

2016 Regular Session

HOUSE BILL NO. 476

BY REPRESENTATIVE HUVAL

1 AN ACT

2 To amend and reenact R.S. 22:890, relative to certificates of insurance; to provide for use  
3 of certain certificates of insurance; to provide for definitions; to provide that certain  
4 parties may not request an insurance producer provide information or documentation  
5 regarding insurance coverage other than a certificate of insurance; to allow certain  
6 parties to request an addendum to a certificate of insurance from an insurer; and to  
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 22:890 is hereby amended and reenacted to read as follows:

10 §890. Certificates of insurance

11 A. For the purposes of this Section:

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

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

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

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

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

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

11 (7) "Lender" means an individual, partnership, corporation, limited liability  
12 company, association, federally insured depository institution, or other entity, agent,  
13 loan agent, servicing agent, or loan or mortgage broker, who makes, owns, or  
14 services a loan.

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

19 ~~(8)~~(9) "Policyholder" means a person who has contracted with a property or  
20 casualty insurer for insurance coverage.

21 ~~(9)~~(10) "Record" shall have the meaning defined in R.S. 9:2602(13).

22 ~~(10)~~(11) "Self-insurer" means any individual business or group of businesses  
23 which have created a risk purchasing group, risk retention plan, syndicate, or other  
24 form of self-insurance covering property or casualty risk exposures. "Self-insurer"  
25 shall not mean any person self-insured for purposes of workers' compensation,  
26 including any group self-insurance fund authorized pursuant to R.S. 23:1195 et seq.,  
27 any interlocal risk management agency authorized pursuant to R.S. 33:1341 et seq.,  
28 or any self-insured employer authorized pursuant to R.S. 23:1168 et seq.

29 B. No property or casualty insurer or insurance producer may issue a  
30 certificate of insurance or any other type of document purporting to be a certificate

1 of insurance that will affirmatively or negatively alter, amend, or extend the  
 2 coverage provided by the referenced insurance policy. A certificate of insurance  
 3 shall also not convey any contractual rights to the certificate holder.

4 C. No person, other than a lender, wherever located, may prepare, issue, or  
 5 request the issuance of a certificate of insurance for risks located in this state unless  
 6 ~~the form has been filed with and approved by the commissioner of insurance. No~~  
 7 ~~person, wherever located, may alter or modify an approved certificate of insurance~~  
 8 ~~form unless the alteration or modification has been approved by the commissioner~~  
 9 ~~of insurance~~ certificate is issued on standard certificate of insurance forms  
 10 promulgated by the insurer, the Association for Cooperative Operations Research  
 11 and Development (ACORD), the American Association of Insurance Services  
 12 (AAIS), or the Insurance Services Office (ISO).

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

- 15 (1) ~~Is unfair, misleading, or deceptive, or violates public policy.~~
- 16 (2) ~~Violates any state statute or regulation validly promulgated by the~~  
 17 ~~commissioner of insurance.~~
- 18 (3) ~~Requires certification of insurance coverages that are not available.~~

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

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

29 (2) ~~Standard certificate of insurance forms promulgated by the Association~~  
 30 ~~for Cooperative Operations Research and Development (ACORD), the American~~

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1           ~~Association of Insurance Services (AAIS), or the Insurance Services Office (ISO)~~  
 2           ~~shall be filed, but are deemed approved by the commissioner of insurance, provided~~  
 3           ~~these forms comply with the provisions of this Section.~~

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

8           ~~H.~~ E.(1)(a) No person may ~~prepare, issue, or request~~ an insurance producer  
 9           ~~prepare or issue,~~ either in addition to or in lieu of a certificate of insurance, an  
 10          opinion letter or other document or correspondence, instrument, or record, including  
 11          an electronic record, ~~that is inconsistent with this Section.~~

12          (b) The provisions of Subparagraph (a) of this Paragraph shall not apply to  
 13          lenders, as defined in this Section, or to certificates of insurance required or  
 14          requested by a lender from a policyholder.

