

# WEST VIRGINIA CODE: §33-10-5

## §33-10-5. Grounds for rehabilitation of domestic insurers.

The commissioner may apply to the court for an order appointing him or her as receiver of and directing him or her to rehabilitate a domestic insurer or of the United States branch of an alien insurer having trusteed assets in this state, upon one or more of the following grounds. That the insurer:

- (a) Is impaired or insolvent.
- (b) Has refused to submit to reasonable examination by the commissioner its property, books, records, accounts or affairs or those of any subsidiary or related company within the control of the insurer, or those of any person having executive authority in the insurer as far as they pertain to the insurer.
- (c) Has failed to comply with an order of the commissioner to make good an impairment of capital or surplus or both.
- (d) Has transferred or attempted to transfer substantially its entire property or business, or has entered into any transaction the effect of which is to merge substantially its entire property or business in that of any other insurer or other legal entity without having first obtained the written approval of the commissioner.
- (e) Has willfully violated its charter, articles of incorporation, or bylaws, or any law of this state or any valid order of the commissioner.
- (f) Has an officer, director or manager who has refused to be examined under oath concerning its affairs, for which purpose the commissioner is hereby authorized to conduct and to enforce by all appropriate and available means any such examination under oath in any other state or territory of the United States, in which any such officer, director or manager may then presently be, to the full extent permitted by the laws of such other state or territory, this special authorization considered.
- (g) Has been the subject of an application for the appointment of a receiver, trustee, custodian or sequestrator of the insurer or its property otherwise than pursuant to the provisions of this chapter, but only if such appointment has been made or is imminent and its effect is or would be to oust the courts of this state of jurisdiction hereunder.
- (h) Has consented to such an order through a majority of its directors, stockholders, members or subscribers.
- (i) Has failed to pay a final judgment rendered against it in this state upon any insurance contract issued or assumed by it, within thirty days after the judgment became final or within thirty days after the time for taking an appeal has expired or within thirty days after

dismissal of an appeal before final determination, whichever date is the later.

(j) Has been deemed in hazardous financial condition pursuant to the provisions of article thirty-four-a of this chapter.

WV Legislature