WEST VIRGINIA OFFICE OF THE INSURANCE COMMISSIONER
Surety Insurance Review Standards Checklist

Surety		
REVIEW REQUIREMENTS	**REFERENCE**	**COMMENTS**
FORMS		
Filing Standards	**REFERENCE**	**COMMENTS**
Filing Requirements	§33-6-8(a)	No insurance policy form shall be delivered or issued for delivery in WV unless it has been filed with and to the extent required, approved by the commissioner.
Exceptions	**§33-6-8(a)**	**These requirements do not apply to the surety bond forms.**
Contents	**REFERENCE**	**COMMENTS**
Additional Contents	§33-6-12	A policy may contain additional provisions if they are: 1. Consistent with Chapter 33. 2. Required to be inserted by the laws of the insurer's domicile. 3. Necessary, because of the manner in which the insurer is constituted or operated, in order to state the rights and obligations of the parties. 4. Desired by the insurer and not prohibited by law nor in conflict with any provisions required to be included therein.
Charter, Bylaws, Other Documents	§33-6-13	No policy shall contain any provision purporting to make any portion of the charter, bylaws, or other constituent document of the insurer a part of the contract unless such portion is set forth in the full policy.
Signature	§33-6-15	Every 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.
Non-WV Laws	§33-6-14	No policy may contain any condition, stipulation or agreement requiring such policy to be construed according to the laws of any other state or country, except as necessary to meet the requirements of the motor vehicle financial responsibility laws or compulsory disability benefit laws of such other state or country.
Legal Action Against Insurer	§33-6-14	No policy may contain any condition, stipulation or agreement preventing the bringing of an action against the insurer for more than six months after the cause of action accrues or limiting the time within which an action may be brought to a period of less than two years from the time the cause of action accrues in connection with all insurances. Any such condition, stipulation or agreement shall be void, but this shall not affect the validity of the other provisions of the policy.
Payment of Loss Provisions	§114-14-6 (6.11)	Every insurer shall pay any amount finally agreed upon in settlement of all or part of any claim no later than 15 working days from the receipt of agreement by the insurer, or from the date of the performance by the claimant of any condition set by such agreement, whichever is later.
Arbitration and Appraisal Provisions	WVIL 119-B	Arbitration and appraisal provisions are not required but if they are included the language must be as favorable to the insured as that set forth in WVIL 119-B.

Financial Institution Insurance Sales	REFERENCE	COMMENTS
Product Tying	§33-11A-8	Cannot require or imply that purchase of an insurance product is required as a condition of the lending of money or extension of credit. Cannot offer an insurance product in combination with other products unless all the products are available separately from the institution.
Disclosures	§33-11A-9	Must prominently disclose to customers, in writing, in clear and concise language, and orally during any customer contact, that insurance offered, recommended, sponsored, or sold: 1. Is not a deposit; 2. Is not insured by the federal deposit insurance corporation or, where applicable, the National Credit Union Share Insurance Fund; 3. Is not guaranteed by any insured depository institution; and 4. Where appropriate, involves investment risk, including potential loss of principal. Must disclose to customers in writing, in clear and concise language, that the insurance product may be purchased from an agent or broker of the customer's choice and that this will not affect the customer's credit relationship with the person. Must obtain a written acknowledgment of receipt by the customer of such disclosures, including the date of receipt and the customer's name, address, and account number, prior to or at the time of any application for insurance sold by the person. This shall be in a separate document.
Insurance in Connection with a Loan	§33-11A-11	Credit and insurance transactions must be completed independently and through separate documents. A loan for premiums on required insurance shall not be included in the primary credit without the written consent of the customer.
Unfair Trade Practices	**REFERENCE**	**COMMENTS**
Unfair or Deceptive Practices	§33-11-4	The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance (full definitions and explanations are available in the referenced sections): 1. Misrepresentation and false advertising of insurance policies 2. False information and advertising generally 3. Defamation 4. Boycott, coercion and intimidation 5. False statements and entries 6. Stock operations and advisory board contracts as an inducement to insurance 7. Unfair discrimination 8. Rebates 9. Unfair claim settlement practices 10. Failure to maintain complaint handling procedures 11. Misrepresentation in insurance applications 12. Failure to maintain privacy of consumer financial and health information

