

# WEST VIRGINIA CODE: §33-40-5

## **§33-40-5. Authorized control level event.**

(a) "Authorized control level event" means any of the following events:

(1) The filing of an RBC report by the insurer which indicates that the insurer's total adjusted capital is greater than or equal to its mandatory control level RBC but less than its authorized control level RBC;

(2) The notification by the commissioner to the insurer of an adjusted RBC report that indicates the event in subdivision (1) of this subsection, provided the insurer does not challenge the adjusted RBC report under section seven of this article;

(3) If, pursuant to section seven of this article, the insurer challenges an adjusted RBC report that indicates the event in subdivision (1) of this subsection, notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge;

(4) The failure of the insurer to respond, in a manner satisfactory to the commissioner, to a corrective order (provided the insurer has not challenged the corrective order) under section seven of this article; or

(5) If the insurer has challenged a corrective order under section seven of this article and the commissioner has, after a hearing, rejected the challenge or modified the corrective order, the failure of the insurer to respond, in a manner satisfactory to the commissioner, to the corrective order subsequent to rejection or modification by the commissioner.

(b) In the event of an authorized control level event with respect to an insurer, the commissioner shall:

(1) Take such actions as are required under section four of this article regarding an insurer with respect to which a regulatory action level event has occurred; or

(2) If the commissioner deems it to be in the best interests of the policyholders and creditors of the insurer and of the public, take such actions as are necessary to cause the insurer to be placed under regulatory control under article ten of this chapter. In the event the commissioner takes such actions, the authorized control level event shall be deemed sufficient grounds for the commissioner to take action under said article, and the commissioner shall have the rights, powers and duties with respect to the insurer as are set forth in said article. In the event the commissioner takes actions under this subdivision pursuant to an adjusted RBC report, the insurer shall be entitled to such protections as are afforded to insurers under the provisions of article ten of this chapter pertaining to summary proceedings.