

5804

2013-2014 Regular Sessions

I N S E N A T E

June 16, 2013

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

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

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

23 (C) "INSURANCE PRODUCER" HAS THE MEANING ASCRIBED TO IT BY SUBSECTION
24 (K) OF SECTION TWO THOUSAND ONE 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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(D) "INSURER" MEANS ANY PERSON "DOING AN INSURANCE BUSINESS" AS SUCH PHRASE IS DEFINED IN SECTION ONE THOUSAND ONE HUNDRED ONE OF THIS CHAPTER.

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

(F) "GOVERNMENTAL ENTITY" MEANS 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.

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

S 502. PROHIBITIONS. (A) NO PERSON OR GOVERNMENTAL ENTITY SHALL PREPARE, ISSUE, REQUEST, OR REQUIRE THE ISSUANCE OF A CERTIFICATE IF SUCH PERSON OR GOVERNMENTAL ENTITY KNOWS THAT SUCH CERTIFICATE DOES NOT COMPLY WITH THE FOLLOWING PROVISIONS:

(1) A STANDARD CERTIFICATE OF INSURANCE FORM PROMULGATED AND AUTHORIZED FOR USE BY THE ASSOCIATION FOR COOPERATIVE OPERATIONS RESEARCH AND DEVELOPMENT (ACORD) OR THE INSURANCE SERVICES OFFICE (ISO);

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

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

(B) NO PERSON OR GOVERNMENTAL ENTITY SHALL ALTER, MODIFY, REQUEST, OR REQUIRE THE ALTERATION OF A CERTIFICATE OF INSURANCE FORM WHEN SUCH PERSON OR GOVERNMENTAL ENTITY KNOWS THAT SUCH ALTERATION, MODIFICATION, REQUEST OR REQUIREMENT IS IN VIOLATION OF THIS ARTICLE.

(C) NO PERSON OR GOVERNMENTAL ENTITY SHALL REQUEST OR REQUIRE THAT A CERTIFICATE OF INSURANCE FORM CONTAIN ADDITIONAL TERMS, CONDITIONS, OR LANGUAGE OF ANY KIND NOT FOUND IN THE INSURANCE POLICY TO WHICH THE CERTIFICATE MAKES REFERENCE OR TO AN ENDORSEMENT TO SUCH POLICY WHEN SUCH PERSON OR GOVERNMENTAL ENTITY KNOWS SUCH REQUEST OR REQUIREMENT IS IN VIOLATION OF THIS ARTICLE.

(D) NO PERSON OR GOVERNMENTAL ENTITY SHALL REQUEST OR REQUIRE EITHER IN ADDITION TO OR IN LIEU OF A CERTIFICATE OF INSURANCE, AN OPINION LETTER, WARRANTY, STATEMENT, SUPPLEMENTAL CERTIFICATE OR ANY OTHER DOCUMENT OR CORRESPONDENCE THAT SUCH PERSON OR GOVERNMENTAL ENTITY KNOWS TO BE INCONSISTENT WITH THE PROHIBITIONS OF 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, PROVIDED SUCH AUTHORITY IS GRANTED TO THE PRODUCER BY THE INSURER.

(E) NO PERSON OR GOVERNMENTAL ENTITY SHALL REQUEST OR REQUIRE THAT A CERTIFICATE OF INSURANCE THAT SUCH PERSON OR GOVERNMENTAL ENTITY KNOWS TO CONTAIN REFERENCES TO A CONTRACT OTHER THAN THE INSURANCE POLICY, OR WARRANT THAT THE INSURANCE POLICIES REFERENCED IN THE CERTIFICATE COMPLY WITH THE REQUIREMENTS OF A PARTICULAR CONTRACT PROVIDED HOWEVER A CERTIFICATE MAY INCLUDE A CONTRACT TITLE OR DESCRIPTION FOR THE SOLE PURPOSE OF IDENTIFYING THE PROJECT FOR WHICH THE CERTIFICATE WAS ISSUED,

1 BUT SUCH INCLUSION SHALL NOT BE INTERPRETED AS WARRANTING THAT THE
2 INSURANCE POLICIES REFERENCED IN THE CERTIFICATE COMPLY WITH THE
3 REQUIREMENTS OF SUCH CONTRACT.

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