

3548

2013-2014 Regular Sessions

I N S E N A T E

February 5, 2013

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:

1 Section 1. Subparagraph (D) of paragraph 3 of subsection (b) of
2 section 2118 of the insurance law, as amended by chapter 684 of the laws
3 of 1993, is amended to read as follows:
4 (D) (I) Declinations obtained from authorized insurers which are
5 affiliates of, or, as defined in article fifteen of this chapter, under
6 common control with, each other or the unauthorized insurer shall not
7 meet the requirements of this subsection unless such related insurers
8 operate as distinct and autonomous entities, and for underwriting
9 purposes, compete with each other for the same type of coverage or class
10 of insurance.
11 (II) ANY QUOTE FOR COVERAGE FROM AN AUTHORIZED INSURER WHERE THE GROSS
12 PREMIUM EXCEEDS BY TWENTY-FIVE PERCENT OR MORE, A QUOTE FOR COMPARABLE
13 COVERAGE ACQUIRED BY AN EXCESS LINE BROKER MAY BE SUBMITTED AS A DECLI-
14 NATION BY THE EXCESS LINE BROKER OR AFFIRMING BROKER.
15 S 2. Paragraph 4 of subsection (b) of section 2118 of the insurance
16 law, as amended by chapter 630 of the laws of 1988, is amended to read
17 as follows:
18 (4) (A) The number of declinations constituting diligent effort in
19 regard to placement of coverage with authorized insurers for purposes of
20 paragraph three of this subsection shall be three, unless the super-
21 intendent after a hearing, on a record, upon findings and conclusions,
22 determines that another number of such declinations is appropriate in
23 regard to particular coverages. In making such determinations, the
24 superintendent shall consider relevant market conditions, including
25 [unavailability of particular coverages from authorized insurers, and

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

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1 may conduct market surveys] WHAT IS IN THE BEST INTERESTS OF INSURED
2 SEEKING INSURANCE, THE NECESSITY FOR MANUSCRIPTED POLICIES WHERE STAND-
3 ARD FORMS ARE INADEQUATE OR UNAVAILABLE, FOSTERING INSURANCE PRODUCT
4 INNOVATION AND DEVELOPMENT, AND WHERE PARTICULAR COVERAGES ARE NOT
5 REASONABLY AND WIDELY AVAILABLE. THE SUPERINTENDENT MAY CONDUCT MARKET
6 SURVEYS TO DETERMINE MARKET CONDITIONS. Any such determination shall be
7 reviewed at least annually by the superintendent.
8 (B) THE DILIGENT EFFORT MADE BY AN EXCESS LINE BROKER OR AFFIRMING
9 BROKER FOR ANY NEW POLICY WHICH PROVIDES COVERAGE FOR A POLICY TERM OF
10 ONE YEAR, SHALL BE DEEMED VALID FOR THE FIRST AND SECOND ANNUAL RENEWAL
11 THEREOF WHEN THE SAME INSURER PROVIDES SUCH RENEWAL COVERAGE.
12 S 3. This act shall take effect immediately; provided that the amend-
13 ments to subsection (b) of section 2118 of the insurance law made by
14 sections one and two of this act shall not affect the expiration of such
15 subsection and shall be deemed to expire therewith.