

(5) THE COMMISSIONER.

REVISOR'S NOTE: This section is new language substituted for former Art. 48A, § 500(e).

The revision clarifies that this section is intended as a provision conferring standing on certain persons to initiate action rather than a directive to a court. Accordingly, the former reference to "proof" of such violation is deleted as unnecessary.

In item (2) of this section, the reference to a stockholder of the "issuer" is substituted for the former reference to a stockholder of the "issue" to correct a typographical error.

- Defined terms: "Commissioner" § 1-101
- "Insurance holding company" § 7-101
- "Insurer" § 1-101
- "Person" § 1-101
- "Subsidiary" § 7-101

7-806. SAME — RECOVERY OF PAYMENTS AND DISTRIBUTIONS.

(A) IN GENERAL.

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WHEN AN ORDER FOR LIQUIDATION, CONSERVATION, OR REHABILITATION OF A DOMESTIC INSURER IS ENTERED, THE RECEIVER APPOINTED UNDER THE ORDER MAY RECOVER FOR THE DOMESTIC INSURER THE FOLLOWING DISTRIBUTIONS AND PAYMENTS MADE WITHIN 1 YEAR BEFORE THE PETITION FOR LIQUIDATION, CONSERVATION, OR REHABILITATION WAS FILED:

(I) FROM ANY PARENT CORPORATION, HOLDING COMPANY, AFFILIATE, OR PERSON THAT OTHERWISE CONTROLLED THE DOMESTIC INSURER, THE AMOUNT OF DISTRIBUTIONS, OTHER THAN DISTRIBUTIONS OF SHARES OF THE SAME CLASS OF STOCK, PAID BY THE DOMESTIC INSURER ON ITS CAPITAL STOCK; AND

(II) ANY PAYMENT IN THE FORM OF A BONUS, TERMINATION SETTLEMENT, OR EXTRAORDINARY LUMP SUM SALARY ADJUSTMENT MADE BY THE DOMESTIC INSURER OR ITS SUBSIDIARIES TO A DIRECTOR, OFFICER, OR EMPLOYEE.

(2) A DISTRIBUTION IS NOT RECOVERABLE UNDER THIS SECTION IF THE PARENT OR AFFILIATE SHOWS THAT WHEN THE DISTRIBUTION WAS PAID:

(I) THE DISTRIBUTION WAS LAWFUL AND REASONABLE; AND

(II) THE DOMESTIC INSURER DID NOT KNOW AND COULD NOT REASONABLY HAVE KNOWN THAT THE DISTRIBUTION MIGHT ADVERSELY AFFECT THE ABILITY OF THE DOMESTIC INSURER TO FULFILL ITS CONTRACTUAL OBLIGATIONS.