WEST VIRGINIA CODE: §33-8-14

§33-8-14. Same - Tangible personal property under lease.

(a) Subject to the limitations of section ten of this article, an insurer may acquire tangible personal property or equity interests in tangible personal property located or used wholly, or in part, within a domestic jurisdiction either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by subdivision (4), section five of this article, joint ventures, stock of an investment subsidiary or membership interests in a limited liability company, trust certificates or other similar instruments.

(b) Investments acquired under subsection (a) of this section are eligible only if:

(1) The property is subject to a lease or other agreement with a person whose rated credit instruments in the amount of the purchase price of the personal property the insurer could then acquire under section eleven of this article; and

(2) The lease or other agreement provides the insurer the right to receive rental, purchase or other fixed payments for the use or purchase of the property, and the aggregate value of the payments, together with the estimated residual value of the property at the end of its useful life and the estimated tax benefits to the insurer resulting from ownership of the property, shall be adequate to return the cost of the insurer's investment in the property, plus a return considered adequate by the insurer.

(c) The insurer shall compute the amount of each investment under this section on the basis of the out-of-pocket purchase price and applicable related expenses paid by the insurer for the investment, net of each borrowing made to finance the purchase price and expenses, to the extent the borrowing is without recourse to the insurer.

(d) An insurer may not acquire an investment under this section if, as a result of and after giving effect to the investment, the aggregate amount of all investments then held by the insurer under this section would exceed:

(1) Two percent of its admitted assets; or

(2) One half of one percent of its admitted assets as to any single item of tangible personal property.

(e) For purposes of determining compliance with the limitations of section ten of this article, investments acquired by an insurer under this section shall be aggregated with those acquired under section eleven of this article, and each lessee of the property under a lease referred to in this section shall be considered the issuer of an obligation in the amount of the investment of the insurer in the property determined as provided in subsection (c) of this

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section.

(f) Nothing in this section is applicable to tangible personal property lease arrangements between an insurer and its subsidiaries and affiliates under a cost sharing arrangement or agreement permitted under article twenty-seven of this chapter.

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