

## **West Virginia Insurance Guaranty Association**

### **Frequently Asked Questions**

#### **Q: What is the West Virginia Insurance Guaranty Association?**

A: The West Virginia Insurance Guaranty Association (WVIGA) is a non-profit association of insurance companies licensed to sell property and liability insurance in West Virginia. It was created by West Virginia law to provide some level of protection for certain policyholders and claimants if an insurance company licensed to sell property and liability policies in West Virginia becomes insolvent and is placed into liquidation.

#### **Q: What does it mean when an insurance company is insolvent and placed into liquidation?**

A: This is similar to bankruptcy, except the process is managed by state courts and state insurance departments. It basically means that the insurance company has been found by a court to have insufficient funds to pay all of its claims. A court orders the company into liquidation, and the insurance department in the company's home state becomes the Liquidator of the company, in order to liquidate its assets for the benefit of policyholders and claimants. Claims payments are usually stopped, and all of the company's insurance policies are cancelled.

#### **Q: Do I need to get replacement coverage if my insurer becomes insolvent and is placed into liquidation?**

A: Usually yes. The Liquidator of the insolvent insurer should mail you a notice about the liquidation, informing you that any coverage not already cancelled or expired on its own will terminate in 30 days. You should seek new insurance coverage, if needed, to make sure you do not have any gaps in your coverage.

#### **Q: What about the premium I've already paid for a policy that is now cancelled before its original expiration period?**

A: Any portion of the premium you paid for a period of coverage that you did not get because of the cancellation of your policy would create an unearned premium claim. For example, if you paid an annual premium of \$1,000, but your policy was cancelled after six months because of the liquidation, you would be entitled to a refund of this unearned premium in the amount of \$500. Unearned premium claims are covered and payable by

the WVIGA on a per policy basis, provided it exceeds \$100. Payment of unearned premium claims will often be delayed, because we rely on the Liquidator to get us the proper documentation so that we can determine the amount of the unearned premium that is due. Once we get the appropriate data, your unearned premium claim will be paid as soon as possible.

**Q: What protection do I have for other claims if my property or liability insurer is found to be insolvent and ordered into liquidation?**

A: The WVIGA provides limited protection of your property and liability insurance benefits. It was not meant to supply full replacement of all benefits of your insurance policy, but instead is meant to reduce your financial loss from the liquidation. This limited protection is fully described in West Virginia Code article 26 and is summarized in the questions and answers that follow.

**Q: What kinds of insurance policies are protected by the WVIGA?**

A: Most forms of commonly available property and liability insurance policies, such as auto policies, homeowners policies, and most common business property and liability policies are protected. We do not cover title insurance, surety, disability, mortgage guaranty, and ocean marine insurance. We also do not cover life insurance, health insurance, or annuities, but limited protection for those products is provided by the West Virginia Life & Health Insurance Guaranty Association (WVLHIGA). See their website in Links for more details of their coverage.

**Q: Are all policies that you do cover protected fully?**

A: No. The maximum payable by the WVIGA on a claim is the lesser of your policy limits or \$300,000. The WVIGA is not obligated to pay any claim that does not exceed \$100.00. If your policy has a deductible, it would still apply. Many claims will be covered fully, but some claims will be subject to our claims limits or other limitations provided by law. Workers compensation claims payments are not subject to the above limitations.

**Q: Are there any further limits on WVIGA coverage?**

A: Yes. Policyholders or claimants must first exhaust any other insurance that is available to pay any portion of their claim or damages. Any amount payable by any other insurance is subtracted from any amount payable by the WVIGA. For example, if you have a bodily injury claim against an insured of an insolvent insurer for \$25,000, but your health insurance has paid \$10,000 of your medical bills, the maximum payable by the WVIGA would be \$15,000. Also, if you were harmed by an insured of an insolvent auto insurer, you must first exhaust your own collision coverage and uninsured motorists coverage, if any, before any amount is payable by the WVIGA. The WVIGA is the payer of last resort after all other available insurance coverage is fully exhausted. Insurance companies are not permitted to seek payment directly or indirectly from the WVIGA. This means that they cannot require you to reimburse them for amounts that would have been covered by the insolvent insurer's policy.

