

**West Virginia Office of the Insurance Commissioner**  
**REVIEW REQUIREMENTS CHECKLIST**

Annuities

REVIEW REQUIREMENTS	REFERENCE	COMMENTS
<b>Informational Letters (IL#), WV State Code (33)</b>		
<b>General Requirements</b>		
Fees	§33-6-34	The Filing Fee is \$100.00 per form filing, regardless of the number of forms.
Submission, filing	IL# 163	All filings must be submitted through SERFF (System for Electronic Rate and Form Filing). Filing fees must be remitted via EFT (Electronic Funds Transfer) through SERFF.
Signature of Company Official	§33-6-15	Every insurance policy shall be executed in the name of and on behalf of the insurer by its officer, attorney in fact, employee, or representative duly authorized by the insurer. A facsimile signature of any such executing individual may be used in lieu of an original signature, the countersignature shall be in original handwriting. Electronic signatures are allowable on electronic policies.
Time Frame	§33-6-8(b)	The filing must be filed 60 days prior to use. Analysts make every effort to resolve any issues within 60 days and approve the filing, unless before the 60 days expires the filing is disapproved.
<b>Application</b>		
Part of Contract	§33-13-5	The Application if endorsed upon or attached to the policy when issued, is part of the entire contract between the parties and all statements contained therein shall, in the absence of fraud, be deemed representations and not warranties.
<b>The Policy</b>		
Specifications	§33-6-11	Except for Group Contracts, the annuity contract should specify the name of the insurance company; the parties to the contract, purchaser, annuitant, beneficiary; the funding method for the period of accumulation; the date Annuity Benefit Payments Begin, immediate or deferred; the Investment configuration, fixed (guaranteed) rate of return, variable (non-guaranteed) or interest. Sensitive (fixed rate) with excess interest payable; Pay-out Method, specified term of years or for life, or a combination of both.
Rule	§33-6-14	The contract must not be construed under the laws of another state.
<b>Individual Annuities</b>		
Required Provisions	§33-13-18 through §33-13-23	These six (6) Standard Provisions apply to Individual Annuity and Pure Endowment Contracts per 33-13-17. These Required Provisions apply, only as specified, for reversionary annuities, survivorship annuities or group annuities.
Grace Period	§33-13-18	There shall be a period of grace of not less than thirty-one (31) days, within which any stipulated payment to the insurer falling due after the first may be made, subject at the option of the insurer to an interest charge thereon at a rate to be specified in the contract but not exceeding six percent (6%) per annum for the number of days of grace elapsing before such payment, during which period of grace the contract shall continue in full force; but if a claim arises under the contract before the overdue payment to the insurer or the deferred payments of the current contract year are made, the amount of such payments, with interest, may be deducted from any amount payable under the contract in settlement.
Incontestability	§33-13-19	If any statements other than those relating to age, sex and identity are required as a condition to issuing an annuity or pure endowment contract, there shall be a provision that the contract shall be incontestable after it has been in force for a period of two years from its date of issue subject to any further conditions of the code section.
Entire Contract	§33-13-20	In an annuity or pure endowment contract, there shall be a provision that the contract shall constitute the entire contract between the parties or, if a copy of the application is endorsed upon or attached to the contract when issued, a provision that the contract and the application therefor shall constitute the entire contract between the parties.

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Misstatement	§33-13-21	If the age or sex of the person or persons upon whole life or lives the contract is made or if any of them has been misstated, the amount payable or benefits accruing under the contract shall be such as the stipulated payment or payments to the insurer would have purchased according to the correct age or sex and if the insurer has made any overpayment on account of such misstatement, a specified amount may be charged against the next succeeding payment to be made by the insurer under the contract.
Dividends	§33-13-22	If an annuity or pure endowment contract is participating, there shall be a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the contract.
Reinstatement	§33-13-23	In an annuity or pure endowment contract, there shall be a provision that the contract may be reinstated at any time within one year from the default in making stipulated payments to the insurer, unless the cash surrender value has been paid, but all overdue stipulated payments and any indebtedness to the insurer on the contract shall be paid or reinstated with interest thereon at a rate to be specified in the contract but not exceeding six percent (6%) per annum payable annually.
Contestability After Reinstatement	§33-13-26	An annuity contract may be contested after reinstatement on account of fraud or misrepresentation of facts material to the reinstatement only for the same period (2 years) following reinstatement and with the same conditions and exceptions as the policy provides with respect to contestability after original issuance.
Non-forfeiture Benefit Plan	§33-13-30a	<p>(c)(1) Upon cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections (5), (6), (7), (8) and (10);</p> <p>(c)(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (5), (6), (8) and (10). The company shall reserve the right to defer the payment of such cash surrender benefit for a period of six months after demand therefor with surrender of the contract;</p> <p>(c)(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits; and</p> <p>(c)(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.</p> <p>Any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.</p>
Non-forfeiture Benefit Plan	§33-13-30a(d) through (m)	Additional specifications are provided by the sub-sections of the Non-forfeiture Law for Individual Deferred Annuities.
<b>Reversionary Annuities</b>		

