

SPONSOR: Rep. B. Short & Sen. Bushweller
Reps. Keeley, Mitchell, Wilson; Sens. Hocker, Lopez

HOUSE OF REPRESENTATIVES

147th GENERAL ASSEMBLY

HOUSE BILL NO. 104
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO CERTIFICATES OF INSURANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 18 of the Delaware Code to include a new Chapter 45 by making insertions as shown by underlining as follows:

§ 4501. Title.

This chapter may be cited as the "Certificates of Insurance Act."

§ 4502. Definitions.

For the purpose of this chapter, the following definitions apply:

(a) “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.

(b) "Commissioner" means the Insurance Commissioner of this State.

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

(d) “Insurer" means any organization that issues property or casualty insurance.

(e) “Person” means any individual, partnership, corporation, association, or other legal entity, including any government or governmental subdivision or agency.

§ 4503. Certificate forms.

HD : SLT : TEH:1031470031
LC : JWH : RAY:0661470038

(a) The Commissioner shall prohibit the use of a certificate of insurance form if the form:

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

(2) Violates any law, including any regulation promulgated by the commissioner of insurance.

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

4504. Limitations on use.

(a) A person shall not:

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

(b) A certificate of insurance shall not warrant that the policy of insurance referenced in the certificate comply with the insurance or indemnification requirements of a contract, and the inclusion of a contract number or description within a certificate of insurance shall not be interpreted as doing such.

§ 4505. Notice requirements.

A person is entitled to notice of cancellation, nonrenewal, or any material change, and 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 are governed by the policy of insurance or endorsement and may not be altered by a certificate of insurance.

§ 4506. Applicability.

(a) The provisions of this Act shall 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.

(b) A certificate of insurance or any other document or correspondence prepared, issued, requested, or required in violation of this Act shall be null and void.

§ 4507. Enforcement and Penalties.

(a) The Commissioner shall have the power to examine and investigate the activities of any person that the Commissioner reasonably believes has been or is engaged in an act or practice prohibited by this Act.

(b) The Commissioner shall have the power to enforce the provisions of this Act, including the authority to issue orders to cease and desist and to impose a fine of up to $1,000 per violation against any person who violates this Act. This Section 4507(b) shall not be construed to limit the Commissioner's authority to investigate, enforce and issue penalties pursuant to any other applicable provision in Title 18 of the Delaware Code including, without limitation, Chapters 17, 23 and 24 of Title 18 of the Delaware Code.

(c) The Commissioner may adopt reasonable rules and regulations as are necessary or proper to carry out the provisions of this Act.

Section 2. Amend Section 2407(a), Title 18, of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2407. Insurance fraud.

(a) It shall be a fraudulent insurance act for a person to knowingly, by act or omission, with intent to injure, defraud or deceive:

(1) Present, cause to be presented, prepare, assist, abet, solicit or conspire with another to prepare or make any oral or written statement with knowledge or belief that it will be presented to an insurer in connection with, or in support of, any application for the issuance of an insurance policy, containing false, incomplete or misleading information concerning any fact material to the application for issuance of an insurance policy;

(2) Prepare, present or cause to be presented to any insurer, any oral or written statement including computer-generated documents as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, containing false, incomplete or misleading information concerning any fact material to such claims; ~~or~~

(3) Assist, abet, solicit or conspire with another to prepare or present any oral or written statement, including computer-generated documents, that is intended to be presented to any insurer in connection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy, which contains false, incomplete or misleading information concerning any fact material to the claim~~.~~; or

(4) Prepare, present or cause to be presented to any insurer or other person, or demand or require the issuance of, a certificate of insurance that contains any false or misleading information concerning the policy of insurance to which the certificate makes reference, or assist, abet, solicit or conspire with another to do any of the acts

described in this sentence. As used in this section, "certificate of insurance" means a document or instrument, regardless of how titled or described, that is, or purports to be, 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.