WEST VIRGINIA CODE: §33-37-4

§33-37-4. Duties of insurers.

(a) The insurer shall have on file an independent audited financial statement or reports for the two most recent fiscal years that provide that the managing general agent has a positive net worth. If the managing general agent has been in existence for less than two fiscal years the managing general agent shall include financial statements or reports, certified by an officer of the managing general agent and prepared in accordance with generally accepted accounting procedures, for any completed fiscal years, and for any month during the current fiscal year for which financial statements or reports have been completed. An audited financial/annual report prepared on a consolidated basis shall include a columnar consolidating or combining worksheet that shall be filed with the report and include the following:

(1) Amounts shown on the consolidated audited financial report shall be shown on the worksheet;

(2) Amounts for each entity shall be stated separately; and

(3) Explanations of consolidating and eliminating entries shall be included.

(b) If a managing general agent establishes loss reserves, the insurer shall annually obtain the opinion of an actuary in a form consistent with the requirements for actuarial certifications as imposed upon the insurer by statute or rule of the commissioner attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the managing general agent. This required actuary's opinion is in addition to any other required loss reserve certification.

(c) The insurer shall at least semiannually conduct an on-site review of the underwriting and claims processing operations of the managing general agent.

(d) Binding authority for all reinsurance contracts or participation in insurance or reinsurance syndicates shall rest with an officer of the insurer who shall not be affiliated with the managing general agent.

(e) Within thirty days of entering into or terminating a contract with a managing general agent, the insurer shall provide written notification to the commissioner. Notices of entering into a contract with a managing general agent shall include a statement of duties which the applicant is expected to perform on behalf of the insurer, the lines of insurance for which the applicant is to be authorized to act and any other information the commissioner may request.

(f) An insurer shall review its books and records each quarter to determine if any producer

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as defined by subsection (c), section one of this article has become, by operation of subsection (d) of said section, a managing general agent as defined in that subsection. If the insurer determines that a producer has become a managing general agent pursuant to the above, the insurer shall promptly notify the producer and the commissioner of such determination and the insurer and producer must fully comply with the provisions of this article within thirty days thereafter.

(g) An insurer shall not appoint to its board of directors an officer, director, employee, subproducer or controlling shareholder of its managing general agents. This subsection does not apply to relationships governed by the Insurance Holding Company Systems Regulatory Act or the Business Transacted with Producer Controlled Property/Casualty Insurer Act.

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