
HOUSE COMMITTEE AMENDMENTS

2016 Regular Session

Amendments proposed by House Committee on Insurance to Original House Bill No. 476
by Representative Huval

AMENDMENT NO. 1

On page 1, delete line 2 in its entirety and insert in lieu thereof the following:

"To amend and reenact R.S. 22:890, relative to certificates of insurance; to provide for use of certain certificates of insurance; to provide for definitions; to provide that"

AMENDMENT NO. 2

On page 1, line 8, change "R.S. 22:890(H)" to R.S. "22:890"

AMENDMENT NO. 3

On page 1, delete line 10 in its entirety and insert in lieu thereof the following:

"A. For the purposes of this Section:

(1) "Certificate" or "certificate of insurance" means any document, instrument, or record, including an electronic record, no matter how titled or described, which is prepared by an insurer or insurance producer and issued to a third person not a party to the subject insurance contract, as evidence of property and casualty insurance coverage. "Certificate" or "certificate of insurance" shall not mean an insurance binder.

(2) "Certificate holder" means any person, other than a policyholder, that is designated on a certificate of insurance as a "certificate holder" or any person, other than a policyholder, to whom a certificate of insurance has been issued by an insurer or insurance producer at the request of the policyholder.

(3) "Electronic record" shall have the meaning defined in R.S. 9:2602(7).

(4) "Insurance" shall have the meaning defined in R.S. 22:46(9).

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

(6) "Insurer" means an insurer as defined in R.S. 22:46(10) and any other person engaged in the business of making property and casualty insurance contracts, including but not limited to self-insurers, syndicates, risk purchasing groups, and similar risk transfer entities. "Insurer" shall not mean any person self-insured for purposes of workers' compensation, including any group self-insurance fund authorized pursuant to R.S. 23:1195 et seq., any interlocal risk management agency authorized pursuant to R.S. 33:1341 et seq., or any self-insured employer authorized pursuant to R.S. 23:1168 et seq.

(7) "Lender" means an individual, partnership, corporation, limited liability company, association, federally insured depository institution, or other entity, agent, loan agent, servicing agent, or loan or mortgage broker, who makes, owns, or services a loan.

(8) "Person" means any individual, company, insurer, organization, reciprocal or inter-insurance exchange, business, partnership, corporation, limited liability company, association, trust, or other legal entity, including any government or governmental subdivision or agency.

~~(8)~~(9) "Policyholder" means a person who has contracted with a property or casualty insurer for insurance coverage.

~~(9)~~(10) "Record" shall have the meaning defined in R.S. 9:2602(13).

~~(10)~~(11) "Self-insurer" means any individual business or group of businesses which have created a risk purchasing group, risk retention plan, syndicate, or

1 other form of self-insurance covering property or casualty risk exposures.
 2 "Self-insurer" shall not mean any person self-insured for purposes of
 3 workers' compensation, including any group self-insurance fund authorized
 4 pursuant to R.S. 23:1195 et seq., any interlocal risk management agency
 5 authorized pursuant to R.S. 33:1341 et seq., or any self-insured employer
 6 authorized pursuant to R.S. 23:1168 et seq.

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

13 C. No person, other than a lender, wherever located, may prepare, issue, or
 14 request the issuance of a certificate of insurance for risks located in this state
 15 unless the ~~form has been filed with and approved by the commissioner of~~
 16 ~~insurance. No person, wherever located, may alter or modify an approved~~
 17 ~~certificate of insurance form unless the alteration or modification has been~~
 18 ~~approved by the commissioner of insurance~~ certificate is issued on standard
 19 certificate of insurance forms promulgated by the insurer, Association for
 20 Cooperative Operations Research and Development (ACORD), the American
 21 Association of Insurance Services (AAIS), or the Insurance Services Office
 22 (ISO).

