

7-706.

¶(a) (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) 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

(2) include any dividend or distribution of cash or other property with a fair market value that, when combined with the fair market value of other dividends and distributions made in the preceding 12 months:

(i) exceeds 10% of the insurer's surplus as regards policyholders as of the December 31 immediately preceding; or

(ii) for an insurance subsidiary of the Medical Mutual Liability Insurance Society of Maryland, exceeds 5% of the insurer's surplus as regards policyholders as of the December 31 immediately preceding.

(c) (1) This subsection only applies to an insurer that:

(i) has an earned surplus that exceeds 10% of its surplus as regards policyholders as of the December 31 immediately preceding; and

(ii) in the immediately preceding calendar year has more than 75% of its gross direct written premium in homeowners insurance, private passenger automobile liability insurance, and private passenger automobile physical damage insurance.

(2) In determining whether an extraordinary dividend or extraordinary distribution exists under this section, an insurer described in paragraph (1) of this subsection shall:

(i) exclude pro rata distributions of any class of the insurer's own securities; and

(ii) include any dividend or distribution of cash or other property, not exceeding the amount of the insurer's earned surplus, with a fair market value that, when combined with the fair market value of other dividends and distributions made in the preceding 12 months, exceeds the greater of:

1. 10% of the insurer's surplus as regards policyholders as of the December 31 immediately preceding; and