WEST VIRGINIA CODE: §33-8-22

§33-8-22. Same - Reserve requirements.

(a) Subject to all other limitations and requirements of this article, a property and casualty, financial guaranty, mortgage guaranty or accident and sickness insurer shall maintain an amount at least equal to one hundred percent of adjusted loss reserves and loss adjustment expense reserves, one hundred percent of adjusted unearned premium reserves and one hundred percent of statutorily required policy and contract reserves in:

(1) Cash and cash equivalents;

(2) High and medium grade investments that qualify under section twenty-four or twenty-five of this article;

(3) Equity interests that qualify under section twenty-six of this article and that are traded on a qualified exchange;

(4) Investments of the type set forth in section thirty of this article if the investments are rated in the highest generic rating category by a nationally recognized statistical rating organization recognized by the SVO for rating foreign jurisdictions and if any foreign currency exposure is effectively hedged through the maturity date of the investments;

(5) Qualifying investments of the type set forth in subdivision (2), (3) or (4) of this subsection that are acquired under section thirty-two of this article;

(6) Interest and dividends receivable on qualifying investments of the type set forth in subdivisions (1) through (5), inclusive, of this subsection; or

(7) Reinsurance recoverable on paid losses.

(b) For purposes of determining the amount of assets to be maintained under subsection (a) of this section, the calculation of adjusted loss reserves and loss adjustment expense reserves, adjusted unearned premium reserves and statutorily required policy and contract reserves shall be based on the amounts reported as of the most recent annual or quarterly statement date.

(1) Adjusted loss reserves and loss adjustment expense reserves shall be equal to the sum of the amounts derived from the following calculations:

(A) The result of each amount reported by the insurer as losses and loss adjustment expenses unpaid for each accident year for each individual line of business; multiplied by

(B) The discount factor that is applicable to the line of business and accident year published by the internal revenue service under Section 846 of the Internal Revenue Code, as

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amended, for the calendar year that corresponds to the most recent annual statement of the insurer; minus

(C) Accrued retrospective premiums discounted by an average discount factor. The discount factor shall be calculated by dividing the losses and loss adjustment expenses unpaid after discounting (the product of subparagraphs (i) and (ii) of this paragraph) by loss and loss adjustment expense reserves before discounting subparagraph (i) of this paragraph.

(D) For purposes of these calculations, the losses and loss adjustment expenses unpaid shall be determined net of anticipated salvage and subrogation, and gross of any discount for the time value of money or tabular discount.

(2) Adjusted unearned premium reserves shall be equal to the result of the following calculation:

(A) The amount reported by the insurer as unearned premium reserves; minus

(B) The admitted asset amounts reported by the insurer as:

(i) Premiums in and agents' balances in the course of collection, accident and sickness premiums due and unpaid and uncollected premiums for accident and sickness premiums;

(ii) Premiums, agents' balances and installments booked but deferred and not yet due; and

(iii) Bills receivable, taken for premium.

(3) Statutorily required policy and contract reserves also include, in the case of a financial guaranty insurer, or a mortgage guaranty insurer the contingency reserves, and with respect to accident and sickness insurers the additional or contingency reserves, prescribed by the NAIC in the accounting practices and procedures manual as amended.

(c) Monitoring and reporting. --

A property and casualty, financial guaranty, mortgage guaranty or accident and health sickness insurer shall supplement its annual statement with a reconciliation and summary of its assets and reserve requirements as required in subsection (a) of this section. A reconciliation and summary showing that an insurer's assets as required in said subsection are greater than or equal to its undiscounted reserves referred to in said subsection are sufficient to satisfy this requirement. Upon prior notification, the commissioner may require an insurer to submit a reconciliation and summary with any quarterly statement filed during the calendar year.

(d) If a property and casualty, financial guaranty, mortgage guaranty or accident and sickness insurer's assets and reserves do not comply with subsections (a) and (b) of this section, the insurer shall notify the commissioner immediately of the amount by which the reserve requirements exceed the annual statement value of the qualifying assets, explain

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why the deficiency exists and within thirty days of the date of the notice propose a plan of action to remedy the deficiency.

(e) If the commissioner determines that an insurer is not in compliance with subsection (a) of this section, the commissioner shall require the insurer to eliminate the condition causing the noncompliance within a specified time from the date the notice of the commissioner's requirement is mailed or delivered to the insurer. If an insurer fails to comply with the commissioner's requirement the insurer is considered to be in hazardous financial condition, and the commissioner may take one or more of the actions authorized by law as to insurers in hazardous financial condition.

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