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I N S E N A T E

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Introduced by Sens. SEWARD, FARLEY, LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the insurance law, in relation to 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. APPLICABILITY.

8 504. ENFORCEMENT.

9 505. RULES AND REGULATIONS.

10 S 501. DEFINITIONS. FOR PURPOSES OF THIS SECTION:

11 (A) "CERTIFICATE" OR "CERTIFICATE OF INSURANCE" MEANS ANY DOCUMENT OR
12 INSTRUMENT, NO MATTER HOW TITLED OR DESCRIBED, WHICH IS PREPARED OR
13 ISSUED BY AN INSURER OR INSURANCE PRODUCER AS EVIDENCE OF PROPERTY OR
14 CASUALTY INSURANCE COVERAGE. "CERTIFICATE" OR "CERTIFICATE OF INSURANCE"
15 SHALL NOT INCLUDE A POLICY OF INSURANCE OR INSURANCE BINDER, AND DOES
16 NOT AMEND, EXTEND OR ALTER THE COVERAGE PROVIDED BY THE POLICY OF INSUR-
17 ANCE TO WHICH THE CERTIFICATE MAKES REFERENCE, AND IS SUBJECT TO ALL THE
18 TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICY. A CERTIFICATE OF

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

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1 INSURANCE SHALL NOT CONFER TO ANY PERSON NEW OR ADDITIONAL RIGHTS BEYOND
2 WHAT THE REFERENCED POLICY OF INSURANCE EXPRESSLY PROVIDES.

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

5 (C) "INSURANCE PRODUCER" HAS THE MEANING ASCRIBED TO IT BY SUBSECTION
6 (K) OF SECTION TWO THOUSAND ONE HUNDRED ONE OF THIS CHAPTER.

7 (D) "INSURER" MEANS ANY PERSON "DOING AN INSURANCE BUSINESS" AS SUCH
8 PHRASE IS DEFINED IN SECTION ONE THOUSAND ONE HUNDRED ONE OF THIS CHAP-
9 TER.

10 (E) "PERSON" MEANS ANY INDIVIDUAL, PARTNERSHIP, CORPORATION, ASSOCI-
11 ATION, OR OTHER LEGAL ENTITY, BUT SHALL NOT INCLUDE ANY GOVERNMENTAL
12 ENTITY, AS THAT TERM IS DEFINED IN THIS SECTION.

13 (F) "GOVERNMENTAL ENTITY" MEANS ANY PUBLIC ENTITY AS DEFINED IN PARA-
14 GRAPH FIFTY-ONE OF SUBSECTION (A) OF SECTION ONE HUNDRED SEVEN OF THIS
15 CHAPTER, ANY STATE AUTHORITY AS DEFINED IN SUBDIVISION ONE OF SECTION
16 TWO OF THE PUBLIC AUTHORITIES LAW, ANY LOCAL AUTHORITY AS DEFINED IN
17 SUBDIVISION TWO OF SECTION TWO OF THE PUBLIC AUTHORITIES LAW, AND ANY
18 INTERSTATE OR INTERNATIONAL AUTHORITY AS DEFINED IN SUBDIVISION THREE OF
19 SECTION TWO OF THE PUBLIC AUTHORITIES LAW.

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

22 S 502. PROHIBITIONS. (A) NO PERSON OR GOVERNMENTAL ENTITY SHALL
23 PREPARE, ISSUE, KNOWINGLY REQUEST, OR REQUIRE THE ISSUANCE OF A CERTIF-
24 ICATE UNLESS THE CERTIFICATE IS:

25 (1) A STANDARD CERTIFICATE OF INSURANCE FORM PROMULGATED AND AUTHOR-
26 IZED FOR USE BY THE ASSOCIATION FOR COOPERATIVE OPERATIONS RESEARCH AND
27 DEVELOPMENT (ACORD) OR THE INSURANCE SERVICES OFFICE (ISO);

