WEST VIRGINIA CODE: §33-4-14

§33-4-14. Financial statement filings; annual and quarterly statements; required format; foreign insurers; agents of the commissioner.

(a) Each licensed insurer shall annually on or before March 1, unless the time is extended by the commissioner for good cause shown, file with the commissioner a true statement of its financial condition, transactions and affairs as of the preceding December 31. Such statement shall be on the appropriate National Association of Insurance Commissioners annual statement blank; shall be prepared in accordance with the National Association of Insurance Commissioners annual statement instructions handbook; and shall follow the accounting practices and procedures prescribed by the National Association of Insurance Commissioners accounting practices and procedures manual as amended: Provided, That each licensed insurer shall also file true statements of financial condition on a more frequent basis if the commissioner so orders. The commissioner shall establish the frequency, due date and form acceptable to him or her for such filings: Provided, however, That the statement of an alien insurer shall relate only to its transactions and affairs in the United States unless the commissioner requires otherwise.

(b) Each domestic insurer shall also file with the commissioner a true quarterly statement of its financial condition, transactions and affairs as of March 31, June 30, and September 30, of each year. Quarterly statements shall be due forty-five days after the end of each quarter. All quarterly statements shall be submitted on the appropriate National Association of Insurance Commissioners quarterly statement blank; shall be prepared in accordance with the National Association of Insurance Commissioners quarterly statement instructions; and shall follow the accounting practices and procedures prescribed by the National Association of Insurance Commissioners accounting practices and procedures manual, as amended. The commissioner may subject any licensed insurer to the requirements of this section whenever the commissioner deems it necessary.

(c) The commissioner may require that all or part of the information contained in the annual statement blank and the quarterly statement blanks be submitted in a computer-readable form compatible with the electronic data processing system of the department.

(d) Each domestic, foreign and alien insurer, organization or corporation that is subject to the requirements of this section shall annually, on or before March 1 each year, and forty-five days after the end of the first, second and third calendar quarters, file with the National Association of Insurance Commissioners a copy of its annual statement convention blank and the quarterly statement blanks, along with such additional filings as prescribed by the commissioner and shall pay the fee established by the National Association of Insurance Commissioners for filing, review or processing of the information. The information filed with the National Association of Insurance Commissioners shall be in the same format and scope as that required by the commissioner and shall include the signed jurat page and any other required information. Any amendments and addenda to the annual statement filing and

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quarterly statement filings subsequently filed with the commissioner shall also be filed with the National Association of Insurance Commissioners.

(e) Foreign insurers that are domiciled in a state which has a law substantially similar to subsection (a) of this section shall be deemed in compliance with this section.

(f) In the absence of actual malice, members of the National Association of Insurance Commissioners, their duly authorized committees, subcommittees and task forces, their delegates, National Association of Insurance Commissioners employees and all others charged with the responsibility of collecting, reviewing, analyzing and disseminating the information developed from the filing of the annual statement convention blanks and the quarterly statement blanks shall be acting as agents of the commissioner under the authority of this article and shall not be subject to civil liability for libel, slander or any other cause of action by virtue of their collection, review, and analysis or dissemination of the data and information collected from the filings required hereunder.

(g)(1) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the National Association of Insurance Commissioners insurance regulatory information system, and all actuarial reports, work papers and actuarial summaries submitted by insurers in conjunction with their annual financial statements is confidential by law and privileged. These documents are not subject to disclosure pursuant to chapter twenty-nine-b of this code, are not subject to subpoena and are not subject to discovery or admissible as evidence in any private civil action: Provided, That nothing in this section may be construed to limit the ability of parties in a civil action to discover such information from insurers under the Rules of Civil Procedure.

(2) This subsection shall not be construed to limit the commissioner's authority to release the documents to the Actuarial Board for Counseling and Discipline (ABCD), so long as the material is required for the purpose of professional disciplinary proceedings and the ABCD establishes procedures satisfactory to the commissioner for preserving the confidentiality of the documents; nor shall this section be construed to limit the commissioner's authority to use the documents, materials or other information in furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

(3) Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to subdivision (1) of this subsection.

(4) In order to assist in the performance of the commissioner's duties, the commissioner:

(A) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to subparagraph (1) of this subsection with other state, federal and international regulatory agencies, and with state, federal and international law enforcement authorities, provided that the recipient agrees to

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maintain the confidentiality and privileged status of the document, material or other information and has the legal authority to maintain confidentiality; and

(B) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information.

(h) The commissioner may suspend, revoke or refuse to renew the certificate of authority of any insurer failing to file its annual statement or the quarterly statement blanks, or any other statement of financial condition required by this section, when due or within any extension of time which the commissioner, for good cause, may have granted.

(i) Any variance to the requirements of this section shall require the express authorization of the commissioner.

(j) The commissioner shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to effectuate the requirements of this article.

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