

# STATE OF NEW YORK

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5241--A

2021-2022 Regular Sessions

## IN ASSEMBLY

February 12, 2021

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Introduced by M. of A. HUNTER, CYMBROWITZ -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to simplifying the excess line insurance placement affidavit requirements

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subparagraph (A) of paragraph 3 of subsection (b) of  
2 section 2118 of the insurance law, as amended by section 12 of part I of  
3 chapter 61 of the laws of 2011, is amended to read as follows:

4 (A) Except as provided in subparagraph (F) and subject to subparagraph  
5 (C) of this paragraph, submission of insurance documents to the excess  
6 line association shall be accompanied by a statement subscribed to, and  
7 affirmed by, the licensee or sublicensee as true under the penalties of  
8 perjury that, after diligent effort, the full amount of insurance  
9 required could not be procured, from authorized insurers, each of which  
10 is authorized to write insurance of the kind requested and which the  
11 licensee has reason to believe might consider writing the type of cover-  
12 age or class of insurance involved, and further showing that the amount  
13 of insurance procured from an unauthorized insurer is only the excess  
14 over the amount procurable from an authorized insurer. The licensee,  
15 however, shall be excused from affirming that a diligent effort, as  
16 defined above, was made to procure the coverage from authorized insurers  
17 if the licensee's affidavit is accompanied by the affidavit of another  
18 broker involved in the placement affirming as true under the penalties  
19 of perjury that, after diligent effort by the affirming broker, the  
20 required insurance could not be procured from an authorized insurer  
21 which the affirming broker had reason to believe might consider writing  
22 the type of coverage or class of insurance involved. The licensee and  
23 the affirming broker shall be excused from affirming that a diligent

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD03856-04-1

1 effort was made if the superintendent determines, pursuant to paragraph  
2 four of this subsection, that no declinations are required.

3 § 2. Subparagraph (C) of paragraph 3 of subsection (b) of section 2118  
4 of the insurance law, as amended by chapter 684 of the laws of 1993, is  
5 amended to read as follows:

6 (C) Every licensee, or affirming broker, in connection with the place-  
7 ment of each risk pursuant to this section not otherwise exempt from the  
8 diligent effort requirement, shall record on the affidavit required  
9 pursuant to subparagraph (A) of this paragraph the name and National  
10 Association of Insurance Commissioners (NAIC) code of each authorized  
11 insurer declining a risk and information relied upon that formed the  
12 basis of such licensee's or affirming broker's reason to believe that  
13 the authorized insurer might consider writing the type of coverage or  
14 class of insurance involved. No additional diligent effort information  
15 shall be reported on the affidavit.

16 § 3. This act shall take effect immediately, provided, however, that  
17 the amendments to subparagraphs (A) and (C) of paragraph 3 of subsection  
18 (b) of section 2118 of the insurance law made by sections one and two of  
19 this act shall not affect the expiration of such subsection and shall be  
20 deemed to expire therewith.