

Bill as Introduced

HB 419-FN - AS INTRODUCED

2011 SESSION

11-0747
01/09

HOUSE BILL ***419-FN***

AN ACT relative to language in insurance certificates.

SPONSORS: Rep. Infantine, Hills 13

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill establishes the model law relative to content and form of certificates of insurance.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through.~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to language in insurance certificates.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Chapter; Certificates of Insurance. Amend RSA by inserting after chapter 400-B the
2 following new chapter:

3 CHAPTER 400-C

4 CERTIFICATES OF INSURANCE

5 400-C:1 Definitions. In this chapter:

6 I. "Certificate" or "certificate of insurance" means any document or instrument, no matter
7 how titled or described, which is prepared or issued by an insurer or insurance producer as evidence
8 of property or casualty insurance coverage. "Certificate" or "certificate of insurance" shall not
9 include a policy of insurance or insurance binder.

10 II. "Certificate holder" means any person, other than a policyholder, who requests, obtains,
11 or possesses a certificate of insurance.

12 III. "Commissioner" means the insurance commissioner.

13 IV. "Insurance producer" means an insurance producer licensed under RSA 402-J.

14 V. "Insurer" means an entity that offers or provides a policy, contract, or certificate of
15 insurance coverage in this state and subject to regulation by the insurance department and any
16 other person engaged in the business of making insurance or surety contracts, including self-
17 insurers.

18 VI. "Person" means any individual, partnership, corporation, association, or other legal
19 entity, including any government or governmental subdivision or agency.

20 VII. "Policyholder" means a person who has contracted with a property or casualty insurer
21 for insurance coverage.

22 400-C:2 Certificates of Insurance.

23 I. No person shall prepare, issue, or request the issuance of a certificate of insurance
24 unless the form has been filed with and approved by the commissioner. No person may alter or
25 modify an approved certificate of insurance form.

26 II. The commissioner shall disapprove a form filed under this section, or withdraw approval
27 of a form, if the form:

28 (a) Is unjust, unfair, misleading, or deceptive, or violates public policy.

29 (b) Fails to comply with the requirements of paragraph III.

30 (c) Violates any law, including any rule adopted by the commissioner.

1 III. Each certificate of insurance shall contain the following or similar statement: "This
2 certificate of insurance is issued as a matter of information only and confers no rights upon the
3 certificate holder. This certificate does not amend, extend, or alter the coverage, terms, exclusions,
4 and conditions afforded by the policies referenced herein."

5 IV. Standard certificate of insurance forms promulgated by the Association for Cooperative
6 Operations Research and Development (ACORD) or the Insurance Services Office, Inc. are deemed
7 approved by the commissioner and are not required to be filed if the forms otherwise comply with the
8 requirements of this section.

9 V. No person shall demand or require the issuance of a certificate of insurance from an
10 insurer, insurance producer, or policyholder that contains any false or misleading information
11 concerning the policy of insurance to which the certificate makes reference.

12 VI. No person shall knowingly prepare or issue a certificate of insurance that contains any
13 false or misleading information or that purports to affirmatively or negatively alter, amend, or
14 extend the coverage provided by the policy of insurance to which the certificate makes reference.

15 VII. No person shall prepare, issue, demand, or require, either in addition to or in lieu of a
16 certificate of insurance, an opinion letter or other document or correspondence that is inconsistent
17 with this section; provided, that an insurer or insurance producer may prepare or issue an
18 addendum to a certificate that clarifies and explains the coverages provided by a policy of insurance
19 and otherwise complies with the requirements of this section.

20 VIII. The provisions of this section shall apply to all certificate holders, policyholders,
21 insurers, insurance producers, and certificate of insurance forms issued as evidence of insurance
22 coverages on property, operations, or risks located in this state, regardless of where the certificate
23 holder, policyholder, insurer, or insurance producer is located.

