

FIRST REGULAR SESSION

# SENATE BILL NO. 434

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHMITT.

Read 1st time February 12, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1756S.011

## AN ACT

To repeal section 382.210, RSMo, and to enact in lieu thereof one new section relating to extraordinary dividends paid by insurers.

*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Section A. Section 382.210, RSMo, is repealed and one new section  
2 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  
2 pay any extraordinary dividend or make any other extraordinary distribution to  
3 its shareholders until thirty days after the director has received notice of the  
4 declaration thereof and has not within such period disapproved such payment, or  
5 the director has approved the payment within such thirty-day period. For  
6 purposes of this section, net income excludes net realized capital gains to the  
7 extent that realized capital gains exceed realized capital losses, and an  
8 extraordinary dividend or distribution includes any dividend or distribution of  
9 cash or other property, whose fair market value together with that of dividends  
10 or distributions made within the period of twelve consecutive months ending on  
11 the date on which the proposed dividends are scheduled for payment or  
12 distribution:

13 (1) For life, title, **health**, and property and casualty insurance companies,  
14 such amount exceeds the greater of ten percent of the insurer's surplus as regards  
15 policyholders as of the thirty-first day of December next preceding, or the net gain  
16 from operations of the insurer, if the insurer is a life insurer, or the net  
17 investment income, if the insurer is a title insurer, or the net income, if the  
18 insurer is a property and casualty insurer **or a health insurer**, for the  
19 twelve-month period ending the thirty-first day of December next preceding, but  
20 shall not include pro rata distributions of any class of the insurer's own

21 securities;

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

27 2. A life, title, or property and casualty insurer subject to registration  
28 under section 382.100 may only pay a shareholder dividend from earned  
29 surplus. With the prior approval of the director, a dividend may be declared from  
30 other than earned surplus.

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

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

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

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

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