

H.548

An act relating to extraordinary dividends for life insurers

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 8 V.S.A. § 3685(d) is amended to read:

(d) Limitation on dividends.

(1) For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property whose fair market value together with that of other dividends or distributions made within the preceding 12 months exceeds the lesser of:

(A) 10 percent of such insurer's surplus as regards policyholders as of the 31st day of December next preceding; or

(B) the net gains from operations of such insurer, if such insurer is a life insurer, or the net income, if such insurer is not a life insurer, not including realized capital gains, for the 12-month period ending the 31st day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

(2) In determining whether a dividend or distribution is extraordinary, an insurer other than a life insurer may carry forward net income from the previous two calendar years that has not already been paid out as dividends. This carry-forward shall be computed by taking the net income from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediate preceding calendar years. In

determining whether a dividend or distribution is extraordinary, a life insurer may exclude dividends or distributions paid only from unassigned surplus that do not exceed the greater of subdivision (1)(A) or (B) of this subsection, provided that a life insurer relying on this provision shall notify the Commissioner of such dividend or distribution within five business days following declaration and at least 10 days, commencing from the date of receipt by the Commissioner, prior to the payment thereof.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.