

Certificates of Insurance

State by State Listing

Laws, Regulations, and DOI Directives



13th Edition
January 2017

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The purpose of this document is to assist agents and brokers in considering issues relevant to certificates of insurance. The document includes only general information, and is not intended to provide advice tailored to any specific insurance situations. It was prepared solely as a guide, and is not a substitute for agents and brokers independently evaluating any relevant business, legal or other issues, and is not a recommendation that a particular course of action be adopted. If specific advice is required or desired, the services of an appropriate, competent professional should be sought.

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Certificates of Insurance
State by State Listing
Laws, Regulations, and DOI Directives

13th Edition, January 2017

Researched and Compiled by:

William C. Wilson, Jr., CPCU, ARM, AIM, AAM

The most recent edition of this document can be found at

<http://www.independentagent.com/Education/VU/Pages/featured-resources/certificates-public/COI-Laws-Regulations.aspx>

along with a number of related documents and articles.

Alabama

June 5, 2004

Chapter 482-1-062, General Property/Casualty Binders, Certificates of Insurance or Indemnity Agreements was effective on June 5, 2004. This Department of Insurance regulation prohibits insurers and agents from issuing binders, certificates, indemnity agreements, or any other type of instrument which amends, extends, or alters the coverage provided by approved policy forms and endorsements without the written approval of the Commissioner of Insurance.

Each certificate or memorandum of insurance issued to non-policyholders must include the statement: "This certificate or memorandum of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by policy number _____ issued by _____."

The regulation also mandates that insurers must file any certificate or memorandum of insurance that is not the standard ACORD or ISO Form "Certificate of Insurance." In other words, non-ACORD and non-ISO forms cannot be used unless filed with the Department of Insurance.

In addition, insurers and agents cannot issue an "Agent's Opinion Letter" or any other correspondence purporting an insurance policy provides coverages which the policy does not provide. According to a September 22, 2003 letter to agents from the Deputy Insurance Commissioner, under Title 27-7-19, violations may be subject to a \$10,000 fine and imprisonment of up to one (1) year for EACH violation.

December 22, 2010

This letter was provided to the Alabama Independent Insurance Agents association by the Alabama Department of Insurance to clarify the law:

Dec. 22, 2010

Victor D. McCarley, CIC
Executive Vice President
Alabama Independent Insurance Agents
141 London Parkway
Birmingham, Alabama 35211

Dear Vic:

It has been brought to our attention that some parties are not accepting the new ACORD® 25 ("Certificate of Liability Insurance") or are trying to compel use of other certificate forms. We believe these issues are largely answered by reference to Department Regulation 482-1-062, available in the "Legal" section of the Department's web-site (www.aldoi.gov).

Hopefully, the following clarifies the Department's position on these matters:

1. If properly licensed or authorized by the respective organization, an insurer and a producer acting for an insurer can use the certificate of liability insurance forms published by ACORD® (and ISO®) without further approval from the Department. Department rule 482-1-062-.03(4).
2. Effective October 1, 2010, ACORD® form 25 (2009/09) or later version (2010/05) is the form that may be permissibly used. Prior versions of this form have been superseded and may not be used.
3. An insurer or producer acting for an insurer may not use another certificate form unless that form has been previously submitted to and approved by the Department. Department rule 482-1-062-

.03(4). This includes certificate forms or forms in the nature of certificates devised by other agencies or third parties.

4. A certificate form must comply with Department rules 482-1-062-.03(1), -(2), and -(3). In general, a certificate is merely informational and cannot affirmatively or negatively create, change, extend, or restrict coverage provided for in the underlying insurance policies to which the certificate refers. Neither an insurer nor a producer acting for an insurer may alter a certificate form if the effect of that alteration is to change, or create the impression of changing, the terms or scope of coverage provided for in the underlying policies.
5. Neither an insurer nor a producer acting for an insurer may issue an "opinion letter" or other correspondence stating or representing that an insurance policy provides coverage or contains terms which the policy does not provide or contain. Department rule 482-1-062-.03(5).
6. A producer participating in actions which violate Regulation 482-1-062 can be subject to disciplinary action including the possibility of a license revocation or suspension and/or imposition of a fine.

I trust the letter explains the Department's position. You are free to distribute this as you think appropriate.

Charles M. Angell FCAS, MAAA
Acting Deputy Commissioner & Casualty Actuary
Alabama Department of Insurance
Phone: (334) 240-4422
Fax: (334) 206-6386 Alternate Fax: (334) 240-4409
Email: Charles.Angell@insurance.alabama.gov
Agency Web Site: <http://www.aldoi.gov>

Alaska

No known certificate-specific laws, regulations, or insurance department directives.

Arizona

January 11, 2011

State of Arizona
Department of Insurance
REGULATORY BULLETIN 2011-01[1][1]

TO: Property and Casualty Insurers and Producers Writing Business in Arizona and Other Interested Parties

FROM: Christina Urias
Director of Insurance

DATE: January 11, 2011

RE: CERTIFICATES OF INSURANCE

The purpose of this Regulatory Bulletin is to address the prohibited practice of misrepresenting insurance coverage when insurers or insurance producers issue certificates of insurance. The Arizona Department of Insurance (ADOI) is aware that some licensed insurance producers and/or insurers receive requests to issue preprinted certificate of insurance forms, or other evidence of coverage, which may include language that attempts to amend, extend or alter the coverage of the underlying policy, or inaccurately suggests the existence of certain contractual rights such as “hold harmless” agreements. The industry typically uses certificates of insurance in lieu of providing a full copy of the policy, serving as proof of insurance and summarizing policy forms. Although producers and/or insurers do not file the actual certificate forms or other evidence of coverage with the ADOI, they do file and ADOI approves the policy forms they summarize.

Certificates of insurance must clearly and accurately state the insurance coverage provided. Any certificate of insurance issued by an insurer or producer that obscures or misrepresents the insurance coverage or terms of an insurance policy violates Arizona law. When an insurer or insurance producer issues a certificate of insurance or other evidence of coverage that exceeds a mere synopsis of the policy, the insurer or producer risks modifying the policy’s terms or conditions. Therefore, an insurance producer may not issue a certificate of insurance that does not accurately represent the terms or conditions of the policy without written authority from the insurer to alter the terms or conditions of that policy, or unless the producer has written underwriting authority to do so.

A.R.S. §20-443 (A)(1) prohibits a person from misrepresenting the terms of any policy issued, or to be issued, or misrepresenting the benefits to be received. An insurer or insurance producer who issues a certificate of insurance that misrepresents or obscures the terms or conditions of the underlying policy violates A.R.S. §20-443 and this may result in administrative action for suspension or revocation of a producer’s license or an insurer’s certificate or authority, civil penalties and, if applicable, restitution. Further, knowingly issuing such certificates of insurance may be prosecuted as a class 5 felony. A.R.S. §20-443.01.

This bulletin is available on the Department’s web site, www.azinsurance.gov. For questions about the bulletin, please contact Gerrie Marks, Deputy Director at 602/364-3471, or gmarks@azinsurance.gov

<http://www.id.state.az.us/bulletin/2011-01.pdf>

Arkansas

December 7, 2010

On December 7, 2010, Arkansas released their first directive on certificates, taking a firm stance on what agents can and cannot do. In fact, Arkansas extends this to policyholders and third parties:

"[I]f a policyholder or other person knowingly and intentionally encourages a producer to provide the policyholder or other person a Certificate of Insurance or Evidence of Coverage which misrepresents the benefits, advantages, conditions or terms of his or her insurance, that person may be committing fraud in violation of Arkansas law."

The bulletin goes on to say that any certificate that "conflicts with or purports to alter any policy coverage, exclusion, provision or condition, including in the case of Evidence of Insurance forms altering the Notice of Cancellation or providing Additional Insured status to the certificate holder except as stated in the insurance policy or in an endorsement" would effectively be considered a policy form and subject to filing requirements...otherwise, if not so filed, it could be construed as a misrepresentation or fraud.

Here is the complete Bulletin No. 7-2010:

http://www.insurance.arkansas.gov/Legal_Dataservices/Bulletins/7-2010.pdf

California

Enactment date unknown

California Insurance Code, Division 1, Part 1, Chapter 4, Article 1, Section 384 says:

384. (a) A certificate of insurance or verification of insurance provided as evidence of insurance in lieu of an actual copy of the insurance policy shall contain the following statements or words to the effect of:

This certificate or verification of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of the policies.

(b) This section is not applicable to a surplus line broker certificate as defined in Section 48.

Colorado

December 1, 2007

Colorado insurance department Bulletin No. B 5.21, issued on December 1, 2007, prohibits the modification of policies by certificates. Specifically, the Bulletin states:

Existing law requires licensed property and casualty producers, agencies and insurers to be truthful in representing the benefits, advantages, conditions, or terms of any insurance policy. There is evidence that there is pressure on insurance producers to issue non-standardized or altering standard certificates of insurance, which incorporate "hold harmless" agreements or other types of clauses that attempt to modify the terms or conditions of the underlying insurance policy. Insurance producers should not issue a certificate of insurance that does not accurately represent the terms or conditions of the policy.

Certificates of insurance generally serve only as evidence of insurance in lieu of an actual copy of an insurance policy. An insurer is under no obligation to abide by any certificate of insurance; which has been modified or created by any person or entity that does not have the actual or apparent authority to do so. Distribution of a certificate of insurance that has been modified, without authorization or the use of a non-standard certificate of insurance not authorized by the insurer, would at the least be misleading and could be in violation of Colorado Insurance Laws.

Connecticut

November 9, 2010

BULLETIN S-14
November 9, 2010

TO: COMPANIES LICENSED IN THE STATE OF CONNECTICUT TO
WRITE PROPERTY-CASUALTY INSURANCE AND PRODUCERS
LICENSED IN THE STATE OF CONNECTICUT

RE: USE OF CERTIFICATES OF INSURANCE

The purpose of this Bulletin is to outline the proper use of certificates of insurance and also to explicitly state that the improper modification of certificates of insurance is an unacceptable business practice.

Certificates of insurance generally serve only as evidence of insurance in lieu of an actual copy of an insurance policy and are typically requested in connection with insurance-related contractual requirements. Certificates are frequently issued by an insurance producer and they inform a company or individual who is not a party to the insurance policy—called a Certificate Holder—of the coverages under the insurance policy or policies that have been issued.

Generally, a certificate of insurance contains a snapshot of the insured's coverages as of the day of issue and it confers no rights or benefits upon the third party certificate holder to the underlying insurance stated in the certificate. This means that a certificate holder is owed no duty to be notified in the event the insurance policy identified on the certificate is cancelled. A certificate of insurance does not have the effect of making the certificate holder an additional insured under the underlying policy. To receive that protection, the certificate holder would need to be named an "Additional Insured" by endorsement or by being named an insured under the terms of the underlying policy. In some cases, there may be a cost for such protection. Certificate holders should seek advice concerning the different types of Additional Insured coverage and the scope of protection they may offer.

It has come to the attention of the Department that some public or commercial organizations may be requesting that contractors and/or insurance producers issue certificates of insurance that evidence terms or conditions of coverage that may be inconsistent with the underlying insurance policy or contract. The Department wishes to inform insurance producers and all other individuals that certificates of insurance cannot be used to amend, expand or alter the terms of the underlying insurance policy.

Insurers and producers are reminded of the provisions of the Connecticut Unfair Insurance Practices Act at Conn. Gen. Stat. Sections 38a-815 and 38a-816(l)(a) which provides that it is an unfair insurance practice to make, issue or circulate a statement that "[m]isrepresents the benefits, advantages, conditions or terms of any insurance policy..." Such a violation subjects a person making such a statement to fines, license revocation or suspension and orders of restitution pursuant to Conn. Gen. Stat. Section 38a-817.

Providing a certificate of insurance that misrepresents policy terms or conditions would violate Connecticut law and subject the insurance producer to penalties that may include suspension or revocation of the producer's license.

The Department urges all insurers to review their oversight procedures regarding the issuance of certificates of insurance in order to avoid misrepresentations of the terms and conditions of their policies and to periodically remind their producers about the consequences of providing improper certificates of insurance to the public.

Thomas R. Sullivan
Insurance Commissioner

[http://www.ct.gov/cid/lib/cid/Bulletin_S-14 - Use of Certificates Of Insurance.pdf](http://www.ct.gov/cid/lib/cid/Bulletin_S-14_-_Use_of_Certificates_Of_Insurance.pdf)

2014 Update:

Connecticut has passed Public Act No. 14-74 (H.B. 5248) effective October 1, 2014:

<http://www.cga.ct.gov/2014/act/pa/2014PA-00074-R00HB-05248-PA.htm>

Delaware

Delaware has passed COI legislation:

[http://www.legis.delaware.gov/LIS/lis147.nsf/vwLegislation/HB+104/\\$file/legis.html?open](http://www.legis.delaware.gov/LIS/lis147.nsf/vwLegislation/HB+104/$file/legis.html?open)

District of Columbia

No known certificate-specific laws, regulations, or insurance department directives.

Florida

June 17, 1994

Florida has not yet addressed certificates from the standpoint of statutes or regulations, but the insurance department has issued two regulatory orders dealing with modification of certificates:

A Florida Office of Insurance Regulation Bulletin 94-014, dated June 17, 1994 said in part:

Many cities, counties and corporate insureds have preprinted or modified Certificates of Insurance that are not the same as those normally used by insurers. Some of those certificates have been modified to incorporate "hold harmless" agreements or other clauses that differ from the language in the policy.

Certificates of Insurance are merely evidence of insurance in lieu of an actual copy of the insurance policy. They are to be used to show evidence of insurance. They are not to be used to attempt to modify the terms of the policy itself. No insurer or agent should issue or sign a Certificate of Insurance that contains terms or conditions that differ from those in the underlying policy.

February 21, 2003

On February 21, 2003, the Florida Office of Insurance Regulation issued Information Memorandum OIR-03-003M "Certificates of Insurance" which said in part:

The purpose of this Memorandum is to address the improper practice of modifying certificates of insurance. It has been brought to the attention of the Office of Insurance Regulation that some individuals or entities may be printing or altering certificates of insurance to incorporate 'hold harmless' agreements or other types of clauses in an attempt to modify the terms or conditions of the underlying insurance policy.

Certificates of insurance generally serve only as evidence of insurance in lieu of an actual copy of an insurance policy. An insurer is under no obligation to abide by any certificate of insurance which has been modified by any person or entity which does not have actual or apparent authority to do so. Distribution of a certificate of insurance which has been modified without authorization and which purports to alter the provisions of the underlying policy, misrepresents the conditions or terms of the insurance policy in violation of Section 626.9541(1)(a)1, Florida Statutes, thereby subjecting the person or entity modifying the certificate to license discipline and administrative fines.

Insurers are requested to notify their agents regarding this Memorandum.

<http://www.myfloridacfo.com/agents/Industry/Bulletins-Memos/docs/OIR-03-003M-2-21-03.pdf>

July 1, 2012

HB 1101 becomes effective. The bill codifies Memorandum OIR-03-003M (see above) relating to altered certificates of insurance. According to the Memorandum, "distribution of a certificate of insurance which has been modified without authorization and which purports to alter the provisions of an underlying policy, misrepresents the conditions or terms of the insurance policy" which is a violation of the unfair trade practices act. The person or entity violating the unfair trade practices act is subject to license discipline and administrative fines. The bill codifies the Memorandum by making altering a property and casualty certificate of insurance after the certificate is issued an unfair trade practices violation.

Georgia

January 15, 1988

Georgia Insurance Department Directive 88-R-1

Certificates of Insurance

January 15, 1988

It has been called to the attention of this Department that in many instances large firms have preprinted "Certificate of Insurance" forms for their corporate use.

These forms, generally speaking, are designed to simplify their internal procedure and/or set forth the required insurance limits which the firm would require of a borrower, a contractor, subcontractor doing work for the firm, or other entity requiring evidence of insurance, and in many cases coverage Property, Workers' Compensation, Employers' Liability, General Liability, and Automobile Liability.

Our examination of several of these forms indicates that, in some instances, an "Indemnity Agreement" tantamount to a complete "hold harmless" agreement is incorporated within the body of these "Certificate of Insurance" forms. Additionally, some forms appear to have been designed to broaden policy coverages.

It is the opinion of this Department that when an insurance company executes such a "Certificate" which contains more than a synopsis of the actual insurance contract in existence, it is going beyond the scope of its filings and is, therefore, in violation of the Georgia Insurance Code. Therefore no insurer or agent should issue or sign a certificate of insurance that contains language that would alter any policy coverage, exclusion, provision or condition.

All insurers are directed to inform their personnel and agents of the contents of this Directive.

The validity of this directive was confirmed as recently as July 15, 2005 in a letter from Deputy Insurance Commissioner Allan Hayes:

Under O.C.G.A. §33-2-24, the Commissioner of Insurance has the authority to take action against persons engaged in an act which is prohibited by the Insurance Code (including violations of O.C.G.A. §33-9-21) and also against persons engaged in practices prohibited by the Commissioner's orders (including Directives such as Directive 88-R-1). The Commissioner may issue a Cease and Desist Order or may fine licensed agents and companies (\$1,000 per violation; \$5,000 per intentional violation) or he may place any insurer, agent, broker, counselor, solicitor, or adjuster on probation or may suspend or revoke the person or entity's license to do business.

January 10, 2011

The following regulatory directive replaced Directive 88-R-1:

DIRECTIVE 11-EX-2

TO: ALL AGENTS AND INSURERS AUTHORIZED TO SELL PROPERTY AND CASUALTY
INSURANCE IN THE STATE OF GEORGIA
FROM: RALPH T. HUDGENS
INSURANCE AND SAFETY FIRE COMMISSIONER
DATE: JANUARY 10, 2011
RE: CERTIFICATES OF INSURANCE

On January 15, 1988, this office issued Directive 88-R-1 addressing the improper use of certificates of insurance including the alteration and issuance of certificates containing provisions other than those

found in “the actual contract of insurance in existence”. This Directive withdraws and replaces Directive 88-R-1.

It has come to my attention that widespread misunderstanding regarding the proper use of certificates of insurance, as well as the intentional misuse of such certificates, persists. For instance, I am aware that both private and public entities are requesting contractors to provide, and contractors are obtaining, certificates of insurance that provide evidence of coverage or other terms and conditions, such as notice provisions, that do not exist in the underlying insurance contracts.

For purposes of this Directive, “certificate” or “certificate of insurance” means any document or instrument, no matter how titled or described, which is prepared or issued by an insurer or insurance agent as evidence of property or casualty insurance coverage but does not include an actual copy of the insurance policy or insurance binder. In short, a certificate of insurance is a summary of the referenced insurance policy and does not, and cannot, modify or amend the referenced insurance policy or confer any right upon the certificate holder. For this reason, every certificate of insurance, except automobile liability insurance cards, shall include the following statement (or one substantially similar) printed conspicuously and in no smaller than 10 point font, boldfaced type:

This document is issued as a matter of information only and confers no rights upon the document holder. This document does not amend, extend, or alter the coverage, terms, exclusions, conditions, or other provisions afforded by the policies referenced herein.

The issuance or modification of a certificate of insurance that in any way misrepresents any material term, condition, coverage, or other provision as set forth in the underlying policy, or purports to amend or alter the underlying insurance policy -- or assisting in such issuance or modification -- violates Georgia law and subjects the violator to civil and criminal penalties.

Georgia law provides that “[a]ny natural person who knowingly or willfully . . . [m]akes or aids in the making of any false or fraudulent statement or representation of any material fact or thing . . . in any written statement or certificate . . . or [i]ssues fake or counterfeit . . . certificates of insurance . . . commits the crime of insurance fraud.” **Persons convicted are guilty of a felony punishable by “imprisonment for not less than two or more than ten years, or by a fine of not more than \$10,000.00, or both.”** (See O.C.G.A. § 33-1-9(a),(e)). In addition, any licensee may be fined up to \$5,000.00 for each noncompliant certificate issued. (See O.C.G.A. § 33-2-24(g)).

Likewise, any person “[m]aking, issuing, circulating, or causing to be made, issued, or circulated any estimate, illustration, circular, or statement misrepresenting the terms of any policy . . . [and] the benefits or advantages promised thereby” commits an unfair and deceptive act and may ultimately be subject to a monetary penalty of up to \$10,000.00 for each and every violation, suspension or revocation of such person’s license, or any other reasonable and appropriate relief. (See O.C.G.A. §§ 33-6-4 and 33-6-9). Similarly, an agent’s license may be suspended or revoked if he or she is found to have “violated any provision of [Title 33]” or “materially misrepresented the terms and conditions of an insurance policy or contract”. (See O.C.G.A. § 33-23-21(1),(6)).

