
By: **Senator Astle**

Introduced and read first time: February 11, 2005

Assigned to: Rules

Re-referred to: Finance, February 21, 2005

Committee Report: Favorable with amendments

Senate 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:

1 (1) for surplus lines insurance procured through a ~~{broker}~~LICENSED
2 INSURANCE PRODUCER, the surplus lines insurance is procured through a qualified
3 surplus lines broker;

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

7 (3) except for insurance against liability of persons described in §
8 24-206(1) of this article, the amount of surplus lines insurance procured from an
9 unauthorized insurer is only the excess over the amount that can be procured from
10 authorized insurers;

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

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

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

18 (ii) solely to obtain more favorable terms of the insurance contract;
19 or

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

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

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

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

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

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

1 (2) However, even if on the date of renewal three or more authorized
2 insurers are writing on a broad basis the particular kind and class of insurance
3 required by the insured, a risk initially eligible for surplus lines insurance may be
4 renewed on a surplus lines basis if the ~~surplus lines insurer~~, LICENSED INSURANCE
5 PRODUCER, or SURPLUS LINES broker gives to the insured appropriate notice of the
6 POSSIBLE availability of comparable types of insurance being written by three or
7 more authorized insurers:

8 (i) each year; and

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

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