

ASSEMBLY, No. 3731

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED FEBRUARY 7, 2013

Sponsored by:

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District 36 (Bergen and Passaic)

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District 38 (Bergen and Passaic)

Assemblyman SEAN T. KEAN

District 30 (Monmouth and Ocean)

SYNOPSIS

“Certificates of Insurance Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/8/2013)

1 AN ACT concerning certificates of insurance and supplementing
2 Title 17 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the "Certificates
8 of Insurance Act."

9

10 2. As used in this act:

11 "Certificate of insurance" means a document or instrument,
12 regardless of how titled or described, that is prepared or issued by
13 an insurer or insurance producer as evidence of property or casualty
14 insurance coverage. The term shall not include a policy of
15 insurance, insurance binder, policy endorsement, or automobile
16 insurance identification or information card.

17 "Commissioner" means the Commissioner of Banking and
18 Insurance.

19 "Insurance producer" means a person required to be licensed
20 pursuant to the "New Jersey Insurance Producer Licensing Act of
21 2001," P.L.2001, c.210 (C.17:22A-26 et seq.).

22 "Insurer" means an organization that issues property or casualty
23 insurance.

24

25 3. a. Except as provided in subsection b. of this section, a
26 person shall not prepare, issue, request, or require the issuance of a
27 certificate of insurance on property, operations, or risks located in
28 this State unless:

29 (1) the certificate of insurance form has been filed with and
30 approved by the commissioner; or

31 (2) the specific content and wording of the certificate of
32 insurance form are established by any federal law or regulation or
33 any law or regulation of this State.

34 b. Notwithstanding the provisions of subsection a. of this
35 section, the current edition of standard certificate of insurance
36 forms promulgated by the following organizations are approved and
37 authorized for use in this State on and after the date that the forms
38 are filed with the commissioner:

39 (1) the Association for Cooperative Operations Research and
40 Development (ACORD);

41 (2) the American Association of Insurance Services (AAIS);

42 (3) the Insurance Services Office (ISO).

43 c. The commissioner shall disapprove the use of a certificate of
44 insurance form if the form is:

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

46 (2) in violation of the provisions of any law, including any
47 regulation promulgated by the commissioner.

1 4. A certificate of insurance shall not be considered to be a
2 policy of insurance and shall not have the effect of amending,
3 extending, or altering the coverage provided for in the referenced
4 policy of insurance. A certificate of insurance shall not confer new
5 or additional rights to any person beyond those provided for in the
6 referenced policy of insurance.

7

8 5. a. A person shall not:

9 (1) Alter or modify a certificate of insurance form filed with the
10 commissioner;

11 (2) Prepare, issue, request, or require the issuance of a
12 certificate of insurance that contains any false or misleading
13 information concerning the referenced policy of insurance; or

14 (3) Prepare, issue, request, or require the issuance of a
15 certificate of insurance that purports to alter, amend, or extend the
16 coverage provided by the referenced policy of insurance.

17 b. A certificate of insurance shall not warrant that the policy of
18 insurance referenced in the certificate complies with the insurance
19 or indemnification requirements of a contract. The inclusion of a
20 contract number or description within a certificate of insurance
21 shall not be interpreted as providing such a warranty.

22

23 6. A person shall not be entitled to a notice of a cancellation, a
24 nonrenewal, or a material change, or any similar notice concerning
25 a policy of insurance, unless the person has a right to that notice
26 under the terms of the policy of insurance or an endorsement to the
27 policy, or pursuant to any applicable State law. The terms and
28 conditions of the notice shall be governed by the policy of
29 insurance or endorsement and shall not be altered by a certificate of
30 insurance.

31

32 7. a. The provisions of this act shall apply to all certificates of
33 insurance issued in connection with property, operations, or risks
34 located in this State, regardless of where the policyholder, insurer,
35 insurance producer, or person requesting or requiring the issuance
36 of a certificate of insurance is located.

37 b. A certificate of insurance or any other document or
38 correspondence prepared, issued, requested, or required in violation
39 of any provision of this act shall be null and void.

40

41 8. a. The commissioner shall have the authority to examine and
42 investigate the activities of any person that the commissioner
43 reasonably believes has been or is engaged in an act or practice
44 prohibited by this act.

