

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1198

92ND GENERAL ASSEMBLY

Reported from the Committee on Financial Services, February 19, 2004, with recommendation that the House Committee Substitute for House Bill No. 1198 Do Pass by Consent.

Perfecting by Consent March 1, 2004.

STEPHEN S. DAVIS, Chief Clerk

3971L.03P

AN ACT

To repeal section 382.210, RSMo, and to enact in lieu thereof one new section relating to extraordinary dividends for insurance holding companies.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 382.210, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 382.210, to read as follows:

382.210. 1. No insurer subject to registration under section 382.100 shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until thirty days after the director has received notice of the declaration thereof and has not within such period disapproved such payment, or the director has approved the payment within such thirty-day period. For purposes of this section, **net income excludes net realized capital gains to the extent that realized capital gains exceed realized capital losses, and** an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of dividends or distributions made within the period of twelve consecutive months ending on the date on which the proposed dividends are scheduled for payment or distribution:

(1) For life [insurance companies and], title, **and property and casualty** insurance companies, such amount exceeds the greater of ten percent of the insurer's surplus as regards policyholders as of the thirty-first day of December next preceding, or the net gain from

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

14 operations of the insurer, if the insurer is a life insurer, or the net investment income, if the
15 insurer is a title insurer, **or the net income, if the insurer is a property and casualty insurer**,
16 for the twelve-month period ending the thirty-first day of December next preceding, but shall not
17 include pro rata distributions of any class of the insurer's own securities;

18 (2) For all other insurers, such amount exceeds the lesser of ten percent of the insurer's
19 surplus as regards policyholders as of the thirty-first day of December next preceding, or the net
20 investment income for the twelve-month period ending the thirty-first day of December next
21 preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

22 2. A life [or], title, **or property and casualty** insurer subject to registration under section
23 382.100 may only pay a shareholder dividend from earned surplus. With the prior approval of
24 the director, a dividend may be declared from other than earned surplus.

25 3. No life [or], title, **or property and casualty** insurer subject to registration under
26 section 382.100 shall pay any extraordinary dividend unless, after the transaction is completed,
27 the company's surplus as regards policyholders is reasonable in relation to the company's
28 outstanding liabilities and adequate to its financial needs. In making this determination, the
29 director shall use the factors found in section 382.200 and may consider:

30 (1) The quality of the company's earnings and the extent to which the reported earnings
31 include extraordinary items; or

32 (2) The recent past and projected future trend in the company's surplus as regards
33 policyholders.

34 4. Notwithstanding any other provision of law, an insurer may declare an extraordinary
35 dividend or distribution which is conditional upon the director's approval thereof, and the
36 declaration shall confer no rights upon shareholders until the director has approved the payment
37 of the dividend or distribution, or the director has not disapproved the payment within the
38 thirty-day period referred to above.