

SENATE, No. 3270

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED DECEMBER 7, 2015

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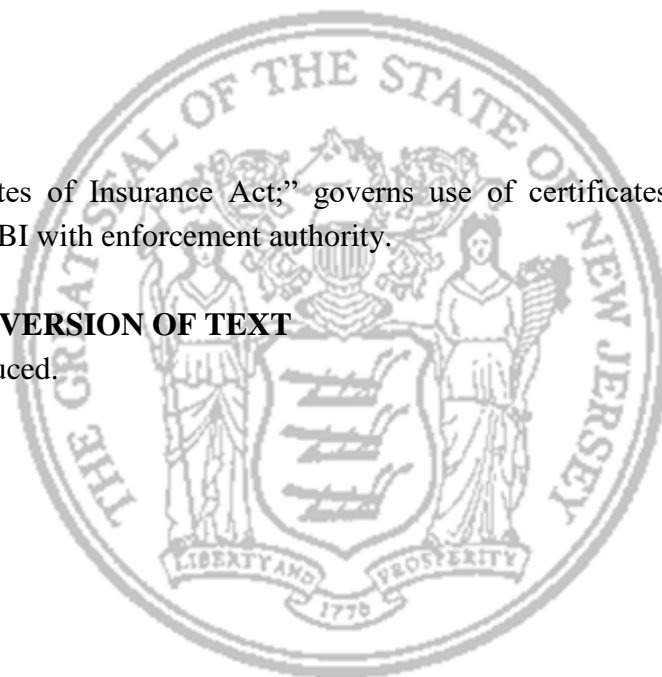
Senator Oroho, Assemblyman Singleton and Assemblywoman Caride

SYNOPSIS

“Certificates of Insurance Act;” governs use of certificates of insurance; provides DOBI with enforcement authority.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/18/2015)

1 AN ACT concerning certificates of insurance, supplementing Title
2 17 of the Revised Statutes and amending P.L.1983, c.320.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. (New section) Sections 1 through 9 of this act shall be
8 known and may be cited as the "Certificates of Insurance Act."

9

10 2. (New section) As used in this act:

11 "Certificate of insurance" means a document or instrument,
12 regardless of how titled or described, that is prepared or issued by an
13 insurer or insurance producer as evidence of property or casualty
14 insurance coverage. The term shall not include a policy of insurance,
15 insurance binder, policy endorsement, or automobile insurance
16 identification or information card.

17 "Commissioner" means the Commissioner of Banking and
18 Insurance.

19 "Insurance producer" means a person required to be licensed
20 pursuant to the "New Jersey Insurance Producer Licensing Act of
21 2001," P.L.2001, c.210 (C.17:22A-26 et seq.).

22 "Insurer" means any organization that issues property or casualty
23 insurance.

24

25 3. (New section) The commissioner shall prohibit the use of a
26 certificate of insurance form if the form:

27 a. Is unfair, misleading, or deceptive, or violates public policy; or

28 b. Violates any law, including any regulation promulgated by the
29 commissioner.

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31 4. (New section) A certificate of insurance shall not be
32 considered a policy of insurance and shall not affirmatively or
33 negatively amend, extend, or alter the coverage afforded by the policy
34 to which the certificate of insurance makes reference. A certificate of
35 insurance shall not confer to any person new or additional rights
36 beyond what the referenced policy of insurance expressly provides.

37

38 5. (New section) a. A person shall not:

39 (1) Prepare, issue, request, or require the issuance of, a certificate
40 of insurance that contains any false or misleading information
41 concerning the policy of insurance to which the certificate of insurance
42 makes reference; or

43 (2) Prepare, issue, request, or require the issuance of, a certificate
44 of insurance that purports to affirmatively or negatively alter, amend,
45 or extend the coverage provided by the policy of insurance to which
46 the certificate of insurance makes reference.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 b. A certificate of insurance shall not warrant that the policy of
2 insurance referenced in the certificate complies with the insurance or
3 indemnification requirements of a contract, and the inclusion of a
4 contract number or description within a certificate of insurance shall
5 not be interpreted as providing such a warranty.

6
7 6. (New section) A person shall be entitled to notice of
8 cancellation, nonrenewal, or any material change, and to any similar
9 notice concerning a policy of insurance only if the person has such
10 notice rights under the terms of the policy of insurance or any
11 endorsement to the policy. The terms and conditions of the notice shall
12 be governed by the policy of insurance or endorsement and shall not
13 be altered by a certificate of insurance.