WEST VIRGINIA OFFICE OF THE INSURANCE COMMISSIONER
Surety Insurance Review Standards Checklist

Unfair Trade Practices	REFERENCE	COMMENTS
Standards for the Acknowledgment of Pertinent Communications	§114-14-5	1. Acknowledgment of notices of claims – within 15 working days 2. Answer of inquiries from insurance department – within 15 working days 3. Replies to other pertinent communications – within 15 working days 4. Provisions of assistance to first party claimants – Provide necessary claim forms, instructions, and reasonable assistance within 15 working days of notification of a claim.
Standards for Prompt Investigations and Fair and Equitable Settlements Applicable to All Insurers	§114-14-6	All insurers must comply with the following regulations (full explanations are available in §114-14-6): 1. Investigation of Claims – Investigation must commence within 15 working days of receiving notice of the claim. Must provide a notification of all items, statements and forms, if any, which the insurer reasonably believes will be required of the claimant within 15 working days of receiving notice of the claim. 2. Offers of Settlement – In cases where there is no dispute over coverage or liability, it is the duty of the insurer to offer claimants amounts which are fair and reasonable as shown by its investigation of the claim, providing the amounts offered are within policy limits and provisions. 3. Denial of Claims – No insurer shall deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to the provision, condition or exclusion is included in the denial. 4. Records of Denial of Claims – If a denial is made by any other means than writing, an appropriate notation shall be made in the claim file of the insurer.

Unfair Trade Practices	REFERENCE	COMMENTS
Standards for Prompt Investigations and Fair and Equitable Settlements Applicable to All Insurers	§114-14-6	5. Notice of Necessary Delay in Investigating Claims – If the insurer needs more time with a claim, it shall notify the claimant in writing within 15 working days after receipt of the proofs of loss. If the investigation remains incomplete, the insurer shall send notification to the claimant every 45 days thereafter until the investigation is completed. The letter shall contain a reason for additional time. 6. Liability of Others – Insurers may not refuse to settle claims on the basis that responsibility for payment should be assumed by others except as may otherwise be provided by policy provisions. 7. Denial of Claims for Failure to Exhibit Property – No insurer shall deny a claim for failure to exhibit the insured property without proof of demand by the insurer and refusal by the claimant to exhibit the property. 8. Separation of Claims – If there is no dispute as to one or more elements of a claim; payment for such element(s) shall be made notwithstanding the existence of disputes as to other elements of the claim if payment can be made without prejudice to either party. 9. Time for Payment of Claims – Insurers must pay the amount agreed upon no later than 15 working days from the receipt of the agreement or from the date of the performance by the claimant of any condition set by such agreement, whichever is later. 10. Notice of Applicable Time Limitations – No person shall negotiate for settlement of a claim with a claimant who is neither an attorney nor represented by an attorney without giving the claimant written notice that the claimant's rights may be affected by a statute of limitations or a policy or contract time limit. Such notice shall be given to first party claimants 30 days before, and to third party claimants 60 days before the date on which the time limit may expire. 11. Avoidance of Payment – Where liability and damages are reasonably clear, no person shall recommend that third party claimants make claim under their own policies solely to avoid paying claims under an insurer's insurance policy or insurance contract. 12. Unreasonable Travel – No person shall require a claimant to travel unreasonably to either inspect a replacement motor vehicle or to obtain a repair estimate.

WEST VIRGINIA OFFICE OF THE INSURANCE COMMISSIONER
Surety Insurance Review Standards Checklist

