
By: **Delegate Moe**

Introduced and read first time: February 3, 2005

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2005

CHAPTER _____

1 AN ACT concerning

2 **Insurance - Surplus Lines Insurance - Diligent Search**

3 FOR the purpose of providing that a diligent search ~~of authorized insurers writing in~~
 4 ~~the particular kind and class of insurance sought by an insured may not be~~
 5 ~~required if a renewal offer is made by an authorized insurer whose financial~~
 6 ~~rating was downgraded during the term of the expiring policy and a replacement~~
 7 ~~policy is offered by a surplus lines insurer with a financial rating that is higher~~
 8 ~~than that of the authorized insurer shall be deemed completed if a certain~~
 9 insured, surplus lines broker, or insurance producer obtains certain declinations
 10 or is unable in good faith to secure certain quotes from certain authorized
 11 insurers under certain circumstances; and generally relating to surplus lines
 12 insurance.

13 BY repealing and reenacting, with amendments,

14 Article - Insurance

15 Section 3-306.1

16 Annotated Code of Maryland

17 (2003 Replacement Volume and 2004 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Insurance**

21 3-306.1.

22 (a) (1) A diligent search required by § 3-306 of this subtitle shall be deemed
 23 completed if:

1 (i) 1. the insured or the surplus lines broker or insurance
2 producer obtains declinations of a risk from three authorized insurers that;

3 A. are writing the particular kind and class of insurance in
4 this State; and

5 B. HAVE A FINANCIAL RATING BY THE A.M. BEST COMPANY,
6 OR AN EQUIVALENT RATING FROM AN INDEPENDENT RATING ORGANIZATION
7 APPROVED BY THE COMMISSIONER, OF BETTER THAN "C"; AND

8 (ii) 2. the declinations are included in the affidavit required
9 under § 3-307 of this subtitle; OR

10 (II) 1. THE INSURED OR THE SURPLUS LINES BROKER OR
11 INSURANCE PRODUCER IS UNABLE IN GOOD FAITH TO SECURE QUOTES FROM
12 THREE AUTHORIZED INSURERS THAT:

13 A. ARE WRITING THE PARTICULAR KIND AND CLASS OF
14 INSURANCE IN THIS STATE; AND

15 B. HAVE A FINANCIAL RATING BY THE A.M. BEST COMPANY,
16 OR AN EQUIVALENT RATING FROM AN INDEPENDENT RATING ORGANIZATION
17 APPROVED BY THE COMMISSIONER, OF BETTER THAN "C"; AND

18 2. A DESCRIPTION OF THE EFFORTS TO SECURE A QUOTE IS
19 INCLUDED IN THE AFFIDAVIT REQUIRED UNDER § 3-307 OF THIS SUBTITLE.

20 (2) In addition to the requirement of paragraph (1)(i) of this subsection,
21 an insurance producer shall obtain a declination from each insurer for which the
22 insurance producer has been appointed that the insurance producer knows, or should
23 know, is actually writing on a broad basis the particular kind and class of insurance
24 sought.

25 (b) A diligent search may not be required:

26 (1) for any coverage on a list of eligible surplus lines coverages compiled
27 by the Commissioner; ~~for~~

28 (2) if the diligent search is waived by a commercial insured in accordance
29 with the process determined by the Commissioner; ~~OR~~

30 ~~(3) IF A RENEWAL OFFER IS MADE BY AN AUTHORIZED INSURER WHOSE~~
31 ~~FINANCIAL RATING WAS DOWNGRADED DURING THE TERM OF THE EXPIRING~~
32 ~~POLICY AND A REPLACEMENT POLICY IS OFFERED BY A SURPLUS LINES INSURER~~
33 ~~WITH A FINANCIAL RATING THAT IS HIGHER THAN THAT OF THE AUTHORIZED~~
34 ~~INSURER.~~

35 (c) Notwithstanding the renewal provisions of § 3-306(c) of this subtitle, a
36 diligent search shall be required for each renewal of a personal lines insurance policy
37 written through a surplus lines insurer.

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