Further, in instances where a certificate is issued by or on behalf of an insurer by an authorized individual containing more than a mere synopsis of the actual insurance policy that can be construed to alter any term, condition, coverage, exclusion, or any other provision of the actual policy in existence, the insurer or its authorized representative has acted in a manner beyond the scope of the insurer’s approved filings in violation of O.C.G.A. § 33-24-9.

To that end, it has also come to my attention that insurers may not be sufficiently monitoring or directing the activities of their agency force as it relates to proper procedures and expectations in the issuance, maintenance and monitoring of certificates, and in many instances, insurers refuse to accept copies of certificates issued on their behalf. I expect each insurer to provide all individuals authorized to issue certificates with clear procedures regarding their authority to issue certificates in this state. The procedures shall be available to the Department upon request.

Finally, I remind you that O.C.G.A. § 33-1-16(e) requires any insurer, agent, other licensee, or employee thereof to report actual or suspected fraud to the Commissioner. This includes the issuance of fraudulent certificates of insurance. I intend to use all the powers at my disposal to aggressively combat and

prosecute any future instances of the improper issuance and modification of certificates of insurance. Govern yourself accordingly.

RALPH T. HUDGENS
INSURANCE AND SAFETY FIRE COMMISSIONER
STATE OF GEORGIA

<http://www.gainsurance.org/ExternalResources/Announcements/Directive-1112011-1524.pdf>

Legal analysis of requirement to report:

<http://insuranceattorneygeorgia.com/2013/10/does-an-agent-have-a-legal-duty-to-report-wrongdoing-by-others/>

May 2011

Georgia has passed legislation regulating certificates of insurance:

TITLE 33. INSURANCE
CHAPTER 24. INSURANCE GENERALLY
ARTICLE 1. GENERAL PROVISIONS

O.C.G.A. § 33-24-19.1 (2011)

§ 33-24-19.1. Certificate of insurance forms to be approved by Commissioner; definitions; required provisions of certificate

(a) As used in this Code section, the term:

(1) "Certificate" or "certificate of insurance" means any document or instrument, no matter how titled or described, which is prepared or issued by an insurer or insurance producer as evidence of property or casualty insurance coverage. "Certificate" or "certificate of insurance" shall not include a policy of insurance or insurance binder, including any policy of insurance which may be referred to as a certificate, or any insurance information card or identification card issued in conjunction with a motor vehicle insurance policy.

(2) "Certificate holder" means any person, other than a policyholder, that requests, obtains, or possesses a certificate of insurance.

(3) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(4) "Insurer" means any person engaged as indemnitor, surety, or contractor who issues insurance as defined by Code Sections 33-7-3 and 33-7-6. Nothing in this Code section shall apply to or affect any offering of accident, sickness, or disability insurance by a fraternal benefit society, as provided under Code Section 33-15-60; nonprofit medical service corporations, as provided under Chapters 18 and 19 of this title; health care plans, as provided under Chapter 20 of this title; health maintenance organizations, as provided under Chapter 21 of this title; any provisions of accident and sickness insurance policies generally, as provided under Code Sections 33-24-20 through 33-24-31; individual accident and sickness insurance, as provided under Chapter 29 of this title; or group or blanket accident and sickness insurance, as provided under Chapter 30 of this title.

(5) "Person" means any individual, partnership, corporation, association, or other legal entity, including any government or governmental subdivision or agency.

(6) "Policyholder" means a person who has contracted with a property or casualty insurer for insurance coverage.

(b) No person, wherever located, may prepare, issue, or request the issuance of a certificate of insurance unless the form has been filed with and approved by the Commissioner of Insurance. No person, wherever located, may alter or modify an approved certificate of insurance form.

(c) The Commissioner of Insurance shall disapprove a form filed under this Code section, or withdraw approval of a form, if the form:

(1) Is unjust, unfair, misleading, or deceptive, or violates public policy;

(2) Fails to comply with the requirements of subsection (d) of this Code section; or

(3) Violates any law, including any regulation adopted by the Commissioner of Insurance.

(d) Each certificate of insurance must contain the following or similar statement: "This certificate of insurance is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage, terms, exclusions, and conditions afforded by the policies referenced herein." However, the Commissioner of Insurance may approve a form filed under this Code section that does not state that the form is provided for information purposes only, if such form contains the following or similar statement: "This certificate of insurance does not amend, extend, or alter the coverage, terms, exclusions, and conditions afforded by the policies referenced herein."

(e) Standard certificate of insurance forms promulgated by the Association for Cooperative Operations Research and Development or the Insurance Services Office are deemed approved by the Commissioner of Insurance and are not required to be filed if the forms otherwise comply with the requirements of this Code section.

(f) No person, wherever located, shall demand or request the issuance of a certificate of insurance from an insurer, insurance producer, or policyholder that contains any false or misleading information concerning the policy of insurance to which the certificate makes reference.

(g) No person, wherever located, may knowingly prepare or issue a certificate of insurance that contains any false or misleading information or that purports to affirmatively or negatively alter, amend, or extend the coverage provided by the policy of insurance to which the certificate makes reference.

(h) No person may prepare, issue, or request, either in addition to or in lieu of a certificate of insurance, an opinion letter or other document or correspondence that is inconsistent with this Code section.

(i) The provisions of this Code section shall apply to all certificate holders, policyholders, insurers, insurance producers, and certificate of insurance forms issued as evidence of insurance coverages on property, operations, or risks located in this state, regardless of where the certificate holder, policyholder, insurer, or insurance producer is located.

(j) A certificate of insurance is not a policy of insurance and does not affirmatively or negatively amend, extend, or alter the coverage afforded by the policy to which the certificate of insurance makes reference. A certificate of insurance shall not confer to a certificate holder new or additional rights beyond what the referenced policy of insurance expressly provides.

(k) No certificate of insurance shall contain references to contracts, including construction or service contracts, other than the referenced contract of insurance. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which a certificate of insurance may be issued or may pertain, the insurance afforded by the referenced policy of insurance is subject to all the terms, exclusions, and conditions of the policy itself.

(l) A certificate holder shall have a legal right to notice of cancellation, nonrenewal, or any material change, or any similar notice concerning a policy of insurance only if the person is named within the policy or any endorsement and the policy or endorsement requires notice to be provided. The terms and conditions of the notice, including the required timing of the notice, are governed by the policy of insurance and cannot be altered by a certificate of insurance.

(m) Any certificate of insurance or any other document or correspondence prepared, issued, or requested in violation of this Code section shall be null and void and of no force and effect.

(n) Any person who violates this Code section may be fined up to \$5,000.00 per violation.

(o) The Commissioner of Insurance shall have the power to examine and investigate the activities of any person that the Commissioner reasonably believes has been or is engaged in an act or practice prohibited by this Code section. The Commissioner of Insurance shall have the power to enforce the provisions of this Code section and to impose any authorized penalty or remedy against any person who violates this Code section.

(p) The Commissioner of Insurance may adopt reasonable rules and regulations as are necessary or proper to carry out the provisions of this Code section.

HISTORY: Code 1981, § 33-24-19.1, enacted by Ga. L. 2011, p. 434, § 1/HB 66.

<http://www.legis.ga.gov/legislation/en-US/display/32114>

NOTE: As of March 2014, this legislation has now replaced withdrawn 1988 and 2011 DOI directives:

<http://www.iiag.org/information/Pages/News/The%20Capitol%20Report/2014-5.aspx>

May 2013

Georgia has implemented new certificate regulations effective May 26, 2013:

http://rules.sos.state.ga.us/cgi-bin/page.cgi?q=COMPTROLLER_GENERAL%2FRULES_OF_COMPTRROLLER_GENERAL_OFFICE_OF_COMMISSIONER_OF_INSURANCE%2FCERTIFICATES_OF_INSURANCE%2Findex.html&d=1

In addition, the insurance department has established a web area for reporting certificate problems:

<http://www.oci.ga.gov/Agents/CertificatesOfInsurance.aspx>

Hawaii

January 28, 2009

On January 28, 2009, the commissioner issued the following [memorandum](#):

MEMORANDUM 2009-3A

TO: Property and Casualty Insurers and Producers Writing Property and Casualty Business in Hawaii

FROM: J.P. Schmidt, Insurance Commissioner

SUBJECT: Certificates of Insurance for Property and Casualty Insurance Policies

It has come to our attention that producers routinely modify certificates of insurance ("COI") without the knowledge or consent of the insurer to include representations that are inconsistent with the terms of the underlying insurance policy or the contractual obligations of the insurer to the named insured. The modifications may include:

- a. naming as additional insureds parties that may not be covered under the policy such as, subsidiaries, affiliates, agents, elected officials, volunteers, successors, and assigns;
- b. a guaranty to notify all additional insureds (named or unidentified) of policy changes and termination;
- c. eliminating the phrase "endeavor to" from the standard COI language regarding the mailing of notices in the event of a policy cancellation
- d. an amendment to the insurance policy to incorporate the indemnity obligation of the contract between the policyholder and the additional insured;
- e. naming additional insureds that have no real interest in the contract or subject matter of the contract between the policyholder and the primary additional insured; and
- f. statements that the subject policy is primary and non-contributory when typically most begin coverage only after the policies of the primary defendants are exhausted.

Producers are reminded that the law requires the truthful representation of the terms and conditions of any insurance policy. Misrepresentations can expose the producers to civil, administrative and criminal prosecution and sanctions. Thus, it is imperative that the producers issue certificates of insurance that accurately represent the terms and conditions of the policies as contracted between the insurer and the policyholder.

The Insurance Division understands that the general purpose of the COI, whether it is a proprietary form or a generic outline, is to serve as proof of insurance in lieu of an actual copy of the insurance policy. The COI provides on a single sheet of paper a concise summary of selected key elements of the insurance policy. Typically, the COI will disclose policy limits, policy numbers, retention limits, and policy periods. The information purports to be accurate as of the date of the COI.

The COI is not the insurance policy. The COI is not intended to provide a comprehensive digest of the insurance policy. The COI is not intended to provide a vehicle to amend the insurance policy. The insurer can be bound only by a person or entity with the actual or apparent authority to execute an amendment to the contract.

Please contact Mark K. Morita, Staff Attorney at 808 586 2790 if you have any questions.

December 1, 2010

On December 1, in an unprecedented statewide government entity directive, the Hawaii state comptroller issued Memorandum 2010-39 which addresses the state's provision for a notice of cancellation or material change in insurance coverages in requests for proposals, bid invitations, and other contracts. Responding to the September 2009 and later changes to the ACORD forms, state departments may accept the new forms and waive the requirement for notice on existing and future contracts. This burden is now placed on the contractor by incorporating the following language in state contracts:

"The Contractor will immediately provide written notice to the contracting department or agency should any of the insurance policies evidenced on its Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration."

This change, which mirrors the approach of the City of Atlanta, resulted from the Hawaii Big I's advocacy efforts, including a meeting with representatives from the offices of the State Risk Manager, State Insurance Broker, Hawaii Insurance Division Staff Attorney, and the State Attorney General.

Here is the complete memorandum:

<http://hawaii.gov/dags/cm/memo/CM2010-39.pdf>

Idaho

March 27, 2008

The following bulletin was issued by the Idaho insurance department in 2008:

BULLETIN NO. 08-03

DATE: March 27, 2008

TO: Property and Casualty Insurers and Producers writing Property and Casualty Business in Idaho

FROM: William W. Deal, Director

SUBJECT: Certificates of Insurance

The purpose of this bulletin is to remind writers and producers of property and casualty insurance that the purpose of a certificate of insurance is to provide evidence of insurance in lieu of an actual copy of the applicable insurance policy. As previously discussed in Bulletin 68-1, a certificate of insurance must clearly and accurately state the insurance coverage provided by the underlying policy and may not be used to alter, expand or in any way modify the terms of the underlying policy. It is not appropriate to issue an "open ended" certificate of insurance, and the certificate of insurance should clearly identify the policy expiration date.

A person who issues a certificate of insurance that is inconsistent with the underlying insurance policy is misrepresenting the terms of an insurance policy and may be subject to administrative or even criminal penalties for violating Idaho law. See, for example, Idaho Code Sections 41-1016 (illegal for producer to misrepresent the terms of an insurance contract), 41-1303 (illegal for any person to make a statement misrepresenting terms of a policy) and 41-293(1)(c) (insurance fraud includes presenting to a person, with intent to defraud or deceive, a false statement material to an insurance transaction).

In addition, any document intended to amend, add to or otherwise modify the terms of an insurance policy is considered a part of the policy under Idaho Code Section 41-1802 and is required by Section 41-1812 to be filed with the Department before it may be used in this state. It is a violation of this requirement for any person to issue a certificate of coverage that is not consistent with the underlying policy if the certificate has not first been filed with the Department of Insurance. Further, any change to the terms of the underlying policy should be accompanied by a filing of adjusted premium rates to reflect the changes in coverage terms.

To make certain that certificates of insurance do not mislead or result in confusion as to the terms of the underlying insurance policy, certificates of insurance used in this state are to include the following or similar statement:

This Certificate of Insurance neither affirmatively nor negatively amends, extends, nor alters the coverage afforded by the policy or policies numbered in this certificate.

Issued by: _____ (Company)

Issued to: _____ (Insured)

Policy Effective Date (s): _____

Policy Expiration Date: _____

Certificates of insurance that are in compliance with Bulletin 68-1 and this bulletin are not required to be filed with the Department of Insurance before being used.

June 22, 2012

The following is the full text of Bulletin 12-03 which supersedes Bulletins 08-03 and 68-1 and outlines changes codified by legislation effective July 1, 2012:

http://www.doi.idaho.gov/laws/12_03.pdf

The following is the full text of the law:

<http://legislature.idaho.gov/legislation/2012/S1390E1.pdf>

Illinois

January 1, 2015

Legislation concerning certificates of insurance is now effective:

<http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=098-0819&GA=98>

February 11, 2008

On February 11, 2008, the Illinois Department of Financial and Professional Regulation, Division of Insurance, issued a memo to insurers and agents which stated that any certificate of insurance that misrepresents the insurance coverage provided by the policy is a violation of the Illinois Insurance Code. With regard to cancellation, the memo states, "Any requests to include a notice provision that binds the carrier when such provision is not contained in the policy would not be in compliance with the Illinois Insurance Code. Specifically, the memo says:

The Division of Insurance is aware that some insurance producers or insurers are being asked to issue reprinted Certificate of Insurance forms which include language that may amend or alter coverage of the underlying policy. These certificates of insurance are typically used in lieu of providing a full copy of the policy and serve as proof of liability insurance and to summarize terms of the policy. This memorandum is to clarify the use of certificates of insurance by producers or insurers in Illinois.

Certificates of insurance must clearly and accurately state the insurance coverage provided. Any certificate of insurance issued by an insurer, broker or producer that obscures or misrepresents the insurance coverage provided under the insurance policy is a violation of the Illinois Insurance Code and may subject the issuer to administrative penalties and/or license suspension or revocation. Therefore, an insurance agent or broker may not issue a certificate of insurance that does not accurately represent the terms or conditions of the policy without written authority from the insurer to alter the terms or conditions of that policy or unless they have the written underwriting authority to do so. Any requests to include a notice provision that binds the carrier when such provision is not contained in the policy would not be in compliance with the Illinois Insurance Code.

When an insurer or insurance producer, acting as the insurer's agent, executes a certificate of insurance or other evidence of coverage which goes beyond a mere synopsis of the policy, the insurer, broker or producer may be exceeding the policy language filed with the Division. If an insurer, broker or its producer includes any statement in the certificate of insurance, the purpose of which is to amend or extend coverage under the underlying policy, including references to construction contracts, service contracts or insurance requirements, the insurer, broker or producer is, in effect, changing the policy terms. By issuing such a certificate, the insurer, broker or producer is in violation of the Illinois Insurance Code.

The Illinois Insurance Code authorizes the Insurance Director to place on probation, suspend or revoke a producer's license if the producer or broker intentionally misrepresents the terms of an actual or proposed insurance contract. A producer or broker who signs a certificate of insurance or issues an opinion that the producer or broker knows, alters or amends the coverages of the underlying policy, may be in violation of this section and thereby be subject to appropriate penalties under the Code.

Certificates of insurance whether using an Accord from or some other form of certificate of insurance can not provide false information.

All certificates of insurance shall contain the following or similar language: The certificate of insurance neither affirmatively nor negatively amends, extends nor alters the coverage afforded by the policies listed thereon. An industry standard setting organization may be authorized by the Director of Insurance to file certificate of insurance forms on behalf of authorized insurers.

The following guidelines should be reviewed and adhered to by insurers and producers when issuing certificates of insurance:

1. No licensed insurer or its licensed broker or producer may issue a binder, certificate of insurance or indemnity agreement or any other type of instrument which either affirmatively or negatively amends, extends or alters the coverage provided by its approved policy forms and endorsements.
2. Each certificate or memorandum of property or casualty insurance issued should contain the following or similar statement: "This certificate or memorandum of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by policy number _____ issued by _____ on _____."
3. No certificate of insurance shall contain references to construction contracts, service contracts or insurance requirements for the purpose of amending coverage afforded by the policies to which the certificate makes reference. No certificate of insurance may be used to amend, extend, restrict or alter coverage afforded by the policies to which the certificate of insurance makes reference.

In a March 7 news release, our Illinois state association, added the following information:

According to the memorandum, "Certificates of Insurance must clearly and accurately state the insurance coverage provided. Any certificate issued by an insurer, broker or producer that obscures or misrepresents the insurance coverage provided under the insurance policy is a violation of the Illinois Insurance code and may subject the issuer to administrative penalties and/or license suspension or revocation."

"Anything that is not actually stated in the insured's policies cannot be shown on a certificate of insurance - period," said Chuck Schramm, CIC, CPCU, AAI, ARM, CRM, nationally known instructor and consultant on certificates. "Any notice provision which binds the insurer when such provision is in the policy is not in compliance."

For example, if no endorsement has been added to the policies the Certificate cannot show either Primary Noncontributory or Additional Insureds. In addition, an indemnification agreement or any other non-policy language can not be added to a Certificate. There is no endorsement to include a contract's indemnification clause in the definition of "insured contract." Moreover, none of the preprinted language on the Certificate may be deleted.

Producers found in violation may have their license placed on probation, suspended or revoked. In addition to suspension or revocation of a license a person may, after hearing, be subject to civil penalties of up to \$10,000 for each cause of action.

"In Illinois 27% of Professional Liability claims are directly related to Certificates of Insurance, the number one source of E&O claims," said Dennis Garrett, PIIAI Vice President, Errors & Omissions Program. "These practices end up costing everyone in the form of higher premiums as well as time lost."

<http://www.idfpr.com/NEWSRLS/02132008CertofInsMemo.pdf>

Indiana

June 1971

Bulletin 26

AUTOMOBILE LIABILITY AND GENERAL LIABILITY "CERTIFICATE OF INSURANCE" FORMS

The Indiana Department of Insurance has noted that there is a growing tendency on the part of non-insurance companies to insist upon certificates of insurance on the part of their suppliers, contractors, subcontractors and others on forms these non-insurance companies have drafted themselves. These forms, generally speaking, are designed to simplify their own internal procedures and/or set forth the required insurance limits which the firm requires of its suppliers, contractors, subcontractors, and others doing work for their firm. These non-insurance forms, certified by insurance companies or their representatives, sometimes contain preprinted provisions such as limits of liability, hold harmless agreements, and other statements, any of which may be in direct opposition to the coverages as they actually exist in the policy they purport to certify.

Since these type practices are on the rise in Indiana, it is the Department's position that no company or company representative should issue any certificate of insurance which includes any coverages or limits not contained in their filings with the Indiana Department. If this is done, the Department has no alternative but to find such practices in violation of Indiana's insurance statutes and must deal with them accordingly. Nor should a company issue a certificate of insurance that purports to extend greater coverages or limits than the applicable policy extends, even if the purported extensions are within the scope of their filings with the Indiana Department.

Both of the above prohibitions are sound since the certificate of insurance containing information broader than the insurance coverage imposes upon the company, at the least a moral obligation and in many cases a contractual or legal obligation, to perform in accordance with the expanded certification where it has been accepted in good faith by the person to whom it was tendered.

Therefore, it is suggested that the following or similar language appear in any certificate issued:

"This certificate of insurance does not amend, extend or alter the coverage afforded by policy number _____ issued by: _____

Rather it is simply a synopsis or summary of the designated policy."

