WEST VIRGINIA CODE: §33-10-3

§33-10-3. Court's seizure order.

(a) The commissioner may file in the appropriate circuit court of this state, as provided in section two of this article, a petition alleging, with respect to a domestic insurer:

(1) That there exist any grounds that would justify a court order for a formal delinquency proceeding against an insurer under this act;

(2) That the interests of policyholders, creditors or the public will be endangered by delay; and

(3) The contents of an order considered necessary by the commissioner.

(b) Upon a filing under subsection (a) of this section, the court may issue forthwith, ex parte and without a hearing, the requested order which shall direct the commissioner to take possession and control of all or a part of the assets, books, accounts, documents and other records of an insurer and of the premises occupied by it for transaction of its business; and until further order of the court enjoin the insurer and its officers, managers, agents and employees from disposition of its property and from the transaction of its business except with the written consent of the commissioner.

(c) The court shall specify in the order what its duration shall be, which shall be the time as the court considers necessary for the commissioner to ascertain the condition of the insurer. On motion of either party or on its own motion, the court may, from time to time, hold hearings as it considers desirable after notice that it considers appropriate and may extend, shorten or modify the terms of the seizure order. The court shall vacate the seizure order if the commissioner fails to commence a formal delinquency proceeding under this article after having had a reasonable opportunity to do so. An order of the court pursuant to a formal proceeding under this article shall ipso facto vacate the seizure order.

(d) Entry of a seizure order under this section will not constitute an anticipatory breach of any contract of the insurer.

(e) An insurer subject to an ex parte order under this section may petition the court at any time after the issuance of the order for a hearing and review of the order. The court shall hold the hearing and review not more than fifteen days after the request. Subject to the approval of the court, a hearing under this subsection may be held privately in chambers if the insurer proceeded against so requests.

(f) If, at any time after the issuance of such an order, it appears to the court that any person whose interest is or will be substantially affected by the order did not appear at the hearing and has not been served, the court may order that notice be given. An order that notice be

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given will not stay the effect of any order previously issued by the court.

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