

SECOND REGULAR SESSION

# HOUSE BILL NO. 1198

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE RICHARD.

Read 1<sup>st</sup> time January 21, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3971L.011

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### 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.

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*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Section A. Section 382.210, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 382.210, to read as follows: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 **or the director's designee** has received notice of the declaration thereof and has not within such period disapproved such payment, or the director **or the director's designee** has approved the payment within such thirty-day period. 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 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 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 operations of the insurer, if the insurer is a life insurer, or the net investment income, if the insurer is a title insurer, for the twelve-month period ending the thirty-first day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities;

(2) For all other insurers, such amount exceeds the lesser of ten percent of the insurer's surplus as regards policyholders as of the thirty-first day of December next preceding, or the net investment income for the twelve-month period ending the thirty-first day of December next

19 preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

20       2. A life or title insurer subject to registration under section 382.100 may only pay a  
21 shareholder dividend from earned surplus. With the prior approval of the director **or the**  
22 **director's designee**, a dividend may be declared from other than earned surplus.

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

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

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

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