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I N  S E N A T E

February 27, 2012

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to duties of excess line brokers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subparagraph (D) of paragraph 3 of subsection (b) of section 2118 of the insurance law, as amended by chapter 684 of the laws of 1993, is amended to read as follows:

(D) (I) Declinations obtained from authorized insurers which are affiliates of, or, as defined in article fifteen of this chapter, under common control with, each other or the unauthorized insurer shall not meet the requirements of this subsection unless such related insurers operate as distinct and autonomous entities, and for underwriting purposes, compete with each other for the same type of coverage or class of insurance.

(II) ANY QUOTE FOR COVERAGE FROM AN AUTHORIZED INSURER WHERE THE GROSS PREMIUM EXCEEDS BY TWENTY-FIVE PERCENT OR MORE, A QUOTE FOR COMPARABLE COVERAGE ACQUIRED BY AN EXCESS LINE BROKER MAY BE SUBMITTED AS A DECLINATION BY THE EXCESS LINE BROKER OR AFFIRMING BROKER.

S 2. Paragraph 4 of subsection (b) of section 2118 of the insurance law, as amended by chapter 630 of the laws of 1988, is amended to read as follows:

(4) (A) The number of declinations constituting diligent effort in regard to placement of coverage with authorized insurers for purposes of paragraph three of this subsection shall be three, unless the superintendent after a hearing, on a record, upon findings and conclusions, determines that another number of such declinations is appropriate in regard to particular coverages. In making such determinations, the superintendent shall consider relevant market conditions, including [unavailability of particular coverages from authorized insurers, and may conduct market surveys] WHAT IS IN THE BEST INTERESTS OF INSUREDS SEEKING INSURANCE, THE NECESSITY FOR MANUSCRIPTED POLICIES WHERE STANDARD FORMS ARE INADEQUATE OR UNAVAILABLE, FOSTERING INSURANCE PRODUCT

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

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INNOVATION AND DEVELOPMENT, AND WHERE PARTICULAR COVERAGES ARE NOT REASONABLY AND WIDELY AVAILABLE. THE SUPERINTENDENT MAY CONDUCT MARKET SURVEYS TO DETERMINE MARKET CONDITIONS. Any such determination shall be reviewed at least annually by the superintendent.

(B) THE DILIGENT EFFORT MADE BY AN EXCESS LINE BROKER OR AFFIRMING BROKER FOR ANY NEW POLICY WHICH PROVIDES COVERAGE FOR A POLICY TERM OF ONE YEAR, SHALL BE DEEMED VALID FOR THE FIRST AND SECOND ANNUAL RENEWAL THEREOF WHEN THE SAME INSURER PROVIDES SUCH RENEWAL COVERAGE.

S 3. This act shall take effect immediately; provided that the amendments to subsection (b) of section 2118 of the insurance law made by sections one and two of this act shall not affect the expiration of such subsection and shall be deemed to expire therewith.