Oscar H. Ritz
Insurance Commissioner

April 3, 2009

Bulletin 170

CERTIFICATE OF INSURANCE PRACTICES

This bulletin is directed to all insurance producers licensed under IC 27-1-15.6 to sell property & casualty products and to all insurers as defined by IC 27-1-2-3(x). Certificates of insurance, evidences of insurance, and similar policy-related documents (collectively, "certificates") serve a valuable informational purpose and provide to an insured or third party a courtesy summary of the terms of an insurance policy on the day it is issued. The Department has become aware that some producers and insurers have been asked to provide certificates that purport to amend, extend, or alter the coverage of the underlying policy. The Department has also become aware that some organizations may be requesting that contractors or other insureds produce certificates that evidence terms or conditions of coverage that may be inconsistent with the underlying policy or contract.

Certificates generally serve only as an informational summary of insurance in lieu of an actual copy of an insurance policy and should not be used to amend, extend, or alter policy terms. Producers confronted with demands or special provisions must refer these demands to the insurer with a request that these provisions be included in the insurance policy. The insurer working in concert with the producer may effectively address the insured's special insurance needs. This requires the producer to work within the authority granted by the insurer.

If an insured requests special insurance provisions, the producer should request that the insurer write a policy that contains the special provisions requested by the insured. If the policy contains such special provisions, it is acceptable for the producer to insert an accurate statement of the special policy provisions in the special provisions block or other appropriate area of the certificate. Distributing a certificate that has been modified without authorization, or the use of a non-standard certificate not authorized by the insurer, is considered by the Department to be a misrepresentation of the terms of the insurance contract.

To ensure that insureds requesting a certificate are aware that the certificate is neither extending nor restricting coverage, insurers and producers should include on the certificate the following statement or one substantially similar:

This certificate of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by policy number _____ issued by _____ on _____.

A statement substantially similar to that above is included on the form certificates available from ACORD and ISO. Use of the ACORD and ISO forms will be considered by the Department to meet the requirements of this Bulletin so long as the forms are not altered to inappropriately modify terms of the policy.

IC 27-1-15.6-12(b) prohibits producers and insurers from misrepresenting the terms of an actual or proposed insurance contract. Violations of this law can result in the suspension or revocation of a license and other administrative penalties. In addition, misrepresentations of the terms of an insurance contract may constitute unfair methods of competition under IC 27-4-1-4 as misrepresentations or restraints of trade. Any person who issues a certificate that amends, extends, or alters the insurance policy referenced, or who otherwise knowingly misstates the terms of the coverage, is subject to administrative proceedings, including monetary fines and license suspension or revocation.

Questions regarding this bulletin should be directed to Bob Reeder, Company Compliance Division, at (317) 232-2424 or rreeder@idoi.INgov.

INDIANA DEPARTMENT OF INSURANCE

James Atterholt, Commissioner

http://www.in.gov/idoi/files/Bulletin_170_Certificate_of_Insurance_Practices.pdf

July 1, 2013

Indiana Public Law No. 70-2013 (effective July 1, 2013) adds Section 1. IC 27-1-42 to the Indiana Code governing certificates of insurance. The new law includes provisions such as:

A person may not prepare or issue, or request or require the issuance of, a certificate of insurance that:

- (1) contains false or misleading information concerning; or
- (2) alters, amends, or extends the coverage provided by;

the policy of property or casualty insurance to which the certificate of insurance refers.

A certificate of insurance must not contain a warranty that the policy of property or casualty insurance to which the certificate of insurance refers complies with the insurance or indemnification requirements of a contract.

The inclusion of a contract number or contract description in a certificate of insurance does not warrant that the policy of property or casualty insurance to which the certificate of insurance refers complies with the insurance or indemnification requirements of the contract.

A person is not entitled to notice of:

- (1) cancellation of;
- (2) nonrenewal of; or
- (3) a material change in;

a policy of property or casualty insurance unless the person has notice rights under the terms of the policy of property or casualty insurance or an endorsement to the policy.

For the full text of the law:

<http://www.in.gov/legislative/bills/2013/HE/HE1322.1.html>

Iowa

August 7, 2007

On August 7, 2007, the Iowa insurance department issued Bulletin 07-04 which includes the following prohibition on altering or removing language from ACORD forms:

The Department is aware that some insurance producers or insurers are being asked to issue preprinted certificate of insurance forms which include language that may amend or alter coverage of the underlying policy. These certificates of insurance are typically used in lieu of providing a full copy of the policy and service as proof of liability insurance and to summarize terms of the policy. This Memorandum is to clarify the use of certificates of insurance by producers or insurers in the State of Iowa.

Iowa Code 515.109 requires all policies prior to use in Iowa be reviewed and approved by the Commissioner of Insurance. If an insurer or insurance producer in any way alters or omits language of a pre-approved form, this may be in violation of Iowa Code (515.109). Furthermore, the practice of altering or removing language from any pre-printed forms such as Accord and ISO is also prohibited.

To ensure that those who are requesting a certificate of insurance are aware that the certificate is neither expanding or restricting coverage, an insurer or producer should include on the certificate a statement such as, "This certificate of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by policy number _____ issued by _____ on _____." A similar statement is included on the preprinted certificate of insurance forms available from ACORD and ISO. The ACORD and ISO forms will be accepted by the Department so long as the forms are not altered to modify terms of the underlying policy.

Iowa Insurance Code 505.8 gives the Commissioner of Insurance general control, supervision, and direction over all insurance business transacted in the state, and allows the commissioner to take administrative action against any Insurance Companies or Producers who intentionally misrepresent terms of an actual or proposed insurance contract.

July 13, 2010

BULLETIN 10-04

To: Iowa Insurance Companies and Licensed Producers

From: Susan E. Voss, Insurance Commissioner

Re: Certificates of Insurance

Date: July 13, 2010

Certificates of insurance serve an important informational purpose and provide a courtesy synopsis of policy coverage and limits to an insured or third party. The Iowa Insurance Division (IID) previously addressed the proper usage of certificates of insurance in August 2007 (Bulletin 07-04).

The IID is aware that an insurance customer may ask an insurance company or an insurance producer to issue a certificate of insurance to incorrectly state the existence of certain contractual rights or to incorrectly purport to amend, extend, or alter the terms of the referenced policy.

This Bulletin is issued to remind insurers and insurance producers that certificates of insurance do not convey any contractual rights. The terms and conditions of insurance coverage are governed by the policy and cannot be altered by a certificate of insurance. The information presented on the certificate of coverage should not differ from the coverage or conditions that are a part of the contract.

Iowa Code section 515.102(2009) authorizes the IID to examine and approve the use of all policy-related forms issued by an insurance company doing business in the state. Effective September 1, 2010, this requirement will be interpreted to require the approval of all certificate of insurance forms before such forms may be used. Standard certificate of insurance forms that have been filed by either the Association for Cooperative Operations Research and Development (ACORD) or the Insurance Services Office (ISO) and approved by the IID are not required to be filed again by an insurance company. In that situation, an insurance company only needs to submit to the IID a filing that indicates adoption by that company of a particular ACORD or ISO form. Filing instructions are listed on the IID web site (www.iid.state.ia.us).

Each certificate of insurance filed with IID or issued by an insurer or producer must contain the following or a substantially similar statement:

This certificate of insurance is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the insurance policy referenced herein.

Any alteration to a form previously approved by the Division negates the Division's approval of the approved form and subjects any person using the altered form to administrative penalties. If a previously approved form is changed, it must be submitted to the Division again for approval.

Adding any incorrect statement to a certificate of insurance that either states the existence of certain contractual rights or purports to amend, extend, or alter coverage or notice provisions of an insurance policy could be found to be an unfair trade practice under Iowa insurance law.

This Bulletin applies to any certificate of insurance issued for property or operations located in this state.

This Bulletin shall also serve to provide notice that the IID intends to commence formal rulemaking to provide further guidance and establish penalties related to improper use of certificates of insurance.

Susan E. Voss
Iowa Insurance Division

<http://www.iid.state.ia.us/docs/bull1004.pdf>

Kansas

2007

In 2007, Kansas became one of a number of states that seek to regulate certificates of insurance in a manner similar to policy forms. Whereas most of these states regulate the use of certificates of insurance via insurance regulations or insurance commissioner edicts, Kansas could be the first state to do so in statute. The law requires certificates of insurance forms be filed and approved by the Kansas Insurance Department prior to use. Statutory language states that a certificate cannot be used to modify, alter or amend an insurance policy.

The law allows standard setting organizations like ACORD to file their forms as industry standards. Here is the actual statutory language:

KSA 40-955(b)

Certificate of insurance forms must be filed with the commissioner of insurance and approved prior to use. Notwithstanding the "large risk" filing exemption in subsection (j), a certificate of insurance cannot be used to modify, alter or amend the insurance policy it describes. The certificate of insurance shall contain the following or similar language: The certificate of insurance neither affirmatively nor negatively amends, extends or alters the coverage afforded by the policies listed thereon. An industry standard setting organization may be authorized by the commissioner of insurance to file certificate of insurance forms on behalf of authorized insurers.

August 30, 2010

The Kansas insurance department issued the following bulletin on August 30, 2010:

Bulletin 2010-2

To: All insurance agents and all insurance companies writing property and casualty insurance

From: Sandy Praeger, Commissioner of Insurance

Date: August 30, 2010

Re: K.S.A. 40-955(b) and Certificates of Insurance

Insurance agents may not issue certificates of insurance that are not filed and approved by the Insurance Department or which violate K.S.A. 40-955(b). Certificates that are authorized under federal law by the United States Department of Defense are exempt from this rule.

In 2007, K.S.A. 40-955(b) was enacted by the Kansas Legislature. It provides, in part:

"(b) Certificate of Insurance forms must be filed with the Commissioner of Insurance and approved prior to use. Notwithstanding the 'large risk' filing exemption in subsection (j), a certificate of insurance cannot be used to modify, alter or amend the insurance policy it describes. A certificate of insurance shall contain the following or similar language: A certificate of insurance neither affirmatively nor negatively amends, extends or alters the coverage afforded by the policies listed thereon. An industry standard setting organization may be authorized by the Commissioner of Insurance to file certificates of insurance forms on behalf of authorized insurers."

Because of legislative enactments and/or regulations, similar to K.S.A. 40-955(b), in a number of states the standard Accord certificate of Insurance form has been altered. The altered form, Accord 25 dated September of 2009, makes a number of changes, including a change to the provision related to notice of cancellation.

Previous versions of the standard accord certificate form provided that the issuing insurer would endeavor to mail written notice of cancellation to a certificate holder within a specific number of days. The number

of days was typically left blank and filled out when the certificate was issued. This provision was in conflict with K.S.A. 40-955(b) because the notice to be provided, if any, to certificate holders had to be what was specified in the insurance policy itself. The certificate cannot vary the terms of the policy.

The new Accord 25 provides, in part:

“Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.”

This text conforms with K.S.A. 40-955(b) and other similar enactments.

The Department has received a report that insureds and/or certificate holders have requested that insurance agents use older versions of the Standard Accord certificate or issue certificates providing for notice of cancellation within a specific number of days. It is further reported that some insureds are requesting agents to issue certificates prepared by the certificate holders that are neither filed nor in conformity with K.S.A. 40-955(b).

Insurance agents may not issue certificates of Insurance that are not filed and approved by the Insurance Department or which violate K.S.A. 40-955(b). Insurance agents should inform insureds and certificate holders that they can only provide certificates that are filed and comply with K.S.A. 40-955(b). If providing services under the jurisdiction of the United States Department of Defense (DOD), the agent should file the required DOD certificate of insurance form with the Department after it is completed.

If you have questions regarding this matter, you may contact Marty Hazen at 785-296-3405.

<http://www.ksinsurance.org/legal/bulletins/2010-2.pdf>

Kentucky

Unknown enactment date

Kentucky's statute KRS 304.14-120 says, "Prior to its use, each insurer shall file with the commissioner the form of certificate or memorandum of insurance which will be used by such company."

806 KAR 14:100. Certificate not to alter contract
RELATES TO KRS 304.14-120
Statutory Authority: KRS 304.2 - 110
Necessity, Function, and Conformity: KRS 304.2 - 110

Provides that the Commissioner of Insurance may make reasonable rules and administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This administrative regulation requires that memoranda or certificates of insurance, as herein defined, shall not amend, extend or alter the coverage of an existing contract. Section 2. Prior to its use, each insurer shall file with the commissioner the form of certificate or memorandum of insurance, which will be used by such company. (1 Ky.R. 1082; Am.2 Ky.R. 26; eff. 7-2-75.)

September 2, 2004

Here is a clarifying opinion published by the insurance department on September 2, 2004:

Kentucky Office of Insurance
Advisory Opinion 2004-03
Regarding: Certificates of Insurance

RELEVANT FACTS AND STATUTES: Questions persist regarding altered certificates of insurance that do not accurately reflect the actual coverage provided by the identified policy contracts. There seems to be a continuing misunderstanding by agents and insurers in the Commonwealth on this subject.

The purpose of this Advisory Opinion is to remind insurers and agents of Kentucky law and to clarify the position of the Office of Insurance.

A certificate of insurance is an informational document that provides evidence of insurance in lieu of an actual copy of the identified policy of insurance at the time the certificate is issued. A certificate confers no rights upon the certificate holder that do not exist in the policy contract.

806 KAR 14:100 states: "Sec. 1. Each certificate or memorandum of property or casualty insurance when issued to any person other than the policyholder shall contain the following or similar statement: "This certificate or memorandum of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by policy number ____ issued by ____". Section 2. Prior to its use, each insurer shall file with the commissioner the form of certificate or memorandum of insurance which will be used by such company."

Agents and insurers who use Certificate of Insurance forms which have not been filed and approved are in violation of 806 KAR 14:100.

Most insurers utilize, or permit their agents to use, certificate of insurance forms printed by ACORD or ISO which have been filed with the Kentucky Office of Insurance. Insurers may file to adopt these forms by reference pursuant to 806 KAR 14:006. Or insurers may develop and file their own certificate of insurance forms.

It is contrary to law for an agent or insurer to issue, or permit to be issued, a certificate of insurance in a form not previously filed by the insurer and approved by the Office of Insurance or that contains terms or conditions that differ from those in the underlying policy.

KRS 304.14-120(1) provides “No basic insurance policy or annuity contract form, ...or printed rider or endorsement form or form of renewal certificate, shall be delivered or issued for delivery in this state, unless the form has been filed with and approved by the commissioner.”

KRS 304.12-020 provides in part “No person shall make or disseminate orally or in other manner any advertisement, information, matter, statement, or thing: (1) Misrepresenting the terms of any policy...”

The law provides the following penalties for agents and insurers who engage in the practice of altering certificates of insurance:

KRS 304.9-440(1) provides the commissioner may place on probation, suspend, or may impose conditions upon the continuance of a license for not more than twelve (12) months, revoke, or refuse to issue or renew any license or may levy a civil penalty in accordance with KRS 304.99-020, or any combination of actions for any one (1) or more of the following causes: (b) Violating any insurance laws, or violating any administrative regulations, subpoena, or order of the commissioner or of another state's insurance commissioner; (e) Intentionally misrepresenting the terms of an actual or proposed insurance contract, viatical settlement contract, or application for insurance;

KRS 304.3-200 provides: (1) The commissioner may, in his discretion, refuse to continue or may suspend or revoke an insurer's certificate of authority if he finds after a hearing thereon, or upon waiver of hearing by the insurer, that the insurer has: ... (b) Willfully violated or willfully failed to comply with any lawful regulation of the commissioner; or (c) Willfully violated any provision of this code other than those for violation of which suspension or revocation is mandatory....In lieu of or in addition to such suspension or revocation, the commissioner may, in his discretion, reprimand the insurer, which shall be made a part of the insurer's record, or may levy upon the insurer, and the insurer shall pay forthwith, an administrative fine as specified in KRS 304.99-020. (2) The commissioner shall suspend or revoke an insurer's certificate of authority on any of the following grounds, if he finds after a hearing thereon that the insurer: ... (e) Has actual knowledge by the chief executive officer or person in charge of Kentucky operations that an agent employed by the insurer has engaged or is engaging in conduct in violation of this code and the insurer has failed to report such conduct to the department.

POSITION OF THE OFFICE OF INSURANCE: The Office of Insurance will not attempt to enforce the coverage provided in an altered certificate as the plain language of 806 KAR 14:100 and the certificate state that a certificate can neither amend, extend, nor alter the coverage afforded by the policy.

The Office of Insurance stands ready to investigate and take appropriate administrative action should altered certificates be brought to our attention.

April 21, 2011

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF INSURANCE
Frankfort, Kentucky

**ADVISORY OPINION
2011-02**

The following Advisory Opinion is to advise the reader of the current position of the Kentucky Department of Insurance (the “Department”) on the specified issue. The Advisory Opinion is not legally binding on either the Department or the reader.

TO: ALL PROPERTY AND CASUALTY INSURERS AND AGENTS AUTHORIZED TO TRANSACT INSURANCE BUSINESS IN KENTUCKY

FROM: SHARON P. CLARK, COMMISSIONER
KENTUCKY DEPARTMENT OF INSURANCE

DATE: APRIL 21, 2011

RE: CERTIFICATES OF INSURANCE
RESTATEMENT OF ADVISORY OPINION 2004-03

Recent inquiries to the Department indicate that there continues to be confusion in the insurance industry among producers and insurers as to the use of approved forms and whether approved forms may be altered after approval. Of particular concern is the practice of altering certificates of insurance or other insurance forms after the certificates/forms have been filed with and approved by the Department. This Advisory Opinion restates the Department's position as outlined in Advisory Opinion 2004-03 and serves to remind insurers and insurance producers of the certificate/form approval requirements in the Kentucky Insurance Code.

A certificate of insurance is an informational document that provides evidence of insurance in lieu of an actual copy of the identified policy of insurance at the time the certificate is issued. A certificate confers no rights upon the certificate holder that do not exist in the policy contract.

KRS 304.14-120 provides that no basic insurance policy or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. 806 KAR 14:006 Section 6(1) further provides that a policy or form shall not be used in Kentucky until it has been approved.

806 KAR 14:100 states: "Sec. 1. Each certificate or memorandum of property or casualty insurance when issued to any person other than the policyholder shall contain the following or similar statement: "This certificate or memorandum of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by policy number ____ issued by ____". Section 2. Prior to its use, each insurer shall file with the commissioner the form of certificate or memorandum of insurance which will be used by such company."

Most insurers utilize, or permit their agents to use, certificate of insurance forms printed by ACORD or ISO which have been filed with the Kentucky Department of Insurance. Insurers may file to adopt these forms by reference pursuant to 806 KAR 14:006. In the alternative, insurers may develop and file their own certificate of insurance forms.

It is contrary to law for an agent or insurer to issue, or permit to be issued, a certificate of insurance in a form not previously filed by the insurer and approved by the Department of Insurance or that contains terms or conditions that differ from those in the underlying policy. This practice not only violates KRS 304.14-120, 806 KAR 14:006, and 806 KAR 14:100, but it is also violates KRS 304.12-020 which prohibits persons from making or disseminating orally or in any other manner any advertisement, information matter, statement or thing misrepresenting the terms of any policy.

KRS 304.14-120(1) provides that form filing requirements shall not apply to "forms of unique character designed for and used with relation to insurance upon a particular subject..." Please be advised that most forms are not of such unique character as to allow their use without Department approval. Consequently, insurers and agents should rely on this statutory provision only in rare situations where a risk is so unique so as to require forms that would only be used once. This provision should never be relied upon by an insurer or an agent to alter a certificate of insurance in a manner that is different than a policy contract.

Please note that the Department of Insurance will not attempt to enforce the coverage provided in an altered certificate as the plain language of 806 KAR 14:100 and the certificate state that a certificate can neither amend, extend, nor alter the coverage afforded by the policy.

The Department of Insurance will investigate and take appropriate administrative action should the Department determine that a certificate of insurance has been illegally altered. The law provides the following penalties for agents and insurers who engage in the practice of altering certificates of insurance:

- KRS 304.9-440(1) provides the commissioner may place on probation, suspend, or may impose conditions upon the continuance of a license for not more than twelve (12) months, revoke, or refuse to issue or renew any license or may levy a civil penalty in accordance with KRS 304.99-020, or any combination of actions for any one (1) or more of the following causes: (b) Violating any insurance laws,

or violating any administrative regulations, subpoena, or order of the commissioner or of another state's insurance commissioner; (e) Intentionally misrepresenting the terms of an actual or proposed insurance contract, viatical settlement contract, or application for insurance;

- KRS 304.3-200 provides: (1) The commissioner may, in his discretion, refuse to continue or may suspend or revoke an insurer's certificate of authority if he finds after a hearing thereon, or upon waiver of hearing by the insurer, that the insurer has: ... (b) Willfully violated or willfully failed to comply with any lawful regulation of the commissioner; or (c) Willfully violated any provision of this code other than those for violation of which suspension or revocation is mandatory. ...In lieu of or in addition to such suspension or revocation, the commissioner may, in his discretion, reprimand the insurer, which shall be made a part of the insurer's record, or may levy upon the insurer, and the insurer shall pay forthwith, an administrative fine as specified in KRS 304.99-020. (2) The commissioner shall suspend or revoke an insurer's certificate of authority on any of the following grounds, if he finds after a hearing thereon that the insurer: ... (e) Has actual knowledge by the chief executive officer or person in charge of Kentucky operations that an agent employed by the insurer has engaged or is engaging in conduct in violation of this code and the insurer has failed to report such conduct to the department.

