



## SURPLUS LINES BULLETIN NO. 18

**TO: ALL SURPLUS LINES LICENSEES AND INTERESTED PARTIES**

**RE: REMOVAL OF AFFIDAVIT REQUIREMENT FOR SURPLUS LINES STATEMENT OF DILIGENT EFFORT FORM SL-1923**

**DATED: September 4, 2015**

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The purpose of this bulletin is to address recent legislation and changes to the current Surplus Lines Statement of Diligent Effort form SL-1923.

### BACKGROUND

Until the recent enactment of [House Bill 40](#), which amended 18 Del. C. §1923, each surplus lines broker was required to 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. The records were required to include:

*“(a)(14) An affidavit 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...”*

The Surplus Lines Statement of Diligent Effort (SL-1923) form was designed to fulfill this requirement and to serve as confirmation that a diligent effort was made by a surplus lines broker or active property and casualty insurance producer licensed in this State to obtain the insurance from among insurers that are admitted to transact and are actually writing that particular type of insurance in this State. The SL-1923 form was changed in 2014 specifically to include a line for the notary signature.

Newly enacted House Bill 40 changes the word “*affidavit*” in § 1923 of Title 18 to “*written statement*” so that notarized signatures will no longer be required on the SL-1923 form. The change becomes effective on September 4, 2015.

The attached [SL-1923-v. 2015](#) form, which is also being posted to the Department’s website, has been revised to remove the notary signature section on the form. All Delaware surplus lines licensees should begin using this revised form immediately.

The revised SL-1923- v. 2015 form still contains an affirmation that, pursuant to 18 Del. C. § 1923(a)(14), 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.

Including this advice on the form brings an important layer of protection to consumers who must be made aware of the Commissioner's limited regulatory authority over surplus lines insurance. Not only is the disclosure statement stamped on the policy, but is in compliance with 18 Del. C., Ch. 19, where the insured must also be so informed by the individual licensee conducting the diligent search before purchasing insurance from a non-admitted insurer.

### CONCLUSION

The legislative changes to 18 Del. C. § 1923 allow for the removal of a notary signature on the Surplus Lines Statement of Diligent Effort SL-1923 form, because the law now calls for a "written statement" instead of an "affidavit."

The declinations reported on the revised SL-1923-v. 2015 form continue to signify that the individual licensee who performed the actions described in the form did so in compliance with all of the requirements set forth in Chapter 19, including performance of a diligent search conducted prior to placing insurance for a Delaware home state insured with a non-admitted surplus lines insurer and notifying the insured of the terms in the disclosure statement.

This bulletin shall be effective immediately and shall remain in effect unless withdrawn or superseded by subsequent law, regulation or bulletin.



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**Karen Weldin Stewart, CIR-ML**  
**Insurance Commissioner**