

HOUSE BILL 979

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C4

2000 Regular Session
(01r2416)

ENROLLED BILL
-- Economic Matters/Finance --

Introduced by **Delegate Busch**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Insurance - Regulation of Extraordinary Dividends and Distributions**

3 FOR the purpose of altering the circumstances under which a dividend or distribution
4 of cash or other property to shareholders by certain insurers is considered
5 extraordinary; providing that certain insurers may not pay an extraordinary
6 dividend or make an extraordinary distribution except under certain
7 circumstances; clarifying that certain provisions regulating transactions within
8 insurance holding company systems apply to certain insurers; defining a certain
9 term; providing for the application of this Act; and generally relating to
10 dividends and distributions by insurers.

11 BY repealing and reenacting, with amendments,
12 Article - Insurance
13 Section 7-701 and 7-706
14 Annotated Code of Maryland
15 (1997 Volume and 1999 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Insurance**

4 7-701.

5 (A) THIS SUBTITLE APPLIES TO INSURERS THAT ARE SUBJECT TO
6 REGISTRATION UNDER SUBTITLE 6 OF THIS TITLE.

7 (B) This subtitle does not authorize an insurer that is a member of an
8 insurance holding company system to enter into a transaction that otherwise would
9 be contrary to law for an insurer that is not a member of the same insurance holding
10 company system.

11 7-706.

12 ¶ (a) (1) In this section, "earned surplus" means the part of surplus that, after
13 deduction of all losses, represents the net earnings, gains, or profits that have not
14 been distributed to shareholders as dividends, transferred to stated capital,
15 transferred to capital surplus, or applied to other purposes allowed by law.

16 (2) In this section, "earned surplus" does not include unrealized capital
17 gains or reevaluation of assets.

18 ¶(b) Except as provided in subsection (c) of this section, in determining whether
19 an extraordinary dividend or extraordinary distribution exists under this section, an
20 insurer shall:

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

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

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

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

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

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

34 (ii) in the immediately preceding calendar year has more than 75%
35 of its gross direct written premium in homeowners insurance, private passenger

1 automobile liability insurance, and private passenger automobile physical damage
2 insurance.

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

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

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

12 1. 10% of the insurer's surplus as regards policyholders as of
13 the December 31 immediately preceding; and

14 2. for the immediately preceding calendar year, the net gain
15 from operation of an insurer that is a life insurer or the net income of an insurer other
16 than a life insurer.

17 (d) Before paying an extraordinary dividend or making an extraordinary
18 distribution, an insurer subject to registration under Subtitle 6 of this title shall
19 notify the Commissioner of its intent to pay the extraordinary dividend or make the
20 extraordinary distribution.

21 (e) The insurer shall notify the Commissioner under subsection (d) of this
22 section at least 30 days before the extraordinary dividend is to be paid or the
23 extraordinary distribution is to be made.

24 (f) The insurer may pay an extraordinary dividend or make an extraordinary
25 distribution to its shareholders only if, within 30 days after the Commissioner
26 receives the notice, the Commissioner either approves the payment or distribution, or
27 does not disapprove the payment or distribution.]

28 ~~(A)~~ (B) IN THIS SECTION, "EXTRAORDINARY DIVIDEND" OR
29 "EXTRAORDINARY DISTRIBUTION" INCLUDES ANY DIVIDEND OR DISTRIBUTION OF
30 CASH OR OTHER PROPERTY WITH A FAIR MARKET VALUE, THAT WHEN COMBINED
31 WITH THE FAIR MARKET VALUE OF ANY OTHER DIVIDENDS OR DISTRIBUTIONS MADE
32 IN THE PRECEDING 12 MONTHS EXCEEDS THE LESSER OF:

33 (1) 10% OF THE INSURER'S SURPLUS AS REGARDS POLICYHOLDERS AS
34 OF DECEMBER 31 OF THE PRECEDING YEAR; OR

35 (2) (I) FOR A LIFE INSURER, THE NET GAIN FROM OPERATIONS OF
36 THE INSURER NOT INCLUDING:

37 1. REALIZED CAPITAL GAINS FOR THE 12-MONTH PERIOD
38 ENDING DECEMBER 31 OF THE PRECEDING YEAR; AND

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act applies to
2 dividends or distributions declared and paid on or after January 1, 2001.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2000.