Questions regarding this Advisory Opinion may be directed to the Property & Casualty Division at (502) 564-6046.

Sharon P. Clark, Commissioner
Kentucky Department of Insurance
On this 21st day of April, 2011

http://insurance.ky.gov/Documents/AdvOp11_02CertInsRestate.pdf

Louisiana

April 23, 1969

A 1969 Louisiana law established that any certificate that purports to change coverage under the policy must be filed as required of any endorsement of coverage, and certificates must include certain language:

Chapter 81. Regulation 30C

Certificates of Insurance Coverage

§8101. Certificates of Insurance

A. It has come to the attention of this department that certificates of insurance for automobile and general liability insurance are being executed by companies or their agents. Certificates of insurance are pre-printed forms that many large corporations require persons or contractors employed by them to furnish to prove that they have insurance.

B. Some of these certificates purport to enlarge or vary the policy of insurance involved. When this is attempted, it is in violation of Louisiana Revised Statute 22:620 which requires that companies obtain approval of all endorsements that are used in the state of Louisiana.

C. Therefore, in order to avoid any misunderstanding of the effect of any certificate of insurance signed by an insurance company or its agent, any such certificate must contain the following or similar language:

This certificate of insurance neither affirmatively nor negatively amends, extends or alters the coverage afforded by Policy Number _____ issued by _____.

D. Companies shall inform their agents of the contents of this regulation. Please acknowledge receipt of this regulation promptly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, April 23, 1969.

2008 Legislation and 2009 Bulletin

During the 2008 Louisiana legislative session, new legislation was passed that added criminal penalties to the existing statutes which prohibit insurance producers, brokers, insurers, policyholders, or certificate holders from knowingly issuing a certificate of insurance, auto ID card or other evidence of insurance which does not accurately reflect the underlying insurance policies.

Following passage of this legislation, the Independent Insurance Agents & Brokers of Louisiana (IIABL) asked Insurance Commissioner Jim Donelon to issue a Bulletin clarifying the law on certificates of insurance, auto ID cards or other evidences of insurance to help educate IIABL members and avoid unintentional violations of these statutes. The Louisiana Department of Insurance recently issued Bulletin 09-02 in response to IIABL's request:

BULLETIN NO. 09-02

TO: ALL PROPERTY AND CASUALTY INSURANCE COMPANIES

FROM: JAMES J. DONELON COMMISSIONER OF INSURANCE

RE: CERTIFICATES OF INSURANCE
CIVIL AND CRIMINAL PENALTIES

DATE: FEBRUARY 3, 2009

The purpose of Bulletin No. 09-02 is to advise property and casualty insurance producers, brokers and insurers of some recent changes in Louisiana law with regard to Certificates of Insurance (COI). The Louisiana Department of Insurance (LDOI) is aware that property and casualty insurance producers, brokers and insurers are often requested to issue COI forms. A COI is a form that many corporations require of persons or contractors employed by them to furnish as proof that they have the required amount of liability insurance in place. In the past, COI forms have been amended, altered or modified to misrepresent the actual coverage provided by the insured's policy. This issue was originally addressed by the LDOI through Directive 42 issued on July 1, 1981. Through Directive 42 the LDOI made it clear that any COI was merely a synopsis of the underlying policy and could in no way amend, alter or modify the terms and/or conditions set forth in the underlying insurance policy.

The Louisiana Insurance Code, LSA-RS. 22:1 et seq., clearly prevents a producer, broker or insurer from issuing a COI that alters amends or modifies the attendant underlying policy. LSA-RS. 22:881 (redesignated from LSA-RS. 22:654 by Acts 2008, No. 415, effective January 1, 2009) expressly states: "Every insurance contract shall be construed according to the entirety of its terms and conditions as set forth in the policy, and as amplified, extended, or modified by any rider, endorsement, or application attached to or made part of the policy." A COI is not a rider, endorsement or application. Any COI issued by a producer, broker or insurer that violates LSA-RS. 22:881 may subject the producer, broker or insurer to the full array of administrative sanctions available to the LDOI. In addition to those administrative penalties, the Louisiana Insurance Code prescribes criminal penalties for knowingly supplying fraudulent insurance documents.

LSA-RS. 22:44 (redesignated from LSA-RS. 22:1462.1 by Acts 2008, No. 415, effective January 1, 2009) makes it unlawful for any person to intentionally and knowingly supply false or fraudulent material information pertaining to any document or statement required by the LDOL If a producer, broker or insurer signs a COI that the producer, broker or insurer knows alters, amends or modifies the coverage of the underlying insurance policy, or if a policyholder or certificate holder amends, alters or modifies a COI issued by a producer, broker or insurer so that the COI amends, alters or modifies the underlying insurance policy, then he is in violation of the Louisiana Insurance Code and is subject to the full array of administrative sanctions available to the LDOI as well as the appropriate criminal penalties discussed below.

LSA-RS. 14:72 makes it a criminal offense for any person to forge any document with the intent to defraud. The Louisiana Legislature, with the passage of Act No. 628 during the 2008 Regular Session, expounded on LSA-RS. 14:72 by enacting LSA-RS. 14:72.1.1 that specifically addresses this problem as it pertains to a COI as well as an insurance identification card.

LSA-RS. 14:72.1.1 makes it a criminal offense for any person to knowingly produce or create a false COI, and it also makes it a criminal offense for any person to knowingly possess a forged COL Thus, a policyholder or certificate holder may also be subject to criminal penalties for either possessing a COI that he knows to be forged or for forging the COI himself. A person intentionally producing, manufacturing or distributing a fraudulent document intended to serve as a COI or as proof of insurance shall be fined not more than five thousand dollars (\$5,000.00) or imprisoned with or without hard labor for not more than five years, or both. LSA-RS. 14:72.1.1 also imposes penalties upon those who intentionally possess falsified insurance documents to use as a COI or as proof of insurance by fines up to five hundred dollars (\$500.00) or imprisonment up to six months, or both.

If you have any questions regarding the information and guidance provided in Bulletin No. 09-02, please contact the Fraud Division of the Louisiana Department of Insurance at (225) 342-5423.

Baton Rouge, Louisiana, this 3rd day of February, 2009.

JAMES J. DONELON
COMMISSIONER OF INSURANCEis

http://www.lidi.state.la.us/docs/CommissionersOffice/legal/Bulletins/Bul09-02_cur_CertificatesOfInsura.pdf

2009 Legislation

During the 2009 Louisiana legislative session, HB 623 enacted Act No. 335 which became effective on August 15, 2009 and regulates certificates of insurance. It requires filing of non-ACORD and non-ISO certificates and also clarifies that a certificate cannot alter, amend, or extend coverage provided by a reference insurance policy. It also says that, "A certificate of insurance shall also not convey any contractual rights to the certificate holder." The statute includes the following:

La. Rev. Stat. Ann. § 22:881.1 Certificates of insurance

A. For the purposes of this Section:

(1) "Certificate of insurance", as used by property and casualty insurers, shall mean any document issued by or on behalf of an insurer to a third party who has not contracted with the insurer to purchase an insurance policy and is provided for informational purposes only to advise a third party of the existence and limits of insurance coverage issued to the named insured.

(2) "Insurance producer" shall have the same definition as set forth in R.S. 14 22:1542.

B. No property or casualty insurer or insurance producer may issue a certificate of insurance or any other type of document purporting to be a certificate of insurance that will affirmatively or negatively alter, amend, or extend the coverage provided by the referenced insurance policy. A certificate of insurance shall also not convey any contractual rights to the certificate holder.

C. Any insurer or insurance producer acting on behalf of the insurer issuing a certificate of insurance shall be authorized to use only the standard ACORD or ISO Form "Certificate of Insurance" or other form filed with and approved by the commissioner of insurance.

D. Pursuant to the Administrative Procedure Act, the commissioner of insurance may adopt reasonable rules and regulations as are necessary or proper to carry out the purposes of this Section.

The Louisiana Department of Insurance has now issued Regulation 99 that implement this law. From our state association, in summary, Regulation 99 requires:

1. Insurers or insurance producers must use ACORD, ISO, or other approved certificate of insurance forms.
2. Information on a certificate must accurately reflect the underlying insurance policies and may not alter the terms of those policies.
3. An insurer or insurance producer may, if asked, attach additional information (including a certificate holder long form certificate) regarding the referenced insurance policies to the ACORD or other approved certificate form.
4. Any additional information attached to an ACORD or other approved certificate must contain on the first page or signature page the following language, "This additional information neither affirmatively nor negatively amends, extends or alters the coverage afforded by the referenced insurance policy(ies).".

For more information, visit the LDOI web site [here](#).

2010 Legislation

Louisiana passed the most comprehensive certificates of insurance legislation in the country at that time, with the new law effective January 1, 2011. Among other things, the law clarifies that, "A certificate of insurance shall also not convey any contractual rights to the certificate holder." The law requires that all certificates be filed and approved by the insurance commissioner except that ACORD and ISO certificates need only be filed. Once filed, a certificate cannot be altered or modified in any way without refiling and approval.

The law prohibits certificate requestors or anyone else from demanding or requesting the issuance of a certificate that contains any false or misleading policy information. Presumably, this would include making any kind of cancellation notice entry that does not accurately reflect the cancellation notice provided by the policy or a policy endorsement. The certificate also cannot contain references to legal or insurance requirements contained in any non-policy contracts such as construction or service contracts. Specifically with regard to cancellation:

"A person shall have a legal right to notice of cancellation, nonrenewal, or any material change, or any similar notice concerning a policy of insurance only if the person is named with the policy or any endorsement and the policy or endorsement, law, or regulation of this state requires notice to be provided. The terms and conditions of the notice, including the required timing of the notice, are governed by the policy of insurance in accordance with the laws and regulations of this state and cannot be altered by a certificate of insurance."

For the complete law, go to:

<http://www.legis.state.la.us/billdata/streamdocument.asp?did=723763>

For the proposed regulations that accompany the law, [click here](#).

For an historical summary of certificate of insurance regulation in Louisiana, [click here](#).

2016 Legislation

[H.B. No. 476, Act No. 278, amending R.S. 22:890](#)

Maine

No known certificate-specific laws, regulations, or insurance department directives.

Maryland

November 7, 2008

Maryland Insurance Administration
BULLETIN 08-34

To: All Property & Casualty Insurance Companies, All Property & Casualty Producers, and All Interested Parties

Re: Certificates of Insurance for Property & Casualty Policies

Date: November 7, 2008

The Maryland Insurance Administration has become aware of the fact that some insurers and insurance producers are being asked to provide Certificate of Insurance forms which include language that seeks to amend or alter the coverage provided by the underlying insurance policy. As Certificates of Insurance are usually provided in lieu of providing the actual insurance policy and to serve as proof of insurance, it is important that a Certificate of Insurance clearly and accurately reflect the coverage being provided. A Certificate of Insurance may not be used as a means of altering, expanding or in any way modifying the terms and conditions of the underlying policy.

No person, including a licensed insurer or licensed insurance producer, may issue a Certificate of Insurance that either affirmatively or negatively amends, extends or alters, or otherwise modifies the coverage provided by the underlying insurance policy. It is a violation of the Insurance Article for a producer to alter standardized Certificate of Insurance forms to accommodate requests for "hold harmless" agreements or other types of clauses that seek to modify the terms or conditions of the underlying policy. No insurance producer should issue a Certificate of Insurance that does not accurately reflect the terms and conditions of the underlying insurance policy.

If you have any questions about this Bulletin, please contact David Diehl, Chief Administrator, Property & Casualty, by telephone at (410) 468-2320 or by e-mail at ddiehl@mdinsurance.state.md.us.

Ralph S. Tyler, Insurance Commissioner

<http://www.mdinsurance.state.md.us/sa/documents/BulletinP&C08-34-CertificatesofInsurance.pdf>

October 1, 2012

Maryland has passed legislation regulating certificates of insurance:

- Requires a certificate of insurance form to be filed with and approved by Commissioner.
- Requires the Commissioner to disapprove a certificate of insurance form if the form is unjust, unfair, misleading, or deceptive or violates public policy; fails to comply with the requirements specified in the bills; or violates any law or any regulation adopted by the Commissioner.
- Provides that a standard certificate of insurance form adopted by the Association for Cooperative Operations Research and Development or the Insurance Services Office that otherwise complies with the requirements of the Act is considered to be approved by the Commissioner.
- Authorizes the Commissioner to designate a certificate of insurance form required by a federal agency as deemed approved.
- Prohibits a person from altering or modifying an approved certificate of insurance.

- Requires the Commissioner to adopt regulations to carry out the statutory provisions governing certificates of insurance, including regulations that establish an approval process for certificate of insurance forms.

<http://legiscan.com/MD/text/HB463/2012>

Massachusetts

April 7, 2015

Massachusetts has legislated a COI law:

<https://malegislature.gov/Laws/SessionLaws/Acts/2014/Chapter493>

April 4, 2011

Bulletin 2011-07; Certificates of Insurance, Evidence of Coverage Forms and binders; Issued 4/4/2011

TO: Insurance Companies Offering Insurance Policies in Massachusetts and Their Insurance Producers

FROM: Joseph G. Murphy, Commissioner of Insurance

DATE: April 4, 2011

RE: Certificates of Insurance, Evidence of Coverage Forms and Binders

Certificates of insurance, evidence of coverage forms and binders (collectively hereafter referred to as "certificates of insurance") are intended to summarize insurance policies, including liability limits, in lieu of providing the actual policies to insureds or third parties as proof of coverage. The Massachusetts Division of Insurance ("Division") has been informed, however, that some insurance companies and insurance producers are being asked to provide certificates of insurance that purport to amend, extend or otherwise alter the terms of insurance provided by the underlying policy. The purpose of this Bulletin is to advise insurers and insurance producers that certificates of insurance are not the proper method by which to amend a policy, that amending such certificates of insurance may create an errors and omissions exposure, and that this activity may violate the Massachusetts insurance laws.

Certificates of insurance are not actual policies of insurance, and as certificates of insurance, they do not and cannot be used to amend, extend, or alter insurance coverage afforded by the underlying policies. Massachusetts law, specifically M.G.L. c. 175, §§ 2B and 192, requires that all insurance policy forms, as well as riders, endorsements and applications designed to be attached to such policy forms, be filed with the Division. When an insurer or insurance producer executes a certificate of insurance that attempts to do more than merely offer a synopsis or summary of the policy, the insurer or producer risks the creation of obligations that are not payable by the underlying policy. This action may violate M.G.L. c. 175, § 181 and M.G.L. c. 176D, § 3(1)(a) which prohibit the misrepresentation of the terms or benefits of any insurance policy. This action also may violate M.G.L. c. 176D, § 3(9)(a), which makes it an unfair claim settlement practice to misrepresent the "pertinent facts or insurance policy provisions relating to coverages at issue." Moreover, should the additional terms and conditions contained in the certificate of insurance be in conflict with, or otherwise alter, the policy forms, riders, endorsements or applications the insurer has filed with the Division, the insurer and/or insurance producer may have violated M.G.L. c. 175, § 2B by issuing, delivering or otherwise using a policy form that has not been filed with the Division.

An insurer or insurance producer who issues a certificate of insurance that attempts to amend, extend, or otherwise alter the insurance policy or otherwise intentionally misrepresents the terms of an actual or proposed insurance policy may be in violation of these, and other, insurance statutes. As such, insurers and insurance producers may not execute or otherwise issue a certificate of insurance that includes any statements or language that purport to amend, extend, or alter coverage or indicate that a certificate holder has a right to notice of cancellation, nonrenewal, or any similar notice not specifically contained in the underlying policy. This prohibition applies to certificates of insurance, as well as all other documents that do not purport to be certificates of insurance, such as a formal opinion or other document issued or signed by an insurer or an insurance producer.

The Division urges all insurance companies to forward a copy of this Bulletin to their appointed insurance producers and customer service representatives and to remind them of the consequences of providing improper certificates of insurance. Further, the Division urges all insurers to provide thorough instructions to their appointed

insurance producers on how they should meet client expectations, and which expectations they cannot meet under the law.

If you have any questions concerning this Bulletin, please contact Ed Charbonnier, Director of Policy Form Review, at (617) 521-7481 or at edward.charbonnier@state.ma.us.

[http://www.mass.gov/?pageID=ocamodulechunk&L=4&L0=Home
&L1=Government&L2=Our+Agencies+and+Divisions&L3=Division
+of+Insurance&sid=Eoca&b=terminalcontent
&f=doi_Bulletins_bulletins_11_07&csid=Eoca](http://www.mass.gov/?pageID=ocamodulechunk&L=4&L0=Home&L1=Government&L2=Our+Agencies+and+Divisions&L3=Division+of+Insurance&sid=Eoca&b=terminalcontent&f=doi_Bulletins_bulletins_11_07&csid=Eoca)

Michigan

July 18, 2016 insurance department Bulletin 2016-18-INS:

https://www.michigan.gov/documents/difs/Bulletin_2016-18-INS_529678_7.pdf

2015 Update

2015 Law:

[http://www.legislature.mi.gov/\(S\(h3bmsug5olsumbsyz512jpp0\)\)/mileg.aspx?page=getObject&objectName=mcl-218-1956-22A](http://www.legislature.mi.gov/(S(h3bmsug5olsumbsyz512jpp0))/mileg.aspx?page=getObject&objectName=mcl-218-1956-22A)

MAIA Sample Letter for Agency Members:

https://secure.michagent.org/legislative/Michigan_Sample_Certificate_Letter.pdf

July 2, 2014

Legislation for certificates of insurance has been signed into law:

<http://www.legislature.mi.gov/documents/2013-2014/billanalysis/Senate/pdf/2013-SFA-0715-N.pdf>

August 15, 2008

The following is an August 2008 bulletin from the Michigan insurance department. According to our state association, "For the past three years MAIA has been working to address the problem of policyholders, their attorneys and risk managers requesting Certificates of Insurance which do not accurately reflect the underlying insurance policy. It has been MAIA's contention that Certificates should never be amended to extend or alter coverage not afforded by the actual policy.

"Two years ago MAIA's F.A.C.T.S. Committee, under the leadership of Chairman Jack Voss, developed and issued our Agent's Guide for Issuing Certificates of Insurance. Since that time, through a series of meetings and communications, MAIA has continued to work with OFIR seeking its assistance in addressing this issue. Following a meeting last week between OFIR and MAIA Board Member John Konechne (Shores Agency, Grosse Pointe) and CEO Bob Pierce, Commissioner Ross issued Bulletin No. 2008-11-INS which clearly states that it is a violation of Michigan's Insurance Code to misrepresent the terms of an insurance policy on a Certificate of Insurance. Insurance producers found to violate these laws could be subject to civil penalties and even license revocation.

"The Bulletin also warns persons seeking altered Certificates that a Certificate is typically a mere synopsis of the Policy and encourages insurers to include on Certificates a statement such as 'This Certificate of Insurance neither affirmatively nor negatively amends, extends, or alters coverage afforded by policy number _____ issued by _____.' MAIA encourages members who receive requests to amend an insurance certificate that they know to be misleading or contrary to the policy to provide a copy of this Bulletin to the requestor."

**STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION**

Bulletin No. 2008-11-INS

In the matter of

Property and Casualty Certificates of Insurance

Issued and entered
this 15th day of August 2008
by Kenn Ross
Commissioner

Certificates of insurance, evidences of insurance, and similar insurance policy-related documents (collectively "certificates") serve a valuable informational purpose and provide a courtesy summary of the terms of a property and casualty insurance policy to an insured or third party. The Office of Financial and Insurance Regulation (OFIR) is aware, however, that some insurance producers have been asked to provide certificates that purport to amend, extend, or alter the coverage of the underlying policy. Although producers may feel pressured or obligated to provide certificates that revise or misrepresent the actual policy coverage, they are violating Michigan's Insurance Code ("Code") when they do so.

Producers violate the Code when they issue a certificate of insurance that misrepresents the insurance coverage provided under the insurance policy and are subject to administrative fines and license suspension or revocation. MCL 500.1239, provides:

(1) In addition to any other powers under this act, the commissioner may place on probation, suspend, revoke, or refuse to issue an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions for any 1 or more of the following causes:

(e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

(h) Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

Furthermore, MCL 500.2005(a), also prohibits a producer or insurer from misrepresenting the terms of an insurance contract, and violations can result in the suspension or revocation of a license and other administrative penalties. That section provides:

An unfair method of competition and an unfair or deceptive act or practice in the business of insurance means the making, issuing, circulating, or causing to be made, issued, or circulated, an estimate, illustration, circular, statement, sales presentation, or comparison which by omission of a material fact or incorrect statement of a material fact does any of the following:

(a) Misrepresents the terms, benefits, advantages, or conditions of an insurance policy.