23 D. ~~The commissioner of insurance shall disapprove a form filed under this~~
 24 ~~Section or withdraw approval of a form if that form:~~

25 (1) ~~Is unfair, misleading, or deceptive, or violates public policy.~~

26 (2) ~~Violates any state statute or regulation validly promulgated by the~~
 27 ~~commissioner of insurance.~~

28 (3) ~~Requires certification of insurance coverages that are not available.~~

29 E. ~~The commissioner may approve a certificate of insurance form that does~~
 30 ~~not state that the form is provided for information only or similar language,~~
 31 ~~provided that the form states that the certificate of insurance does not confer~~
 32 ~~any rights or obligations other than those conveyed by the policy and that the~~
 33 ~~terms of the policy control. Further, use of such a form shall not be, in and~~
 34 ~~of itself, cause for disapproval by the commissioner under the provisions of~~
 35 ~~Subsection D of this Section.~~

36 F.(1) ~~The commissioner of insurance shall approve or disapprove certificate~~
 37 ~~of insurance forms filed pursuant to this Section in writing within forty-five~~
 38 ~~days of receipt of the form.~~

39 (2) ~~Standard certificate of insurance forms promulgated by the Association~~
 40 ~~for Cooperative Operations Research and Development (ACORD), the~~
 41 ~~American Association of Insurance Services (AAIS), or the Insurance~~
 42 ~~Services Office (ISO) shall be filed, but are deemed approved by the~~
 43 ~~commissioner of insurance, provided these forms comply with the provisions~~
 44 ~~of this Section.~~

45 G. ~~No person shall demand or request the issuance of a certificate of~~
 46 ~~insurance from an insurer, insurance producer, or policyholder that contains~~
 47 ~~any false or misleading information concerning the policy of insurance to~~
 48 ~~which the certificate makes reference.~~

49 AMENDMENT NO. 4

50 On page 1, at the beginning of line 11, delete "H" and insert "E"

51 AMENDMENT NO. 5

52 On page 1, delete line 19 and insert in lieu thereof the following:

1 "(3) The provisions of Paragraph 1 of this Subsection shall not apply to
 2 lenders, as defined in this Section, or to certificates of insurance required or
 3 requested by a lender from a policyholder.

4 F. The provisions of this Section shall apply to all certificate holders,
 5 policyholders, insurers, insurance producers, and certificate of insurance
 6 forms issued as a statement or evidence of insurance coverages on property,
 7 operations, or risks located in this state, regardless of where the certificate
 8 holder, policyholder, insurer, or insurance producer is located.

9 G. A certificate of insurance form which has been ~~approved by the~~
 10 ~~commissioner~~ issued in accordance with this Section and properly executed
 11 and issued by a property and casualty insurer or an insurance producer, shall
 12 constitute a confirmation that the referenced insurance policy has been issued
 13 or that coverage has been bound notwithstanding the inclusion of "for
 14 information purposes only" or similar language on the face of the certificate.
 15 A certificate of insurance is not a policy of insurance and does not
 16 affirmatively or negatively amend, extend, or alter the coverage afforded by
 17 the policy to which the certificate of insurance makes reference. A certificate
 18 of insurance shall not confer to a certificate holder new or additional rights
 19 beyond what the referenced policy or any validly executed endorsements of
 20 insurance provides.

21 H. No certificate of insurance shall contain references to legal or insurance
 22 requirements contained in any contracts ~~other than the underlying contracts~~
 23 ~~of insurance~~, including but not limited to construction or service contracts.
 24 The certificate of insurance may only list the specific forms or endorsements
 25 contained in the underlying contracts of insurance. No certificate holder or
 26 other interested party may require an interpretation of those forms or
 27 endorsement from the insurance agent. The provisions of this Subsection
 28 shall not apply to lenders, as defined in this Section, or to certificates of
 29 insurance required or requested by a lender from a policyholder.

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

38 J. Any certificate of insurance and any attached addendum prepared,
 39 issued, or requested in violation of this Section shall be null and void and of
 40 no force and effect.

41 K. Any person who willfully violates this Section may be fined not more
 42 than one thousand dollars per violation.

43 L. The commissioner of insurance shall have the power to examine and
 44 investigate any complaint or allegation of specific violations by any person
 45 who has allegedly engaged in an act or practice prohibited by this Section
 46 and to enforce the provisions of this Section. Examinations or complaint
 47 investigations conducted by the commissioner under this Subsection shall be
 48 subject to the provisions of R.S. 22:1983(J).

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