24 IX. A certificate of insurance is not a policy of insurance and does not affirmatively or
25 negatively amend, extend, or alter the coverage afforded by the policy to which the certificate of
26 insurance makes reference. A certificate of insurance shall not confer to a certificate holder new or
27 additional rights beyond what the referenced policy of insurance expressly provides.

28 X. No certificate of insurance shall contain references to contracts, including construction or
29 service contracts, other than the referenced contract of insurance. Notwithstanding any
30 requirement, term, or condition of any contract or other document with respect to which a certificate
31 of insurance may be issued or may pertain, the insurance afforded by the referenced policy of
32 insurance is subject to all the terms, exclusions, and conditions of the policy itself.

33 XI. A certificate holder shall only have a legal right to notice of cancellation, nonrenewal, or
34 any material change, or any similar notice concerning a policy of insurance if the person is named
35 within the policy or any endorsement as an additional insured and the policy or endorsement
36 requires notice to be provided. The terms and conditions of the notice, including the required timing

1 of the notice, are governed by the policy of insurance and cannot be altered by a certificate of
2 insurance.

3 XII. An insurance producer may charge a reasonable service fee for issuing a certificate to a
4 policyholder or certificate holder.

5 XIII. Any certificate of insurance or any other document or correspondence prepared, issued,
6 demanded, or required in violation of this section shall be null and void and of no force and effect.

7 400-C:3 Rulemaking. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to:

8 I. Format of insurance certificates.

9 II. Application procedures as necessary under this chapter.

10 III. Any other matter necessary to administer this chapter.

11 400-C:4 Penalty.

12 I. Any person who violates this chapter may be fined up to \$2,500 per violation.

13 II. The commissioner shall examine and investigate the activities of any person that the
14 commissioner reasonably believes has been or is engaged in any act or practice prohibited by this
15 chapter. The commissioner shall have the power to enforce the provisions of this chapter and impose
16 any authorized penalty or remedy against any person who violates this chapter.

17 2 Effective Date. This act shall take effect January 1, 2012.

HB 419-FN - AS INTRODUCED
- Page 4 -

LBAO
11-0747
01/19/11

HB 419-FN - FISCAL NOTE

AN ACT relative to language in insurance certificates.

FISCAL IMPACT:

Due to time constraints, the Office of Legislative Budget Assistant is unable to provide a fiscal note for this bill at this time. When completed, the fiscal note will be forwarded to the House Clerk's Office.

HB 419-FN - AS AMENDED BY THE HOUSE

15Mar2011... 0709h

2011 SESSION

11-0747
01/09

HOUSE BILL

419-FN

AN ACT relative to language in insurance certificates.

SPONSORS: Rep. Infantine, Hills 13

COMMITTEE: Commerce and Consumer Affairs

AMENDED ANALYSIS

This bill establishes the law relative to content and form of certificates of insurance.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to language in insurance certificates.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Section; Certificates of Insurance. Amend RSA 412 by inserting after section 6-a the
2 following new section:

3 412:6-b Certificates of Insurance.

4 I. In this section:

5 (a) "Certificate" or "certificate of insurance" means any document or instrument, no
6 matter how titled or described, which is issued by an insurer or insurance producer as evidence of
7 property or casualty insurance coverage. "Certificate" or "certificate of insurance" shall not include a
8 policy of insurance or insurance binder.

9 (b) "Certificate holder" means any person, other than a policyholder, who possesses a
10 certificate of insurance or is identified as the certificate holder on the certificate.

11 (c) "Insurance producer" means an insurance producer licensed under RSA 402-J.

12 (d) "Insurer" means an entity established to conduct the kinds of insurance business as
13 provided in RSA 401 and licensed in accordance with the provisions of RSA 402 or RSA 405.

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

16 (f) "Policyholder" means a person who has contracted with a property or casualty insurer
17 for insurance coverage.

18 II.(a) No person shall issue a certificate of insurance that:

19 (1) Does not comply with the requirements of subparagraph (b).

20 (2) Is not in the public interest.

