WEST VIRGINIA CODE CHAPTER 33 ARTICLE 35

WV Legislature

§33-35-1. Definitions.

For the purposes of this article, the following words shall mean:

(a) "Insurer" means any insurance company or other insurer licensed to do business in this state. This includes, but is not limited to, any domestic insurer as defined in section six, article one of this chapter and includes any domestic stock insurance company, mutual insurance company, reciprocal insurance company, farmers' mutual fire insurance company, fraternal benefit society, hospital service corporation, medical service corporation, dental service corporation, health service corporation, health care corporation, health maintenance organization, captive insurance company or risk retention group.

(b) "Impaired" means a financial situation in which, based upon the requirements of this chapter for the preparation of the insurer's annual statement, the insurer's assets are less than the insurer's liabilities and the required reserves together with the insurer's minimum required capital and minimum required surplus as required by this chapter to be maintained to transact the type of business for which the insurer is authorized by this chapter to transact.

(c) "Chief executive officer" means the person, irrespective of their title, designated by the board of directors or board of trustees or other similar governing body of an insurer as the person charged with the responsibility and authority of administering and implementing the insurer's policies and procedures.

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§33-35-2. Duty to notify.

(a) Whenever an insurer is impaired, its chief executive officer shall immediately notify the commissioner in writing of such impairment and shall also immediately notify in writing all of the members of the board of directors, board of trustees or other similar governing body of the insurer.

(b) Any officer, director or trustee of an insurer shall immediately notify the person serving as chief executive officer of the impairment of such insurer in the event such officer, director, or trustee knows or has reason to know that the insurer is impaired.

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§33-35-3. Penalty.

(a) Any person who knowingly violates section two of this article is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $50,000 or be imprisoned in the county jail not more than one year, or both fined and imprisoned.

(b) Any person who knowingly:

(1) Conceals any property belonging to an insurer;

(2) Transfers or conceals in contemplation of a state insolvency proceeding his own property or property belonging to an insurer;

(3) Conceals, destroys, mutilates, alters or makes a false entry in any document which affects or relates to the property of an insurer or withholds any such document from a receiver, trustee or other officer of a court entitled to its possession; or

(4) Gives, obtains or receives a thing of value for acting or forbearing to act in any court proceeding, and any such act results in or contributes to an insurer becoming impaired or insolvent, is guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not more than five years.

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