A certificate of insurance is typically a mere synopsis of the policy. Where it makes statements that go beyond actual coverage, a company risks changing the policy's terms. These changes are usually accomplished by a printed rider or endorsement form.

To prevent confusion and disputes over coverage, an insurer may well consider including prominently on the certificate a statement such as, "This certificate of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by policy number _____ issued by _____."

The usefulness of such a statement is evidenced by the laws of several states which require it.

OFIR urges all insurers to forward a copy of this bulletin to their producers and to remind their producers of the consequences of providing improper certificates.

Any questions regarding this bulletin should be directed to:

Office of Financial and Insurance Regulation
Attn: Karl Benghauser
61 1 West Ottawa Street
P.O. Box 30220
Lansing, MI 48909-7720

Phone: (5 17) 373-4484
Toll Free: (877) 999-6442

http://www.michigan.gov/documents/dleg/2008-11-INS_245685_7.pdf

Minnesota

June 20, 2008

The following is a June 2008 bulletin from the Minnesota insurance department. According to our state association, "The Department bulletin illustrates that certificates of insurance should be used to provide proof of insurance and summarize the terms of a policy. Their bulletin clearly states that it is a violation of state law for an insurance producer to misrepresent the terms of an insurance policy on a certificate of insurance. Insurance producers found to violate these laws could be subject to civil penalties and even license revocation.

"The bulletin also warns persons seeking amended certificates that altered or supplemental terms and coverages might not be contractually enforceable. We would encourage MIIAB members who receive requests to amend an insurance certificate that they know to be misleading or contrary to the policy or state law, to provide a copy of this bulletin to the requestor."

STATE OF MINNESOTA DEPARTMENT OF COMMERCE

Bulletin 2008-03
Issued on June 20, 2008

To: All Property and Casualty Insurers, Insurance Producers, and Other Persons Engaged in the Business of Insurance in Minnesota

Subject: Certificates of Insurance Summarizing Terms of Insurance Policies

The Department of Commerce understands that, in some commercial contexts, parties will routinely enter a contract requiring one of the parties to have or obtain insurance with terms specified in the contract. To prove that such insurance has been obtained, the party often delivers to the party requiring such proof a Certificate of Insurance instead of the actual insurance policy. The Certificate of Insurance is issued by the party's insurer or insurance producer, and it summarizes the terms of the insurance policy. The Department understands that other circumstances give rise to the legitimate use of Certificates of Insurance as well.

However, insurers and insurance producers are sometimes asked to issue Certificates of Insurance that alter or supplement the terms and coverages of the insurance policy. Persons receiving such amended Certificates of Insurance should bear in mind that the altered or supplemental terms and coverages might not be contractually enforceable. Moreover, if such an amended Certificate of Insurance actually misrepresents the terms or existence of the insurance policy, then the insurer or insurance producer that issued the Certificate would be violating MINN. STAT. §§ 60K.43, subd. 1(5) or 72A.20, subd. 1 (2006). Violation of these laws could subject the insurer or insurance producer to administrative enforcement, including civil penalties and license revocation.

If you have any questions about this Bulletin, please contact Mr. Robert Commodore at (651) 296-4026 or Robert.Commodore@state.mn.us.

EMMANUEL MUNSON-REGALA
Deputy Commissioner

http://www.state.mn.us/mn/externalDocs/Commerce/Bulletin_20083_062008033801_Bulletin2008-3.pdf

May 26, 2009

From our Minnesota association:

MIIAB Certificate Bill Enacted!

Tired of having to deal with requests to change certificates of insurance forms? Would you like to tell contractors, cities and other units of government, that you can't alter a certificate form? Legislation sponsored by the MIIAB that was recently enacted and signed into law could help out.

A new Minnesota law will make it illegal for an insurance agent to issue a certificate that amends or alters the coverage provided by an insurance policy. Nor can an agent issue a certificate of insurance that provides for a notification of cancellation to another party that exceeds the notice of cancellation provided to the policyholder.

The new law clearly states that a certificate of insurance is a document that merely provides evidence of insurance coverage. All certificates issued by an insurer or agent shall contain the following statement: "This certificate or memorandum of insurance does not affirmatively or negatively amend, extend, or alter the coverage afforded by the insurance policy." Agents may not issue an opinion letter or other correspondence that alters coverage or provides different notice than that provided in statute.

The new law adds Section 60A.39 to the state insurance codes and relates specifically to certificates of insurance. It also adds a provision to section 60K.46 which applies to prohibited acts under the insurance producer licensing law. Violation of the new certificate law could result in a suspension or termination of an agent's license or even civil penalties. The MIIAB proposal was signed into law by Governor Pawlenty on May 22, and will be effective August 1, 2009.

The MIIAB's intent in passing such a statute was to give its member agents a document that clearly states their inability to alter insurance certificates. This document could be provided to those requesting certificates not in compliance with this new law. Passage of this legislation was the MIIAB's top legislative priority this session.

I would like to thank the MIIAB Legislative Committee, and especially Dave Szczepanski and Dick McKenny for their tireless work and legislative testimony at the capitol. The legislation was very difficult to pass and took a very circuitous path to the governor's desk. Its passage was a major legislative victory for the association.

MIIAB Certificate of Insurance language contained in House File 1853:

[60A.39] CERTIFICATES OF INSURANCE.

Subdivision 1. Issuance. A licensed insurer or insurance producer may provide to a third party a certificate of insurance which documents insurance coverage. The purpose of a certificate of insurance is to provide evidence of insurance coverage and the amount of insurance issued.

Subd. 2. Approval. An insurer or licensed producer shall not issue a certificate of insurance or other document or instrument that either affirmatively or negatively amends, extends, or alters the coverage provided by an approved policy, form, or endorsement without the written approval of the commissioner.

Subd. 3. Required statement. A certificate or memorandum of property or casualty insurance when issued to any person other than the policyholder must contain the following or similar statement: "This certificate or memorandum of insurance does not affirmatively or negatively amend, extend, or alter the coverage afforded by the insurance policy."

Subd. 4. Cancellation notice. A certificate provided to a third party must not provide for notice of cancellation that exceeds the statutory notice of cancellation provided to the policyholder.

Subd. 5. Filing. An insurer not using the standard ACORD or ISO form "Certificate of Insurance" shall file with the commissioner, prior to its use, the form of certificate or memorandum of insurance coverage that will be used by the insurer. Filed forms may not be amended at the request of a third party.

Subd. 6. Opinion letters. A licensed insurance producer may not issue, in lieu of a certificate, an agent's opinion letter or other correspondence that is inconsistent with this section.

Minnesota Statutes 2008, section 60K.46, is amended by adding a subdivision to read:

Subd. 8. Certificates of insurance. An insurance producer shall not issue a certificate of insurance, or other evidence of insurance coverage that either affirmatively or negatively amends, extends, or alters the coverage as provided by the policy, or provides notice of cancellation to a third party that exceeds the statutory notice requirement to a policyholder.

Mississippi

March 24, 2009

The Mississippi Department of Insurance issued Regulation 2009-1 entitled "General Property and Casualty Binders, Certificates of Insurance or Indemnity Agreements." The requirements of this regulation include:

- A.** No insurer or producer may issue a binder, certificate of insurance, indemnity agreement or any other similar type of instrument which either affirmatively or negatively amends, extends or alters the coverage provided by its approved issued forms and endorsements.
- B.** Each insurer or producer not using the standard ACORD or ISO Form "Certificate of Insurance", as filed with and approved by the Commissioner, shall file with the Commissioner for approval prior to use the form of the certificate of insurance or binder which will be used by such insurer or producer.
- C.** Upon filing for approval by the Commissioner, each binder or certificate of insurance shall contain the following or a similar statement: "This certificate of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by policy number _____ issued by _____."
- D.** No binder, certificate of insurance, indemnity agreement or any other similar type of instrument shall contain references to construction or service contracts or insurance requirements for the purpose of defining or amending coverage afforded by the policies to which the certificate makes reference. No certificate of insurance may be used to define, amend, extend, restrict or alter coverage afforded by the policies to which the certificate of insurance makes reference.
- E.** No insurer or producer doing business in Mississippi shall have the authority to issue an "Agent's Opinion Letter" or any other similar correspondence purporting that an insurance policy provides coverages which the policy does not provide.
- F.** This Regulation shall not apply to or otherwise affect duly issued endorsements to policies.

<http://www.mid.ms.gov/regulations/20091reg.pdf>

Missouri

February 8, 2010

INSURANCE BULLETIN 10-02

Certificates of insurance

Issued Feb. 8, 2010

To: All insurance producers, insurance agencies and insurers licensed to sell property and casualty insurance.

From: John M. Huff, Director

Re: Certificates of insurance

The Missouri Department of Insurance, Financial Institutions and Professional Registration (DIFP) has recently received information that some producers have been asked to alter standard certificates of insurance without the knowledge or consent of the insurer. The purpose of this bulletin is to remind licensed property and casualty producers, insurance agencies and insurers of their responsibilities to comply with Missouri law when issuing certificates of insurance.

Generally speaking, certificates of insurance serve only as evidence of insurance in lieu of an actual copy of an insurance policy. Distribution of a certificate of insurance which has been modified without authorization from the insurer or which alters the provisions of the underlying policy violates the Unfair Trade Practices Act (§§375.930 – 375.948, RSMo). Specifically, §375.936(6)(a), RSMo, prohibits an insurer from misrepresenting “the benefits, advantages, conditions, or terms of any policy.” A certificate of insurance that does not match the policy it evidences may be interpreted to add or enhance benefits that are not actually included in the policy of insurance. This can lead to a misunderstanding by the policyholder of the scope and limitations of his or her actual coverage. The only way an insurance producer can be certain that he or she has not varied or misrepresented the terms of the policy is to use the form certificate of insurance authorized by the insurer or to secure the insurer’s pre-approval of the altered certificate.

If the Director determines or believes that an insurer, which under §375.932(3), RSMo, includes individual producers, “has engaged, is engaging in, or has taken a substantial step toward engaging in an act, practice, or course of business constituting a violation” of the Unfair Trade Practices Act, the Director may take administrative or civil enforcement action “for relief authorized under” either §374.046 or §374.048, RSMo. Each practice in violation of the Unfair Trade Practices Act is deemed a level two violation under §374.049, RSMo.

If you have any questions regarding this communication, please contact DIFP at <http://insurance.mo.gov/help/comments.htm> or call toll-free at 800-726-7390.

http://insurance.mo.gov/Contribute Documents/InsuranceBulletin10-02_000.pdf

July 2011

Missouri has passed legislation regulating certificates of insurance. For example, “A certificate holder shall only have a legal right to notice of cancellation, nonrenewal, or any material change, or any similar notice concerning a policy of insurance if the person is named within the policy or any endorsement or rider and the policy or endorsement or rider requires notice to be provided. The terms and conditions of the notice, including the required timing of the notice, are governed by the policy of insurance and shall not be created or altered by a certificate of insurance.

For the full text of the law:

<http://house.mo.gov/billtracking/bills111/billpdf/truly/HB0407T.PDF>

Montana

August 11, 2010

The Commissioner of Securities and Insurance issued an Advisory Memorandum about the illegality of issuing a certificate of insurance that misrepresents an insurance policy. The memorandum also enumerated penalties for adding or removing information on a certificate “beyond the specific fields allowed by the form.”

Full text of the memorandum:

<http://www.csi.mt.gov/news/bulletins/Certificate%20of%20Insurance.pdf>

Under existing law (<http://data.opi.mt.gov/bills/mca/33/1/33-1-501.htm>), certificates must be filed.

Nebraska

June 20, 2008

Nebraska Department of Insurance Bulletin CB-118 was issued on June 20, 2008:

BULLETIN

SUBJECT: ISSUANCE OF CERTIFICATES OF INSURANCE

Certificates of insurance, evidences of insurance and similar documents (collectively "certificates") serve a valuable purpose by providing a summary of the terms of an insurance policy to a third party. The Nebraska Department of Insurance ("Department") is aware, however, that insurers and insurance producers are asked upon occasion to provide certificates that purport to amend, extend, or alter the coverage of the underlying policy. The purpose of this Bulletin is to advise insurers and insurance producers that certificates are not the proper method by which to amend a policy, that amending such certificates may create an errors and omissions exposure, and that this activity violates Chapter 44 of the Nebraska Revised Statutes.

Nebraska law, specifically Article 75 of Chapter 44 of the Nebraska Revised Statutes, requires insurers to file insurance policies and endorsements thereto intended for use in this state with the Department. When an insurer or insurance producer executes a certificate that attempts to do more than offer a synopsis of the policy, the insurer or producer risks the creation of obligations that are not payable by the underlying policy. This violates Article 75, as insurers are not to enter into insurance obligations, except as are provided through properly filed insurance policies. The Department urges all insurers to forward a copy of this Bulletin to their appointed producers and customer service representatives and to remind them of the consequences of providing improper certificates.

If you have any questions concerning this Bulletin please contact the Department's Property and Casualty Division at (402) 471-2201.

Ann M. Frohman
Director

December 7, 2010

On December 7, 2010, Nebraska updated their already strong position on certificates of insurance. Bulletin CB-118 (Amended) makes it clear that any attempt by a certificate to do more than offer synopsis of the policy, such as create obligations not found in the underlying policy, violates the law since insurance obligations cannot be entered into except as provided by properly filed insurance policies. The law also prohibits an agent from "intentionally misrepresenting the terms of an actual or proposed insurance contract." The bulletin goes on to say:

"Therefore an insurance producer may not execute a certificate of insurance that includes any statements that purport to amend, extend, or alter coverage or indicate that a certificate holder has a right to notice of cancellation, nonrenewal, or any similar notice not contained in the underlying policy."

This prohibition applies not only to "certificates" but also to documents such as agent "opinion letters."

Here is the complete bulletin:

http://www.doi.ne.gov/bulletin/cb118_2010_12_07.pdf

Nevada

Bulletin 11-014:

http://doi.nv.gov/uploadedFiles/doinvgov/_public-documents/News-Notices/Bulletins/Bulletin%2011.014.PDF

New law effective July 1, 2011.

New Hampshire

July 29, 2009

BULLETIN

Docket No.: INS No. 09-048-AB

To: All Property and Casualty Insurers

From: Roger Sevigny

Date: July 29, 2009

Subject: Guidance Concerning the Usage of Certificates of Insurance

NH law (RSA 417-C:2) requires at least ten (10) days notice of cancellation to the insured in the event of non-payment of premium or of a substantial increase in hazard. Insurers may increase this notice period at their discretion, but are not required to do so.

It has come to the attention of the New Hampshire Insurance Department that some insurance producers are being asked to issue Certificates of Insurance or other evidence of insurance coverage that do not reflect the insurer's ten (10) day cancellation standard. Specifically, the Department has received reports that the issuers of Certificates of Insurance are being asked to include a minimum thirty (30) day cancellation notice as part of the Certificate even though the insurer's standard provides a ten (10) day notice and the insurer has not authorized this change to their normal business practice. In at least some of the cases where this thirty (30) day notice was not provided, the insured is not being allowed to work on certain contracts, projects or job sites.

Certificates of Insurance are used to serve as proof of insurance and to summarize the terms, conditions and coverage included in the insurance policy, in lieu of providing a full copy of the policy. Certificates of Insurance issued as a summary or evidence of coverage must clearly state and accurately reflect the terms of the insurance policy and coverage provided. Issuing a Certificate of Insurance or other evidence of insurance coverage that misrepresents the policy terms, conditions or coverage is a violation of producer licensing laws and may subject the producer to license revocation. A producer issuing a Certificate of Insurance or other evidence of insurance coverage that provides for a longer notice period than the insurer provides (for example, an increase of the minimum ten (10) day notice to thirty (30) days) without authority from the insurance company may also be subjecting his or her agency to an E&O exposure.

Each Certificate of Insurance or other evidence of insurance coverage shall include the following statement or one substantively similar: "This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policies referenced herein."

For further questions or information on Certificates of Insurance, please contact Deborah Stone at the New Hampshire Insurance Department at 1-603-271-2261 or visit the Department's website at www.nh.gov/insurance.

http://www.nh.gov/insurance/media/bulletins/2009/documents/ins_09_048_ab.pdf

April 2011

New Hampshire has passed legislation regulating certificates of insurance:

<http://www.nhliberty.org/bills/view/2011/HB419>

January 2012

The New Hampshire DOI has issued a notice summarizing salient points in the new law, along with Q&A:

<http://www.nh.gov/insurance/pc/documents/chap137-hb419-fn.pdf>

New Jersey

January 2016

The legislature has passed a COI bill:

http://www.njleg.state.nj.us/2014/Bills/AL15/195_.PDF

February 28, 2011

State of New Jersey
DEPARTMENT OF BANKING AND INSURANCE
LEGISLATION AND REGULATION
PO BOX 325
TRENTON, NJ 08625-0325
TEL (609) 984-3602
FAX (609) 292-0896

BULLETIN NO. 11-04

TO: ALL AUTHORIZED AND ADMITTED PROPERTY/CASUALTY INSURERS AND ALL LICENSED INSURANCE PRODUCERS IN THIS STATE WITH ADMITTED MARKETS

FROM: THOMAS B. CONSIDINE, COMMISSIONER

RE: CERTIFICATES OF INSURANCE

Certificates of insurance are used in many commercial contexts as proof that a policy of insurance is in effect, and usually summarize the essential terms, conditions and duration of the policy. Certificate forms are not filed with the Department of Banking and Insurance ("Department"), even though the policy forms they summarize are filed and deemed approved by the Department pursuant to the Commercial Insurance Deregulation Act, N.J.S.A. 17:29AA-1 et seq. Use of certificates of insurance is particularly prevalent to provide proof of liability and workers' compensation coverages.

It had previously come to the attention of the Department that some public or commercial organizations might be requesting contractors to produce certificates of insurance that evidence terms or conditions of coverage that might be inconsistent with the underlying policy or contract. In response thereto, the Department issued Bulletin No. 98-05. It appears that this practice may continue to exist. The purpose of this Bulletin is to remind producers that certificates of insurance should be used only to provide evidence of insurance in lieu of a copy of the actual policy, and cannot be used to amend, expand or alter its terms.

N.J.S.A. 17:22A-40a(5) prohibits intentional misrepresentation of the terms of an actual insurance contract, policy or application of insurance. Providing a certificate of insurance that materially misrepresents policy terms or conditions would violate that statute and subject a producer to penalties that may include suspension or revocation of the producer's license. Additionally, if the producer providing an improper certificate of insurance were an agent of the insurer, civil liabilities may be created.

As it did through Bulletin No. 98-05, the Department continues to urge all insurers to review their oversight procedures regarding certificates of insurance in order to avoid misrepresentations of the terms and conditions of their policies, and to remind their producers about the consequences of providing improper certificates.

All insurers are encouraged to provide copies of this Bulletin to all of their appointed agents and employee producers, if any.

February 28, 2011

Thomas B. Considine
Commissioner

http://www.state.nj.us/dobi/bulletins/blt11_04.pdf

February 18, 1998

According to Bulletin 98-5, Certificates of Insurance, issued by the New Jersey Department of Insurance on February 18, 1998:

Certificates of insurance are used in many commercial contexts as proof that a policy of insurance is in effect, and usually summarize the essential terms, conditions and duration of the policy. Certificate forms are not filed with the Department, even though the policy form they summarize are filed and approved by the Department pursuant to the Commercial Insurance Deregulation Act, 17:29AA-1 et seq. Use of certificates of insurance is particularly prevalent to provide proof of liability and workers' compensation coverages.

It has come to the attention of the Department that some public or commercial organizations may be requesting that contractors produce certificates of insurance that evidence terms or conditions of coverage that may be inconsistent with the underlying policy or contract. Certificates of insurance should be used only to provide evidence of Insurance in lieu of a copy of the actual policy, and cannot be used to amend, expand or alter its terms.

N.J.S.A. 17:22A-17a(7) prohibits material misrepresentation of the terms and conditions of insurance contracts or policies to any person. Providing a certificate of insurance that materially misrepresents policy terms or conditions would violate that statute and subject a producer to penalties that may include suspension or revocation of the producer's license. Additionally, if the producer providing an improper certificate of Insurance were an agent of the insurer, civil liabilities may be created.

