

ACTIVITIES INTO RISK AND NONRISK BUSINESS FOR THE PURPOSE OF DETERMINING THE CORPORATION'S INCOME THAT IS DERIVED FROM EARNED PREMIUM AND OTHER SOURCES.

(D) LARGER SURPLUS REQUIRED.

IF THE COMMISSIONER DETERMINES AFTER A HEARING THAT A LARGER SURPLUS IS NECESSARY FOR THE PROTECTION OF SUBSCRIBERS TO A NONPROFIT HEALTH SERVICE PLAN, THE COMMISSIONER MAY REQUIRE A CORPORATION AUTHORIZED UNDER THIS SUBTITLE TO MAINTAIN A SURPLUS IN AN AMOUNT GREATER THAN THE AMOUNT REQUIRED BY SUBSECTION (B) OF THIS SECTION.

(E) EXCESSIVE SURPLUS; DISTRIBUTION.

(1) THE SURPLUS OF A CORPORATION AUTHORIZED UNDER THIS SUBTITLE MAY BE CONSIDERED TO BE EXCESSIVE ONLY IF:

(I) THE SURPLUS IS GREATER THAN 30% OF THE TOTAL EARNED PREMIUM RECEIVED BY THE CORPORATION IN THE IMMEDIATELY PRECEDING CALENDAR YEAR; AND

(II) AFTER A HEARING, THE COMMISSIONER DETERMINES THAT THE SURPLUS IS UNREASONABLY LARGE.

(2) AFTER THE COMMISSIONER HAS DETERMINED THE SURPLUS OF A CORPORATION AUTHORIZED UNDER THIS SUBTITLE TO BE EXCESSIVE, THE COMMISSIONER:

(I) MAY ORDER THE CORPORATION TO SUBMIT A PLAN FOR DISTRIBUTION OF THE EXCESS IN A FAIR AND EQUITABLE MANNER; OR

(II) IF THE CORPORATION FAILS TO SUBMIT A PLAN OF DISTRIBUTION WITHIN 60 DAYS, MAY COMPILE A PLAN AND ORDER THE CORPORATION TO IMPLEMENT IT.

(3) A DISTRIBUTION ORDERED UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY BE MADE ONLY TO SUBSCRIBERS WHO ARE COVERED BY THE CORPORATION'S NONPROFIT HEALTH SERVICE PLAN AT THE TIME THE DISTRIBUTION IS MADE.

(F) RESTRICTIONS ON DISTRIBUTION.

THE COMMISSIONER MAY NOT ORDER A DISTRIBUTION OR PLAN FOR DISTRIBUTION UNDER SUBSECTION (E) OF THIS SECTION IF THE DISTRIBUTION WOULD RENDER THE CORPORATION IMPAIRED OR INSOLVENT UNDER THE LAWS OF ITS DOMICILIARY STATE OR ANY OTHER STATE IN WHICH THE CORPORATION IS AUTHORIZED TO DO BUSINESS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48A, § 355A.

In subsection (a)(1) of this section, the former phrase "in § 355 of this subtitle" is deleted as unnecessary. Only the defined term "surplus" was used