SENATE BILL NO. 1078

92ND GENERAL ASSEMBLY

AN ACT

To repeal section 382.210, RSMo, and to enact in lieu thereof one new section relating to notice of extraordinary dividends in insurance holding company systems.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 382.210, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 382.210, to read as follows:

382.210. 1. No insurer subject to registration under section 382.100 shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until thirty days after the director has received notice of the declaration thereof and has not within such period disapproved such payment, or the director has approved the payment within such thirty-day period.   For purposes of this section, **net income excludes net realized capital gains to the extent that realized capital gains exceed realized capital losses, and** an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of dividends or distributions made within the period of twelve consecutive months ending on the date on which the proposed dividends are scheduled for payment or distribution:

(1) For life **[**insurance companies and**],** title **[**insurance companies**] and property and casualty insurance companies**, such amount exceeds the greater of ten percent of the insurer's surplus as regards policyholders as of the thirty-first day of December next preceding, or the net gain from operations of the insurer, if the insurer is a life insurer, or the net investment income, if the insurer is a title insurer, **or the net income if the insurer is a property and casualty insurer,** for the twelve-month period ending the thirty-first day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities;

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

(2) For all other insurers, such amount exceeds the lesser of ten percent of the insurer's surplus as regards policyholders as of the thirty-first day of December next preceding, or the net investment income for the twelve-month period ending the thirty-first day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

2. A life **[**or**],** title**, or property and casualty** insurer subject to registration under section 382.100 may only pay a shareholder dividend from earned surplus. With the prior approval of the director, a dividend may be declared from other than earned surplus.

3. No life **[**or**],** title**, or property and casualty** insurer subject to registration under section 382.100 shall pay any extraordinary dividend unless, after the transaction is completed, the company's surplus as regards policyholders is reasonable in relation to the company's outstanding liabilities and adequate to its financial needs. In making this determination, the director shall use the factors found in section 382.200 and may consider:

(1) The quality of the company's earnings and the extent to which the reported earnings include extraordinary items; or

(2) The recent past and projected future trend in the company's surplus as regards policyholders.

4. Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution which is conditional upon the director's approval thereof, and the declaration shall confer no rights upon shareholders until the director has approved the payment of the dividend or distribution, or the director has not disapproved the payment within the thirty-day period referred to above.

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