28 (2) A FORM PROMULGATED BY THE INSURANCE COMPANY THAT HAS UNDERWRITTEN
29 THE POLICY REFERENCED IN THE CERTIFICATE OF INSURANCE; OR

30 (3) A FORM PREPARED, ISSUED, OR REQUESTED AS EVIDENCE OF INSURANCE IN
31 CONNECTION WITH A COMMERCIAL LENDING TRANSACTION IN WHICH THE UNDERLYING
32 PROPERTY SERVES AS THE PRIMARY COLLATERAL SECURING THE BORROWER'S REPAY-
33 MENT OF THE LOAN, INCLUDING, BUT NOT LIMITED TO A FORM PROMULGATED BY
34 THE MORTGAGE BANKERS ASSOCIATION (MBA).

35 (B) NO PERSON OR GOVERNMENTAL ENTITY SHALL ALTER, MODIFY, KNOWINGLY
36 REQUEST, OR REQUIRE THE ALTERATION OF A CERTIFICATE OF INSURANCE FORM.

37 (C) NO PERSON OR GOVERNMENTAL ENTITY SHALL KNOWINGLY REQUEST OR
38 REQUIRE THAT A CERTIFICATE OF INSURANCE FORM CONTAIN ADDITIONAL TERMS,
39 CONDITIONS, OR LANGUAGE OF ANY KIND NOT FOUND IN THE INSURANCE POLICY TO
40 WHICH THE CERTIFICATE MAKES REFERENCE OR TO AN ENDORSEMENT TO SUCH POLI-
41 CY.

42 (D) NO PERSON OR GOVERNMENTAL ENTITY SHALL KNOWINGLY REQUEST OR
43 REQUIRE EITHER IN ADDITION TO OR IN LIEU OF A CERTIFICATE OF INSURANCE,
44 AN OPINION LETTER, WARRANTY, STATEMENT, SUPPLEMENTAL CERTIFICATE OR ANY
45 OTHER DOCUMENT OR CORRESPONDENCE THAT IS INCONSISTENT WITH THE PROHIBI-
46 TIONS OF THIS SECTION. HOWEVER, AN INSURER OR INSURANCE PRODUCER MAY
47 PREPARE OR ISSUE AN ADDENDUM TO A CERTIFICATE THAT CLARIFIES AND
48 EXPLAINS THE COVERAGE PROVIDED BY A POLICY OF INSURANCE AND OTHERWISE
49 COMPLIES WITH THE REQUIREMENTS OF THIS SECTION, PROVIDED SUCH AUTHORITY
50 IS GRANTED TO THE PRODUCER BY THE INSURER.

51 (E) NO PERSON OR GOVERNMENTAL ENTITY SHALL KNOWINGLY REQUEST OR
52 REQUIRE THAT A CERTIFICATE OF INSURANCE CONTAIN REFERENCES TO A CONTRACT
53 OTHER THAN THE INSURANCE POLICY, OR WARRANT THAT THE INSURANCE POLICIES
54 REFERENCED IN THE CERTIFICATE COMPLY WITH THE REQUIREMENTS OF A PARTIC-
55 ULAR CONTRACT PROVIDED HOWEVER A CERTIFICATE MAY INCLUDE A CONTRACT
56 TITLE OR DESCRIPTION FOR THE SOLE PURPOSE OF IDENTIFYING THE PROJECT FOR

1 WHICH THE CERTIFICATE WAS ISSUED, BUT SUCH INCLUSION SHALL NOT BE INTER-
2 PRETED AS WARRANTING THAT THE INSURANCE POLICIES REFERENCED IN THE
3 CERTIFICATE COMPLY WITH THE REQUIREMENTS OF SUCH CONTRACT.