45 b. The commissioner shall have the authority to enforce the
46 provisions of this act, including the authority to issue orders to
47 cease and desist and impose other sanctions as provided in the
48 "New Jersey Insurance Producer Licensing Act of 2001," P.L.2001,

1 c. 210 (C.17:22A-26 et seq.), or in P.L.1947, c.379 (C.17:29B-1 et
2 seq.), as the commissioner determines to be applicable.

3 c. The commissioner shall adopt rules and regulations,
4 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
5 (C.52:14B-1 et seq.), necessary to implement the provisions of this
6 act.

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8 9. This act shall take effect on the 90th day next following
9 enactment.

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STATEMENT

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14 This bill, entitled the "Certificates of Insurance Act," is based on
15 the Certificates of Insurance Model Act adopted by the National
16 Conference of Insurance Legislators.

17 A certificate of insurance is provided by an insurer or an
18 insurance producer and indicates that a property or casualty
19 insurance policy has been issued to the insured and that the policy
20 contains certain coverages and limits. The certificates are typically
21 used by contractors to demonstrate that they have coverages
22 required to enter into construction contracts.

23 The bill provides that a person shall not prepare, issue, request,
24 or require the issuance of a certificate of insurance on property,
25 operations, or risks located in this State unless: (1) the certificate of
26 insurance form has been filed with and approved by the
27 Commissioner of Banking and Insurance; or (2) the specific content
28 and wording of the certificate of insurance form are established by
29 any federal law or regulation or any law or regulation of this State.
30 The bill deems to be approved certificate of insurance forms that are
31 filed with the commissioner if the forms are issued by certain
32 organizations: the Association for Cooperative Operations Research
33 and Development (ACORD); the American Association of
34 Insurance Services (AAIS); and the Insurance Services Office
35 (ISO).

36 The bill requires the commissioner to disapprove the use of a
37 certificate of insurance form if the form is unfair, misleading, or
38 deceptive, or violates public policy, or is in violation of the
39 provisions of any law, including any regulation promulgated by the
40 commissioner.

41 The bill provides that a certificate of insurance shall not be
42 considered to be a policy of insurance and shall not have the effect
43 of amending, extending, or altering the coverage provided for in the
44 referenced policy of insurance. A certificate of insurance shall not
45 confer new or additional rights to any person beyond those provided
46 for in the referenced policy of insurance.

47 The bill also provides that a person shall not: (1) alter or modify
48 a certificate of insurance form filed with the commissioner; (2)

1 prepare, issue, request, or require the issuance of a certificate of
2 insurance that contains any false or misleading information
3 concerning the referenced policy of insurance; or (3) prepare, issue,
4 request, or require the issuance of a certificate of insurance that
5 purports to alter, amend, or extend the coverage provided by the
6 referenced policy of insurance.

7 The bill provides that a certificate of insurance shall not warrant
8 that the policy of insurance referenced in the certificate complies
9 with the insurance or indemnification requirements of a contract.
10 The inclusion of a contract number or description within a
11 certificate of insurance shall not be interpreted as providing such a
12 warranty.

13 The bill provides that a person shall not be entitled to a notice of
14 a cancellation, a nonrenewal, or a material change, or any similar
15 notice concerning a policy of insurance, unless the person has a
16 right to that notice under the terms of the policy of insurance or an
17 endorsement to the policy. The terms and conditions of the notice
18 shall be governed by the policy of insurance or endorsement and
19 shall not be altered by a certificate of insurance.

20 The bill's provisions apply to all certificates of insurance issued
21 in connection with property, operations, or risks located in this
22 State, regardless of where the policyholder, insurer, insurance
23 producer, or person requesting or requiring the issuance of a
24 certificate of insurance is located. A certificate of insurance or any
25 other document or correspondence prepared, issued, requested, or
26 required in violation of any provision of the bill shall be null and
27 void.

28 Finally, the bill provides the commissioner with enforcement
29 powers, including those provided for in existing statutes governing
30 insurers and insurance producers as determined to be applicable by
31 the commissioner, and provides that the commissioner shall adopt
32 rules and regulations necessary to implement the bill's provisions.