

together with that of other dividends or distributions made within the preceding twelve months exceed the greater of:

(1) (I) [Ten (10)] 10 percent, except for insurance subsidiaries of the Medical Mutual Liability Insurance Society of Maryland (Article 48A, Subtitle 36 of the Code) which shall be [five (5)] 5 percent, of the insurer's surplus as regards policyholders as of the 31st day of December next preceding[,] IF THE REMAINING SURPLUS AS REGARDS POLICYHOLDERS AFTER PAYMENT OF ANY SUCH DIVIDEND WILL BE LESS THAN THE SUM OF \$10,000,000 PLUS 10 PERCENT OF THE INSURER'S ADMITTED ASSETS; OR

(II) 25 PERCENT OF THE INSURER'S SURPLUS AS REGARDS POLICYHOLDERS AS OF THE 31ST DAY OF DECEMBER NEXT PRECEDING, IF THE REMAINING SURPLUS AS REGARDS POLICYHOLDERS AFTER PAYMENT OF ANY SUCH DIVIDEND WILL BE EQUAL TO OR GREATER THAN THE SUM OF \$10,000,000 PLUS 10 PERCENT OF THE INSURER'S ADMITTED ASSETS; or

(2) (I) [The] FROM JULY 1, 1986 THROUGH DECEMBER 31, 1987, THE net gain from operation of the insurer, if the insurer is a life insurer, or 100 PERCENT OF the net investment income, if the insurer is not a life insurer, for the twelve month period ending the 31st day of December next preceding[, but shall not include pro rata distributions of any class of the insurer's own securities.];

(II) FROM JANUARY 1, 1988 THROUGH DECEMBER 31, 1988, THE NET GAIN FROM OPERATION OF THE INSURER, IF THE INSURER IS A LIFE INSURER, OR 50 PERCENT OF THE NET INVESTMENT INCOME, IF THE INSURER IS NOT A LIFE INSURER, FOR THE 12-MONTH PERIOD ENDING THE 31ST DAY OF DECEMBER NEXT PRECEDING; AND

(III) FROM JANUARY 1, 1989 AND THEREAFTER, THE NET GAIN FROM OPERATION OF THE INSURER, IF THE INSURER IS A LIFE INSURER, OR THE NET INCOME, IF THE INSURER IS NOT A LIFE INSURER, FOR THE 12-MONTH PERIOD ENDING THE 31ST DAY OF DECEMBER NEXT PRECEDING.

(B-1) IN DETERMINING WHETHER A DIVIDEND OR DISTRIBUTION IS EXTRAORDINARY UNDER SUBSECTION ~~(B)(2)~~ (B)(2)(III) OF THIS SECTION, AN INSURER MAY INCLUDE POSITIVE NET INCOME FROM THE PREVIOUS 5 CALENDAR YEARS THAT HAS NOT ALREADY BEEN PAID OUT AS DIVIDENDS.

499.

All information, documents and copies thereof obtained by or disclosed to the Commissioner or any other person in the course of an examination or investigation made pursuant to this subtitle and all information reported pursuant to this subtitle, shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the Commissioner, THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, or any other person without the prior written consent of the insurer to which it