WEST VIRGINIA CODE CHAPTER 33 ARTICLE 39

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§33-39-1. Report.

(a) Every insurer domiciled in this state shall file a report with the commissioner disclosing material acquisitions and dispositions of assets or material nonrenewals, cancellations or revisions of ceded reinsurance programs unless the acquisitions and dispositions of assets or material nonrenewals, cancellations or revisions of ceded reinsurance programs have been submitted to the commissioner for review, approval or information purposes pursuant to other provisions of this chapter.

(b) The report required in subsection (a) of this section is due within fifteen days after the end of the calendar month in which any of the foregoing transactions occur.

(c) One complete copy of the report, including any exhibits or other attachments filed as part thereof, shall be filed with:

(1) The Insurance Commissioner; and

(2) The national association of Insurance Commissioners.

(d) All reports obtained by or disclosed to the commissioner pursuant to this article shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the commissioner, the national association of Insurance Commissioners or any other person in accordance with section nineteen, article two of this chapter without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer who would be affected thereby notice and an opportunity to be heard, determines that the interest of policyholders, shareholders or the public will be served by the publication thereof, in which event the commissioner may publish all or any part thereof in such manner as he or she may consider appropriate.

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§33-39-2. Acquisitions and dispositions of assets.

(a) No acquisitions or dispositions of assets need be reported pursuant to section one of this article if the acquisitions or dispositions are not material. For purposes of this article, a material acquisition, or the aggregate of any series of acquisitions during any thirty-day period, is one that is nonrecurring and not in the ordinary course of business and involves more than five percent of the reporting insurer's total admitted assets as reported in its most recent statutory statement filed with the Insurance Commissioner. For purposes of this article, a material disposition, or the aggregate of any series of dispositions during any thirty-day period, is one that is nonrecurring and not in the ordinary course of business and involves more than five percent of the reporting insurer's total admitted assets as reported in its most recent statutory statement filed with the Insurance Commissioner.

(b) Asset acquisitions subject to this article include every purchase, lease, exchange, merger, consolidation, succession or other acquisition other than the construction or development of real property by or for the reporting insurer or the acquisition of materials for such purpose.

(c) Asset dispositions subject to this article include every sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment, whether for the benefit of creditors or otherwise, abandonment, destruction or other disposition.

(d) The following information is required to be disclosed in any report of a material acquisition or disposition of assets:

(1) Date of the transaction;

(2) Manner of acquisition or disposition;

(3) Description of the assets involved;

(4) Nature and amount of the consideration given or received;

(5) Purpose of, or reason for, the transaction;

(6) Manner by which the amount of consideration was determined;

(7) Gain or loss recognized or realized as a result of the transaction; and

(8) Name(s) of the person(s) from whom the assets were acquired or to whom they were disposed.

(e) Insurers are required to report material acquisitions and dispositions on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which utilizes a pooling arrangement or a one hundred percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and such insurer ceded substantially all of its direct and assumed business to a pool. An insurer is deemed to have ceded

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"substantially all" of its direct and assumed business to a pool if the insurer has less than $1 million of total direct plus assumed written premiums during a calendar year that are not subject to the pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than five percent of the insurer's capital and surplus. If a group of insurers reports on a consolidated basis as here allowed, the report should identify the individual insurers that are members of the group.

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§33-39-3. Nonrenewals, cancellations or revisions of ceded reinsurance programs.

(a) No nonrenewals, cancellations or revisions of ceded reinsurance programs need be reported pursuant to section one of this article if the nonrenewals, cancellations or revisions are not material. For purposes of this article, a material nonrenewal, cancellation or revision is one that affects for property and casualty business, including accident and health business when written as such, more than fifty percent of an insurer's ceded written premium, or for life, annuity and accident and health business, more than fifty percent of the total reserve credit taken for business ceded, on an annualized basis as indicated in the insurer's most recently filed statutory statement: Provided, That no filing is required if the insurer's ceded written premium or the total reserve credit taken for business ceded represents, on an annualized basis, less than ten percent of direct plus assumed written premium or ten percent of the statutory reserve requirement prior to any cession, respectively.

(b) Subject to the criteria outlined above, a report is to be filed without regard to which party has initiated the nonrenewal, cancellation or revision of ceded reinsurance whenever one or more of the following conditions exist:

(1) The entire cession has been canceled, nonrenewed or revised and ceded indemnity and loss adjustment expense reserves after any nonrenewal, cancellation or revision represent less than fifty percent of the comparable reserves that would have been ceded had the nonrenewal, cancellation or revision not occurred;

(2) An authorized or accredited reinsurer has been replaced on an existing cession by an unauthorized reinsurer; or

(3) Collateral requirements previously established for unauthorized reinsurers have been reduced. For example, the requirement to collateralize incurred but not reported claim reserves has been waived with respect to one or more unauthorized reinsurers newly participating in an existing cession.

(4) Subject to the materiality criteria, for purposes of subdivisions (2) and (3) above, a report shall be filed if the result of the revision affects more than ten percent of the cession.

(c) The following information is required to be disclosed in any report of a material nonrenewal, cancellation or revision of a ceded reinsurance program:

(1) Effective date of the nonrenewal, cancellation or revision;

(2) The description of the transaction with an identification of the initiator thereof;

(3) Purpose of, or reason for, the transaction; and

(4) If applicable, the identity of the replacement reinsurers.

(d) Insurers are required to report all material nonrenewals, cancellations or revisions of

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ceded reinsurance agreements on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which utilizes a pooling arrangement or a one hundred percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer ceded substantially all of its direct and assumed business to a pool. An insurer is deemed to have ceded "substantially all" of its direct and assumed business to a pool if the insurer has less than $1 million of total direct plus assumed written premiums during a calendar year that are not subject to the pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than five percent of the insurer's capital and surplus. If a group of insurers reports on a consolidated basis as here allowed, the report shall identify the individual insurers that are members of the group.

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§33-39-4. Effective date.

This article shall take effect on January 1, 1996.

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