

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 127

S.P. 71

In Senate, January 11, 1991

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.
Reference to the Committee on Banking and Insurance suggested and ordered printed.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator THERIAULT of Aroostook.

Cosponsored by Senator COLLINS of Aroostook, Representative GARLAND of Bangor and Representative RYDELL of Brunswick.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Revise the Law Respecting Insurers' Dividend Distributions.



Be it enacted by the People of the State of Maine as follows:

2
4 24-A MRSA §222, sub-§11, as enacted by PL 1975, c. 356, §1,
is amended to read:

6 11. **Dividends and distributions.** No An insurer subject to
8 registration under this section shall may not pay any
10 extraordinary dividend or make any other extraordinary
12 distribution to its stockholders until 60 days after the
14 superintendent has received notice of the declaration thereof,
16 and has not within such that period disapproved such the payment,
18 or until the superintendent shall ~~have approved such~~ approves
20 that payment within such the 60-day period. ~~For purposes of this~~
22 ~~section, an extraordinary dividend or distribution is any~~
24 ~~dividend or distribution which, together with other dividends or~~
26 ~~distributions made within the preceding 12 months, exceeds the~~
28 ~~greater of 10% of the insurer's surplus to policyholders as of~~
30 ~~December 31st of the immediate preceding 12 months or the net~~
32 ~~gain from operations of the insurer if the insurer is a life~~
34 ~~insurer or the net investment income if the insurer is not a life~~
36 ~~insurer, for the 12-month period ending December 31st of the year~~
38 ~~immediately preceding, but shall not include pro-rata~~
distributions of any class of the insurer's own securities. A pro
rata distribution of any class of the insurer's own securities is
not considered an extraordinary dividend or distribution for
purposes of this section. Notwithstanding any other provision
of law, an insurer may declare an extraordinary dividend or
distribution which that is conditional upon the superintendent's
approval thereof, and such a declaration shall ~~confer no~~ does not
confer any rights upon stockholders until the superintendent has
approved the payment of the dividend or distribution or the
superintendent has not disapproved such the payment within the
period referred to above in this subsection. The insurer's
surplus following any dividends or distributions to shareholder
affiliates shall must be reasonable in relation to the insurer's
outstanding liabilities and shall ~~be~~ adequate to meet its
financial needs. For purposes of this section, an extraordinary
dividend or distribution is any dividend or distribution that:

40 A. Exceeds the greater of 10% of the insurer's surplus to
42 policyholders as of December 31st of the preceding year or
44 the net gain from operations of the insurer for the 12-month
46 period ending December 31st of the year immediately
preceding when taken together with all other dividends or
distributions paid after December 31st of the preceding year;

48 B. Is declared at any time when the insurer records an
50 operating loss for the period since December 31st of the
preceding year that is equal to or greater than 20% of total
surplus funds as of that preceding December 31st;

2 C. Is declared at any time when the insurer realizes an
3 aggregate net operating loss over the immediately preceding
4 12 quarters;

5 D. Is declared at any time when the insurer realizes an
6 operating loss in any 8 of the immediately preceding 12
7 quarters; or

8 E. Is declared at any time when the insurer, in any one of
9 the previous 3 years, pays a dividend that exceeds the
10 operating gain for the preceding calendar year.
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STATEMENT OF FACT

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16 Insurers may now declare and distribute dividends which
17 could infringe upon policyholders' security by reducing the
18 ability of insurers' to pay claims. This bill proposes to
19 continue to allow these dividends, but requires a demonstration
20 by the insurer that the proposed dividends are supported by
21 adequate earnings of the corporation.
22