15          (2)(a) ~~however,~~ A person may request that an insurer or insurance producer  
 16          ~~may~~ prepare or issue an addendum that clarifies, explains, summarizes, or provides  
 17          a statement of the coverages provided by a policy of insurance and otherwise  
 18          complies with the requirements of this Section.

19          (b) Notwithstanding Subparagraph (a) of this Paragraph, a lender may  
 20          request that an insurer or insurance producer prepare or issue an addendum that  
 21          clarifies, explains, summarizes, or provides a statement of the coverages provided  
 22          by a policy of insurance and otherwise complies with the requirements of this  
 23          Section.

24          ~~F.~~ F. The provisions of this Section shall apply to all certificate holders,  
 25          policyholders, insurers, insurance producers, and certificate of insurance forms  
 26          issued as a statement or evidence of insurance coverages on property, operations, or  
 27          risks located in this state, regardless of where the certificate holder, policyholder,  
 28          insurer, or insurance producer is located.

29          ~~F.~~ G. A certificate of insurance form which has been ~~approved by the~~  
 30          ~~commissioner~~ issued in accordance with this Section and properly executed and

1 issued by a property and casualty insurer or an insurance producer, shall constitute  
 2 a confirmation that the referenced insurance policy has been issued or that coverage  
 3 has been bound notwithstanding the inclusion of "for information purposes only" or  
 4 similar language on the face of the certificate. A certificate of insurance is not a  
 5 policy of insurance and does not affirmatively or negatively amend, extend, or alter  
 6 the coverage afforded by the policy to which the certificate of insurance makes  
 7 reference. A certificate of insurance shall not confer to a certificate holder new or  
 8 additional rights beyond what the referenced policy or any validly executed  
 9 endorsements of insurance provides.

10 ~~K.~~ H. No certificate of insurance shall contain references to legal or  
 11 insurance requirements contained in any contracts ~~other than the underlying contracts~~  
 12 ~~of insurance~~, including but not limited to construction or service contracts. The  
 13 certificate of insurance may list only the specific forms or endorsements contained  
 14 in the underlying contracts of insurance. No certificate holder or other interested  
 15 party may require an interpretation of those forms or endorsements from the  
 16 insurance agent. The provisions of this Subsection shall not apply to lenders, as  
 17 defined in this Section, or to certificates of insurance required or requested by a  
 18 lender from a policyholder.

19 ~~E.~~ I. A person shall have a legal right to notice of cancellation, nonrenewal,  
 20 or any material change, or any similar notice concerning a policy of insurance only  
 21 if the person is named within the policy or any endorsement and the policy or  
 22 endorsement, law, or regulation of this state requires notice to be provided. The  
 23 terms and conditions of the notice, including the required timing of the notice, are  
 24 governed by the policy of insurance in accordance with the laws and regulations of  
 25 this state and cannot be altered by a certificate of insurance.

26 ~~M.~~ J. Any certificate of insurance and any attached addendum prepared,  
 27 issued, or requested in violation of this Section shall be null and void and of no force  
 28 and effect.

29 ~~N.~~ K. Any person who willfully violates this Section may be fined not more  
 30 than one thousand dollars per violation.

1                    ~~Θ. L.~~ The commissioner of insurance shall have the power to examine and  
2                    investigate any complaint or allegation of specific violations by any person who has  
3                    allegedly engaged in an act or practice prohibited by this Section and to enforce the  
4                    provisions of this Section. Examinations or complaint investigations conducted by  
5                    the commissioner under this Subsection shall be subject to the provisions of R.S.  
6                    22:1983(J).

7                    P. M. Pursuant to the Administrative Procedure Act, the commissioner of  
8                    insurance may adopt reasonable rules and regulations as are necessary or proper to  
9                    carry out the purposes of this Section.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_