

INSURANCE CODE

TITLE 4. REGULATION OF SOLVENCY

SUBTITLE A. GENERAL PROVISIONS

CHAPTER 403. DIVIDENDS

SUBCHAPTER A. PAYMENT OF DIVIDENDS

Sec. 403.001. LIMITATION ON DIVIDENDS. An insurer organized under the laws of this state, including a life, health, fire, marine, or inland marine insurance company, may not pay a shareholder dividend except from surplus profits arising from the insurer's business.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 463 (S.B. 1006), Sec. 1, eff. June 14, 2013.

Sec. 403.002. DIVIDENDS TO POLICYHOLDERS IN COMMERCIAL LINES. (a) An insurer may pay to a commercial policyholder or group of commercial policyholders a dividend that covers more than one class or line of commercial business only:

(1) after the insurer establishes on an aggregate basis adequate loss reserves for the classes or lines of commercial insurance included within the dividend; and

(2) if the insurer has sufficient surplus from which to pay the dividend.

(b) Not later than the 15th day before an insurer pays a dividend described by Subsection (a), the insurer shall file with the department notice of the insurer's intent to pay the dividend.

(c) The classes or lines of commercial business for which dividends are authorized under this section include any commercial class or line of commercial business regulated by Title 10 or Chapter 5.

(d) An insurer's limitation of a dividend on one or more classes or lines of commercial business to a group of commercial policyholders is not unfair discrimination if the group:

(1) has clearly identifiable underwriting characteristics; or

(2) is an association or group of business entities engaged in similar undertakings.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

SUBCHAPTER B. ESTIMATE OF PROFITS

Sec. 403.051. ESTIMATE OF PROFITS. An insurer organized under the laws of this state may not include the following in the estimate of the insurer's profits for the purpose of paying dividends under Section 403.001:

(1) the reserve on all unexpired risks computed in the manner provided by this code;

(2) the amount of all unpaid losses, whether adjusted or unadjusted; and

(3) all other debts due and payable, or to become due and payable, by the insurer.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 403.052. ESTIMATE OF PROFITS OF CERTAIN INSURERS. A life, health, fire, marine, or inland marine insurance company organized under the laws of this state may not include the following in the estimate of the company's profits for the purpose of paying dividends under Section 403.001:

(1) the reserve on all unexpired risks computed in the manner provided by this code;

(2) the amount of all unpaid losses, whether adjusted or unadjusted;

(3) each amount due the company on bonds, mortgages, stocks, or book-accounts on which no part of the principal or interest has been paid during the year preceding the estimate of profits and for which:

(A) a suit for foreclosure or collection has not been commenced; or

(B) a judgment obtained in a suit for foreclosure or collection has remained unsatisfied for a period of more than two years and no interest has been paid on the judgment; and

(4) if no interest has been paid on a judgment described by Subdivision (3)(B), any interest that is due or accrued on the judgment and remains unpaid.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 403.053. ACQUIRED EARNED SURPLUS. (a) This section applies only to:

(1) a stock domestic insurance company authorized to engage in the business of life, accident, or health insurance in this state;

(2) a stock foreign or alien life, health, or accident insurance company;

(3) a stock insurance company authorized to engage in the business of property, casualty, or fire insurance; and

(4) a domestic Lloyd's plan, reciprocal or interinsurance exchange, or title insurance company.

(b) In determining the amount of "surplus profits arising from the insurer's business" or "earned surplus" for the purpose of paying dividends to shareholders, the insurer may include the acquired earned surplus of an insurance subsidiary acquired by the insurer to the extent that:

(1) the inclusion is permitted by an order of the commissioner made in accordance with commissioner rules; and

(2) the earned surplus of the acquired subsidiary on the date of acquisition that exists on the date of the commissioner's order is not otherwise reflected in the insurer's earned surplus.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

SUBCHAPTER C. PENALTIES

Sec. 403.101. PENALTIES. (a) The department may revoke the

charter of an insurer organized under the laws of this state that pays a dividend in violation of Sections 403.001 and 403.051. If the department revokes an insurer's charter under this subsection, the department shall immediately revoke the insurer's certificate of authority.

(b) Not later than the 10th day before the date on which the department intends to revoke an insurer's certificate of authority under this section, the department shall give the insurer written notice of the department's intent. The notice must include the specific reasons for the revocation.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.

Sec. 403.102. PENALTIES FOR CERTAIN INSURERS. The department may revoke the charter of a life, health, fire, marine, or inland marine insurance company organized under the laws of this state that pays a dividend in violation of Sections 403.001 and 403.052. If the department revokes a company's charter under this section, the department shall immediately revoke the company's certificate of authority.

Added by Acts 2005, 79th Leg., Ch. 727 (H.B. 2017), Sec. 1, eff. April 1, 2007.