WEST VIRGINIA CODE: §33-10-36

§33-10-36. Early access to distribution.

(a) Within one hundred twenty days of a final determination of insolvency of an insurance company by the circuit court, the commissioner shall make application to the court for approval of a proposal to disburse assets out of the company's marshaled assets, from time to time as such assets become available, to the appropriate guaranty association having obligations because of the insolvency. "Appropriate guaranty association" means guaranty association and foreign guaranty association as those terms are defined in section one of this article. If the commissioner determines that there are insufficient assets to disburse, the application required by this section shall be satisfied by a filing by the commissioner stating the reasons for this determination.

(b) The proposal shall at least include provisions for:

(1) Reserving amounts for the payment of expenses of administration and of claims falling within the priorities established in section nineteen-a of this article but only with respect to such priorities higher than that of the associations;

(2) Disbursement of the assets marshaled to date and subsequent disbursement of assets as they become available;

(3) Equitable allocation of disbursements to each of the associations entitled thereto;

(4) The securing by the commissioner from each of the associations entitled to disbursements pursuant to this section of an agreement to return to the commissioner such assets, together with income earned on assets previously disbursed, as may be required to pay claims of secured creditors and claims falling within the priorities established in section nineteen-a of this article but only with respect to such priorities higher than that of the associations. No bond shall be required of any such association; and

(5) A full report to be made by the association to the commissioner accounting for all assets so disbursed to the association, all disbursements made therefrom, any interest earned by the association on such assets and any other matter as the court may direct.

(c) The commissioner's proposal shall provide for disbursements to the association in amounts estimated at least equal to the claim payments made or to be made thereby for which the association could assert a claim against the commissioner, and shall further provide that if the assets available for disbursement from time to time do not equal or exceed the amount of the claim payments made or to be made by the association, then disbursements shall be in the amount of available assets.

(d) Notice of the commissioner's application shall be given to the associations in and to the

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commissioners of insurance of each of the states. Any such notice shall be considered to have been given when deposited in the United States mail, first class postage prepaid, at least thirty days prior to submission of the application to the court. Action on the application may be taken by the court provided the notice required in this subsection has been given and provided that the commissioner's proposal complies with subdivisions (1) and (2), subsection (b) of this section.

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