WEST VIRGINIA CODE: §33-5-22

§33-5-22. Impairment of capital or assets.

(a) If the capital stock of a domestic stock insurer becomes impaired, or the assets of a domestic mutual insurer are less than its liabilities and the minimum amount of surplus required of it by this chapter for authority to transact the kinds of insurance being transacted, the commissioner shall at once determine the amount of the deficiency and serve notice upon the insurer to make good the deficiency within ninety days after service of such notice.

(b) The deficiency may be made good in cash or in assets eligible under this chapter for the investment of the insurer's funds; or if a stock insurer by reduction of the insurer's capital to an amount not below the minimum required for the kinds of insurance thereafter to be transacted; or if a mutual insurer, by amendment of its license to cover only such kind or kinds of insurance for which the insurer has on deposit sufficient surplus.

(c) If the deficiency is not made good and proof thereof filed with the commissioner within such ninety-day period, the insurer shall be deemed insolvent and the commissioner shall institute delinquency proceedings against it as authorized by this chapter. If such deficiency exists because of increased loss reserves required by the commissioner, or because of disallowance by the commissioner of certain assets or reduction of the value at which carried in the insurer's accounts, the commissioner may in his discretion and upon application and good cause shown, extend for not more than an additional one hundred eighty days the period within which such deficiency may be so made good and such proof thereof so filed.

(d) The ninety-day notice required in subsection (a) of this section shall only affect the grounds for rehabilitation of domestic insurers and grounds for liquidation as set forth in subdivision (c), section five, article ten of this chapter, and shall not affect the rights and duties of the commissioner to take action under any other grounds for rehabilitation of domestic insurers or grounds for liquidation as set forth in article ten of this chapter.

WV Legislature