

DILIGENT EFFORT AND EXCESS LINE MARKET SHARE ARE NOT RELATED

The excess line insurance diligent effort requirement has no discernible impact on the share of risks that are written in the excess line market as opposed to the admitted market. The experience of the states that have eliminated the diligent effort requirement proves the point.

Five states have eliminated the diligent effort requirement (Florida for commercial lines only). Wisconsin has not had a diligent effort requirement since 1971 and Mississippi just eliminated their requirement in 2017. The other three states, Florida (2011), Louisiana (2013) and Virginia (2008) have multiple recent years to compare excess line premium vs. admitted premium following the elimination of the diligent effort requirement. Based on National Association of Insurance Commissioners data:

Florida – The ratio of excess line premiums to admitted market premiums **DECREASED** in five of the six years immediately following the elimination of the diligent effort requirement for commercial lines.

Louisiana -- The ratio of excess line premiums to admitted market premiums **DECREASED** in all four years immediately following the elimination of the diligent effort requirement.

Virginia -- The ratio of excess line premiums to admitted market premiums **DECREASED** in five of the nine years immediately following the elimination of the diligent effort requirement.

All three states experienced **DECREASES** in the excess line market's total share of premium in most of the years following the elimination of the diligent effort requirement. **This is a powerful indicator that diligent effort requirements are not determinative of whether risks flow to the admitted market or the excess line market, and that repeal of the diligent effort requirement does not lead brokers to place more business in the excess line market.** Instead, the experience of these three states demonstrates that market share moves in response to market and economic conditions and that while the diligent effort requirement is burdensome, costly and time-consuming, it does not serve as a barrier to placing excess line business.

In addition, although it is difficult to draw apples-to-apples conclusions based on Wisconsin's more dated experience, it is illuminating that excess lines premiums are 3.6% of the total property-casualty market in the state, a far lower share than New York's 9.3%. In fact, in 2017 the excess line market was 7.5% of the admitted market nationally, meaning Wisconsin's excess line market share was less than half of the national average. If the diligent effort requirement was a significant factor in limiting the flow of business to the excess line market, Wisconsin, having eliminated the requirement long ago, would have a significantly greater share of its market in excess lines.

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