**Q: Is everyone protected by the WVIGA?**

A: No. The WVIGA only provides protection for residents of West Virginia. All other states have similar organizations that protect their own citizens. If you are a West Virginia resident who has a claim against an out-of-state insured of an insolvent insurer, you must first seek coverage from the guaranty fund in the insured's state. For workers compensation claims, the WVIGA provides protection to West Virginia resident claimants. Any amount payable by any other guaranty association is subtracted from any amount payable by the WVIGA.

**Q: Am I protected from the insolvency of all insurers?**

A: No. We cover only the insolvency of property and liability insurers who were licensed by, and authorized to do business in, the State of West Virginia at the time the policy was issued or at the time of the insured event. We do not cover policies issued on a surplus lines basis by non-licensed insurers.

**Q: What happens if a portion of my claim is not payable by the WVIGA?**

A: Any amount that remains unpaid by the WVIGA on a valid claim remains as a claim against the insolvent insurer, so you should complete the Proof Of Claim form that you will likely get from the Liquidator. You may then get all or a portion of the remainder of

your claim paid by the Liquidator, depending on the amount of the insolvent insurer's assets. However, payment from the Liquidator is likely to be delayed for a number of years.

**Q: Is there any time limit on when I can file a claim with the WVIGA?**

A: Yes. We must receive notice of your claim before the date set by the Liquidation court to file claims in the estate of the insolvent insurer (usually one year).

**Q: How do I give you notice of my claim?**

A: The insolvent insurer will usually send all open West Virginia claim files to us for handling, and that is all the notice we need. We will contact you when we receive your file. If you have a new claim that was not reported to the insurer before its liquidation, you should notify us directly. No special form is needed – just a report of the actual facts of the specific claim event. If you believe you have an existing claim, and you have not heard from us after a few months, you should contact our office to be sure we have notice of your claim.

**Q: If I have been sued, and the insolvent insurer was providing a lawyer to defend me, will the WVIGA continue to defend me?**

A: Usually yes, subject to our review of your claim to determine if a defense was properly covered by your policy. We may continue to use the same lawyer who you were already using, or we may choose to assign the case to a new lawyer. If covered by your policy, we will pay your legal fees in addition to the underlying claim up to our limits.

**Q: Will there be delays in the handling of my claim?**

A: Some delays are likely, since we must first obtain the files from the insolvent insurer and have time to review those files internally. Oftentimes, the files are in poor condition when we receive them. If you are a defendant in a lawsuit being defended by the insolvent insurer, the WVIGA Act allows us to have your case stayed for up to six months to get up to speed on your claim. We will make every effort to quickly identify and expedite the handling of any hardship cases, such as when your auto is in the

repair shop and can't be released until your claim is paid. Be patient, and we will handle your claim as soon as practicable. We will make every effort to ensure that workers compensation periodic indemnity claims continue to be paid without interruption.

**Q: Where do you get the money to pay claims?**

A: All property and liability insurance companies licensed in West Virginia must be members of our Association as a condition of doing business in West Virginia. When a member insurer is ordered into liquidation, we can assess our other member companies to raise the funds needed to pay our claims and expenses. Companies pay assessments based on their share of the insurance marketplace in West Virginia. Assessments are limited. We can only assess our member insurers in any one year 2.0% of their West Virginia premium in the year prior to the insolvency. This is usually sufficient to pay all claims within the WVIGA limits.

**Q: What if I want to learn more about the WVIGA?**

A: The information in this FAQ is only meant to be general in nature. You should refer to our complete statute listed in this website for full information. If there is any inconsistency between this FAQ and any applicable law, then such law will control. You may also contact the WVIGA directly for further information.