



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Bulletin SL-5

October 4, 2023

To: All Surplus Lines Brokers

Re: New Procedures Concerning Surplus Lines Diligent Effort and Related Documentation

This Bulletin supersedes Bulletin SL-4, which is hereby rescinded.

Under previous law, surplus lines brokers were required to file quarterly with the Commissioner signed written statements setting forth the facts showing that they made a diligent effort prior to placing coverage in the surplus lines market. On June 27, 2023, the legislature enacted Public Act 23-65, an Act Concerning the Renewal of Surplus Lines Insurance Policies, which changed such requirement. Public Act 23-65 provides that surplus lines brokers are required to keep and make available to the Commissioner, upon request, any and all documentation concerning their diligent effort to obtain from authorized insurers the coverage required by their insureds.

The purpose of this bulletin is to advise all surplus lines brokers that, effective immediately, they are no longer required to file signed written statements with the Department through OptIns. They are now required to maintain all statutory information and documentation in their own files to be provided promptly to the Commissioner upon request. Required information must include, at the very least, the following:

1. All written statements that the insured and broker were unable to procure, from licensed insurers after diligent effort, the full amount of insurance the insured needed to protect his or her interest (in practice, the insured must receive three declinations from licensed insurers to show coverage is unavailable);
2. Documents showing that the amount of insurance procured from unlicensed insurers was only the excess over the amount they were able to procure from licensed insurers; and
3. The type of policy and, if it is for real property, the property's location.

Other than the requirements applicable to the documentation relating to licensees' diligent effort, which have changed as provided herein, all the guidelines for surplus lines placements set out in Bulletin SL-3, adopted by the Department on June 15, 2012, will remain in full force and effect. Additionally, the filing of premium taxes and information on the SL 9 form through Opt-Ins will still be mandatory.

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In addition, the Department would like to remind all licensees that surplus lines brokers may place insurance with eligible surplus lines insurers only if, after diligent effort to place the coverage in the authorized market, a particular coverage or part thereof, is not available from licensed insurers or a residual market mechanism. Coverage placed in the surplus lines market can only be excess over the amount of insurance, if any, that can be procured from authorized insurers. See, C.G.S. § 38a-741.

The Department restates its longstanding position that a diligent effort to procure coverage in the regular market, within the meaning of C.G.S. § 38a-741, is presumed to have been made if: (1) the line, sub-line or class of insurance sought is considered generally unavailable through admitted insurers or a residual market mechanism and, as such, is included in the Department's Exportable List, as published by the Commissioner from time to time; or (2) the risk has been previously declined by three authorized insurers that customarily write the type of insurance at issue.

The records supporting the three declinations must be maintained by the surplus lines broker throughout the policy period and for one year thereafter, and must include the specific reason for declination, the date declined, and the name and title of the insurance company's underwriter declining the coverage. Although surplus lines brokers are required to maintain the records of the required declinations, it is the Department's position that the responsibility to fulfill the due diligence requirement falls upon the insured's retail agent, given nature of the authority of surplus lines brokers and the timing of the steps involved in surplus lines transactions.



Andrew N. Mais
Insurance Commissioner