21 (3) Is contrary to public policy.

22 (4) Is misleading, deceptive, or encourages misrepresentation.

23 (5) Violates any law.

24 (b) The following are requirements for the content, purpose, issuance, and use of
25 certificates of insurance:

26 (1) Each certificate shall contain the following statement, in sufficient font and size
27 and located on the certificate to be readily identifiable:

28 "This certificate of insurance is issued as a matter of information only and confers no rights upon
29 the certificate holder. This certificate does not amend, extend, or alter the coverage, terms,
30 exclusions, and conditions afforded by the policy or policies referenced herein."

1 (2) No person shall demand or require the issuance of a certificate of insurance from
2 an insurer, insurance producer, or policyholder that contains any false or misleading information
3 concerning any policy of insurance to which the certificate makes reference.

4 (3) No person shall knowingly prepare or issue a certificate of insurance that
5 contains any false or misleading information.

6 (4) No person shall prepare or issue a certificate of insurance that purports to
7 affirmatively or negatively alter, amend, or extend the coverage provided by any policy of insurance
8 referenced in the certificate.

9 (5) The requirements of this section shall apply to certificates of insurance issued as
10 evidence of insurance policies and coverage on property, operations, or any risk located in this state,
11 regardless of where the certificate holder, policyholder, insurer, or insurance producer is located.

12 (6) No certificate of insurance shall contain references to contracts, including
13 construction or service contracts, other than the referenced contract of insurance.

14 (7) A certificate holder shall only have a contractual right to notice of cancellation,
15 nonrenewal, or any similar notice concerning a policy of insurance if the person is identified and
16 designated within the policy or any endorsement to that policy as an additional insured and that
17 policy or endorsement requires notice to be provided.

18 (c) The commissioner may publish sample certificates of insurance which provide
19 templates as to form and content, which, in his or her opinion, meet the requirements of
20 subparagraph (b) and are acceptable for use by insurers and insurance producers. In addition to
21 templates developed by the commissioner, insurance industry trade organizations, and supporting
22 entities, may submit templates for consideration and inclusion in the set of sample certificates so
23 published.

24 (d) An insurer or insurance producer may prepare or issue an addendum to a certificate
25 that clarifies and explains the coverage provided by any policy of insurance referenced in the
26 certificate and otherwise complies with the requirements of this section.

27 (e) An insurance producer may charge a reasonable fee to the policyholder or to a
28 certificate holder on behalf of the policyholder in order to cover costs associated with issuing the
29 certificate which are not otherwise provided for in commissions or expense reimbursements that the
30 insurer has contractually agreed to pay that insurance producer.

31 2 Effective Date. This act shall take effect January 1, 2012.

LBAO

11-0747

Revised 01/27/11

HB 419 FISCAL NOTE

AN ACT relative to language in insurance certificates.

FISCAL IMPACT:

The Insurance Department states this bill will increase state expenditures and may increase state general fund revenue by an indeterminable amount in FY 2012 and each year thereafter. The Department states this bill may have an indeterminable fiscal impact on county and local expenditures. There is no fiscal impact on county and local revenue.

METHODOLOGY:

The Insurance Department states this bill establishes the model law relative to content and form of certificates of insurance, including the possibility that insurers would need to file certificates with the Department. The Department states certificates of insurance are not directly regulated by the Department. This bill will result in the Department dedicating resources to appropriately regulate the use of certificates that will increase costs. The Department does not anticipate the costs to be materially significant but is not able to forecast what the costs might be. The Department states any increased costs to the Department are borne by the insurance industry which may result in higher premiums. An increase in premiums would result in an increase in premium tax revenue. The Department is not able to determine the fiscal impact this bill will have on other state agencies, county agencies or local agencies that may require certificates of insurance from contractors and others that engage in work on their behalf.

CHAPTER 137
HB 419-FN - FINAL VERSION

15Mar2011... 0709h
04/27/11 1491s

2011 SESSION

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HOUSE BILL ***419-FN***

AN ACT relative to language in insurance certificates.

