
By: **Delegate Moe**

Introduced and read first time: January 31, 2005

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance - Surplus Lines Insurance - Authorized Procurement**

3 FOR the purpose of prohibiting the procurement of surplus lines insurance for
4 coverage for condominium associations; making technical changes; and
5 generally relating to procurement of surplus lines insurance.

6 BY repealing and reenacting, with amendments,
7 Article - Insurance
8 Section 3-306
9 Annotated Code of Maryland
10 (2003 Replacement Volume and 2004 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article - Insurance**

14 3-306.

15 (a) Surplus lines insurance may be procured from an unauthorized insurer if:

16 (1) for surplus lines insurance procured through a [broker] LICENSED
17 INSURANCE PRODUCER, the surplus lines insurance is procured through a qualified
18 surplus lines broker;

19 (2) subject to the provisions of § 3-306.1 of this subtitle, a diligent search
20 is made among the authorized insurers that are writing the particular kind and class
21 of insurance in the State;

22 (3) except for insurance against liability of persons described in §
23 24-206(1) of this article, the amount of surplus lines insurance procured from an
24 unauthorized insurer is only the excess over the amount that can be procured from
25 authorized insurers;

1 (4) for insurance against liability of persons described in § 24-206(1) of
2 this article, the insurance cannot be obtained from three or more authorized insurers
3 that are writing on a broad basis that particular kind and class of insurance;

4 (5) except as provided in subsection (b) of this section, the surplus lines
5 insurance is not procured:

6 (i) solely to obtain a lower premium rate than would be accepted by
7 an authorized insurer;

8 (ii) solely to obtain more favorable terms of the insurance contract;
9 or

10 (iii) to replace coverage on residential property[, including coverage
11 for condominium associations,] which is insured by an authorized insurer and for
12 which a renewal offer has been made on substantially the same terms and conditions
13 as the current coverage; and

14 (6) there is compliance with other applicable provisions of this subtitle.

15 (b) This subtitle does not prohibit a lower premium rate or more favorable
16 terms in the insurance contract of an unauthorized insurer if:

17 (1) the risk is eligible as surplus lines under subsection (a)(2), (3), and (4)
18 of this section; or

19 (2) the applicant qualifies as a commercial insured who may waive, as
20 authorized by the Commissioner, the diligent search that is otherwise required under
21 this section.

22 (c) (1) This section does not prohibit a surplus lines broker from renewing a
23 risk with a surplus lines insurer if the risk was initially written on a surplus lines
24 basis when there were fewer than three authorized insurers actually writing on a
25 broad basis the particular kind and class of insurance to provide coverage against
26 liability of persons described in § 24-206(1) of this article in the State.

27 (2) However, even if on the date of renewal three or more authorized
28 insurers are writing on a broad basis the particular kind and class of insurance
29 required by the insured, a risk initially eligible for surplus lines insurance may be
30 renewed on a surplus lines basis if the [surplus lines insurer] LICENSED INSURANCE
31 PRODUCER or SURPLUS LINES broker gives to the insured appropriate notice of the
32 POSSIBLE availability of comparable types of insurance being written by three or
33 more authorized insurers:

34 (i) each year; and

35 (ii) sufficiently in advance of the renewal date to allow the insured
36 to determine whether to renew the policy with the surplus lines insurer.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2005.