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

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 104

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.

(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.

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(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.

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

Section 2. Effective Date.

This Act shall take effect 90 days after enactment.

SYNOPSIS

This bill prohibits a person from requesting the issuance of a certificate of insurance that does not accurately reflect the underlying policy. The bill enables the Department of Insurance to issue cease and desist orders and assess fines against parties that request false or misleading certificates. The bill also prohibits a person from issuing a false or misleading certificate or one that purports to alter, amend, or extend the coverage provided by the insurance policy. The bill prohibits the use of a certificate to warrant that a policy of insurance complies with the insurance or indemnification requirements of a contract, and confirms that a certificate of insurance is not a policy and does not independently confer rights to its recipient.