14
15 7 (New section) The provisions of this act shall apply to all
16 certificates of insurance issued in connection with property,
17 operations, or risks located in this State, regardless of where the
18 policyholder, insurer, insurance producer, or person requesting or
19 requiring the issuance of a certificate of insurance is located.

20
21 8. (New section) A certificate of insurance or any other
22 document or correspondence prepared, issued, requested, or required
23 in violation of this act shall be null and void.

24
25 9. (New section) a. The commissioner shall have the power to
26 examine and investigate the activities of any person that the
27 commissioner reasonably believes has been or is engaged in an act or
28 practice prohibited by this act.

29 b. The commissioner shall have the power to enforce the
30 provisions of this act, including the authority to issue orders to cease
31 and desist and to impose a fine of up to \$1,000 per violation against
32 any person who violates this act. This section shall not be construed to
33 limit the commissioner's authority to investigate, enforce and issue
34 penalties pursuant to any other applicable provision of New Jersey
35 law, including, but not limited to, the "New Jersey Insurance Producer
36 Licensing Act of 2001," P.L.2001, c.210 (C.17:22A-26 et seq.),
37 P.L.1947, c.379 (C.17:29B-1 et seq.), and the "New Jersey Insurance
38 Fraud Prevention Act," P.L.1983, c.320 (C.17:33A-1 et seq.).

39 c. The commissioner may adopt rules and regulations, pursuant to
40 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
41 seq.), necessary to effectuate the provisions of this act.

42
43 10. Section 4 of P.L.1983, c.320 (C.17:33A-4) is amended to
44 read as follows:

45 4. a. A person or a practitioner violates this act if he:
46 (1) Presents or causes to be presented any written or oral
47 statement as part of, or in support of or opposition to, a claim for
48 payment or other benefit pursuant to an insurance policy or the

1 "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174
2 (C.39:6-61 et seq.), knowing that the statement contains any false or
3 misleading information concerning any fact or thing material to the
4 claim; or

5 (2) Prepares or makes any written or oral statement that is
6 intended to be presented to any insurance company, the Unsatisfied
7 Claim and Judgment Fund or any claimant thereof in connection
8 with, or in support of or opposition to any claim for payment or
9 other benefit pursuant to an insurance policy or the "Unsatisfied
10 Claim and Judgment Fund Law," P.L.1952, c.174 (C.39:6-61 et
11 seq.), knowing that the statement contains any false or misleading
12 information concerning any fact or thing material to the claim; or

13 (3) Conceals or knowingly fails to disclose the occurrence of an
14 event which affects any person's initial or continued right or
15 entitlement to (a) any insurance benefit or payment or (b) the
16 amount of any benefit or payment to which the person is entitled;

17 (4) Prepares or makes any written or oral statement, intended to
18 be presented to any insurance company or producer for the purpose
19 of obtaining:

20 (a) a motor vehicle insurance policy, that the person to be
21 insured maintains a principal residence in this State when, in fact,
22 that person's principal residence is in a state other than this State; or

23 (b) an insurance policy, knowing that the statement contains any
24 false or misleading information concerning any fact or thing
25 material to an insurance application or contract; **【or】**

26 (5) Conceals or knowingly fails to disclose any evidence,
27 written or oral, which may be relevant to a finding that a violation
28 of the provisions of paragraph (4) of this subsection a. has or has
29 not occurred; or

30 (6) Prepares, presents or causes to be presented to any insurer or
31 other person, or demands or requires the issuance of, a certificate of
32 insurance that contains any false or misleading information
33 concerning the policy of insurance to which the certificate makes
34 reference, or assists, abets, solicits or conspires with another to do
35 any of these acts. As used in this paragraph, "certificate of
36 insurance" means a document or instrument, regardless of how
37 titled or described, that is, or purports to be, prepared or issued by
38 an insurer or insurance producer as evidence of property or casualty
39 insurance coverage. The term shall not include a policy of
40 insurance, insurance binder, policy endorsement, or automobile
41 insurance identification or information card.

42 b. A person or practitioner violates this act if he knowingly
43 assists, conspires with, or urges any person or practitioner to violate
44 any of the provisions of this act.

45 c. A person or practitioner violates this act if, due to the
46 assistance, conspiracy or urging of any person or practitioner, he
47 knowingly benefits, directly or indirectly, from the proceeds
48 derived from a violation of this act.

1 d. A person or practitioner who is the owner, administrator or
2 employee of any hospital violates this act if he knowingly allows
3 the use of the facilities of the hospital by any person in furtherance
4 of a scheme or conspiracy to violate any of the provisions of this
5 act.

