

Article - Insurance

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§3–306.

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

(1) for surplus lines insurance procured through a broker, the surplus lines insurance is procured through a qualified surplus lines broker;

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

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

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

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

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

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

(iii) to replace coverage on residential property which is insured by an authorized insurer and for which a renewal offer has been made on substantially the same terms and conditions as the current coverage; and

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

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

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

(2) the applicant qualifies as an exempt commercial purchaser who may waive the diligent search that is otherwise required under this section.

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

(2) However, even if on the date of renewal three or more authorized insurers are writing on a broad basis the particular kind and class of insurance required by the insured, a risk initially eligible for surplus lines insurance may be renewed on a surplus lines basis if the surplus lines insurer, licensed insurance producer, or surplus lines broker gives to the insured appropriate notice of the possible availability of comparable types of insurance being written by three or more authorized insurers:

(i) each year; and

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

(d) The Commissioner shall participate in the National Insurance Producer Database maintained by the National Association of Insurance Commissioners and its affiliates and subsidiaries.

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