

Regular Session, 2010
HOUSE BILL NO. 447
BY REPRESENTATIVE PEARSON

ACT No. 1017

1 AN ACT

2 To amend and reenact R.S. 22:881.1, relative to certificates of insurance; to define such
3 certificates and otherwise provide with respect to their issuance and effect; to
4 provide for the responsibilities of the commissioner of insurance relative to such
5 certificates, including approval of forms and enforcement; to provide for prohibitions
6 and penalties; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 22:881.1 is hereby amended and reenacted to read as follows:

9 §881.1. Certificates of insurance

10 A. For the purposes of this Section:

11 ~~(1) "Certificate of insurance", as used by property and casualty insurers, shall~~
12 ~~mean any document issued by or on behalf of an insurer to a third party who has not~~
13 ~~contracted with the insurer to purchase an insurance policy and is provided for~~
14 ~~informational purposes only to advise a third party of the existence and limits of~~
15 ~~insurance coverage issued to the named insured.~~

16 (1) "Certificate" or "certificate of insurance" means any document,
17 instrument, or record, including an electronic record, no matter how titled or
18 described, which is prepared by an insurer or insurance producer and issued to a third
19 person not a party to the subject insurance contract, as evidence of property and
20 casualty insurance coverage. "Certificate" or "certificate of insurance" shall not
21 mean an insurance binder.

1 (2) "Certificate holder" means any person, other than a policyholder, that is
2 designated on a certificate of insurance as a "certificate holder" or any person, other
3 than a policyholder, to whom a certificate of insurance has been issued by an insurer
4 or insurance producer at the request of the policyholder.

5 (3) "Electronic record" shall have the meaning defined in R.S. 9:2602(7).

6 (4) "Insurance" shall have the meaning defined in R.S. 22:46(9).

7 ~~(2)~~ (5) "Insurance producer" shall have the same definition as set forth in
8 R.S. 22:1542.

9 (6) "Insurer" means an insurer as defined in R.S. 22:46(10) and any other
10 person engaged in the business of making property and casualty insurance contracts,
11 including but not limited to self-insurers, syndicates, risk purchasing groups, and
12 similar risk transfer entities. "Insurer" shall not mean any person self-insured for
13 purposes of workers' compensation, including any group self-insurance fund
14 authorized pursuant to R.S. 23:1195 et seq., any interlocal risk management agency
15 authorized pursuant to R.S. 33:1341 et seq., or any self-insured employer authorized
16 pursuant to R.S. 23:1168 et seq.

17 (7) "Person" means any individual, company, insurer, organization,
18 reciprocal or inter-insurance exchange, business, partnership, corporation, limited
19 liability company, association, trust, or other legal entity, including any government
20 or governmental subdivision or agency.

21 (8) "Policyholder" means a person who has contracted with a property or
22 casualty insurer for insurance coverage.

23 (9) "Record" shall have the meaning defined in R.S. 9:2602(13).

24 (10) "Self-insurer" means any individual business or group of businesses
25 which have created a risk purchasing group, risk retention plan, syndicate, or other
26 form of self-insurance covering property or casualty risk exposures. "Self-insurer"
27 shall not mean any person self-insured for purposes of workers' compensation,
28 including any group self-insurance fund authorized pursuant to R.S. 23:1195 et seq.,
29 any interlocal risk management agency authorized pursuant to R.S. 33:1341 et seq.,
30 or any self-insured employer authorized pursuant to R.S. 23:1168 et seq.

1 B. No property or casualty insurer or insurance producer may issue a
2 certificate of insurance or any other type of document purporting to be a certificate
3 of insurance that will affirmatively or negatively alter, amend, or extend the
4 coverage provided by the referenced insurance policy. A certificate of insurance
5 shall also not convey any contractual rights to the certificate holder.

6 C. ~~Any insurer or insurance producer acting on behalf of the insurer issuing~~
7 ~~a certificate of insurance shall be authorized to use only the standard ACORD or ISO~~
8 ~~Form "Certificate of Insurance" or other form filed with and approved by the~~
9 ~~commissioner of insurance.~~ No person, wherever located, may prepare, issue, or
10 request the issuance of a certificate of insurance for risks located in this state unless
11 the form has been filed with and approved by the commissioner of insurance. No
12 person, wherever located, may alter or modify an approved certificate of insurance
13 form unless the alteration or modification has been approved by the commissioner
14 of insurance.

15 D. The commissioner of insurance shall disapprove a form filed under this
16 Section or withdraw approval of a form if that form:

17 (1) Is unfair, misleading, or deceptive, or violates public policy.