SPONSORS: Rep. Infantine, Hills 13

COMMITTEE: Commerce and Consumer Affairs

AMENDED ANALYSIS

This bill establishes the law relative to content and form of certificates of insurance.

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Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struckthrough.~~]
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CHAPTER 137
HB 419-FN – FINAL VERSION

15Mar2011... 0709h
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11-0747
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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to language in insurance certificates.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 137:1 New Section; Certificates of Insurance. Amend RSA 412 by inserting after section 6-a the
2 following new section:

3 412:6-b Certificates of Insurance.

4 I. In this section:

5 (a) "Certificate" or "certificate of insurance" means any document or instrument, no
6 matter how titled or described, which is issued by an insurer or insurance producer as evidence of
7 property or casualty insurance coverage. "Certificate" or "certificate of insurance" shall not include a
8 policy of insurance or insurance binder.

9 (b) "Certificate holder" means any person, other than a policyholder, who possesses a
10 certificate of insurance and is identified as the certificate holder on the certificate.

11 (c) "Insurance producer" means an insurance producer licensed under RSA 402-J.

12 (d) "Insurer" means an entity established to conduct the kinds of insurance business as
13 provided in RSA 401 and licensed in accordance with the provisions of RSA 402 or RSA 405.

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

16 (f) "Policyholder" means a person who has contracted with a property or casualty insurer
17 for insurance coverage.

18 II. (a) No person shall issue a certificate of insurance that:

19 (1) Does not comply with the requirements of subparagraph (b).

20 (2) Is misleading, deceptive, or encourages misrepresentation.

21 (3) Violates any law.

22 (b) The following are requirements for the content, purpose, issuance, and use of
23 certificates of insurance:

24 (1) Each certificate shall contain the following statement, in sufficient font and size
25 and located on the certificate to be readily identifiable:

26 "This certificate of insurance is issued as a matter of information only and confers no rights upon
27 the certificate holder. This certificate does not amend, extend, or alter the coverage, terms,
28 exclusions, and conditions afforded by the policy or policies referenced herein."

CHAPTER 137
HB 419-FN – FINAL VERSION
- Page 2 -

1 (2) No person shall demand or require the issuance of a certificate of insurance from
2 an insurer, insurance producer, or policyholder that contains any false or misleading information
3 concerning any policy of insurance to which the certificate makes reference.

4 (3) No person shall knowingly prepare or issue a certificate of insurance that
5 contains any false or misleading information.

6 (4) No person shall prepare or issue a certificate of insurance that purports to
7 affirmatively or negatively alter, amend, or extend the coverage provided by any policy of insurance
8 referenced in the certificate.

9 (5) The requirements of this section shall apply to certificates of insurance issued as
10 evidence of insurance policies and coverage on property, operations, or any risk located in this state,
11 regardless of where the certificate holder, policyholder, insurer, or insurance producer is located.

12 (6) No certificate of insurance shall contain references to contracts, including
13 construction or service contracts, other than the referenced contract of insurance, unless such
14 reference is in relation to coverage or other requirements of the insurance contract.

15 (7) A certificate holder shall only have a contractual right to notice of cancellation,
16 nonrenewal, or any similar notice concerning a policy of insurance if the person is identified and
17 designated within the policy or any endorsement to that policy as an additional insured and that
18 policy or endorsement requires notice to be provided.

19 (c) The commissioner may publish sample certificates of insurance which provide
20 templates as to form and content, which, in his or her opinion, meet the requirements of
21 subparagraph (b) and are acceptable for use by insurers and insurance producers. In addition to
22 templates developed by the commissioner, insurance industry trade organizations, and supporting
23 entities, may submit templates for consideration and inclusion in the set of sample certificates so
24 published.

25 (d) An insurer or insurance producer may prepare or issue an addendum to a certificate
26 that clarifies and explains the coverage provided by any policy of insurance referenced in the
27 certificate and otherwise complies with the requirements of this section.

