-2. Exemptions to Prohibitions on Transactions Between Public Officials and Employees and Regulated Persons or Vendors.

A full-time public official or full-time public employee prohibited from purchasing, selling or leasing personal property to or from a regulated person or vendor pursuant to the provisions of W.Va. Code § 6B-2-5(h) may nevertheless engage in the prohibited transaction:

2.1. If the transaction exclusively involves personal property, including consumer goods, purchased, sold or leased through a commercial establishment which offers the same personal property for sale or lease to the general public;

2.2. If the total value of the personal property involved has a fair market value of \$25.00 or less; or

2.3. After seeking and obtaining the approval of the Commission in the manner provided by section 3 of this rule.

§ 158-3-3. Request for An Exemption.

3.1. A full-time public official or full-time public

employee prohibited from purchasing, selling or leasing personal property to or from a regulated person or vendor pursuant to the provisions of W.Va. Code § 6B-2-5(h) may request that the Executive Director of the West Virginia Ethics Commission approve the transaction notwithstanding the statutory prohibition.

a. The request shall be submitted and approved prior to any agreement to conduct such a transaction may be made or completed.

b. The request shall be in writing and include the following information:

1. The name of the public official's or employee's supervisor and the name of the agency or governing body to whom he or she reports;

2. The facts and circumstances concerning how the public official or employee became aware that the personal property in question was for sale or lease;

3. The agreed purchase or lease price of the personal property;

4. A good faith estimate of the fair market value of the personal property and the particular information relied upon by the public official or employee in making this good faith estimate.

5. A statement that the purchase would not affect the ability of the public official or employee to perform his or her public job responsibilities.

c. The request must be addressed to the Executive Director at the following address: West Virginia Ethics Commission, 210 Brooks Street, Suite 300 - Charleston, WV 25301.

3.2. The Executive Director or the Ethics Commission shall grant an exemption to purchase personal property upon a finding that:

a. The negotiations for the proposed transaction were conducted at arm's length and there is no favoritism or appearance of favoritism;

b. If the potential seller or purchaser currently has a regulatory matter pending before the public official or

employee, or a public contract over which the public official or employee exercises control, the official or employee's supervisor will review any decisions made by the official or employee for a six month period following the transaction to ensure there is no favoritism or the appearance of favoritism in regard to the seller or purchaser and that the supervisor's agency is willing and able, based upon existing staffing, to implement this safeguard; and,

c. There are no public policy reasons to deny the request.

3.3. If the Executive Director denies a request, the public official or employee may seek a formal advisory opinion from the Commission.

3.4. The Executive Director may, in his or her discretion, decline to act upon a request and instead, refer the request to the Ethics Commission for a formal advisory opinion.