

STATE OF NEW YORK

498--A

Cal. No. 220

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. BRESLIN, BROOKS, HELMING -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

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

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

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1 required insurance could not be procured from an authorized insurer
2 which the affirming broker had reason to believe might consider writing
3 the type of coverage or class of insurance involved. The licensee and
4 the affirming broker shall be excused from affirming that a diligent
5 effort was made if the superintendent determines, pursuant to paragraph
6 four of this subsection, that no declinations are required.

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

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

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