



Ohio Revised Code

Section 3964.06 Extraordinary distributions.

Effective: September 17, 2014

Legislation: House Bill 117 - 130th General Assembly

(A) No captive insurance company shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders or members other than in accordance with this section. The declaration of an extraordinary dividend or distribution shall be conditional and shall confer no rights upon shareholders or members until thirty days after the superintendent has received notice of the declaration thereof and has not, within the thirty-day period, disapproved the dividend or distribution, unless the superintendent approves the dividend or distribution within the thirty-day period.

(B) Prior to paying any dividend or distribution, the insurance company shall notify the superintendent on a form provided by the superintendent for informational purposes within five business days following its declaration of any dividend or distribution and at least ten calendar days prior to payment of such dividend or distribution. Such a ten-calendar-day period is to begin on the date that the superintendent receives the notice.

(C)(1) For the 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 twelve months, exceeds the greater of ten per cent of the insurance company's surplus as regards policy holders as of the thirty-first day of December immediately preceding, or the net income of the insurance company for the twelve-month period ending the thirty-first day of December immediately preceding.

(2) Pro rata distributions of any class of the insurance company's own securities shall not be considered an extraordinary distribution under division (C)(1) of this section.

(D) Any dividend or distribution paid from a source other than earned surplus shall be considered an extraordinary dividend or extraordinary distribution.

(E) In no instance shall any extraordinary dividend or distribution be permitted by a captive



insurance company if such dividend or distribution results in a decrease of the unimpaired, total capital and surplus of the captive insurance company below the limits prescribed in section 3964.05 of the Revised Code.

(F) For the purposes of this section, "earned surplus" means an amount equal to an insurance company's unassigned funds as set forth in its most recent financial statement submitted to the superintendent, including net unrealized capital gains and losses or revaluation of assets.