



Surplus Lines Associates

9/4/2009

The New York State Insurance Department has added coverages to its excess and surplus lines “export list”— coverages an excess lines broker can place with a non-admitted carrier without first getting three declinations from New York licensed carriers.

In a hearing held in June 2008, retail and wholesale agents urged expansion of the list to eliminate what they said are the unnecessary regulatory burdens inherent in the current system. Regulators said at the time that the department would consider the agents’ arguments, but would also examine possible negative consequences of allowing agents to place business with carriers not licensed in the state without first receiving declinations from admitted carriers.

In June 2009, the department formally proposed a regulation to expand the list.

In the final approved version, nine coverages were added where agents do not have to receive declinations from admitted carriers, and 10 additional coverages now require two declinations instead of three.

The nine coverages that require no declinations are:

- Commercial excess and umbrella liability with limits of at least \$10 million.
- Commercial property—commercial excess liability with coverage in excess of \$50 million, and primary or excess property insurance coverage for business property with a total insured value in excess of \$200 million.
- Contract frustration.
- Employed lawyers liability.
- Some general liability coverages for some general contractors, subcontractors, and all construction trades.
- Prize indemnification.
- Special events.
- Special multi peril coverage.
- Vacant commercial property.

At the June 2008 hearing, agents spoke at length about difficulties in securing general liability coverage for contractors, which was included in the new rule, and homeowners coverage for residents of Long Island coastal counties of Nassau and Suffolk, which was not included.

Coverages now requiring two declinations include:

- Alcohol and/or drug rehabilitation centers.
- Alcohol and/or drug rehabilitation programs.
- Residential facilities including convalescent centers, nursing homes, and assisted care facilities.
- Day care centers for adults, children or the physically or mentally disabled.
- Group homes for adults, children or the physically or mentally disabled.
- Halfway houses for adults, children and/or the physically or mentally disabled.
- Hospices care service providers.
- Social services agencies.
- Foster care service providers.
- Home health care providers.

The initial proposal to expand the export list was initiated by the Excess Lines Association of New York.