28 (e) An insurance producer may charge a reasonable fee for providing a certificate.

29 137:2 New Paragraph; Rulemaking Added. Amend RSA 412:43 by inserting after paragraph II
30 the following new paragraph:

31 III. The commissioner shall adopt rules, under RSA 541-A, relative to defining a reasonable
32 fee for providing insurance certificates and circumstances in which a fee may be charged under
33 RSA 412:6-b.

34 137:3 Effective Date. This act shall take effect January 1, 2012.

35 Approved: June 7, 2011

36 Effective Date: January 1, 2012

Amendments

Rep. Infantine, Hills. 13
March 8, 2011
2011-0709h
01/09

Recommended Changes by AGC of NH – 3/16/11

Amendment to HB 419-FN

Amend the bill by replacing all after the enacting clause with the following:

-1 New Section; Certificates of Insurance. Amend RSA 412 by inserting after section 6-a the following new section:

412:6-b Certificates of Insurance.

I. In this section:

(a) "Certificate" or "certificate of insurance" means any document or instrument, no matter how titled or described, which is issued by an insurer or insurance producer as evidence of property or casualty insurance coverage. "Certificate" or "certificate of insurance" shall not include a policy of insurance or insurance binder.

(b) "Certificate holder" means any person, other than a policyholder, who ~~possesses a certificate of insurance~~ or is identified as the certificate holder on the certificate.

(c) "Insurance producer" means an insurance producer licensed under RSA 402-J.

(d) "Insurer" means an entity established to conduct the kinds of insurance business as provided in RSA 401 and licensed in accordance with the provisions of RSA 402 or RSA 405.

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

(f) "Policyholder" means a person who has contracted with a property or casualty insurer for insurance coverage.

II.(a) No person shall issue a certificate of insurance that:

(1) Does not comply with the requirements of subparagraph (b).

~~(2) Is not in the public interest.~~

~~(3) Is contrary to public policy.~~

(4) Is misleading, deceptive, or encourages misrepresentation.

(5) Violates any law.

(b) The following are requirements for the content, purpose, issuance, and use of certificates of insurance:

(1) Each certificate shall contain the following statement, in sufficient font and size and located on the certificate to be readily identifiable:

“This certificate of insurance is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage, terms, exclusions, and conditions afforded by the policy or policies referenced herein.”

(2) No person shall demand or require the issuance of a certificate of insurance from an insurer, insurance producer, or policyholder that contains any false or misleading information concerning any policy of insurance to which the certificate makes reference.

(3) No person shall knowingly prepare or issue a certificate of insurance that contains any false or misleading information.

(4) No person shall prepare or issue a certificate of insurance that purports to affirmatively or negatively alter, amend, or extend the coverage provided by any policy of insurance referenced in the certificate.

(5) The requirements of this section shall apply to certificates of insurance issued as evidence of insurance policies and coverage on property, operations, or any risk located in this state, regardless of where the certificate holder, policyholder, insurer, or insurance producer is located.

(6) Unless required by the contract between the parties, no certificate of insurance shall contain references to contracts, including construction or service contracts, other than the referenced

contract of insurance.

(7) A certificate holder shall only have a contractual right to notice of cancellation, nonrenewal, or any similar notice concerning a policy of insurance if the person is identified and designated within the policy or any endorsement to that policy as an additional insured and that policy or endorsement requires notice to be provided.

(c) The commissioner may publish sample certificates of insurance which provide templates as to form and content, which, in his or her opinion, meet the requirements of subparagraph (b) and are acceptable for use by insurers and insurance producers. In addition to templates developed by the commissioner, insurance industry trade organizations, and supporting entities, may submit templates for consideration and inclusion in the set of sample certificates so published.

(d) An insurer or insurance producer may prepare or issue an addendum to a certificate that clarifies and explains the coverage provided by any policy of insurance referenced in the certificate and otherwise complies with the requirements of this section.

