

TRUST AGREEMENT CHECKLIST FOR WEST VIRGINIA

The form is to be completed as part of the application process. The Trust Agreement will be compared with the form and the applicant contacted if there are any questions or further clarification is needed.

Governing Laws and/or Regulations: West Virginia Code (W. Va. Code), § 33-4-15a;
West Virginia Code of State Regulations (W. Va. C.S.R.), §114-40-6(6.3)

Trust Agreement between _____
and _____

Dated _____

W. Va. Code, § 33-4-15a(c)(4):
Provides for the payment of valid claims for business written in the United States.
agreement cite: _____

W. Va. Code, § 33-4-15a(d)(3); W. Va. C.S.R., §114-40-6(6.3)(a)
Provides that claims shall be valid and enforceable out of funds in trust to the extent such claims remain unsatisfied thirty (30) days after entry of the final order of any federal or state court of competent jurisdiction in the United States.
agreement cite: _____

W. Va. Code, § 33-4-15a(d)(3); W. Va. C.S.R., §114-40-6(6.3)(b)
Vests legal title to the Assets of the Trust Fund in the Trustee for the benefit of the reinsurer/grantor's United States ceding insurers, assigns and successors in interest.
agreement cite: _____

W. Va. Code, § 33-4-15a(d)(3); W. Va. C.S.R., § 114-40-6(6.3)(d)
Provides that the Trust Fund shall be subject to examination by the Domiciliary Commissioner and any Non-Domiciliary Commissioner.
agreement cite: _____

W. Va. Code, § 33-4-15a(d)(3); W. Va. C.S.R., § 114-40-6(6.3)(d)
Provides that it shall remain in effect for as long as the reinsurer/grantor shall have outstanding obligations due under reinsurance agreements subject to the Trust Agreement.
agreement cite: _____

W. Va. Code, § 33-4-15a(d)(4); W. Va. C.S.R., § 114-40-6(6.3)(e)

Provides that no later than February 28 of each year the Trustee shall report in writing to the Domiciliary Commissioner and Non-Domiciliary Commissioners the balance of the Trust and listing the Assets of the Trust Fund at the preceding year end, and shall certify the date of termination of the Trust Agreement, if planned, or certify that the Trust Agreement shall not expire prior to the following December 31st.

agreement cite: _____

W. Va. C.S.R., § 114-50-6(6.4)(a)

Provides that if the Trust Fund is inadequately funded because it contains an amount less than required by the laws and/or regulations of the Domiciliary Commissioner and any Non-Domiciliary Commissioner, or if the reinsurer/grantor has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its country of domicile, the Trustee shall comply with an order of the Domiciliary Commissioner or with an order of a United States federal or state court of competent jurisdiction directing the Trustee to transfer to the Domiciliary Commissioner or other designated receiver all of the Assets of the Trust Fund.

agreement cite: _____

W. Va. C.S.R., § 114-50-6(6.4)(b)

Provides that, in the event of the reinsurer/grantor's insolvency, the Assets of the Trust Fund shall be distributed by the Domiciliary Commissioner in compliance with applicable state law.

agreement cite: _____

W. Va. C.S.R., § 114-50-6(6.6)

Provides that the Assets of the Trust Fund are required to be comprised of, and maintained with cash or securities satisfying the laws and/or regulations of the Domiciliary Commissioner, which laws and/or regulations are substantially equivalent to the laws and/or regulations of any Non-Domiciliary Commissioner.

agreement cite: _____

W. Va. C.S.R., § 114-50-6(6.3)(f)

Provides that the Domiciliary Commissioner may not approve any amendment to the Trust Agreement unless all Non-Domiciliary Commissioners have been provided with thirty (30) days' prior written notice of the proposed amendment and have not objected.

agreement cite: _____