The Department urges all insurers to review their oversight procedures regarding certificates of insurance in order to avoid misrepresentations of the terms and conditions of their policies, and to remind their producers about the consequences of providing improper certificates.

New Mexico

January 14, 2011

The New Mexico insurance department has issued Insurance Division Bulletin No. 2011-001 on certificates of insurance:

Bulletin 2011-001

January 14, 2011

TO: Property/Casualty Insurers And Insurance Agents

FROM: John Franchini, Superintendent Of Insurance

DATE: January 14, 2011

RE: CERTIFICATES OF INSURANCE

THE FOLLOWING BULLETIN is issued pursuant to NM Insurance Code 59A-16-4

Certificates of insurance, evidences of insurance, memorandums of insurance, and similar insurance policy-related documents (collectively 'certificates ') serve a valuable informational purpose and provide a courtesy summary of the basic coverage's and limits of an insurance policy to an insured or third party. The Insurance Division is aware, however, that some insurance producers, agencies and insurers have been asked to provide certificates that purport to amend, extend, or alter the terms of the underlying policy, or inaccurately suggest the existence of certain contractual rights. Although the insurance industry may feel pressured or obligated to provide certificates that revise policy language or misrepresent the actual policy terms, they are in violation of New Mexico's Insurance Code when they do so. This also includes any customized certificate of insurance forms provided by a proposed certificate holder.

Insurers, agencies and producers are in violation of New Mexico Code 59A-16-4 when they issue a certificate of insurance that obscures or misrepresents the insurance coverage or terms, the obligation of notice by an insurer, or other rights provided under an insurance policy; and may be subject to administrative penalties and/or license suspension or revocation. In addition, New Mexico Code sections 59-A-18-2 and 59A-18-12 mandate that insurers file all of their insurance policy forms. This mandate includes certificates of insurance and/or evidences of insurance intended for use in this state. A licensee, or an employee of a licensee, cannot issue any such form(s) unless they are filed and approved by the Insurance Division.

When an insurer or insurance producer executes a certificate of insurance or other evidence of coverage which extends beyond offering a mere synopsis of the policy, the insurer or producer risks modifying the policy's terms or coverage's. In addition, if an insurer or its producer includes any statement in a certificate of insurance purporting to amend or extend coverage from the underlying policy, including references to construction contracts, service contracts or insurance requirements, the insurer or producer may be misrepresenting the policy terms. By issuing such a certificate, the insurer or producer is in violation of the above referenced Insurance Code prohibiting a producer or insurer from intentionally or materially misrepresenting the terms of an actual or proposed insurance contract. Such violations can result in administrative, actions by the Insurance Division, which may include a monetary penalty, suspension; revocation or probationary action against a licensee.

The following guidelines should be reviewed and adhered to by insurers and producers when issuing certificates of insurance:

(1) Certificates of Insurance are merely evidence of insurance in lieu of an actual copy of the insurance policy. They are to be used to show evidence of insurance. They are not to be used to attempt to modify the terms of the policy itself. No insurer or agent should issue or sign a Certificate of Insurance that contains terms or conditions that differ from those in the underlying policy. Therefore, no licensed insurer or its licensed producer may issue a binder, certificate of insurance or indemnity agreement or any other type instrument which either affirmatively or negatively amends, extends or alters the coverage provided

by its approved policy forms and endorsements without the written approval of the Superintendent of Insurance.

(2) Each certificate or memorandum of property or casualty insurance when issued to any person other than the policyholder shall contain the following or similar statement: 'This certificate or memorandum of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by policy number issued by .' A statement substantially similar to that above is included on the form certificates available from ACORD and ISO. Use of the ACORD and ISO forms will be considered by the Department to meet the requirements of this bulletin so long as the forms are not altered to inappropriately modify terms of the policy.

(3) No certificate of insurance shall contain references to construction or service contracts or insurance requirements for the purpose of amending coverage afforded by the policies to which the certificate makes reference. No certificate of insurance may be used to amend, extend, restrict or alter coverage afforded by the policies to which the certificate of insurance makes reference. A person shall have a right to notice of cancellation, non renewal, or any material change, or any similar notice concerning a policy of insurance only if the person is named within the policy or any endorsement and the policy or endorsement, law, or regulation of this state requires notice to be provided. The terms and conditions of the notice, including the required timing of the notice, are governed by the policy of insurance in accordance with the laws and regulations of this state and cannot be altered by a certificate of insurance.

(4) Prior to its use, each insurer not using the standard ACORD or ISO 'Certificate of Insurance' forms shall file with the Superintendent of Insurance the form of certificate or memorandum of insurance which will be used by such insurer.

(5) All users of the standard ACORD or ISO 'Certificate of Insurance' forms must use the most recent version approved by the Insurance Division. The Accord or ISO. 'Certificates of Insurance' must be completed in accordance with the instructions provided by Accord or ISO including utilizing the correct form for the coverage provided in the underlying policy.

(6) No licensed insurer or its producer licensed to do business in New Mexico shall have the authority to issue an 'Agent's Opinion Letter' or any other correspondence purporting an insurance policy provides coverage which the policy does not actually provide.

All insurers are directed to inform their personnel and agents of the contents of this Directive.

Questions regarding this bulletin should be directed to Alan Seeley of the Insurance Division at 505 827-4307 or at alan.seeley@state.nm.us.

DONE AND ORDERED this 14th day of January, 2011

<http://www.nmprc.state.nm.us/insurance/pdf/Bulletin2011-001.pdf>

New York

January 28, 2015

The governor signs COI legislation into law:

<http://www.iiabny.org/News/Pages/PressReleases/2014/051914.aspx>

For an excellent resource about this and COI issues in NY, check out this IIABNY page:

<http://www.iiabny.org/Members/MAC/CertificatesInsurance/default.aspx>

June 7, 1995

The State of New York has issued at least four regulatory directives dealing with certificates of insurance. The first was Circular Letter No. 8, date June 7, 1995, which was distributed to all licensed P&C insurers in the state:

It has come to our attention that some cities, counties, and other organizations require as a condition of doing business that insured parties produce certificates of insurance on forms that appear to alter the terms of the actual policy. Some of these certificates incorporate "hold harmless" agreements or other clauses that alter the language of the policy, or include statements that the wording of the certificate will control in the event of any inconsistency or conflict between the certificate and the policy.

Insurers are advised that certificates of insurance should be used only to provide evidence of insurance in lieu of an actual copy of the applicable insurance policy. Certificates should not be used to amend, expand, or otherwise alter the terms of the actual policy.

A certificate of insurance that lists the pertinent coverage terms as they appear in the actual policy is not considered a policy form that requires the Superintendent's prior approval. However, one that amends, expands or otherwise alters the terms of the applicable insurance policy constitutes a policy form, which must be filed with the Superintendent of Insurance in accordance with Section 2307(b) of the Insurance Law.

January 27, 1998

The second was Circular Letter No. 15, dated January 27, 1998, which was sent to all licensed producers, P&C insurers, and city, state and municipal agencies and other public authorities and corporations:

This supplements Circular Letter No. 8, June 7, 1995

It has come to our attention that city, state and municipal agencies and other public authorities and corporations require, as a condition of doing business, that insured parties supply evidence of insurance on preprinted forms supplied by the agency. These forms may appear to alter, expand or modify the terms of the subject insurance policy. In other cases, the Government agency may require the insured to add terms to the standard ACORD certificate of insurance form which do not appear in the insurance policy.

In addition, it has come to our attention that some licensed producers may complete these certificate of insurance forms on behalf of their clients and add terms or clauses that the public entity requires but which are not contained in the insurance policy.

A certificate of insurance which lists the pertinent coverage terms as they appear in the actual policy is not considered a policy form that requires the Superintendent's prior approval. However, any document that amends, expands or otherwise alters the terms of the applicable insurance policy constitutes a policy

form which must be filed with the Superintendent of Insurance in accordance with Section 2307(b) of the Insurance Law.

Licensed producers are advised that they may not add terms or clauses to a certificate of insurance which alter, expand or otherwise modify the terms of the actual policy unless authorized by the insurer which has filed an appropriate endorsement with the Superintendent of Insurance and obtained prior approval, if required. The Department may seek disciplinary measures against producers who continue this practice without authorization from the insurer.

City, state, and municipal agencies, and other public authorities and corporations are advised that a certificate of insurance, even one completed by a licensed producer, is not the best evidence of the terms of an insurance policy and may not accurately reflect the actual terms of the policy.

May 9, 2006

The third was from the NY OGC's office:

The Office of General Counsel issued the following opinion on May 9, 2006, representing the position of the New York State Insurance Department.

RE: Certificates of Insurance

Question Presented

May a certificate of insurance provide obligations, conditions, or coverages not contained within the underlying insurance policy?

Conclusion

No. See "Analysis" below.

Facts

The inquirer's agency has a substantial construction business clientele who request certificates of insurance naming the Department of Transportation ("DOT") as an additional insured and which in other ways modify the insurance policies in issue. The inquirer states that these clauses are required by DOT.

Analysis

A certificate of insurance is often used as proof that a policy of insurance is in effect. It is merely a document used in business to summarize the essential terms, conditions, and duration of the contract of insurance that is in effect between the insured and the insurer. The certificate of insurance is not a contract and is not required by statute or regulation and it need not be filed with the Department. However, the certificate of insurance must contain information consistent with the terms of the particular insurance policy. It is not intended to confer on a certificate holder new or additional rights beyond what the insurance policy provides. Thus, if any provision in the certificate of insurance is not contained in the policy and it imposes an obligation or liability not presently existing upon an insurer, such difference would alter, expand, or modify the rights between an insured and the insurer and would constitute a policy form that must be filed with the Superintendent pursuant to N.Y. Ins. Law § 2307(b) (McKinney Supp. 2006).

N. Y. Ins. Law § 2307(b) provides in relevant part:

Except as otherwise provided herein, no policy form shall be delivered or issued for delivery unless it has been filed with the superintendent and either he has approved it, or thirty days have elapsed and he has not disapproved it as misleading or violative of public policy.

To the extent that the certificate of insurance appears to obligate the insurer or the inquirer's agency to provide notice to additional insureds not required by the policy, the use of such certificates would be

misleading. Accordingly, if the policies in issue do not contain such a notice requirement, then the certificate should not include such a requirement.

A producer is in violation of the Insurance Law if it amends, expands, or alters the terms of the policy without authorization from the insurer and, where required, approval from this Department. As stated in Circular Letter No. 15 (1997), the Department may seek disciplinary measures against producers who act in this manner. It is always prudent to review the entire policy in order to ensure that the certificate of insurance prepared by the producer actually reflects the terms of the policy.

One may view the relevant Circular Letters No. 8 (1995) and No. 15 (1997) as well as the Department's Office of General Counsel opinions at our website, <http://www.ins.state.ny.us/circindx.htm>.

For further information one may contact Associate Attorney Jeffrey A. Stonehill at the New York City Office.

<http://www.ins.state.ny.us/ogco2006/rg060502.htm>

January 31, 2011

The fourth was also from the OGC's office and dated January 31, 2011:

OGC Op. No. 11-01-08

The Office of General Counsel issued the following opinion January 31, 2011, representing the position of the New York State Insurance Department.

Re: Certificates of Insurance

Question:

May a licensed insurance producer, upon the request of a New York state agency, complete a certificate of insurance that effectively amends, expands, or otherwise alters the terms of the applicable insurance policy?

Conclusion:

No. A licensed insurance agent or broker may not complete a certificate of insurance that effectively amends, expands, or otherwise alters the terms of the applicable insurance policy.

Facts:

Inquirer states that certain public agencies 1 have asked insurance producers to supply certificates of insurance that go beyond simply providing evidence that insurance coverage exists. As one example, the ABC Agency uses its own form that seeks to modify policy language with required certifications related to the insurance coverage. Another example is the Supplemental Insurance Certificate ("Certificate") used by the DEF Agency, which asks several questions of insurers or insurance producers, modifies policy language because it appears, in the inquirer's view, to be intended to act as an alternative basis of coverage in the event that the language of the insurance policy conflicts with the policy itself. This appears to be a valid concern, given the statement in the Certificate that reads "The Corporation is relying on the representations of coverages in the policies described, except as noted in this SUPPLEMENTAL INSURANCE CERTIFICATE." This statement implies that the Certificate is intended to supersede the language of the referenced insurance policy.

Analysis:

A certificate of insurance is often presented to prove that an insurance policy is in effect. See Office of General Counsel ("OGC") Opinion 06-05-02 (May 9, 2006) (concluding that the issuance of certificates of insurance that modified or altered the terms of the underlying policies was improper). A certificate of insurance is a document that summarizes the terms, conditions, and duration of an insurance contract,

but it is not the contract itself. See *id.* A certificate is not required by law, and need not be filed with the Department. See *id.*

A certificate of insurance cannot confer new or additional rights beyond those set forth in the referenced insurance policy. See *id.* Thus, if any provision in the certificate of insurance purports to amend, expand, or otherwise alter the terms of an applicable insurance policy, then the certificate would constitute a policy form that must be filed with the Superintendent in accordance with N.Y. Ins. Law § 2307(b) (McKinney Supp. 2010). See Circular Letter 8 (1995). The foregoing statute states in relevant part:

Except as otherwise provided herein, no policy form shall be delivered or issued for delivery unless it has been filed with the superintendent and either he has approved it, or thirty days have elapsed and he has not disapproved it as misleading or violative of public policy.

In the scenario presented, the proffered certificates of insurance purport to amend, expand, or otherwise alter the referenced insurance policy. Any producer or insurer that were to agree to the terms set forth in the certificates would run afoul of Insurance Law § 2307(b).

Finally, the inquiry letter suggested that it may be helpful for the Insurance Department to obtain an Opinion of the Attorney General on the question of the proper use of certificates of insurance. While the Department does on occasion seek legal guidance from the Office of the Attorney General, it does so only when there is some genuine need for legal expertise from outside of the Department or where the issues in question are in need of clarification. In the instant case, the law is clear and definitive. Accordingly, the Department will not seek legal guidance from the Office of the Attorney General on this matter. The Department is, however, amenable to discussing the issue with the agencies and authorities in question, as it has done in the past with other agencies.

For further information you may contact Michael Campanelli at the New York City Office.

1 Annexed to the inquiry were insurance certificate forms provided by the ABC Agency, the XYZ Agency, and the DEF Agency.

<http://www.ins.state.ny.us/ogco2011/rg110108.htm>

North Carolina

February 1, 2010

NC DOI bulletin:

North Carolina Department of Insurance
Wayne Goodwin , Commissioner

BULLETIN

Number 10-B-01

TO: ALL PROPERTY & CASUALTY INSURERS WRITING COMMERCIAL LINES INSURANCE PRODUCTS

FROM: PROPERTY AND CASUALTY DIVISION

DATE: February 1, 2010

RE: ACORD CERTIFICATES OF INSURANCE

The purpose of this bulletin is to inform your company of the revisions to the Certificate of Property Insurance (ACORD 24) and Certificate of Liability Insurance (ACORD 25) forms that have been approved for use in North Carolina effective January 22, 2010. ACORD 24 (2009/09) and ACORD 25 (2009/09) replace the previous editions of these forms. All companies which are ACORD members and which utilize ACORD forms shall immediately discontinue use of all ACORD 24 and ACORD 25 forms that do not reflect the 2009/09 edition.

If you have any questions concerning this bulletin, please contact Fred Fuller of the NCDI Property and Casualty Division at (919) 733-3368 ext. 226.

In addition, NC has the following statute....

North Carolina General Statute §58-3-150(a) states the following:

It is unlawful for any insurance company licensed and admitted to do business in this State to issue, sell or dispose of any policy, contract or **certificate**, or use applications in connection therewith, until the forms of the same have been submitted to and approved by the Commissioner . . . [emphasis added]

In an *Important Note* to the instructions for the ACORD 25, the *ACORD Forms Instruction Guide* references North Carolina as one of several states where the certificate of insurance is a filed form and that it “has filed all of its certificates in these states.”

No agent or insurer writing admitted business can alter a filed ACORD certificate without a re-filing and re-approval of the amended form by the Department of Insurance. This interpretation coincides with that of the North Carolina Department of Insurance, as outlined in a May 22, 2006 letter from Commissioner Jim Long.

As an example, alteration or deletion of the words “endeavor to” from the *Notification Section* at the bottom of the ACORD 25 would require that the form be re-filed and approved by the DOI before it could be used.

One issue that has yet to be fully resolved is whether or not proprietary forms required by large corporations, government entities, major contractors, and others are required to be filed or, if not, whether completing such forms would be a violation of the law. Until that issue has been fully resolved, it is suggested that agents NOT complete non-ACORD/non-filed certificates without the express authority and direction of the insurer.

In addition to this issue, the Commissioner’s letter cautioned against the fraudulent issuance of certificates or other documents. It is believed that several statutes offer punitive measures, possibly including NC GS §58-3-150 and GS §58-2-161.

Subsequently, Commissioner Long issued a memorandum to all licensed insurers dated September 15, 2006 regarding "Properly Addressing the Special Insurance Needs of Insureds in North Carolina" which said:

The North Carolina Department of Insurance has been receiving complaints concerning the inappropriate handling of special insurance needs of insureds. It has come to my attention that some insurance agents have been altering certificates of liability insurance and adding terms and conditions to certificates of liability insurance that do not appear in the insurance policy. For example, in some certificates of liability insurance where the insured is a general contractor engaged in construction projects in North Carolina, some agents have been altering certificates so that it appears that a certificate holder has a right of notice of cancellation against the insurer when there is no such notification provision in the policy itself. I am writing to notify you of the problem of agents altering insurance certificates, to request your assistance in educating your agent force and to request that you offer policies and policy endorsements that are designed to properly address the special needs of insureds and certificate holders in North Carolina.

Education of Your Agents

Please advise your agents that the North Carolina Department of Insurance has a longstanding position that insurance agents may not alter Certificates of Insurance. This position is based in part on North Carolina General Statute 58-3-150(a) which states "[i]t is unlawful for any insurance company licensed and admitted to do business in this State to issue, sell, or dispose of any policy, contract, or certificate, or use applications in connection therewith, until the forms of the same have been submitted to and approved by the Commissioner, and copies filed in the Department..."

Alteration of insurance certificates can have serious ramifications for agents. Such alterations may give rise to adverse administrative proceedings being initiated against an agent's insurance licenses. These proceedings would be based in part on the following statutes:

- NCGS 58-33-46(a)(5): The Commissioner may place on probation, suspend, revoke, or refuse to renew any license issued under this Article, in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes, for intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.
- NCGS 58-33-46(a)(8): The Commissioner may place on probation, suspend, revoke, or refuse to renew any license issued under this Article, in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes, for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere.

It should also be noted that certain alterations of certificates of insurance may also raise issues of possible criminal misconduct under a variety of criminal fraud statutes.

The bottom line is that no agent should engage in alterations of insurance certificates and companies should make sure that its agents refrain from such activity.

Properly Addressing the Special Insurance Needs of Contractors

If an insured wants special insurance provisions, the insured's insurance agent should request that the insurer write an insurance policy which contains the special provisions that the insured requires. Whether this is done through a policy endorsement or through an individual risk policy will depend on the situation. If and only if the policy contains such special provisions, then the insurance agent may properly insert an accurate statement of the special policy provisions in the special provisions block of the certificate of insurance.

Agents confronted with demands for special provisions must pass these market demands on to the insurance companies with an explicit request that these special provisions be included in the insurance policy. It is only the insurance carriers that can effectively address the insured's special insurance needs.

I am personally requesting that insurance companies offer policies and policy endorsements that fully and properly address the special insurance needs of insureds and that are in accordance with North Carolina insurance laws. In particular, I am personally asking that insurance companies offer policies and policy

endorsements that fully and properly address the special insurance needs of general contractors and other entities and that are in accordance with North Carolina insurance laws. My staff and I are committed to expediting any insurance company policy and form filings that seek to offer such special provisions in their policies which are designed to address the special insurance needs of insureds in North Carolina.

North Dakota

April 5, 2010

BULLETIN 2010-1

TO: All Property and Casualty Agents and Companies

FROM: Adam Hamm, Commissioner

DATE: April 5, 2010

SUBJECT: Certificates of Insurance

The Insurance Department has been made aware of situations in which agents are being asked to use forms (in particular certificates of insurance) which have not been filed with, and approved by, the Department.

N.D.C.C. §§ 26.1-30-19(4) and 26.1-30-20 require insurance companies to file on a prior approval basis the insurance policy, certificate, contract or agreement they plan to use. Once filed and approved, the insurance policy, certificate, contract, or agreement may not be altered without prior approval of the Department.

Certificates of insurance are by design a general summary of coverages contained within a given policy and are intended to document the existence of a policy and coverages to a party other than the insured, or both. Certificates of insurance are issued for informational purposes only and cannot be used to alter, amend, or extend coverages provided by the policy(ies).

