
By: **Delegate Moe**
Introduced and read first time: January 31, 2005
Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 21, 2005

CHAPTER _____

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 repealing a certain provision of law that provides that surplus lines insurance
5 may be procured from an unauthorized insurer if the surplus lines insurance is
6 not procured to replace coverage for condominium associations that are insured
7 by an authorized insurer and for which a certain renewal offer has been made;
8 making technical changes; and generally relating to procurement of surplus
9 lines insurance.

10 BY repealing and reenacting, with amendments,
11 Article - Insurance
12 Section 3-306
13 Annotated Code of Maryland
14 (2003 Replacement Volume and 2004 Supplement)

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

17 **Article - Insurance**

18 3-306.

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

20 (1) for surplus lines insurance procured through a ~~[broker] LICENSED~~
21 ~~INSURANCE PRODUCER~~, the surplus lines insurance is procured through a qualified
22 surplus lines broker;

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

4 (3) except for insurance against liability of persons described in §
5 24-206(1) of this article, the amount of surplus lines insurance procured from an
6 unauthorized insurer is only the excess over the amount that can be procured from
7 authorized insurers;

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

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

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

15 (ii) solely to obtain more favorable terms of the insurance contract;
16 or

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

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

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

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

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

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

34 (2) However, even if on the date of renewal three or more authorized
35 insurers are writing on a broad basis the particular kind and class of insurance
36 required by the insured, a risk initially eligible for surplus lines insurance may be
37 renewed on a surplus lines basis if the {surplus lines insurer}, LICENSED INSURANCE
38 PRODUCER, or SURPLUS LINES broker gives to the insured appropriate notice of the

1 POSSIBLE availability of comparable types of insurance being written by three or
2 more authorized insurers:

3 (i) each year; and

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

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