

4425

2011-2012 Regular Sessions

I N S E N A T E

April 5, 2011

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to the issuance of certificates of insurance

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The insurance law is amended by adding a new article 5 to
2 read as follows:

3 ARTICLE 5

4 CERTIFICATES OF INSURANCE

5 SECTION 501. DEFINITIONS.

6 502. PROHIBITIONS.

7 503. STANDARDS FOR FORMS.

8 504. APPLICABILITY.

9 505. FEES.

10 506. ENFORCEMENT AND PENALTIES.

11 507. RULES AND REGULATIONS.

12 S 501. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

13 (A) "CERTIFICATE" OR "CERTIFICATE OF INSURANCE" MEANS ANY DOCUMENT OR
14 INSTRUMENT, NO MATTER HOW TITLED OR DESCRIBED, WHICH IS PREPARED OR
15 ISSUED BY AN INSURER OR INSURANCE PRODUCER AS A SUMMARY OR EVIDENCE OF
16 PROPERTY OR CASUALTY INSURANCE COVERAGE. "CERTIFICATE" OR "CERTIFICATE
17 OF INSURANCE" SHALL NOT INCLUDE A POLICY OF INSURANCE OR INSURANCE BIND-
18 ER.

19 (B) "CERTIFICATE HOLDER" MEANS ANY PERSON, OTHER THAN A POLICYHOLDER,
20 THAT IS IDENTIFIED ON THE CERTIFICATE AS A CERTIFICATE HOLDER.

21 (C) "INSURANCE PRODUCER" HAS THE MEANING ASCRIBED TO IT BY SUBSECTION
22 (K) OF SECTION TWENTY-ONE HUNDRED ONE OF THIS CHAPTER.

23 (D) "INSURER" MEANS ANY PERSON "DOING AN INSURANCE BUSINESS" AS SUCH
24 PHRASE IS DEFINED IN SECTION ELEVEN HUNDRED ONE OF THIS CHAPTER.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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(E) "PERSON" MEANS ANY INDIVIDUAL, PARTNERSHIP, CORPORATION, ASSOCIATION, OR OTHER LEGAL ENTITY, INCLUDING ANY PUBLIC ENTITY AS DEFINED IN PARAGRAPH FIFTY-ONE OF SUBSECTION (A) OF SECTION ONE HUNDRED SEVEN OF THIS CHAPTER, ANY STATE AUTHORITY AS DEFINED IN SUBDIVISION ONE OF SECTION TWO OF THE PUBLIC AUTHORITIES LAW, ANY LOCAL AUTHORITY AS DEFINED IN SUBDIVISION TWO OF SECTION TWO OF THE PUBLIC AUTHORITIES LAW, AND ANY INTERSTATE OR INTERNATIONAL AUTHORITY AS DEFINED IN SUBDIVISION THREE OF SECTION TWO OF THE PUBLIC AUTHORITIES LAW.

(F) "POLICYHOLDER" MEANS A PERSON WHO HAS CONTRACTED WITH A PROPERTY OR CASUALTY INSURER FOR INSURANCE COVERAGE.

S 502. PROHIBITIONS. (A) NO PERSON SHALL PREPARE, ISSUE, OR REQUIRE THE ISSUANCE OF A CERTIFICATE UNLESS THE FORM HAS BEEN FILED WITH AND APPROVED BY THE SUPERINTENDENT. NO PERSON SHALL ALTER OR MODIFY AN APPROVED CERTIFICATE OF INSURANCE FORM.

(B) 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.

(C) NO PERSON, WHEREVER LOCATED, SHALL KNOWINGLY PREPARE OR ISSUE A CERTIFICATE OF INSURANCE THAT PURPORTS TO ALTER, AMEND, OR EXTEND THE TERMS OR COVERAGE PROVIDED BY THE POLICY OF INSURANCE TO WHICH THE CERTIFICATE MAKES REFERENCE.

(D) NO PERSON SHALL 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 SECTION; HOWEVER, AN INSURER OR INSURANCE PRODUCER MAY PREPARE OR ISSUE AN ADDENDUM TO A CERTIFICATE THAT CLARIFIES AND EXPLAINS THE COVERAGE PROVIDED BY A POLICY OF INSURANCE AND OTHERWISE COMPLIES WITH THE REQUIREMENTS OF THIS SECTION.

