

3107

2013-2014 Regular Sessions

I N   A S S E M B L Y

January 23, 2013

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Introduced by M. of A. MORELLE, HEVESI, LUPARDO, WEPRIN, PERRY, JAFFEE  
-- Multi-Sponsored by -- M. of A. BRAUNSTEIN, THIELE -- read once and  
referred to the Committee on Insurance

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 A SUMMARY OR EVIDENCE OF  
14     PROPERTY OR CASUALTY INSURANCE COVERAGE. "CERTIFICATE" OR "CERTIFICATE  
15     OF INSURANCE" SHALL NOT INCLUDE A POLICY OF INSURANCE OR INSURANCE BIND-  
16     ER, AND DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE PROVIDED BY THE  
17     POLICY OF INSURANCE TO WHICH THE CERTIFICATE MAKES REFERENCE, AND IS  
18     SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICY.

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 TWO THOUSAND ONE HUNDRED ONE OF THIS CHAPTER.

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

26     (E) "PERSON" MEANS ANY INDIVIDUAL, PARTNERSHIP, CORPORATION, ASSOCI-  
27     ATION, OR OTHER LEGAL ENTITY, INCLUDING ANY PUBLIC ENTITY AS DEFINED IN

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

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1 PARAGRAPH FIFTY-ONE OF SUBSECTION (A) OF SECTION ONE HUNDRED SEVEN OF  
2 THIS CHAPTER, ANY STATE AUTHORITY AS DEFINED IN SUBDIVISION ONE OF  
3 SECTION TWO OF THE PUBLIC AUTHORITIES LAW, ANY LOCAL AUTHORITY AS  
4 DEFINED IN SUBDIVISION TWO OF SECTION TWO OF THE PUBLIC AUTHORITIES LAW,  
5 AND ANY INTERSTATE OR INTERNATIONAL AUTHORITY AS DEFINED IN SUBDIVISION  
6 THREE OF SECTION TWO OF THE PUBLIC AUTHORITIES LAW.

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

9 S 502. PROHIBITIONS. (A) NO PERSON SHALL PREPARE, ISSUE, REQUEST, OR  
10 REQUIRE THE ISSUANCE OF A CERTIFICATE UNLESS THE CERTIFICATE IS:

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

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

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

21 (B) NO PERSON SHALL ALTER, MODIFY, REQUEST OR REQUIRE THE ALTERATION  
22 OF A CERTIFICATE OF INSURANCE FORM.

23 (C) NO PERSON SHALL REQUEST OR REQUIRE THAT A CERTIFICATE OF INSURANCE  
24 FORM CONTAIN ADDITIONAL TERMS, CONDITIONS, OR LANGUAGE OF ANY KIND NOT  
25 FOUND IN THE INSURANCE POLICY TO WHICH THE CERTIFICATE MAKES REFERENCE  
26 OR TO AN ENDORSEMENT TO SUCH POLICY.

27 (D) NO PERSON SHALL REQUEST OR REQUIRE EITHER IN ADDITION TO OR IN  
28 LIEU OF A CERTIFICATE OF INSURANCE, AN OPINION LETTER, WARRANTY, STATE-  
29 MENT, SUPPLEMENTAL CERTIFICATE OR ANY OTHER DOCUMENT OR CORRESPONDENCE  
30 THAT IS INCONSISTENT WITH THE PROHIBITIONS OF THIS SECTION.

31 (E) NO PERSON SHALL REQUEST OR REQUIRE THAT A CERTIFICATE OF INSURANCE  
32 CONTAIN REFERENCES TO A CONTRACT OTHER THAN THE INSURANCE POLICY, OR  
33 WARRANT THAT THE INSURANCE POLICIES REFERENCED IN THE CERTIFICATE COMPLY  
34 WITH THE REQUIREMENTS OF A PARTICULAR CONTRACT.

35 S 503. APPLICABILITY. THE PROVISIONS OF THIS SECTION SHALL APPLY TO  
36 ALL CERTIFICATE HOLDERS, POLICYHOLDERS, INSURERS, INSURANCE PRODUCERS,  
37 OR ANY OTHER PERSON AND TO CERTIFICATE OF INSURANCE FORMS ISSUED AS  
38 EVIDENCE OF INSURANCE COVERAGES ON PROPERTY, OPERATIONS, OR RISKS  
39 LOCATED IN THIS STATE, REGARDLESS OF WHERE THE CERTIFICATE HOLDER, POLI-  
40 CYHOLDER, INSURER, OR INSURANCE PRODUCER IS LOCATED.

41 S 504. ENFORCEMENT. THE SUPERINTENDENT SHALL HAVE THE POWER UNDER  
42 SECTION FOUR HUNDRED THREE OF THE FINANCIAL SERVICES LAW TO EXAMINE AND  
43 INVESTIGATE THE ACTIVITIES OF ANY PERSON THAT THE SUPERINTENDENT REASON-  
44 ABLY BELIEVES HAS BEEN OR IS ENGAGED IN AN ACT OR PRACTICE PROHIBITED BY  
45 THIS ARTICLE. THE SUPERINTENDENT SHALL HAVE THE POWER TO ENFORCE THE  
46 PROVISIONS OF THIS SECTION AND IMPOSE ANY AUTHORIZED PENALTY OR REMEDY  
47 AS PROVIDED UNDER SECTION FOUR HUNDRED EIGHT OF THE FINANCIAL SERVICES  
48 LAW AGAINST ANY PERSON WHO VIOLATES THIS ARTICLE.

49 S 505. RULES AND REGULATIONS. THE SUPERINTENDENT MAY ADOPT RULES OR  
50 REGULATIONS AS HE OR SHE CONSIDERS APPROPRIATE TO CARRY OUT THE  
51 PROVISIONS OF THIS ARTICLE.

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