Use of forms that are not filed and approved by the Department is prohibited. Agents or companies that use forms that are not filed by the company and approved by the Department are in violation of the statutory filing requirements and can be subject to administrative action.

If you have questions in regard to this bulletin, please contact Larry Maslowski at (701) 328-4976.

<http://www.nd.gov/ndins/uploads/bulletin/282/bulletin-2010-1-certificates-of-insurance.pdf>

April 2011

North Dakota has passed model legislation regulating certificates of insurance:

<http://www.legis.nd.gov/assembly/62-2011/documents/11-0046-03000.pdf>

Ohio

March 21, 2016

Ohio has enacted legislation (HB 259) that is effective March 21, 2016. For additional information, go to:

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA131-HB-259>

March 12, 2009

Bulletin 2009-08 - Certificates of Insurance

(Effective March 12, 2009)

The Department of Insurance ("Department") is aware that some licensed insurance agents ("agents") or insurers are being asked to issue preprinted or client-furnished certificate of insurance documents or other evidences of insurance coverage ("other evidence documents") which include language that purports to amend or alter terms of the underlying insurance policies. These certificates of insurance or other evidence documents are typically used in lieu of providing a full copy of the policy and serve as proof of insurance and to summarize terms of the policy. This bulletin is to clarify the use of certificates of insurance or other evidence documents by agents or insurers in Ohio.

Certificates of insurance or other evidence documents must clearly and accurately state the insurance coverage provided. Any certificate or other evidence documents issued by an insurer or agent that obscures or misrepresents the insurance coverage or terms of an insurance policy is a violation of the Ohio Revised Code and may subject the issuer to civil penalties and/or license suspension or revocation. Therefore, an insurance agent may not issue a certificate of insurance or other evidence document that does not accurately represent the terms or conditions of the policy without written authority from the insurer to alter the terms or conditions of that policy, or unless the agent has written underwriting authority to do so.

When an insurer provides a certificate of insurance or other evidence document that goes beyond a synopsis of the policy, the insurer may be exceeding the underlying policy language. Any statement in the certificate or other evidence document that amends or extends coverage of the underlying policy, including references to construction contracts, service contracts, or insurance requirements could be, in effect, changing the policy terms and the insurer may be bound by those changes.

When an insurance agent executes a certificate of insurance or other evidence document which goes beyond a mere synopsis of the policy, the agent may be exceeding the policy language. If the agent includes any statement in the certificate or other evidence document that amends or extends coverage of the underlying policy, including references to construction contracts, service contracts, or insurance requirements, the agent could be, in effect, changing the policy terms. By issuing such a certificate or other evidence document, the agent may be in violation of Ohio insurance laws.

Ohio Revised Code section 3901.21(A) defines misrepresenting the terms or benefits of an insurance policy as an unfair and deceptive act or practice in the business of insurance. Pursuant to the authority in section 3905.14(B)(8) of the Revised Code, the Superintendent may impose a civil penalty or suspend or revoke the insurance license of an agent who is found to have committed an unfair or deceptive act or practice.

Revised Code section 3905.14(B)(5) authorizes the Superintendent to impose civil penalties or to suspend or revoke the license of an agent if the agent intentionally misrepresents the terms of an actual or proposed insurance contract. An agent who signs a certificate of insurance or other evidence document or issues an opinion that the agent knows alters or amends the coverage of the underlying policy may be in violation of this section and thereby be subject to administrative penalties under the Revised Code.

A certificate of insurance, an ACORD ("Association for Cooperative Operations Research and Development") form, or other evidence documents should not provide false information.

The following guidelines should be reviewed and adhered to by insurers and agents when issuing certificates of insurance or other evidence documents relating to commercial Insurance:

1. No agent may issue a binder, certificate of insurance or indemnity agreement, affidavit, other evidence document, or any other instrument which either affirmatively or negatively amends, extends, or alters or misrepresents the terms, conditions, or coverage provided by the underlying insurance policy.
2. Each certificate of insurance or evidence document should contain the following statement or one substantively similar: "This document neither affirmatively nor negatively amends, extends, or alters the terms of or the coverage afforded by policy referenced herein.
3. Certificates of insurance or other evidence documents should not contain references to construction contracts, service contracts, or insurance requirements for the purpose of amending coverage afforded by the policies to which the certificate of insurance or evidence document makes reference. No certificate of insurance or evidence document may be used to amend, extend, restrict or alter the terms or coverage of policies to which the certificate or other evidence document makes reference.

Mary Jo Hudson
Superintendent of Insurance

<http://www.ohioinsurance.gov/Legal/Bulletins/2009-08.pdf>

Oklahoma

March 13, 2008

OKLAHOMA INSURANCE DEPARTMENT
STATE OF OKLAHOMA

BULLETIN NO. PC 2008-01

TO: ALL PROPERTY &. CASUALTY INSURERS
ALL PROPERTY AND CASUALTY PRODUCERS
ALL INSURERS ON THE NAIC QUARTERLY LISTING OF ALIEN INSURERS

RE: CERTIFICATES OF INSURANCE

FROM: KIM HOLLAND, INSURANCE COMMISSIONER

DATE: March 13, 2008

The Department is aware that some insurance producers or insurers have been asked to sign and issue preprinted certificate of insurance forms which include language that attempts to affirmatively or negatively amend, extend or alter the coverage of the underlying policy.

Certificates of insurance are typically used to serve as proof of liability insurance and to summarize the terms of the policy in lieu of providing a full copy of the policy. The purpose of this Bulletin is to clarify the use of certificates of insurance by producers or insurers in Oklahoma.

Certificates of insurance must clearly and accurately state the insurance coverage provided. Any certificate of insurance issued by an insurer or producer that obscures or misrepresents the insurance coverage provided under the insurance policy is a violation of the Oklahoma Insurance Code and may subject the issuer to administrative penalties and/or license suspension or revocation.

Okla. Stat. tit. 36, § 3602 defines "policy" to mean "a contract of or agreement for effecting insurance, **or the certificate thereof** (emphasis added)." Okla. Stat. tit. 36, § 3610 requires insurers to file policies intended for use in Oklahoma with the Department for review and approval before the policy is used in Oklahoma. Section 3610 does not exempt a certificate of coverage from filing on the basis that it is not a part of the policy; while § 3610 exempts from filing those applications that the insurer does not require to be in writing or made a part of the policy, that exclusion is limited to applications meeting the requirements of the subordinate clause immediately following the words "or application form."

When an insurer or insurance producer acting as the insurer's agent executes a certificate of insurance or other evidence of coverage which goes beyond a mere synopsis of the policy, the insurer or producer may be exceeding the policy language filed with and approved by the Department. If an insurer or its producer includes any statement in the certificate of insurance, the purpose of which is to amend or extend coverage under the underlying policy, including references to construction contracts, service contracts or insurance requirements, the insurer or producer is, in effect, changing the policy terms. By issuing such a certificate, the insurer or producer is in violation of the Oklahoma Insurance Code.

To ensure that consumers as well as third parties requesting a certificate of insurance are aware that the certificate does not expand or restrict coverage, an insurer or producer should include on the certificate a statement such as, "This certificate or memorandum of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by policy number _____ issued by _____ on _____."

Okla. Stat. tit. 36, § 1435.13(A)(5), authorizes the Insurance Commissioner to place on probation, censure, suspend or revoke a producer's license if the producer intentionally misrepresents the terms of an actual or proposed insurance contract. A producer who signs a certificate of insurance or issues an opinion that the

producer knows alters or amends the coverages of the underlying policy, may be in violation of this section and thereby be subject to appropriate penalties under the Code.

It should also be noted that reliance upon a certificate of insurance in support of a claim against the underlying policy can raise an issue of criminal fraud. See Okla. Stat. tit. 21, §1662. Thus, insureds should be wary of certificates of insurance not issued directly by the insurer or the insurer's agent or those not issued on a form approved by the Oklahoma Insurance Department.

If an insured wants special insurance provisions, the insured's insurance agent should request that the insurer write an insurance policy which contains those special provisions. Whether this is done through a policy endorsement or through an individual risk policy will depend on the situation. If and only if the policy contains such special provisions may the insurance agent properly insert an accurate statement of the special policy provisions in the special provisions block of the certificate of insurance.

Questions regarding this bulletin should be directed to Kathie Stepp at kathiestepp@insurance.state.ok.us of the Property and Casualty Division or Susan Dobbins at susandobbins@insurance.state.ok.us of the Legal Division of the Oklahoma Insurance Department.

The Oklahoma Insurance Department encourages readers of this bulletin to periodically check the Department's web site <http://www.oid.state.ok.us/index.asp> for news and updates to Bulletins and other relevant material.

October 12, 2010

Bulletin No. PC 2008-01 has been updated effective October 12, 2010:

http://www.ok.gov/oid/documents/Bulletin_PC_2008-01.pdf

Oregon

2010

The following article was published by the Oregon insurance department:

Department of Consumer and Business Services
Oregon Insurance REGULATOR
Insurance Division
Spring/Summer 2010
Page 2

Certificates of Insurance must match the policy

by Cece Newell, property and casualty technician

Oregon property and casualty insurance producers and industry representatives have advised the Insurance Division that they are concerned about continuing pressure to modify certificates of insurance to satisfy contracts that require a much broader extension of coverage than the policy will provide.

Certificates of insurance state that they are issued as a matter of information only, and confer no rights upon the certificate holder. A certificate does not amend, extend, or alter the coverage afforded by the policies represented.

Oregon Revised Statute (ORS) 742.003 addresses the filing and approval of policy forms. Certificates of insurance are not considered part of the policy contract and are not required to be filed. If a document is issued that alters the contract agreement in any way, an admitted company would be required to have filed the change in the contract and have it approved prior to changing the policy language and issuing a certificate.

The information on a certificate should represent the contract of insurance. There should be no variation in the information presented on the certificate from the coverage or conditions that are a part of that contract.

An insurance producer who issues a certificate of insurance that is not a representation of the policy contract could be in violation of (ORS) 744.074 (1)(e). The director of the Department of Consumer and Business Services has the authority to take enforcement action against the producer who intentionally misrepresents the terms of an actual or proposed contract of insurance. This action can range from issuing a penalty to revoking the producer's license.

http://insurance.oregon.gov/publications/regulator/regulator_spring-summer2010.pdf

Pennsylvania

Enactment date unknown

Pennsylvania Statute Section 40 P.S. § 477b (2006) requires that certificates be filed for use:

It shall be unlawful for any insurance company, association, or exchange, including domestic mutual fire insurance companies, doing business in this Commonwealth, to issue, sell, or dispose of any policy, contract, or **certificate**, covering life, health, accident, personal liability, fire, marine, title, and all forms of casualty insurance, or contracts pertaining to pure endowments or annuities, or any other contracts of insurance, or use applications, riders, or endorsements, in connection therewith, until the forms of the same have been submitted to and formally approved by the Insurance Commissioner, and copies filed in the Insurance Department, except riders and endorsements relating to the manner of distribution of benefits, and to the reservation of rights and benefits under any such policy, and used at the request of the individual policyholder, and except any forms which, in the opinion of the Insurance Commissioner, do not require his approval. [emphasis added]

February 13, 2009

Property and Casualty Insurance Companies and Producers Issuing Certificates of Insurance in Pennsylvania;
Notice No. 2009-02

[39 Pa.B. 918]

[Saturday, February 14, 2009]

"Certificates of Insurance" regarding Property and Casualty coverage are typically used to provide proof of liability insurance to and summarize the terms of a policy for a third party in lieu of providing the third party with a complete copy of the policy. This notice clarifies the acceptable use of certificates of insurance with respect to Property and Casualty insurance policies in Pennsylvania.

Certificates of insurance that clearly and accurately state the insurance coverage provided to an insured or third party are not forms subject to filing with the Insurance Department (Department) because these certificates do not in any context amend, extend or alter coverage of the insurance policy. They simply summarize the coverages provided by that policy.

Where an insurer or insurance producer uses a certificate of insurance or other evidence of coverage that goes beyond or does not accurately summarize the policy, the insurer or producer may be misrepresenting the policy language, terms, conditions or coverage limits as issued by the insurer. Similarly, language included in a certificate that amends or extends coverage of the underlying policy or states that coverage is actually in force when it is not constitutes a misrepresentation of the coverage provided by the policy; as such, any insurer or producer issuing such a certificate would be in violation of Pennsylvania insurance statutes and regulations. Additionally, when a certificate of insurance is used in such a manner that it attempts to modify the terms and conditions of coverage this may subject the certificate to the filing requirements of 31 Pa. Code Chapter 89b (relating to approval for life insurance, accident and health insurance and property and casualty insurance filing and form). Violations of Pennsylvania statutes and regulations may be subject the person issuing or providing the certificate to administrative penalties including possible license suspension or revocation and civil monetary penalty.

Questions regarding this notice may be directed to Jack Yanosky, Director of Licensing and Enforcement for the Department at (717) 783-2627.

JOEL SCOTT ARIO,
Insurance Commissioner

<http://www.pabulletin.com/secure/data/vol39/39-7/281.html>

Rhode Island

March 4, 2011

Department of Business Regulation
Insurance Division
1511 Pontiac Avenue, Bldg. 69-2
Cranston, Rhode Island 02920

Insurance Bulletin Number 2011-1

Certificates of Insurance

The purpose of this Bulletin is to establish that the improper modification of certificates of insurance is an unacceptable business practice. A certificate of insurance is not a form which requires Department approval nor is it filed with the Department. It has come to the attention of the Department that some third parties may be requesting that insurance producers issue certificates of insurance that evidence terms or conditions of coverage that may be inconsistent with the underlying insurance policy or contract. The Department wishes to inform insurance producers and all other individuals that certificates of insurance cannot be used to amend, expand or alter the terms of the underlying insurance policy.

Insurers and producers are reminded of the provisions of the Rhode Island Unfair Competition and Practices Act, R.I. Gen. Laws § 27-29-4, that provides in relevant part that it is a violation to:

(1) Misrepresentations and false advertising of policies or contracts. Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement, sales presentation, omission, or comparison misrepresenting the terms of any policy issued or to be issued or the benefits, conditions, or advantages promised by any policy or the dividends or share of the surplus to be received on any policy...

Providing a certificate of insurance that misrepresents policy terms or conditions violates Rhode Island law and subjects the insurance producer to penalties that may include suspension or revocation of the producer's license.

The Department urges all insurers to review their oversight procedures regarding the issuance of certificates of insurance in order to avoid misrepresentations of the terms and conditions of their policies and to periodically remind their producers about the consequences of providing improper certificates of insurance to the public.

Questions regarding this Bulletin may be directed to Paula Pallozzi, Chief Property & Casualty Insurance Rate Analyst at paula_pallozzi@dbr.ri.gov

Joseph Torti III
Superintendent of Insurance
March 4, 2011

<http://www.dbr.state.ri.us/documents/news/insurance/InsuranceBulletin2011-1.pdf>

South Carolina

No known certificate-specific laws, regulations, or insurance department directives.

South Dakota

February 15, 2006

Bulletin 06-02

To: Insurance Producers
From: Merle Schiever, Director
RE: Certificate of Insurance
Date: February 15, 2006

The Division of Insurance has become aware of concerns on the part of insurance agents who have received requests to alter or modify certain portions of the Accord 25-S form (certificate of insurance). One such request that insurance agents have received is to alter the provision concerning notice provisions of the policy. Certificates of insurance whether using an Accord form or some other form of certificate of insurance can not provide false information. SDCL 58-11-29 prohibits making any false or fraudulent statement on a certificate of insurance. That statute is as follows:

"Binders or other contracts for temporary insurance may be made orally or in writing, and shall be deemed to include all the usual terms of the policy as to which the binder was given together with such applicable endorsements as are designated in the binder, except as superseded by the clear and express terms of the binder. Any insurance producer or surplus lines broker who knowingly makes any false or fraudulent material statement on a binder, certificate of insurance, or other document offered as proof of insurance is guilty of a Class 1 misdemeanor for each offense."

Therefore, an insurance agent may not issue a certificate of insurance that does not accurately represent the terms or conditions of the policy without authority from the insurer to alter the terms or conditions of that policy. Any requests to include a notice provision that binds the carrier when such provision is not contained in the policy would not be in compliance with SDCL 58-11-29.

Anyone with any questions or concerns is encouraged to contact Andrew Fergel, General Counsel for the Division of Insurance.

November 23, 2009

In a memorandum dated August 19, 2009, licensees were provided with an extension to comply with the provisions of Bulletins 09-05 and 09-06 until 11/1/09. While both Acord and ISO have modified their certificates of insurance, not all vendors have implemented those changed forms into their software that is available for licensees. Therefore an additional extension is granted for licensees until January 15, 2010. There will be no further extensions for compliance with these bulletins. All licensees must be in compliance with Bulletins 09-05 and 09-06 by January 15, 2010.

This memorandum delays the implementation of [Bulletin 09-05](#) and [Bulletin 09-06](#) which were issued on August 7, 2009 and August 13, 2009, respectively. [Bulletin 09-05](#) requires that certificate or memorandums of insurance issued on or after September 1, 2009 must include the statement, "This certificate of insurance does not affirmatively or negatively amend, extend, or alter the coverage afforded by the insurance policy."

[Bulletin 09-06](#), includes the following statement:

"Unless there is express written agreement from the insurer in the form of a policy provision, policy endorsement or some other form of binding written guarantee from the insurer that the insurer will follow the cancellation language in the certificate or memorandum of insurance, **the person issuing the certificate must in some manner strike or delete the cancellation language from the form.**" [emphasis added]

January 13, 2010

Bulletin 10-01

DATE: January 13, 2010

TO: All Property Casualty Insurers & Agents

FROM: Merle Scheiber, Director

RE: Certificates of Insurance/Evidence of Insurance

The Division has worked diligently with agency management system vendors to implement the changes to Acord certificates of insurance required by bulletins, [09-05 & 09-06](#). However, the vendors have been unable to implement the changes in the software in a manner that is available and usable for all licensees by January 15, 2010.

The prior versions of certificates of insurance contained cancellation language that stated the insurer would endeavor to provide notice to the certificateholder upon cancellation. Any certificate of insurance containing this language or language that requires notice to the certificateholder is not permissible **unless the notice is specifically provided for in the policy.**

An agent/agency can comply with these [bulletins](#) by any of the following methods:

1. Using the most recent Acord 24 (2009-09) and Acord 25 (2009-09) forms
2. Using the Division's certificate of insurance forms (COPI-01-10, COLI-01-10) found at <http://www.state.sd.us/drr2/reg/insurance/certificates.htm>
3. Including the following language in the existing certificates of insurance forms with cancellation promises, guarantees, or implications:

"The cancellation portion of this certificate is left blank and no notice other than that provided by the policy is guaranteed, promised, or implied from the issuance of this certificate."

This bulletin also applies to evidences of insurance for personal property and commercial property coverages with similar cancellation language.

Tennessee

June 10, 1974 – October 23, 2004

Beginning on June 10, 1974, Tennessee insurance department rules, Chapter 0780-1-22, based on authority from the Tennessee Code Annotated §56-2-301, governed certificates. However, the rule was repealed by the commissioner effective October 23, 2004.

March 21, 2012

The Commissioner issued a bulletin clarifying that certificates of insurance must conform to the terms of the underlying policy and that the improper modification or fabrication of a certificate of insurance will be treated as an unfair trade practice.

For the full text of the bulletin:

<http://www.tn.gov/insurance/documents/032112.pdf>

Texas

September 8, 2006

COMMISSIONER'S BULLETIN #B-0035-06

The Department reminds all carriers and agents that a certificate of insurance must clearly and accurately state the insurance coverage provided. A certificate of insurance that obscures or misrepresents the insurance coverage provided under the insurance policy is a violation of the Insurance Code, including §§541.051, 541.061, and 4005.101(b)(5) and (6). Additionally, agents are reminded that they are prohibited from altering the terms or conditions of a policy under Insurance Code §§4001.051(c) and 4001.052(b). Violation of the provisions of Chapter 541, 4001, or 4005 may result in administrative penalties and/or license revocation.

The Department is issuing this bulletin because it has received information that indicates some certificates of insurance provided to contractors are either obscure as to the types of coverage contained in the policy or misrepresent the coverage under the policy.

As provided in the Department's previously issued General Casualty Bulletin No. 369, Automobile Series No. 417, and W.C. Circular Letter No. 392, dated February 1, 1968, the Department again highlights sample language that may be used on each certificate of insurance issued:

In compliance with Texas law, this Certificate of Insurance neither amends, extends, or alters any term or condition of the coverage afforded by Policy No. _____ issued by _____ on _____ (date).