(e) An insurance producer may charge a reasonable fee to the policyholder ~~or to a certificate holder on behalf of the policyholder~~ in order to cover costs associated with issuing the certificate which are not otherwise provided for in commissions or expense reimbursements that the insurer has contractually agreed to pay that insurance producer.

-2 Effective Date. This act shall take effect January 1, 2012.

2011-0709h

AMENDED ANALYSIS

This bill establishes the law relative to content and form of certificates of insurance.

Amendment to HB 419-FN

1 Amend RSA 412:6-b, I(b) as inserted by section 1 of the bill by replacing it with the following:

2

3 (b) "Certificate holder" means any person, other than a policyholder, who possesses a
4 certificate of insurance and is identified as the certificate holder on the certificate.

5

6 Amend RSA 412:6-b, II(a) as inserted by section 1 of the bill by replacing it with the following:

7

8 (a) No person shall issue a certificate of insurance that:

9

(1) Does not comply with the requirements of subparagraph (b).

10

(2) Is misleading, deceptive, or encourages misrepresentation.

11

(3) Violates any law.

12

13 Amend RSA 412:6-b, II(b)(6) as inserted by section 1 of the bill by replacing it with the following:

14

15 (6) No certificate of insurance shall contain references to contracts, including
16 construction or service contracts, other than the referenced contract of insurance, unless such
17 reference is in relation to coverage or other requirements of the insurance contract.

18

19 Amend RSA 412:6-b, II(e) as inserted by section 1 of the bill by replacing it with the following:

20

21 (e) An insurance producer may charge a reasonable fee for providing a certificate.

22

23 Amend the bill by inserting after section 1 the following and renumbering the original section 2 to
24 read as 3:

25

26 2 New Paragraph; Rulemaking Added. Amend RSA 412:43 by inserting after paragraph II the
27 following new paragraph:

28

29 III. The commissioner shall adopt rules, under RSA 541-A, relative to defining a reasonable
30 fee for providing insurance certificates and circumstances in which a fee may be charged under
RSA 412:6-b.

Amendment to HB 419-FN

1 Amend RSA 412:6-b, I(b) as inserted by section 1 of the bill by replacing it with the following:

2
3 (b) "Certificate holder" means any person, other than a policyholder, who possesses a
4 certificate of insurance and is identified as the certificate holder on the certificate.

5
6 Amend RSA 412:6-b, II(a) as inserted by section 1 of the bill by replacing it with the following:

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8 (a) No person shall issue a certificate of insurance that:

9 (1) Does not comply with the requirements of subparagraph (b).

10 (2) Is misleading, deceptive, or encourages misrepresentation.

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16 construction or service contracts, other than the referenced contract of insurance, unless such
17 reference is in relation to coverage or other requirements of the insurance contract.

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19 Amend RSA 412:6-b, II(e) as inserted by section 1 of the bill by replacing it with the following:

20
21 (e) An insurance producer may charge a reasonable fee for providing a certificate.

22
23 Amend the bill by inserting after section 1 the following and renumbering the original section 2 to
24 read as 3:

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26 2 New Paragraph; Rulemaking Added. Amend RSA 412:43 by inserting after paragraph II the
27 following new paragraph:

28 III. The commissioner shall adopt rules, under RSA 541-A, relative to defining a reasonable
29 fee for providing insurance certificates and circumstances in which a fee may be charged under
30 RSA 412:6-b.

Committee Minutes

**SENATE CALENDAR NOTICE
COMMERCE**

Senator Russell Prescott Chairman
 Senator Raymond White V Chairman
 Senator Tom De Blois
 Senator Matthew Houde
 Senator Andy Sanborn

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: March 24, 2011

HEARINGS

Tuesday

3/29/2011

COMMERCE

LOB 102

9:00 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

9:00 AM	HB333-FN	repealing certain provisions relating to the sale of oleomargarine.
9:10 AM	HB142-FN	relative to sales of artificial flowers and miniature flags.
9:20 AM	HB419-FN	relative to language in insurance certificates.
9:40 AM	HB262-FN	relative to beverage manufacturers.
10:00 AM	HB26-FN	(New Title) relative to the definition of gross misconduct for purposes of unemployment compensation.

