

Amendment No. 1 to HB1413

McManus
Signature of Sponsor

AMEND Senate Bill No. 1617

House Bill No. 1413*

by deleting the language “hereinafter prescribed” in subsection (a) in SECTION 4 and substituting instead the language “prescribed in this part”.

AND FURTHER AMEND by deleting the language “this paragraph” in subdivision (a)(1) in SECTION 4 and substituting instead the language “this subdivision (a)(1)”.

AND FURTHER AMEND by deleting the word “therein” in subdivision (d)(1)(B) in SECTION 8 and substituting instead the language “in this state”.

AND FURTHER AMEND by deleting the word “thereof” in subdivision (d)(2) in SECTION 8 and substituting instead the language “of the public hearing”.

AND FURTHER AMEND by deleting the word “thereby” in subdivision (d)(2) in SECTION 8 and substituting instead the language “by the proposed transaction”.

AND FURTHER AMEND by deleting the language “the level required by the laws and regulations of this state” in subdivision (d)(4) in SECTION 8 and substituting instead the language “the level required by title 56,”.

AND FURTHER AMEND by deleting the language “This order” in subdivision (e)(3) in SECTION 12 and substituting instead the language “An order”.

AND FURTHER AMEND by designating the opening clause of subsection (a) in SECTION 13 as new subdivision (a)(1), redesignating subdivisions (a)(1) through (a)(3) as new subdivisions (a)(1)(A) through (a)(1)(C), and redesignating subdivision (a)(4) as new subdivision (a)(2).

AND FURTHER AMEND by deleting the language “this paragraph” in subdivision (b)(5) in SECTION 13 and substituting instead the language “this subdivision (b)(5)”.

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AND FURTHER AMEND by deleting the language “board of directors is responsible for and oversees corporate governance and internal controls” in subdivision (b)(7) in SECTION 13 and substituting instead the language “board of directors oversees corporate governance and internal controls”.

AND FURTHER AMEND by deleting the word “hereunder” in subsection (h) in SECTION 13 and substituting instead the language “under this section”.

AND FURTHER AMEND by adding the word “consistently” immediately before the word “applied” in subdivision (a)(1)(D) in SECTION 14.

AND FURTHER AMEND by deleting the word “its” in subdivision (a)(1)(F) in SECTION 14 and substituting instead the language “the insurer’s or health maintenance organization’s”.

AND FURTHER AMEND by deleting the language “this paragraph” in subdivision (a)(2)(E) in SECTION 14 and substituting instead the language “this subdivision (a)(2)(E)”.

AND FURTHER AMEND by deleting subsection (b) in SECTION 14 and substituting instead the following:

(b) DIVIDENDS AND OTHER DISTRIBUTIONS.

(1) No domestic insurer and no health maintenance organization shall pay an extraordinary dividend or make any other extraordinary distribution to its shareholders until:

(A) Thirty (30) days after the commissioner has received notice of the declaration thereof and has not within the period disapproved the payment; or

(B) The commissioner shall have approved the payment within the thirty-day period.

(2) 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 twelve (12) months exceeds the greater of:

(A) Ten percent (10%) of the insurer's surplus as regards policyholders, or, with respect to health maintenance organizations, net worth, as of December 31 next preceding; or

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

(3) Notwithstanding any other law in title 56, an insurer or health maintenance organization may declare an extraordinary dividend or distribution that is conditional upon the commissioner's approval thereof, and such a declaration shall confer no rights upon shareholders until:

(A) The commissioner has approved the payment of such a dividend or distribution; or

(B) The commissioner has not disapproved the payment within the thirty-day period referred to in subdivision (b)(1).

(4) A domestic insurer or health maintenance organization shall pay a dividend or make a distribution to its shareholders only from the insurer's or health maintenance organization's earned surplus; provided, that the insurer or health maintenance

organization may pay a dividend or make a distribution not from earned surplus if the commissioner's approval is first received. As used in this subdivision (b)(4), "earned surplus" means unassigned surplus as reported in the insurer's or health maintenance organization's most recent financial statement.

AND FURTHER AMEND by deleting the word "method" in subdivision (b)(2) in SECTION 15 and substituting instead the word "methods".

AND FURTHER AMEND by deleting the word "Act" in subsection (f) in SECTION 16 and substituting instead the word "part".

AND FURTHER AMEND by deleting the language "officer director" in SECTION 21 and substituting instead the language "officer, director".

AND FURTHER AMEND by adding the word "foreign" immediately before the language "health maintenance organization" wherever it appears in § 56-11-117 in SECTION 25, and further amend by adding the word "foreign" immediately before the language "health maintenance organizations" in § 56-11-117(b) in SECTION 25.

AND FURTHER AMEND by deleting the word "herein" in § 56-11-117(c) in SECTION 25 and substituting instead the language "in this part".

AND FURTHER AMEND by deleting § 56-11-118 in SECTION 25 and substituting instead the following:

56-11-118. To the extent that this part conflicts with or is inconsistent with any laws in title 56, this part shall control.

AND FURTHER AMEND by deleting the word "herein" in § 56-11-201(c) in SECTION 26 and substituting instead the language "in this part".

AND FURTHER AMEND by deleting the language "and/or" in § 56-11-205(a) in SECTION 26 and substituting instead the word "or".

AND FURTHER AMEND by deleting the language “as defined in Title 56, Chapter 11, Part 1” in § 56-11-208(c)(1) and (c)(2) in SECTION 26 and substituting instead the language “as described in § 56-11-116”.