January 2001

WEST VIRGINIA INFORMATIONAL LETTER

NO. 126

TO: ALL INSURERS DOING BUSINESS IN WEST VIRGINIA

RE: HOUSE BILL 4303
PREMIUM TAX CREDIT FOR INVESTMENT IN WEST VIRGINIA SECURITIES

The purpose of this Informational Letter is to provide guidance to insurance companies regarding the credit against the premium taxes levied by Sections 14 and 14a of Article 3, Chapter 33 of the West Virginia Code for investment in West Virginia securities. Insurance Companies claiming the credit in 1999 have previously been mailed copies of House Bill 4303.

On March 18, 2000, the Legislature passed House Bill 4303 amending Section 14b of Article 3, Chapter 33 of the West Virginia Code. The amendment is effective from the date of passage. This amendment made two significant changes. First, the types of investments defined as "West Virginia securities" were reduced to three categories. Second, a proviso was added which sets forth three additional requirements an insurance company must satisfy in order to be eligible for the insurance premium tax credit.

The first significant change was the reduction of the types of eligible West Virginia securities. Under the new law, West Virginia securities are limited to the following invested assets:

1. Real Estate located in West Virginia;
2. Bonds or interest-bearing notes or obligations of the State of West Virginia; and
3. Bonds or interest-bearing notes or obligations of any county, district, school district or independent school district, municipality or any other political subdivision of West Virginia.

In order to be eligible for the credit, the Annual Statement of the insurance company must demonstrate that at the close of the calendar year (December 31, 2000) it had at least twenty-five percent (25%) of its admitted assets invested in West Virginia securities as defined in Section 14b.

In addition to the 25% investment in West Virginia securities requirement, an insurance company claiming the credit must satisfy the following three new requirements: (a) the insurance company must employ less than twenty full-time employees as of the end of the tax year; (b) the insurance company must have total net taxable premiums of less than ten million dollars; and (c) a minimum of fifty percent of its West Virginia business must be written in under-served **and** high risk areas of West Virginia.

Full time employees are those employees working full time for the insurance company and receiving a W-2 Withholding Statement from the insurance company. For purposes of the premium tax credit for investment in West Virginia securities, "net written premiums" shall mean "gross written premiums, including dividends (by whatever name called) on participating policies applied in reduction of premiums, less premiums returned to policyholders because of cancellation of policies. . ." as defined in West Virginia Code §§ 33-3-14 and 33-3-14a. The insurance company will have to provide sufficient justification attached to the tax credit form that demonstrates that it wrote at least fifty percent (50%) of its West Virginia business in under-served **and** high risk areas.

The new law is effective for the entire tax year of 2000. Insurance companies must apply year end annual statement information to determine eligibility for the credit. A copy of Form No. A-133 *CREDIT AGAINST PREMIUM TAX FOR INVESTMENT IN WEST VIRGINIA SECURITIES* is attached to this letter. Insurance companies are advised to carefully review Section 14c of Chapter 33, Article 3 of the West Virginia Code, and make any necessary adjustments to avoid the imposition of the penalty provided for a failure to refusal to pay estimated taxes as required by this Section.

Hanley C. Clark
Insurance Commissioner