6 e. A person or practitioner violates this act if, for pecuniary
7 gain, for himself or another, he directly or indirectly solicits any
8 person or practitioner to engage, employ or retain either himself or
9 any other person to manage, adjust or prosecute any claim or cause
10 of action, against any person, for damages for negligence, or, for
11 pecuniary gain, for himself or another, directly or indirectly solicits
12 other persons to bring causes of action to recover damages for
13 personal injuries or death, or for pecuniary gain, for himself or
14 another, directly or indirectly solicits other persons to make a claim
15 for personal injury protection benefits pursuant to P.L.1972, c.70
16 (C.39:6A-1 et seq.); provided, however, that this subsection shall
17 not apply to any conduct otherwise permitted by law or by rule of
18 the Supreme Court.

19 f. A person who operates a motor vehicle on the public
20 highways of this State, which motor vehicle is insured by a policy
21 issued under the laws of another state, and who maintains a
22 principal residence in this State or who has his motor vehicle
23 principally garaged in this State violates the provisions of P.L.1983,
24 c.320 (C.17:33A-1 et seq.) if he has knowingly prepared or made
25 any written or oral statement, presented to any insurance company
26 or producer licensed to transact the business of insurance under the
27 laws of that other state, and which resulted in obtaining a motor
28 vehicle insurance policy for his motor vehicle in that other state,
29 that the person to be insured:

30 (1) Maintains a principal residence in the other state when, in
31 fact, that person's principal residence is in this State; or

32 (2) Has his vehicle principally garaged in the other state, when,
33 in fact, that person has his motor vehicle principally garaged in this
34 State.

35 This subsection shall not apply to a person who insures a vehicle
36 in another state, as permitted by and in accordance with the laws of
37 that state, based on a second residence, or attendance at an
38 educational institution, in that other state, if in obtaining the policy
39 the person truthfully discloses to the insurance company or
40 producer the state of the person's principal residence and the state
41 where the vehicle is principally garaged.

42 (cf: P.L.2015, c.48, s.2.)

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44 11. This act shall take effect on the 90th day next following
45 enactment.

STATEMENT

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This bill, the “Certificates of Insurance Act,” governs the use of certificates of insurance and provides the Commissioner of Banking and Insurance with certain enforcement authority with respect to their use.

A certificate of insurance is provided by an insurer or an insurance producer and indicates that a property or casualty insurance policy has been issued to the insured and that the policy contains certain coverages and limits. The certificates are typically used by contractors to demonstrate that they have coverages required to enter into construction contracts.

The bill requires the commissioner to prohibit the use of a certificate of insurance form if the form is unfair, misleading, or deceptive, or violates public policy, or is in violation of the provisions of any law, including any regulation promulgated by the commissioner.

The bill provides that a certificate of insurance shall not be considered to be a policy of insurance and shall not have the effect of amending, extending, or altering the coverage provided in the referenced policy of insurance. A certificate of insurance shall not confer new or additional rights to any person beyond those expressly provided in the referenced policy of insurance.

Under the bill, a person shall not: (1) prepare, issue, request, or require the issuance of, a certificate of insurance that contains any false or misleading information concerning the referenced policy of insurance; or (2) prepare, issue, request, or require the issuance of, a certificate of insurance that purports to affirmatively or negatively alter, amend, or extend the coverage provided by the referenced policy of insurance.

The bill provides that a certificate of insurance shall not warrant that the policy of insurance referenced in the certificate complies with the insurance or indemnification requirements of a contract. The inclusion of a contract number or description within a certificate of insurance shall not be interpreted as providing such a warranty.

The bill provides that a person shall be entitled to a notice of cancellation, nonrenewal, or any material change, or to any similar notice concerning a policy of insurance, only if the person has such notice rights under the terms of the policy of insurance or any endorsement to the policy. The terms and conditions of the notice shall be governed by the policy of insurance or endorsement and shall not be altered by a certificate of insurance.

The bill’s provisions apply to all certificates of insurance issued in connection with property, operations, or risks located in this State, regardless of where the policyholder, insurer, insurance producer, or person requesting or requiring the issuance of a certificate of insurance is located. A certificate of insurance or any

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1 other document or correspondence prepared, issued, requested, or
2 required in violation of any provision of the bill shall be null and
3 void.

4 The bill also makes certain actions regarding false or misleading
5 information in a certificate of insurance a violation of the “New
6 Jersey Insurance Fraud Prevention Act,” P.L.1983, c.320 (C.17:33A-
7 1 et seq.).

8 Finally, the commissioner may enforce the bill’s provisions,
9 without limiting the commissioner’s authority to enforce applicable
10 provisions of existing New Jersey law. The commissioner may
11 adopt rules and regulations necessary to effectuate the bill’s
12 provisions.