S 503. STANDARDS FOR FORMS. (A) THE SUPERINTENDENT OF INSURANCE SHALL DISAPPROVE A FORM FILED UNDER THIS SECTION, OR WITHDRAW APPROVAL OF A FORM, IF THE FORM:

(1) IS MISLEADING, OR DECEPTIVE, OR VIOLATES PUBLIC POLICY; OR

(2) VIOLATES ANY LAW, OR REGULATION ADOPTED BY THE SUPERINTENDENT.

(B) STANDARD CERTIFICATE OF INSURANCE FORMS PROMULGATED BY THE ASSOCIATION FOR COOPERATIVE OPERATIONS RESEARCH AND DEVELOPMENT ARE DEEMED APPROVED BY THE SUPERINTENDENT AND ARE NOT REQUIRED TO BE FILED IF THE FORMS OTHERWISE COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

(C) 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.

(D) THE SUPERINTENDENT SHALL NOT APPROVE A CERTIFICATE OF INSURANCE FORM THAT DOES NOT STATE THAT A CERTIFICATE OF INSURANCE IS NOT A POLICY OF INSURANCE AND DOES NOT 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.

(E) 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 CERTIFICATE HOLDER IS NAMED WITHIN THE POLICY OR ANY ENDORSEMENT AND THE POLICY OR ENDORSEMENT

1 REQUIRES NOTICE TO BE PROVIDED TO THE CERTIFICATE HOLDER. THE TERMS AND
2 CONDITIONS OF THE NOTICE, INCLUDING THE REQUIRED TIMING OF THE NOTICE,
3 ARE GOVERNED BY THE POLICY OF INSURANCE AND CANNOT BE ALTERED BY A
4 CERTIFICATE OF INSURANCE.

5 S 504. APPLICABILITY. THE PROVISIONS OF THIS SECTION SHALL APPLY TO
6 ALL CERTIFICATE HOLDERS, POLICYHOLDERS, INSURERS, INSURANCE PRODUCERS,
7 AND CERTIFICATE OF INSURANCE FORMS ISSUED AS EVIDENCE OF INSURANCE
8 COVERAGES ON PROPERTY, OPERATIONS, OR RISKS LOCATED IN THIS STATE,
9 REGARDLESS OF WHERE THE CERTIFICATE HOLDER, POLICYHOLDER, INSURER, OR
10 INSURANCE PRODUCER IS LOCATED.

11 S 505. FEES. AN INSURANCE PRODUCER MAY CHARGE A REASONABLE SERVICE FEE
12 FOR ISSUING A CERTIFICATE TO A POLICYHOLDER OR CERTIFICATE HOLDER,
13 PROVIDED THAT THE INSURANCE PRODUCER COMPLIES WITH THE PROVISIONS OF
14 SECTION TWENTY-ONE HUNDRED NINETEEN OF THIS CHAPTER.

15 S 506. ENFORCEMENT AND PENALTIES. (A) THE SUPERINTENDENT SHALL HAVE
16 THE POWER TO LEVY A PENALTY NOT EXCEEDING ONE THOUSAND DOLLARS FOR EACH
17 VIOLATION AGAINST ANY PERSON WHO VIOLATES THIS SECTION.

18 (B) THE SUPERINTENDENT SHALL HAVE THE POWER TO EXAMINE AND INVESTIGATE
19 THE ACTIVITIES OF ANY PERSON THAT THE SUPERINTENDENT REASONABLY BELIEVES
20 HAS BEEN OR IS ENGAGED IN AN ACT OR PRACTICE PROHIBITED BY THIS SECTION.
21 THE SUPERINTENDENT SHALL HAVE THE POWER TO ENFORCE THE PROVISIONS OF
22 THIS SECTION AND IMPOSE ANY AUTHORIZED PENALTY OR REMEDY AGAINST ANY
23 PERSON WHO VIOLATES THIS SECTION

24 S 507. RULES AND REGULATIONS. THE SUPERINTENDENT MAY ADOPT RULES OR
25 REGULATIONS AS HE OR SHE CONSIDERS APPROPRIATE TO CARRY OUT THE
26 PROVISIONS OF THIS SECTION.

27 S 2. This act shall take effect on the one hundred eightieth day
28 after it shall have become a law; provided, however, that effective
29 immediately, the addition, amendment and/or repeal of any rule or regu-
30 lation necessary for the implementation of this act on its effective
31 date are authorized and directed to be made and completed on or before
32 such effective date.