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Payments in Settlement	§33-13-24(1), §33-13-18	Shall contain the provision that provides an exception to Article 18, that the insurer may at its option provide for an equitable reduction of the amount of the annuity payments in settlement of an overdue or deferred payment in lieu of providing for deduction of such payments from an amount payable upon settlement under the contract.
Reinstatement	§33-13-24(2)	There shall be a provision that the contract may be reinstated at any time within three years from the date of default in making stipulated payments to the insurer, upon production of evidence of insurability satisfactory to the insurer, and upon the payment of all overdue payments and any indebtedness to the insurer on the account of the contract with interest as to both payments and indebtedness at a rate specified in the contract but not exceeding six percent (6%) per annum compounded annually.
<b>Group Annuities</b>		
Grace Period	§33-14-23 through §33-14-27, §33-14-23	In group annuity contracts there shall be a period of grace of thirty-one (31) days within which any stipulated payment may be remitted by the policyholder to the insurer. After one year from the date of policy issue, such late payment may be made subject, at the option of the insurer, to an interest charge at a rate specified in the contract, which shall not exceed six percent (6%) per annum for the number of days of grace elapsing before such payment.
Entire Contract	§33-14-24	In group annuity contracts there shall be a provision specifying the documents which shall constitute the entire contract between parties. These documents shall be only (a) the contract, (b) the contract together with the application of the holder of which a copy is attached thereto, or (c) the contract together with the application of the holder and the individual applications of annuitants on file with the insurer and referred to therein.
Misstatement	§33-14-25	In group annuity contracts there shall be a provision, with an appropriate reference thereto in the certificate, for the equitable adjustment of the benefits payable under the contract or the stipulated payments thereunder, if it be found that the sex, age, service, salary or any other fact determining the amount of any stipulated payment or the amount or date of payment of any benefit with respect to any annuitant covered thereby has been misstated.
Ascertainment of Benefits: Cash Surrender Value	§33-14-26	In group annuity contracts there shall be a provision, with appropriate reference thereto in the certificate, specifying the nature and basis of ascertainment of the benefits which will be available to an annuitant who contributes to the cost of the annuity and the conditions of payment thereof in the event of either the termination of employment of the annuitant, except by death, or the discontinuance of stipulated payments under the contract. Such provisions shall, in either of such events, make available to an annuitant who contributed to the cost of the annuity a paid-up annuity payable commencing at a fixed date in an amount at least equal to that purchased by the contributions of the annuitant, as shown by a schedule in the contract for that purpose, based upon the same mortality table, rate of interest and loading formula used in computing the stipulated payments under such contract.
Death Benefits	§33-14-26, §33-13-30a	In lieu of such paid-up annuity, the insurer may at its option, pay a cash surrender value at least equal to: (a) The amount of reserve attributable to the annuitant's contributions less a surrender charge not exceeding thirty-five percent of the average annual contribution made by the annuitant; or (b) The amount which would be payable as a death benefit at the date of surrender.  The company shall reserve the right to defer the payment of such cash surrender benefit for a period of six months after demand therefore with surrender of the contract.
Death of Annuitant Before Commencement	§33-14-26	In case of the death of an annuitant before the commencement date of the annuity, the insurer shall pay a death benefit at least equal to the aggregate amount of the annuitant's contributions without interest. If any benefits are available to the holder in either of such events, the contract shall contain a provisions specifying the nature and basis of ascertainment of such benefits.

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Certificates	§33-14-27	In group annuity contracts there shall be a provision that the insurer will issue to the holder of the contract for delivery to each annuitant who contributes thereunder an individual certificate setting forth a statement in substance of the benefits to which he is entitled under such contract.
<b>Group Annuity</b>		
Plans for Employees of Educational Institutions	§33-14-29	The boards of education, the teacher's retirement board, the West Virginia board of education, and the board of regents and their agencies shall be the holders of the master policies under which annuities are insured for the benefit of their employees who elect to participate in a "tax sheltered group annuity plan" established pursuant to section 403(b) of the Internal Revenue Code of 1954 and amendments and successor provisions thereto. No such plan shall be adopted unless the board of education first secures the written approval of the insurance commissioner. No group annuity contract shall be awarded, approved, or issued by any county board of education without competitive bid.
<b>Variable Contracts</b>		
Separate Accounts	§33-13A-1	The domestic insurer may establish one or more separate accounts to provide for life insurance or annuities and benefits incidental thereto, payable in fixed or variable amounts subject to restrictions specified. These restrictions are specified in 33-13A-1 (a) thru (g).
Policy Provisions	§33-13A-2	The policy must contain a statement of procedures to follow in determining the dollar amount of the variable benefits. On the first page include a statement that the benefits and this contract are on a variable basis.
License Requirements	§33-13A-3	The Company must be licensed in this state to sell life insurance or annuity products. The WV Code specifies other requirements in Section 3(a) thru 3(c) which assure that the company is qualified to issue variable contracts.
Regulatory Authority	§33-13A-4	Sole authority is given to the Insurance Commissioner to regulate the issuance and sale of variable contracts.
Applicable Provisions	§33-13A-5	Any individual Variable Life or Variable Annuity contract shall contain grace, reinstatement and non-forfeiture provisions appropriate to this contract. Group Variable Life insurance or annuity contracts shall contain grace period appropriate to that contract.  All provisions of Article 13 apply to Individual Life Policies and Annuities unless excepted. All provisions of Article 14 apply to Group Life Policies and Annuities unless excepted. In case of Variable Annuity contracts: Article 13 excepts sections 18, 23, 24 and 30a ; Article 14 (Group Life) excepts section 24. In case of Variable Life insurance policies Article 13 excepts sections 3, 8 to 12 and 30; Article 14 excepts section 9.
Tax Qualified Annuities	Internal Revenue Code of 1986, As amended...	Individual Retirement Annuity Rider or Endorsement responds to Section 408(B). Roth Individual Retirement Annuity Rider or Endorsement responds to Section 408A. Pension / Profit Sharing Plan Rider or Endorsement responds to Section 401(a).  These Riders or Endorsements address provisions: Owner and Annuitant / Contribution Limits / Rollovers / Required Minimum Distributions / Creditor Claims / Withdrawals.