WEST VIRGINIA CODE: §33-10-14

§33-10-14. Conduct of delinquency proceedings against domestic or alien insurers.

(a) Whenever under this article a receiver is to be appointed in delinquency proceedings for a domestic or alien insurer, the court shall appoint the Insurance Commissioner as the receiver. The court shall order the commissioner forthwith to take possession of the assets of the insurer and to administer the same under the orders of the court.

(b) As domiciliary receiver, the commissioner shall be vested by operation of law with the title to all the property, contracts and rights of action and all of the books and records of the insurer, wherever located, as of the date of entry of the order directing him or her to rehabilitate or liquidate a domestic insurer or to liquidate the United States branch of an alien insurer domiciled in this state and he or she shall have the right to recover the same and reduce the same to possession; except that ancillary receivers in reciprocal states shall have, as to assets located in their respective states, the rights and powers which are prescribed in this section for ancillary receivers appointed in this state as to assets located in this state.

(c) The recording of a certified copy of the order directing possession to be taken in the office of the clerk of the county commission of the county where the proceedings are pending and in the office of the clerk of the county commission of any county wherein the insurer has property or other assets, recorded in the same manner as deeds to real property are recorded, shall impart the same notice as would be imparted by a deed, bill of sale or other evidence of title duly recorded or filed.

(d) The commissioner as domiciliary receiver shall be responsible for the proper administration of all assets coming into his or her possession or control. The court may at any time require a bond from the commissioner or his or her deputies if considered desirable for the protection of the assets. The cost of the bond shall be paid out of the assets of the insurer as a cost of administration.

(e) Upon taking possession of the assets of an insurer, the domiciliary receiver shall, subject to the direction of the court, immediately proceed to conduct the business of the insurer or to take such steps as are authorized by this article for the purpose of rehabilitating, liquidating or conserving the affairs or assets of the insurer.

(f) In connection with delinquency proceedings, the commissioner may appoint one or more special deputy commissioners of insurance to act for him or her and may employ such counsel, clerks and assistants as he or she considers necessary. The compensation of the special deputies, counsel, clerks or assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the receiver, subject to the approval of the court and shall be paid out of the funds or assets of the insurer. In the event the property of such person does not contain cash or liquid assets sufficient to defray the

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cost of the service required to be performed under the terms of this article, the commissioner may pay the cost of the services first out of the commissioner's closed estate fund account. If the moneys in the closed estate fund account are insufficient to fully defray the cost of the services required under the terms of this article, the commissioner may pay the costs out of the commissioner's "operating – additional fees" account. Any amount so paid from either account shall be considered to be expenses of administration and shall be repaid to the appropriate account out of the first available moneys in the estate.

(g) Within the limits of duties imposed upon them, special deputies shall possess all the powers given to and, in the exercise of those powers, shall be subject to all of the duties imposed upon the receiver with respect to such proceedings. All transactions involving estate accounts shall be reconciled quarterly by a special deputy commissioner appointed pursuant to subsection (f) of this section and reported to the commissioner. An annual audit of any special deputy commissioner appointed under this section may be conducted, at the discretion of the commissioner, by an independent, outside certified public accountant. The cost of this audit shall be allocated among the estates of the companies in conservation, rehabilitation or liquidation on a basis of allocation established by the commissioner.

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