18 (2) Violates any state statute or regulation validly promulgated by the
19 commissioner of insurance.

20 (3) Requires certification of insurance coverages that are not available.

21 E. The commissioner may approve a certificate of insurance form that does
22 not state that the form is provided for information only or similar language, provided
23 that the form states that the certificate of insurance does not confer any rights or
24 obligations other than those conveyed by the policy and that the terms of the policy
25 control. Further, use of such a form shall not be, in and of itself, cause for
26 disapproval by the commissioner under the provisions of Subsection D of this
27 Section.

28 F.(1) The commissioner of insurance shall approve or disapprove certificate
29 of insurance forms filed pursuant to this Section in writing within forty-five days of
30 receipt of the form.

1 (2) Standard certificate of insurance forms promulgated by the Association
2 for Cooperative Operations Research and Development (ACORD), the American
3 Association of Insurance Services (AAIS), or the Insurance Services Office (ISO)
4 shall be filed, but are deemed approved by the commissioner of insurance, provided
5 these forms comply with the provisions of this Section.

6 G. No person shall demand or request the issuance of a certificate of
7 insurance from an insurer, insurance producer, or policyholder that contains any false
8 or misleading information concerning the policy of insurance to which the certificate
9 makes reference.

10 H. No person may prepare, issue, or request, either in addition to or in lieu
11 of a certificate of insurance, an opinion letter or other document or correspondence,
12 instrument, or record, including an electronic record, that is inconsistent with this
13 Section; however, an insurer or insurance producer may prepare or issue an
14 addendum that clarifies, explains, summarizes, or provides a statement of the
15 coverages provided by a policy of insurance and otherwise complies with the
16 requirements of this Section.

17 I. The provisions of this Section shall apply to all certificate holders,
18 policyholders, insurers, insurance producers, and certificate of insurance forms
19 issued as a statement or evidence of insurance coverages on property, operations, or
20 risks located in this state, regardless of where the certificate holder, policyholder,
21 insurer, or insurance producer is located.

22 J. A certificate of insurance form which has been approved by the
23 commissioner and properly executed and issued by a property and casualty insurer
24 or an insurance producer, shall constitute a confirmation that the referenced
25 insurance policy has been issued or that coverage has been bound notwithstanding
26 the inclusion of "for information purposes only" or similar language on the face of
27 the certificate. A certificate of insurance is not a policy of insurance and does not
28 affirmatively or negatively amend, extend, or alter the coverage afforded by the
29 policy to which the certificate of insurance makes reference. A certificate of
30 insurance shall not confer to a certificate holder new or additional rights beyond

1 what the referenced policy or any validly executed endorsements of insurance
 2 provides.

3 K. No certificate of insurance shall contain references to legal or insurance
 4 requirements contained in any contracts other than the underlying contracts of
 5 insurance, including construction or service contracts.

6 L. A person shall have a legal right to notice of cancellation, nonrenewal, or
 7 any material change, or any similar notice concerning a policy of insurance only if
 8 the person is named within the policy or any endorsement and the policy or
 9 endorsement, law, or regulation of this state requires notice to be provided. The
 10 terms and conditions of the notice, including the required timing of the notice, are
 11 governed by the policy of insurance in accordance with the laws and regulations of
 12 this state and cannot be altered by a certificate of insurance.

13 M. Any certificate of insurance and any attached addendum prepared, issued,
 14 or requested in violation of this Section shall be null and void and of no force and
 15 effect.

16 N. Any person who willfully violates this Section may be fined not more
 17 than one thousand dollars per violation.

18 O. The commissioner of insurance shall have the power to examine and
 19 investigate any complaint or allegation of specific violations by any person who has
 20 allegedly engaged in an act or practice prohibited by this Section and to enforce the
 21 provisions of this Section. Examinations or complaint investigations conducted by
 22 the commissioner under this Subsection shall be subject to the provisions of R.S.
 23 22:1983(J).

24 ~~D.P.~~ Pursuant to the Administrative Procedure Act, the commissioner of
 25 insurance may adopt reasonable rules and regulations as are necessary or proper to
 26 carry out the purposes of this Section.

27 Section 2. The provisions of this Act amending Subsections A and C of this Section
 28 and the provisions of this Act enacting Subsections D and E of this Section shall become
 29 effective on August 15, 2010.

1 Section 3. Except as otherwise provided in Section 2 of this Act, the provisions of
2 this Act shall become effective on January 1, 2011.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____