WEST VIRGINIA CODE: §33-34-3

§33-34-3. Administrative supervision; order; review.

(a) An insurer may be subject to administrative supervision by the commissioner if upon examination or at any other time it appears in the commissioner's discretion that:

(1) The insurer's condition renders the continuance of its business hazardous to the public, to its insureds or to its creditors;

(2) The insurer has or appears to have exceeded its powers granted under its certificate of authority and applicable law;

(3) The insurer has failed to comply with the applicable provisions of this chapter or chapter twenty-three of this code;

(4) The business of the insurer is being conducted fraudulently; or

(5) The insurer gives its consent.

(b) If the commissioner determines that one or more of the conditions set forth in subsection (a) of this section exist, the commissioner shall enter an order placing the insurer under administrative supervision of the commissioner. The order shall:

(1) Notify the insurer of the commissioner's determination and set forth the conduct, conditions and grounds upon which the commissioner based the determination;

(2) Set forth all requirements necessary to abate the determination; and

(3) Notify the insurer that it is under the supervision of the commissioner and that the commissioner is applying and effectuating the provisions of the article.

(c) (1) If placed under administrative supervision, the insurer shall have sixty days, or another period of time as designated by the commissioner, to comply with the requirements of the commissioner subject to the provisions of this article.

(2) If it is determined after notice and hearing that conditions giving rise to the supervision still exist at the end of the supervision period specified above, the commissioner may enter an order to extend such period.

(3) If it is determined by the commissioner that conditions giving rise to the supervision have been corrected, the commissioner shall enter an order to release the insurer from supervision.

(d) (1) An insurer subject to an order placing the insurer under administrative supervision

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may contest and seek review of the order, or any extensions or modifications thereof, pursuant to the provisions of section thirteen, article two of this chapter. Every notice of hearing shall state the time and place of the hearing and the conduct, condition or ground upon which the commissioner based the order. Unless mutually agreed between the commissioner and the insurer, the hearing shall occur not less than ten days nor more than thirty days after notice is served.

(2) A hearing upon an order of the commissioner in which the commissioner is alleging, pursuant to subdivision (1), subsection (a) of this section that the insurer's condition renders the continuance of its business hazardous to the public, its insureds or its creditors shall be held privately unless the insurer requests a public hearing, in which case the hearing shall be public.

(3) During the period of supervision, the insurer may contest an action taken or proposed to be taken by the supervisor specifying the manner wherein the action being complained of would not result in improving the condition of the insurer.

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