Surety		
REVIEW REQUIREMENTS	**REFERENCE**	**COMMENTS**
RATES		
Rate Filing	**REFERENCE**	**COMMENTS**
Fee, filing	§33-6-34	The Filing Fee is $75.00 per Rate filing and $75 per Rule filing and applies on a per company basis.
Submission, filing	WVIL (Informational Letter) 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.
Basic Requirements	§33-20-4	Must file every manual of classifications established pursuant to §33-20-3(c)(2). Must file every manual, minimum, class rate, rating schedule or rating plan and every other rating rule and every modification of any of the foregoing which the insurer proposes to use. Filing should state proposed effective date and indication of the character and extent of the coverage contemplated.
Abstract	§114-67	File Appropriate Abstract. Available in Regulations-Series 67. Appendix E (Loss Cost)- PCA-LCR-2009 and/or Appendix F (Rate/Rule)- PCA-R-2009
Suggested Lead Time for filings	§33-20-4(e) §33-20-4(h)	Non-commercial (personal lines) insurance should be filed at least sixty days prior to either the effective date requested or to the date that our final disposition needs to be known. Commercial insurance should be filed at least thirty days prior to either the effective date requested or to the date that our final disposition needs to be known.
Information for Support	§33-20-4(b)	Information furnished in support of a filing may include: 1. Experience or judgment of the insurer or rating organization making the filing 2. Interpretation of any statistical data relied upon 3. Experience of other insurers or rating organizations 4. any other relevant factors
Rating Organizations	§33-20-4(c)	An insurer may, but is not required to, satisfy its obligation to make such filing by becoming a member of or a subscriber to a licensed rating organization which makes such filings and by authorizing the commissioner to accept such filings on its behalf.
Rate Making	**REFERENCE**	**COMMENTS**
Provisions for Rate Making	§33-20-3	All rates shall be made in accordance with the following provisions: 1. Due consideration must be given to past and prospective loss experience, to catastrophe hazards, to dividends, to past and prospective expenses, and to all other relevant factors within and outside West Virginia. 2. Rates must not be excessive, inadequate or unfairly discriminatory. 3. Manual, minimum, class rates, rating schedules or rating plans shall be made and adopted.

WEST VIRGINIA OFFICE OF THE INSURANCE COMMISSIONER
Surety Insurance Review Standards Checklist

Rate Filing	**REFERENCE**	**COMMENTS**
Filing Requirements for Members of Rating Organizations	§33-20-7(b), *WVIL* 54	If a member or subscriber deviates in any way from the approved rating organization filing, the insurer must make written application to the commissioner for permission to file a deviation from the class rates, schedules, rating plans or rules for any kind of insurance, class of risk, or a combination thereof. This application must specify the basis for modification and a copy must also be sent simultaneously to such rating organization. The commissioner will give consideration to the available statistics and the applicable principles for rate making as provided in §33-20-3. Initial or amended loss cost multipliers or modifiers must be filed independently. The following will be considered deviations: 1. Use of rates higher or lower than those approved for the rating organization. 2. Non-adoption of an approved rating organization filing. 3. Delay in the implementation of an approved rating organization filing. 4. Modification of a deviation currently in use.
Waiting Period	§33-20-4(e) §33-20-4(h)	Each Personal Lines filing shall be on file for a waiting period of 60 days. Commercial Lines rate filings become effective upon first use after filing if not disapproved by the Commissioner within 30 days of receipt.
Exceptions to Waiting Period	§33-20-4(f)	Any special filing with respect to a surety bond required by law, court, executive order, or by order, rule or regulation of a public body, not covered by a previous filing, will become effective when filed.
Requirements	**REFERENCE**	**COMMENTS**
Consent-to-Rate Approval	*WVIL* 40	Any rate in excess of an approved rate filing must be filed with and approved by the Insurance Commission. Consent-to-Rate filings must comply with the following: 1. All applications must be on an exact copy of the form provided in *WVIL* 40. 2. The original application form must be signed in ink by both the agent and the insured. 3. The insured's complete address, telephone number and the exact location must be indicated. 4. Both the existing approved and the requested rates must be indicated. If Consent-to-Rate is disapproved, the approved rate becomes applicable. 5. The specific reason(s) for Consent-to-Rate must be given *in detail*. 6. The completed original and one copy must be submitted to the Rates and Forms Division of the West Virginia Insurance Commissioner 10 days prior to the effective date of the coverage.
Disapproval	§33-20-5	If a filing is not found to meet all requirements within the waiting period, the commissioner will send written notice of disapproval with a reason for disapproval. If at any time after the review period a filing is found not to meet all requirements, an order specifying a reason and a date when the filing is no longer effective. Any person, insurer, or rating organization my demand a hearing in response to a disapproval. All rate filings must meet all requirements set forth in Article 20, Chapter 33 of the West Virginia Code (§33-20).