



## Ohio Revised Code Section 1701.33 Dividends and distributions.

Effective: March 17, 2000

Legislation: House Bill 78 - 123rd General Assembly

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The directors may declare dividends and distributions on outstanding shares of the corporation, subject to the following provisions:

(A) A dividend or distribution may be paid in cash, property, or shares of the corporation. The dividend or distribution shall not exceed the combination of the surplus of the corporation and the difference between the following:

(1) The reduction in surplus that results from the immediate recognition of the transition obligation under statement of financial accounting standards no. 106 (SFAS no. 106), issued by the financial accounting standards board;

(2) The aggregate amount of the transition obligation that would have been recognized as of the date of the declaration of a dividend or distribution if the corporation had elected to amortize its recognition of the transition obligation under statement of financial accounting standards no. 106.

(B) A dividend or distribution may be paid in treasury shares or in authorized but unissued shares. If paid in shares with par value, there shall be transferred from any surplus, however created, to stated capital, the amount, if any, that is necessary in order that the stated capital represented by the outstanding shares with par value, after giving effect to the dividend or distribution, will be equal to the aggregate par value of the shares, or, if the directors so determine, a greater amount shall be so transferred. If paid in shares without par value, there shall be transferred from any surplus, however created, to stated capital, only the amount, if any, that the directors determine.

(C) No dividend or distribution shall be paid to the holders of shares of any class in violation of the rights of the holders of shares of any other class, or when the corporation is insolvent or there is reasonable ground to believe that by such payment it would be rendered insolvent.

(D) No dividend or distribution on shares of any class shall be paid in shares of another class if any



of the authorized shares of the latter class are already outstanding, unless either the articles so provide or the payment is authorized by the affirmative vote of the holders of at least two-thirds of the shares of the class in which payment is to be made.

(E) If the articles of a corporation engaged in whole or in part in the exploitation of mines, timber, oil wells, gas wells, quarries, or other natural resources so provide, the corporation may compute its surplus for the purpose of paying dividends and distributions without making any deduction or allowance for the depletion of such assets incidental to the exploitation and sale of them.

(F) When any portion of a dividend or distribution is paid out of capital surplus, the corporation, at the time of paying the dividend or distribution, shall notify the shareholders receiving the dividend or distribution as to the kind of surplus out of which the dividend or distribution is paid.

(G) When a dividend or distribution is to be paid in authorized but unissued shares of the corporation, the directors may provide that the dividend or distribution shall also be paid on treasury shares of the same class.

(H) The effect of a dividend or distribution is measured as of the date the dividend or distribution is authorized if the payment occurs one hundred twenty days or less after the date of authorization or as of the date the payment is made if it occurs more than one hundred twenty days after the date of authorization. If a corporation pays a dividend or distribution by delivering an obligation or other evidence of indebtedness, the date of the delivery is the date upon which the effect of the dividend or distribution is measured.

(I) A corporation's indebtedness to a shareholder incurred by reason of a dividend or distribution made in accordance with this section is at parity with the corporation's indebtedness to its general, unsecured creditors, except to the extent subordinated by agreement.