4 (F) NO PERSON OR GOVERNMENTAL ENTITY SHALL KNOWINGLY REQUEST OR
5 REQUIRE, PREPARE OR ISSUE A CERTIFICATE OF INSURANCE THAT: (I) DOES NOT
6 ACCURATELY STATE THE TERMS OF COVERAGE PROVIDED BY THE POLICY OR POLI-
7 CIES OF INSURANCE TO WHICH THE CERTIFICATE MAKES REFERENCE; (II)
8 PURPORTS TO ALTER, AMEND, EXTEND, OR MISREPRESENT THE TERMS OF COVERAGE
9 TO WHICH THE CERTIFICATE MAKES REFERENCE; OR (III) PURPORTS TO CONFER TO
10 ANY PERSON NEW OR ADDITIONAL RIGHTS BEYOND WHAT THE REFERENCED POLICY OF
11 INSURANCE EXPRESSLY PROVIDES.

12 S 503. APPLICABILITY. THE PROVISIONS OF THIS SECTION SHALL APPLY TO
13 ALL CERTIFICATE HOLDERS, POLICYHOLDERS, INSURERS, INSURANCE PRODUCERS,
14 OR ANY OTHER PERSON AND TO CERTIFICATE OF INSURANCE FORMS ISSUED AS
15 EVIDENCE OF INSURANCE COVERAGES ON PROPERTY, OPERATIONS, OR RISKS
16 LOCATED IN THIS STATE, REGARDLESS OF WHERE THE CERTIFICATE HOLDER, POLI-
17 CYHOLDER, INSURER, OR INSURANCE PRODUCER IS LOCATED.

18 S 504. ENFORCEMENT. (A) THE SUPERINTENDENT SHALL HAVE THE POWER UNDER
19 SECTION FOUR HUNDRED THREE OF THE FINANCIAL SERVICES LAW TO EXAMINE AND
20 INVESTIGATE THE ACTIVITIES OF ANY PERSON THAT THE SUPERINTENDENT REASON-
21 ABLY BELIEVES HAS BEEN OR IS ENGAGED IN AN ACT OR PRACTICE PROHIBITED BY
22 THIS ARTICLE. THE SUPERINTENDENT SHALL HAVE THE POWER TO ENFORCE THE
23 PROVISIONS OF THIS SECTION AND IMPOSE ANY AUTHORIZED PENALTY OR REMEDY
24 AS PROVIDED UNDER SECTION FOUR HUNDRED EIGHT OF THE FINANCIAL SERVICES
25 LAW AGAINST ANY PERSON WHO VIOLATES THIS ARTICLE.

26 (B) THE OFFICE OF THE STATE INSPECTOR GENERAL SHALL HAVE THE POWER
27 PURSUANT TO SECTION FIFTY-THREE OF THE EXECUTIVE LAW TO INVESTIGATE ANY
28 GOVERNMENTAL ENTITY THAT IS CONSIDERED A COVERED AGENCY UNDER SECTION
29 FIFTY-ONE OF THE EXECUTIVE LAW THAT HAS BEEN OR IS ENGAGED IN AN ACT OR
30 PRACTICE PROHIBITED BY THIS ARTICLE. IF A GOVERNMENTAL ENTITY NOT
31 CONSIDERED A COVERED AGENCY UNDER SECTION FIFTY-ONE OF THE EXECUTIVE LAW
32 HAS BEEN OR IS ENGAGED IN AN ACT OR PRACTICE PROHIBITED BY THIS ARTICLE,
33 THAT ENTITY'S INSPECTOR GENERAL, OTHER COMPLIANCE OR INTERNAL INVESTI-
34 GATIVE UNIT OR OTHER OFFICIAL OR ENTITY WITH PROPER AUTHORITY SHALL HAVE
35 THE POWER TO INVESTIGATE SUCH ENTITY.

36 S 505. RULES AND REGULATIONS. THE SUPERINTENDENT MAY ADOPT RULES OR
37 REGULATIONS AS HE OR SHE CONSIDERS APPROPRIATE TO CARRY OUT THE
38 PROVISIONS OF THIS ARTICLE.

39 S 2. This act shall take effect on the ninetieth day after it shall
40 have become a law.