

THE COMMISSIONER SHALL KEEP THE NOTICE REQUIRED BY SUBSECTION (A) OF THIS SECTION CONFIDENTIAL UNTIL THE PAYMENT OR DISTRIBUTION DATE.

(D) ORDER NOT TO PAY DIVIDEND.

IF THE COMMISSIONER FINDS THAT, AFTER THE PAYMENT OR DISTRIBUTION TO SHAREHOLDERS UNDER THIS SECTION, THE INSURER'S SURPLUS AS REGARDS POLICYHOLDERS WOULD BE INADEQUATE OR COULD LEAD THE INSURER TO A HAZARDOUS FINANCIAL CONDITION, THE COMMISSIONER MAY ORDER THAT THE DIVIDEND NOT BE PAID.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48A, § 497(d).

In subsections (a), (b)(2), and (c) of this section, references to a "distribution" and a "distribution" date are added for consistency.

In subsection (a) of this section, the phrase "[e]xcept as provided in § 7-706 of this subtitle" is added to indicate that exceptions exist.

In subsection (c) of this section, the reference to the notice "required by subsection (a) of this section" is added for clarity.

In subsection (d) of this section, the phrase "under this section" is added for clarity.

Defined terms: "Commissioner" § 1-101
"Insurer" § 1-101

7-706. SAME — EXTRAORDINARY DIVIDENDS AND DISTRIBUTIONS.

(A) "EARNED SURPLUS" DEFINED.

(1) IN THIS SECTION, "EARNED SURPLUS" MEANS THE PART OF SURPLUS THAT, AFTER DEDUCTION OF ALL LOSSES, REPRESENTS THE NET EARNINGS, GAINS, OR PROFITS THAT HAVE NOT BEEN DISTRIBUTED TO SHAREHOLDERS AS DIVIDENDS, TRANSFERRED TO STATED CAPITAL, TRANSFERRED TO CAPITAL SURPLUS, OR APPLIED TO OTHER PURPOSES ALLOWED BY LAW.

(2) IN THIS SECTION, "EARNED SURPLUS" DOES NOT INCLUDE UNREALIZED CAPITAL GAINS OR REEVALUATION OF ASSETS.

(B) DETERMINATION GENERALLY.

EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IN DETERMINING WHETHER AN EXTRAORDINARY DIVIDEND OR EXTRAORDINARY DISTRIBUTION EXISTS UNDER THIS SECTION, AN INSURER SHALL:

(1) EXCLUDE PRO RATA DISTRIBUTIONS OF ANY CLASS OF THE INSURER'S OWN SECURITIES; AND