

SENATE BILL NO. 158

INTRODUCED BY THOMAS, BERRY, VAN DYK

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A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE CERTIFICATES OF INSURANCE MODEL ACT;
GRANTING RULEMAKING AUTHORITY TO THE STATE AUDITOR ACTING AS COMMISSIONER OF
INSURANCE; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 7] may be cited as the "Certificates of Insurance Model Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 7], the following definitions apply:

(1) "Certificate of insurance" means a document or instrument, regardless of how titled or described, that is prepared or issued by an insurer or insurance producer as evidence of property or casualty insurance coverage. The term does not include a policy of insurance, insurance binder, policy endorsement, or automobile insurance identification or information card.

(2) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit, or negotiate property or casualty insurance.

(3) "Insurer" means an organization that issues property or casualty insurance.

(4) "Person" means an individual, partnership, corporation, association, or other legal entity, including any government or governmental subdivision or agency.

NEW SECTION. **Section 3. Certificate forms.** (1) Except as provided in subsection (3), a person may not prepare, issue, request, or require the issuance of a certificate of insurance on property, operations, or risks located in this state unless the certificate of insurance form has been filed with the commissioner by or on behalf of an insurer.

(2) The commissioner shall prohibit the use of a certificate of insurance form if the form is unfair, misleading, or deceptive or violates public policy or law, including rules adopted by the commissioner.



1 (3) Insurers are not required to file the current standard certificate of insurance forms promulgated and
2 filed with the commissioner by the Association for Cooperative Operations Research and Development, the
3 American Association of Insurance Services, or the Insurance Services Office, Inc., or certificate of insurance
4 forms whose specific content and wording are established by federal law or regulation or by any law or rule of
5 this state.

6 (4) A certificate of insurance is not a policy of insurance and does not affirmatively or negatively amend,
7 extend, or alter the coverage afforded by the policy to which the certificate of insurance makes reference. A
8 certificate of insurance may not confer to any person new or additional rights beyond what the referenced policy
9 of insurance expressly provides.

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11 **NEW SECTION. Section 4. Limitations on use.** (1) A person may not:

12 (a) alter or modify a certificate of insurance form filed with the commissioner;

13 (b) prepare, issue, request, or require the issuance of a certificate of insurance that contains any false
14 or misleading information concerning the policy of insurance to which the certificate of insurance makes
15 reference; or

16 (c) prepare, issue, request, or require the issuance of a certificate of insurance that purports to
17 affirmatively or negatively alter, amend, or extend the coverage provided by the policy of insurance to which the
18 certificate of insurance makes reference.

19 (2) A certificate of insurance may not warrant that the policy of insurance referenced in the certificate
20 complies with the insurance or indemnification requirements of a contract, and the inclusion of a contract number
21 or description in the certificate of insurance may not be interpreted as warranting compliance with the insurance
22 or indemnification requirements of a contract.

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24 **NEW SECTION. Section 5. Notice requirements.** A person is entitled to notice of cancellation,
25 nonrenewal, or other material change concerning a policy of insurance only if the person has notice rights under
26 the terms of the policy of insurance or any endorsement to the policy. The terms and conditions of the notice are
27 governed by the policy of insurance or endorsement and may not be altered by a certificate of insurance.

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29 **NEW SECTION. Section 6. Scope -- voidness.** (1) The provisions of [sections 1 through 7] apply to
30 all certificates of insurance issued in connection with property, operations, or risks located in this state, regardless

1 of where the policyholder, insurer, insurance producer, or person requesting or requiring the issuance of the
2 certificate of insurance is located.

3 (2) A certificate of insurance or any other document or correspondence prepared, issued, requested,
4 or required in violation of [sections 1 through 7] is void.

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6 **NEW SECTION. Section 7. Enforcement and penalties -- rulemaking.** (1) The commissioner may
7 examine and investigate the activities of any person that the commissioner reasonably believes has been or is
8 engaged in an act or practice prohibited by [sections 1 through 7].

9 (2) The commissioner may enforce the provisions of [sections 1 through 7] by issuing cease and desist
10 orders and by imposing a fine not to exceed \$1,000 for each violation.

11 (3) The commissioner may adopt rules to implement the provisions of [sections 1 through 7].

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13 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 7] are intended to be codified
14 as an integral part of Title 33, chapter 2, and the provisions of Title 33, chapter 2, apply to [sections 1 through 7].

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16 **NEW SECTION. Section 9. Effective date.** [This act] is effective July 1, 2013.

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18 **NEW SECTION. Section 10. Applicability.** [This act] applies to certificates of insurance that are
19 prepared, issued, requested, or required on property, operations, or risks located in this state on or after October
20 1, 2013.

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