# WEST VIRGINIA CODE: §33-5-20

**§33-5-20. Borrowing by insurers.**

(a) A domestic stock or mutual insurer may borrow money to defray the expenses of its organization, provide it with surplus funds, or for any purpose required by its business, upon a written agreement that such money is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement. The agreement may provide for interest at the rate agreed upon by such insurer and its lender. Such interest shall not constitute a liability of the insurer as to its funds other than such excess of surplus unless so stipulated in the agreement.

(b) Money so borrowed, together with the interest thereon if so stipulated in the agreement, shall not form a part of the insurer's legal liabilities except as to its surplus in excess of the amount thereof stipulated in the agreement, or be the basis of any setoff; but until repaid, financial statements filed or published by the insurer shall show as a footnote thereto the amount thereof then unpaid together with any interest thereon accrued but unpaid.

(c) Such insurer in advance of any such loan shall file with the commissioner a statement of the purposes of the loan and a copy of the proposed loan agreement, which shall be subject to the commissioner's approval. The loan and agreement shall be deemed approved thirty days after date of filing with the commissioner, unless within such thirty-day period the insurer is notified in writing of the commissioner's disapproval and the reasons therefor. The commissioner shall so disapprove any such proposed loan or agreement if he finds that the loan is reasonably unnecessary or excessive for the purpose intended, or that the terms of the loan agreement are not fair and equitable to the parties, and to other similar lenders, if any, to the insurer, or is not fair to policyholders, or that the information so filed by the insurer is inadequate.

(d) Any such loan to a mutual insurer or substantial portion thereof shall be repaid by the insurer when no longer reasonably necessary for the purpose originally intended. No repayment of such a loan shall be made by a mutual insurer unless in advance approved by the commissioner.

(e) This section shall not apply to loans obtained by the insurer in ordinary course of business from banks and other financial institutions, nor to loans secured by pledge of assets.

WV Legislature