WEST VIRGINIA CODE CHAPTER 33 ARTICLE 9

WV Legislature

§33-9-1. Deposits of insurers.

The State Treasurer of West Virginia shall accept and hold in trust, when made through the commissioner, deposits of securities or funds by insurers as follows:

(a) Deposits required for a license to transact insurance in West Virginia.

(b) Deposits of domestic, foreign, or alien insurers when made pursuant to the laws of other states, provinces, and countries as prerequisite for authority to transact insurance in such state, province, or country.

(c) Deposits in such additional amounts as are permitted to be made by section six of this article.

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§33-9-2. Purpose of deposits.

Such deposits shall be held for purposes as follows:

(a) When the deposit is required for authority to transact insurance in West Virginia the deposit shall be held for the protection of all the insurer's policyholders and creditors within the United States.

(b) When the deposit is required pursuant to the laws of another state, province, or country, the deposit shall be held for such purposes as is required by such laws, and as specified by the commissioner at the time the deposit is made.

(c) When the deposit is required pursuant to the retaliatory provisions, section sixteen of article three of this chapter, the deposit shall be held for purposes as specified in the commissioner's order requiring the deposit.

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§33-9-3. Assets eligible for deposit.

(a) All deposits required for a license to transact insurance in West Virginia shall consist of cash or any combination of the government obligations described in paragraph (A) or (B), subdivision (1), subsection (a), section eleven, article eight of this chapter or paragraph (A), (B) or (C), subdivision (3) of said subsection.

(b) All deposits required pursuant to the laws of another state, province or country, or pursuant to the retaliatory provision, section sixteen, article three of this chapter, shall consist of those assets that are required or permitted by the laws, or as required pursuant to the retaliatory provision.

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§33-9-4. Trust companies as depositories; state responsible for safekeeping and return of deposits.

(a) Upon request of the insurer, the state Treasurer may designate any solvent trust company or other solvent financial institution having trust powers domiciled in this state as the treasurer's depository to receive and hold any such deposit. Any such deposit so held shall be at the expense of the insurer.

(b) The state of West Virginia shall be responsible for the safekeeping and return of all funds and securities deposited pursuant to this chapter with the state Treasurer or in any depository so designated by him

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§33-9-5. Rights of solvent insurer.

So long as the insurer remains solvent and complies with this chapter it may:

(a) Demand, receive, sue for and recover the income from the securities or cash deposited,

(b) Exchange and substitute for the deposited cash or securities, or any part thereof, cash or eligible securities of equivalent or greater value, and

(c) Inspect, at reasonable times, any such deposit.

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§33-9-6. Excess deposits.

An insurer may so deposit cash or eligible securities in an amount exceeding its deposit required or otherwise permitted under this chapter, such excess deposit to be held for the protection of such insurer's policyholders and creditors. During the solvency of the insurer any such excess deposit or part thereof shall be released to the insurer upon its request. During the insolvency of the insurer such excess deposit shall be released only as provided in section seven of this article.

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§33-9-7. Release of deposits -- Generally.

Any deposit made in this state under this chapter shall be released and returned:

(a) To the insurer upon extinguishment by authorized reinsurance or otherwise of substantially all liability of the insurer for the security of which the deposit is held;

(b) To the insurer to the extent such deposit is in excess of the amount required; or

(c) Upon proper order of a court of competent jurisdiction to the receiver, conservator, rehabilitator or liquidator of the insurer, or to any other properly designated official or officials who succeed to the management and control of the insurer's assets.

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§33-9-8. Release of deposits -- Order of commissioner required.

No such release of deposited funds shall be made except upon application to and written order of the commissioner. The commissioner shall have no personal liability for any such release of any such deposit or part thereof so made by him in good faith.

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§33-9-9. Deposit not subject to levy; exception.

No judgment creditor or other claimant of an insurer shall levy upon any deposit held pursuant to this chapter, or upon any part thereof; except, that such levy may be permitted if so specified in the commissioner's order requiring the deposit pursuant to the retaliatory provision, section sixteen of article three of this chapter.

WV Legislature