Instances of a company or agent issuing or executing a certificate of insurance that obscures or misrepresents coverage under the insurance policy should be reported to the Consumer Protection Division of the Texas Department of Insurance at 1-800-252-3439 or ConsumerProtection@tdi.state.tx.us.

May 2011

Texas has passed model legislation regulating certificates of insurance:

<http://www.capitol.state.tx.us/tlodocs/82R/billtext/pdf/SB00425F.pdf> Division of the Texas Department of Insurance at 1-800-252-3439 or ConsumerProtection@tdi.state.tx.us.

April 2013

The Texas Department of Insurance has developed a resource area on their web site with links to legislation, rules, and approved certificates forms and are developing an FAQ area for certificates of insurance that should be available in the near future:

<http://www.tdi.texas.gov/certificates/>

Utah

April 20, 2010

Bulletin 2010-4

To: Licensed Property and Casualty Insurance Companies
From: Neal T. Gooch, Acting Commissioner
Date: April 20, 2010
Subject: Issuance of Certificates of Insurance

Certificates of insurance, evidences of insurance, memorandums of insurance, agent opinion letters and similar insurance policy-related documents (collectively "certificates") serve a valuable informational purpose and provide a courtesy summary of the basic coverage's and limits of an insurance policy to an insured or third party. The Department is aware, however, that some insurance producers, agencies and insurers have been asked to provide certificates that purport to amend, extend, or alter the terms of the underlying policy, or inaccurately suggest the existence of certain contractual rights. Although the insurance industry may feel pressured or obligated to provide certificates that revise policy language or misrepresent the actual policy terms, they are in violation of Utah's Insurance Code when they do so. This also includes any customized certificate of insurance forms provided by a proposed certificate holder.

Insurers, agencies and producers are in violation of Utah Code Ann. §31A-23a-402 when they issue a certificate of insurance that obscures or misrepresents the insurance coverage or terms, the obligation of notice by an insurer, or other rights provided under an insurance policy and may be subject to administrative penalties and/or license suspension or revocation. In addition, Utah Code Ann. §31A-21-201 mandates that insurers file all of their insurance policy forms. This mandate includes certificates of insurance and/or evidences of insurance intended for use in this state. A licensee, or an employee of a licensee, cannot issue any such form(s) until filed with the Department.

When an insurer or insurance producer executes a certificate of insurance or other evidence of coverage which extends beyond offering a mere synopsis of the policy, the insurer or producer risks modifying the policy's terms or coverage's. In addition, if an insurer or its producer includes any statement in a certificate of insurance purporting to amend or extend coverage from the underlying policy, including references to construction contracts, service contracts or insurance requirements, the insurer or producer may be misrepresenting the policy terms. By issuing such a certificate, the insurer or producer is in violation of the above referenced Insurance Code prohibiting a producer or insurer from intentionally or materially misrepresenting the terms of an actual or proposed insurance contract. Such violations can result in administrative, actions by the Department, which may include a monetary penalty, suspension, revocation or probationary action against a licensee.

DATED this 20th day of April 2010

Neal T. Gooch
Acting Commissioner

<http://www.insurance.utah.gov/docs/bulletins/2010-4.pdf>

May 2011

Utah has passed model legislation regulating certificates of insurance:

<http://le.utah.gov/~2011/bills/hbillenr/hb0079.pdf>

December 2012

The insurance department has issued Bulletin 2012-7 which supersedes Bulletin 2010-4:

<https://insurance.utah.gov/legal-resources/bulletins/documents/2012-7Signed.pdf>

Vermont

No known certificate-specific laws, regulations, or insurance department directives.

Virginia

April 21, 2011

Administrative Letter 2011-02

To: All Insurers Licensed to Write Property and Casualty Insurance in Virginia and All Interested Parties

Re: Certificates of Insurance

NOTE: EACH INSURER RECEIVING THIS ADMINISTRATIVE LETTER IS INSTRUCTED TO PROVIDE A COPY TO EACH OF ITS CURRENTLY APPOINTED AGENTS AND TO EACH NEWLY APPOINTED AGENT.

It has come to the attention of the Bureau of Insurance that widespread misunderstanding regarding the proper use of certificates of insurance, as well as the intentional misuse of such certificates, persists. For example, the Bureau has become aware that some private and public entities are requesting insurers and producers to issue certificates of insurance that are inconsistent with the underlying insurance policy or contract. For purposes of this administrative letter, the term "certificate" or "certificate of insurance" (regardless of how it is titled or described) means any document prepared or issued by an insurer or insurance producer as evidence of property and casualty insurance coverage.

A certificate of insurance is a summary of the referenced insurance policy and does not modify or amend the referenced policy or confer any right upon the certificate holder. The Bureau cautions insurers, producers, and all persons requesting certificates that certificates of insurance cannot be used to amend, expand, or alter the terms of the underlying insurance policy. Certificates should reflect clearly and accurately the coverage provided by the underlying policy as well as the terms and conditions of such policy. For example, it is improper for a producer to indicate in a certificate of insurance that a person is an additional insured contrary to the terms of the policy. Likewise, it is improper to state on a certificate of insurance that a party will be notified if the underlying policy is cancelled if that party is not entitled to notice under the terms of the policy.

Certificates of insurance that misrepresent any material term, condition, coverage, or other provision set forth in the underlying policy, or purport to amend or alter the underlying insurance policy violate the Virginia Insurance Code and subject producers and insurers to possible disciplinary action. It is imperative that producers and insurers issue certificates of insurance that accurately represent the terms and conditions of the policies as contracted between the insurer and the policyholder.

Administrative Letter 2011-02

April 21, 2011

Questions relating to this administrative letter should be directed to:

George Lyle
P&C Consumer Services Section
Bureau of Insurance
P. O. Box 1157
Richmond, VA 23218
804-371-9185 (Telephone)
804-371-9349 (Facsimile)

Sincerely,

Jacqueline K. Cunningham
Commissioner of Insurance

<http://va.iaaa.org/PDF/AdminLetterCerts.pdf>

July 1, 2012

Legislation became effective on July 1, 2012 that defines and clarifies what a certificate of insurance is, prohibits any person from issue or demanding the issuance of a certificate with false or misleading information, affirms that certificates are not insurance policies and cannot be used to alter, revise, or modify an insurance policy, and authorizes the Bureau of Insurance to enforce the law.

<https://leg1.state.va.us/cgi-bin/legp504.exe?121+ful+CHAP0273>

Washington

May 17, 2012

Certificates of insurance rule WAC 284-30-355 modified so that, “No person may knowingly demand or require an insurer, insurance producer, surplus line broker, or policyholder to issue a certificate that contains any false or misleading information or that purports to alter, amend, or extend the coverage provided by the insurance policy.”

To view the entire rule:

<http://apps.leg.wa.gov/wac/default.aspx?cite=284-30-355>

West Virginia

February 1969

In February 1969, the West Virginia insurance commissioner distributed West Virginia Informational Letter No. 3 which said:

Certificates of Insurance are being executed by some companies and agents which extend coverage beyond that afforded by or intended in the insurance contract being certified. Certificates that go beyond designating the property of the risk insured and the type and limits of coverage provided may become in effect another or separate insurance policy. Many certificates appear to be so broad in their scope as to guarantee a hold harmless status against almost any kind of liability.

Issuance or execution of certificates of insurance enlarging on authorized or prescribed forms which extend coverage not afforded by the original contract is in violation of the Insurance Code. We call your attention to Chapter 33, Article 6, Section 8, "Approval of Forms." No insurance policy form, rider, endorsement, or other form to be attached to any policy shall be issued or delivered in this state without having prior approval of this Department.

When such a certificate is executed by a company or agent, the company or agent responsible for this act will be subject to the penalties provided under the West Virginia Insurance Code.

Each certificate of insurance issued should contain the following or similar language:

"This certificate of insurance neither affirmatively nor negatively amends, extends or alters the coverage afforded by policy number _____, issued by _____."

Wisconsin

April 23, 2008

From our Wisconsin state association:

WISCONSIN INSURANCE COMMISSIONER ISSUES BULLETIN ON CERTIFICATES OF INSURANCE ABUSES

Wisconsin Commissioner of Insurance, Sean Dilweg ("OCI"), has issued an April 23, 2008 Bulletin regarding the issuance of Certificates of Insurance. The Bulletin warns agents and companies that certain alterations can result in violation of Wisconsin insurance laws, which in turn can lead to license suspensions, forfeitures and fines.

Certificates of Insurance are routinely issued by agents in the context of many commercial transactions. However, the incidents of amending or altering certificates of insurance that do not represent actual policy language or that are contrary to the certificate's instructions are increasing. Such alterations and modifications can constitute a misrepresentation of the coverages provided. The Bulletin sets forth OCI's view of such alterations and modifications.

Certificates of Insurance are not insurance forms requiring preapproval by OCI, if used for the purpose intended. The Certificate of Insurance is a document that simply describes insurance in effect for a particular risk, as of the date of issuance of the certificate. When used in the foregoing manner, with appropriate notices and disclaimers, there is no issue whatsoever. However, when agents or others alter the certificate, problems can arise. The listing of persons as "additional insureds" without the issuance of a corresponding endorsement and the altering the language of the notice provisions are examples of modifications to the certificate which can result in the certificate altering the terms and provisions of the underlying policies. In this event, the certificate becomes a document that now purports to extend insurance coverage, contrary to its stated purpose, and may at times be contrary to the actual policy. For this reason, OCI has issued the Bulletin to give clear instruction to Wisconsin companies and agents that certificates should only be used for the purpose intended. Companies and agents who make modifications that alter the underlying policies will be deemed to be in violation of Wisconsin law. This violation can result in loss of license, as well as the imposition of fines up to \$1,000 per day. Accordingly, when agents receive requests to modify certificates, they should be aware of the potential consequences of their actions.

The IIAW supports the publishing of the "Issues Regarding the Use of Property and Casualty Certificates of Insurance" Bulletin. We have been aware for some time of the pressure put on agents to use certificates to list additional insured or to make other changes to the underlying policies. These pressures come from a variety of sources: banks, engineering firms, contractors, lawyers, municipalities, etc. These requests arise in a number of commercial transactions where insurance is a requirement. Agents are on the frontline when such requests are made and have to explain (many times unsuccessfully), why the requested certificate modifications are not appropriate. In most instances these explanations fall on deaf ears. The Bulletin will provide assistance to agents and will allow them to respond to inappropriate demands by providing OCI's position on such demands. The Bulletin provides a useful enforcement tool. When agents receive requests to alter certificates by third parties which may affect the terms of the underlying policies, those agents can now articulate reasons why they should not do so. The Bulletin is an excellent educational tool for such third parties. No longer can they be deaf to agent concerns.

The IIAW has worked long and hard with the OCI to issue such a bulletin. We have been at the forefront of this issue long before others recognized its importance. The Bulletin addresses both education and agent protection. We congratulate OCI for taking a leadership position in addressing certificate of insurance abuses.

Date: April 23, 2008

To: All Property and Casualty Insurers and Agents

From: Sean Dilweg, Commissioner of Insurance

Subject: Issues Regarding the Use of Property and Casualty Certificates of Insurance

"Certificates of Insurance" are typically used to provide proof of liability insurance and to summarize the terms of the policy for a third party instead of providing a complete copy of the policy. This Bulletin is to clarify the use of certificates of insurance by intermediaries and insurers within the State of Wisconsin.

Section 631.20, Wis. Stats., generally requires insurers to file insurance policy forms with OCI prior to using the forms in Wisconsin. Section 628.34(1), Wis. Stats., provides that "No person who is or should be licensed . . . may make or cause to be made any communication relating to an insurance contract . . . which contains false or misleading information, including information misleading because of incompleteness."

Certificates of insurance which clearly and accurately state the insurance coverage provided to an insured or third party are not forms subject to filing with OCI because these certificates do not affirmatively or negatively amend, extend or alter coverage of the underlying policy. They simply summarize the coverages.

Where an insurer or an agent acting on behalf of the insurer uses a certificate of insurance or other evidence of coverage which goes beyond an accurate summary of the policy, the insurer or agent may be misrepresenting the policy language as issued by the insurer and filed with OCI. Language included in the certificate that amends or extends coverages of the underlying policy or states that coverage is actually in force when it is not is a misrepresentation. An insurer or agent issuing these certificates would be in violation of s. 628.34(1), Wis. Stats., and may be subject to administrative penalties including possible license suspension or revocation.

To insure that consumers as well as those requesting certificates of insurance are aware that the certificate does not expand or restrict coverage, an insurer or agent should include on the certificate a statement such as: "This certificate of insurance neither affirmatively nor negatively amends, extends or alters the coverage afforded by the policies described herein." A similar statement is included on the preprinted certificates of insurance forms provided by both ACORD and ISO.

OCI encourages insurers to notify their agents of this bulletin. If you have any questions regarding the information contained in this bulletin, you may contact Ronnie Demergian at Ronnie.Demergian@WI.Gov or 608-266-7077.

Thank you.

May 5, 2008

Date: May 5, 2008

To: All Property and Casualty Insurers and Agents

From: Sean Dilweg, Commissioner of Insurance

Subject: Issues Regarding the Use of Property and Casualty Certificates of Insurance

"Certificates of Insurance" are typically used to provide proof of liability insurance and to summarize the terms of the policy for a third party instead of providing a complete copy of the policy. This Bulletin is to clarify the use of certificates of insurance by intermediaries and insurers within the State of Wisconsin.

Section 631.20, Wis. Stat., generally requires insurers to file insurance policy forms with OCI prior to using the forms in Wisconsin. Section 628.34 (1), Wis. Stat., provides that "No person who is or should be licensed . . . may make or cause to be made any communication relating to an insurance contract . . . which contains false or misleading information, including information misleading because of incompleteness."

Certificates of insurance which clearly and accurately state the insurance coverage provided to an insured or third party are not forms subject to filing with OCI because these certificates do not affirmatively or negatively amend, extend or alter coverage of the underlying policy. They simply summarize the coverages.

Where an insurer or an agent acting on behalf of the insurer uses a certificate of insurance or other evidence of coverage which goes beyond an accurate summary of the policy, the insurer or agent may be misrepresenting the policy language as issued by the insurer and filed with OCI. Language included in the certificate that amends or extends coverages of the underlying policy or states that coverage is actually in force when it is not is a misrepresentation. An insurer or agent issuing these certificates would be in violation of s. 628.34 (1), Wis. Stat., and may be subject to administrative penalties including possible license suspension or revocation.

To insure that consumers as well as those requesting certificates of insurance are aware that the certificate does not expand or restrict coverage, an insurer or agent should include on the certificate a statement such as: "This certificate of insurance neither affirmatively nor negatively amends, extends or alters the coverage afforded by the policies described herein." A similar statement is included on the preprinted certificates of insurance forms provided by both ACORD and ISO.

OCI encourages insurers to notify their agents of this bulletin. If you have any questions regarding the information contained in this bulletin, you may contact Ronnie Demergian at ronnie.demergian@wisconsin.gov or 608-266-7077.

<http://oci.wi.gov/bulletin/0508certofins.htm>

August 27, 2012

Date: August 27, 2012
To: All Property and Casualty Insurers and Agents
From: Theodore K. Nickel, Commissioner of Insurance
Subject: Misleading Property and Casualty Certificates of Insurance

"Certificates of insurance" are typically used to provide proof of liability insurance and to summarize the terms of the policy for a third party instead of providing a complete copy of the policy. This bulletin is to clarify the use of certificates of insurance by intermediaries and insurers within the state of Wisconsin. This bulletin supersedes the Office of the Commissioner of Insurance (OCI) bulletin issued on May 5, 2008.

Section 631.20, Wis. Stat., generally requires insurers to file insurance policy forms with OCI prior to using the forms in Wisconsin. Section 628.34 (1), Wis. Stat., provides that "No person who is or should be licensed ... may make or cause to be made any communication relating to an insurance contract ... which contains false or misleading information, including information misleading because of incompleteness No intermediary may provide a misleading certificate of insurance."

Certificates of insurance which clearly and accurately state the insurance coverage provided to an insured or third party are not forms subject to filing with OCI under s. 631.20, Wis. Stat., because these certificates do not affirmatively or negatively amend, extend or alter coverage or terms of the policy. They simply summarize the coverage and terms of the policy.

Where an insurer or an agent acting on behalf of the insurer uses a certificate of insurance or other evidence of coverage which goes beyond an accurate summary of the policy, the insurer or agent may be misrepresenting the policy language as issued by the insurer and filed with OCI. Language included in the certificate that amends or extends coverage or terms of the policy, such as stating that coverage is in force when it is not or stating that a notice of policy cancellation will be given when it will not, is a misrepresentation. An insurer or agent issuing these certificates would be in violation of s. 628.34 (1), Wis. Stat., and may be subject to administrative penalties including possible license suspension or revocation.

To ensure that consumers as well as those requesting certificates of insurance are aware that the certificate does not expand or restrict coverage, an insurer or agent should include on the certificate a statement such as: "This certificate of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by the policies described herein." A similar statement is included on the preprinted certificate of insurance forms provided by both ACORD and ISO.

OCI encourages insurers to notify their agents of this bulletin. If you have any questions regarding the information contained in this bulletin, you may contact Ronnie Demergian at ronnie.demergian@wisconsin.gov or 608-266-7077.

<http://oci.wi.gov/bulletin/0812pccertins.htm>

Wyoming

July 1, 2014

Wyoming has now passed legislation governing certificates of insurance. Full details can be found here:

<http://legisweb.state.wy.us/2014/Enroll/SF0107.pdf>

June 19, 2007

The Wyoming insurance department issued Memorandum 01-2007 on June 19, 2007 which says in part:

The Department is aware that some insurance producers or insurers have been asked to sign and issue preprinted certificate of insurance forms which include language that may affirmatively or negatively amend, extend or alter the coverage of the underlying policy. Certificates of insurance are typically used to serve as proof of liability insurance and to summarize the terms of the policy in lieu of providing a full copy of the policy. The purpose of this Memorandum is to clarify the use of certificates of insurance by producers or insurers in Wyoming.

Certificates of insurance must clearly and accurately state the insurance coverage provided. Any certificate of insurance issued by an insurer or producer that obscures or misrepresents the insurance coverage provided under the insurance policy is a violation of the Wyoming Insurance Code and may subject the issuer to administrative penalties and/or license suspension or revocation.

Wyoming Statute § 26-15-110 requires insurers to file policies intended for use in Wyoming with the Department for review. A policy form cannot be used in Wyoming until the Department approves the form. When an insurer or insurance producer, acting as the insurer's agent, executes a certificate of insurance or other evidence of coverage which goes beyond a mere synopsis of the policy, the insurer or producer may be exceeding the policy language filed with and approved by the Department. If an insurer or its producer includes any statement in the certificate of insurance, the purpose of which is to amend or extend coverage under the underlying policy, including references to construction contracts, service contracts or insurance requirements, the insurer or producer is, in effect, changing the policy terms. By issuing such a certificate, the insurer or producer is in violation of the Wyoming Insurance Code.

To ensure that consumers as well as third parties requesting a certificate of insurance are aware that the certificate does not expand or restrict coverage, an insurer or producer should include on the certificate a statement such as, "This certificate or memorandum of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by policy number _____ issued by _____ on _____. A similar statement is included on the preprinted certificate of insurance forms available from ACORD and ISO. The ACORD and ISO forms are acceptable to the Department so long as the preprinted forms are not altered to modify the terms of the underlying policy.

The Wyoming Insurance Code, in Wyo. Stat. § 26-9-211, authorizes the Insurance Commissioner to place on probation, suspend or revoke a producer's license if the producer intentionally misrepresents the terms of an actual or proposed insurance contract. A producer who signs a certificate of insurance or issues an opinion that the producer knows alters or amends the coverages of the underlying policy, may be in violation of this section and thereby be subject to appropriate penalties under the Code.

The following guidelines should be reviewed and adhered to by insurers and producers when issuing certificates of insurance:

1. No licensed insurer or its licensed producer may issue a binder, certificate of insurance or indemnity agreement or any other type of instrument which either affirmatively or negatively amends, extends or alters the coverage provided by its approved policy forms and endorsements.

2. Each certificate or memorandum of property or casualty insurance issued should contain the following or similar statement: "This certificate or memorandum of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by policy number _____ issued by _____ on _____.

No certificate of insurance shall contain references to construction contracts, service contracts or insurance requirements for the purpose of amending coverage afforded by the policies to which the certificate makes reference. No certificate of insurance may be used to amend, extend, restrict or alter coverage afforded by the policies to which the certificate of insurance makes reference.

3. No licensed insurer or its producer licensed to do business in Wyoming shall have the authority to issue an "Agent's Opinion Letter" or any other correspondence purporting an insurance policy provides coverages which the policy does not provide.