

CHAPTER 30
FORMERLY
HOUSE BILL NO. 40

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO SURPLUS LINES COVERAGE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 1917(c), Title 18 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(c) When a contract is issued to an exempt commercial ~~insurer~~ purchaser as described in § 1914 of this title, neither the nonadmitted insurer nor the surplus line broker is required to provide the notice required in this section except on the confirmation of insurance, the certificate of placement, or the policy, whichever is first provided to the insured, nor is the insurer or surplus line broker required to obtain the insured's signature. The producer shall ensure that the notice affixed to the confirmation of insurance, certificate of placement, or the policy is provided to the insured.

Section 2. Amend § 1923, Title 18 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 1923. Records of broker.

(a) Each broker shall keep in his or her office a full and true record of each surplus lines coverage procured by him or her for a home state insured, including a copy of each daily report, if any, a copy of each certificate of insurance issued by him or her, and such of the following items as may be applicable:

- (1) Verification that the insured is a Delaware home state insured;
- (2) Whether or not a policy is a single-state policy or a multi-state policy;
- (3) Verification that a commercial insured qualifies under the provisions of § 1914 of this title;
- (4) Amount of the insurance;
- (5) Gross premium charged;
- (6) Return premium paid, if any;
- (7) Rate of premium charged upon the several items of property;
- (8) Effective date of the contract and the terms thereof;
- (9) Name and address of each insurer on the direct risk and the proportion of the entire risk assumed by such insurer if less than the entire risk;
- (10) Name and address of the insured;
- (11) Brief general description of the property or risk insured and where located or to be performed;
- (12) A tax allocation spreadsheet detailing the portion of premium attributable to properties, risks, or exposures located in each state;

(13) Other information as may be required by the Commissioner; and

(14) ~~An affidavit~~ A written statement on a form prescribed by the Commissioner as to the diligent effort to place the coverage with admitted insurers as set forth in § 1912 of this title and the results of that effort, except where the transaction is pursuant to § ~~1905(e)(2) [sic]~~ 1912(c)(2) or § 1914 of this title. The ~~affidavit~~ written statement must be open to public inspection. The ~~affidavit~~ written statement must affirm that the insured was expressly advised in writing prior to placement of the insurance that:

a. The surplus lines insurer with whom the insurance was to be placed is not licensed in this State and is not subject to the State's supervision; and

b. In the event of the insolvency of the surplus lines insurer, losses will not be paid by the State Insurance Guaranty Fund.

(b) The broker's record shall be open to examination by the Commissioner at all times within 5 years after issuance of the coverage to which it relates.

(c) After notice and hearing, the Commissioner may promulgate reasonable rules and regulations specifying the manner and type of records to be maintained by surplus lines brokers and the location or locations where those records shall be kept.

Section 3. This bill shall become effective 90 days from the date of enactment.

Approved June 04, 2015