WEST VIRGINIA CODE: §33-20A-5

§33-20A-5. General powers.

(a) The association has, for purposes of this article and to the extent approved by the commissioner, the general powers and authority granted under the laws of this state to insurers licensed to transact the kinds of insurance as defined in chapter thirty-three, article one of this code.

(b) The association may take any necessary action to make available necessary insurance including, but not limited to, the following:

(1) Assess participating insurers amounts necessary to pay the obligations of the association, administration expenses, the cost of examinations and other expenses authorized under this article. The assessment of each member insurer for the kind or kinds of insurance designated in the plan shall be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year bear to the net direct written premiums of all members for the preceding calendar year. A member insurer may not be assessed in any year an amount greater than five percent of his net direct written premiums for the preceding calendar year. Each member insurer shall be allowed a premium tax credit at the rate of twenty percent per year for five successive years following termination of the association. Each member insurer shall be allowed a premium tax credit at the rate of twenty percent per year for five successive years following payment of the assessment by the member insurer for any deficit in the plan.

(2) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of the provisions of this article.

(3) Sue or be sued, including taking legal action necessary to recover any assessments for, on behalf of, or against participant insurers.

(4) Investigate claims brought against the fund and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims. Claims may be processed through the association's employees or through one or more member insurers or other persons designated as servicing facilities. Designation of a service facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer.

(5) Classify risks as may be applicable and equitable.

(6) Establish appropriate rates, rate classifications and rating adjustments, and file such rates with the commissioner as may be required. Rates, rating plans and any provision for recoupment shall be based upon the association's loss and expense experience and investment income from unearned premium and loss reserves. Premium rates, including

WV Legislature

initial premiums, shall be on an actuarially sound basis and shall be calculated to be self-supporting.

(7) Administer any type of reinsurance program for or on behalf of the association or any participating carriers.

(8) Pool risks among participating carriers.

(9) Issue and market through agents, policies of insurance providing coverage required by this article in its own name or on behalf of participating carriers.

(10) Administer separate pools, separate accounts, or other plans as may be deemed appropriate for separate carriers or groups of carriers.

(11) Invest, reinvest and administer all funds and moneys held by the association.

(12) Borrow funds needed by the association to effect the purposes of this section.

(13) Develop, effectuate and promulgate any loss prevention programs aimed at the best interests of the association and the insured public.

(14) Operate and administer any combination of plans, pools, reinsurance arrangements or other mechanisms as deemed appropriate to best accomplish the fair and equitable operation of the association for the purposes of making available essential insurance coverage.

(15) Provide for the method of recoupment of deficits that may be incurred by any plan pursuant to the plan of operation. In no event shall a deficit incurred by the association be charged directly or indirectly to any person other than insurers under its fire and extended coverage or essential insurance policy. The provisions of article seventeen, section nine of this chapter shall not apply to this article.

WV Legislature