WEST VIRGINIA CODE: §33-12C-21

§33-12C-21. Legal or administrative procedures.

(a) Before any nonadmitted insurer files or causes to be filed any pleading in any court action, suit or proceeding or in any notice, order, pleading or process in an administrative proceeding before the commissioner instituted against the person or insurer, by services made as provided in this article, the insurer shall either:

(1) File with the clerk of the court in which the action, suit or proceeding is pending, or with the commissioner of insurance in administrative proceedings before the commissioner a bond with good and sufficient sureties, to be approved by the clerk or commissioner in an amount to be fixed by the court or commissioner sufficient to secure the payment of any final judgment which may be rendered in the action or administrative proceeding; or

(2) Procure a certificate of authority to transact the business of insurance in this state. In considering the application of an insurer for a certificate of authority, for the purposes of this paragraph the commissioner need not assert the provisions of section sixteen, article three of this chapter against the insurer with respect to its application if the commissioner determines that the company would otherwise comply with the requirements for a certificate of authority.

(b) The commissioner of insurance, in any administrative proceeding in which service is made as provided in this article, may in the commissioner's discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of subsection (a) of this section and to defend the action.

(c) Nothing in subsection (a) of this section shall be construed to prevent a nonadmitted insurer from filing a motion to quash a writ or to set aside service thereof made in the manner provided in this article, on the ground that the nonadmitted insurer has not done any of the acts enumerated in the pleadings.

(d) Nothing in subsection (a) of this section shall apply to placements of insurance which were lawful in the state in which the placement took place and which were not unlawful placements under the laws of this state. Without limiting the generality of the foregoing, nothing in subsection (a) of this section shall apply to a placement made pursuant to section five of this article.

WV Legislature