Sponsors:

HB333-FN

Rep. Carol McGuire

Rep. Timothy Horrigan

Rep. Warren Groen

HB142-FN

Rep. Carol McGuire

Rep. Lynne Ober

HB419-FN

Rep. William Infantine

HB262-FN

Rep. Calvin Pratt

Rep. Mark Warden

HB26-FN

Rep. Lawrence Kappler

Rep. Robert Greemore

Rep. Carol Vita

Sen. Jeanie Forrester

Rep. Pamela Tucker

Sen. Sharon Carson

Rep. Robert Willette

Sen. John Barnes, Jr.

Patrick Murphy 271-3067

Sen. Russell Prescott

Chairman

Commerce Committee Hearing Report

To: Member of the Senate

From: Patrick Murphy, *Legislative Aide*

Re: Hearing Report on HOUSE BILL 419-FN relative to language in insurance certificates.

Hearing Date: March 29, 2011

Members of the Committee Present:

Senator Prescott, Senator White, Senator De Blois, Senator Sanborn, Senator Houde

Members of the Committee Absent:

None

Sponsor(s):

Rep. Infantine, Hills 13

What the bill does:

This bill establishes the law relative to content and form of certificates of insurance.

Supporters of the bill:

Rep. Infantine, Hills 13; Bob Nash (NH Association of Insurance Agents)

Supports with amendment:

Gary Abbott (AGC of NH); Caroline Bergeron (Harvey Construction/AGC); Susan Siegel (Rowley Agency Inc)

Those in opposition to the bill:

None

Speaking to the bill/Neutral:

None

Summary of testimony received:

Rep. Infantine, Hills 13

- Introduced the bill and an amendment for the committee's consideration. These certificates have morphed into a bigger deal than they were intended for. You can include in the form a notion giving certain people rights. These comments sections have grown to include large special requests and it's difficult for the industry to deal with this.
- This bill tries to protect the industry from having to do things that the industry shouldn't be asked to do.
- In response to questions from the Committee, Representative Infantine responded that the intent of this bill is to allow insurance agents to do what is right and protect them from having to do something they should be doing. We believe section 6 provides the proper protection.
- Senator White clarified that he is not involved in this type of insurance so he will not be filing a disclosure.
- This bill outlines what can and can't be done. Sometimes the people filling out these forms don't know that what they are requesting is against the law. This is really a first step so there really isn't an industry standard.

Bob Nash, NH Association of Insurance Agents

- Requested that this bill be filed. This bill is a model act that will be introduced in all 50 states. Expects it to pass in 10-15 states this year.
- HB 419 ensures that certificates will be used for their intended purpose and helps prevent their misuse in the marketplace. The proposal has been narrowly crafted to avoid unintended consequences. HB 419 relates only to certificates of insurance and does not change the law concerning insurance policies, and it does not alter or impair the right that any person has under an insurance policy. The only parties adversely affected are those who would demand the issuance of improper or misleading certificates that do not accurately depict the underlying insurance coverage.
- The marketplace will adequately set the proper amount for a fee.
- We and the DOI do not support the amendment suggested by the AGC.
- This was not intended to allow the certificate to name third party insurance.

Gary Abbott (AGC of NH); Caroline Bergeron (Harvey Construction/AGC); Susan Siegel (Rowley Agency Inc)

- Walked the Committee through a proposed amendment.
- The biggest suggested change occurs on page 2 line 12 of the bill. The amendment would add the language "unless required by the contract between the parties," at the beginning of line 12.
- Certain levels of insurance are requested by various parties involved in the process.
- We work on state projects and NH has specific requirements that require appropriate converge to be working on the projects. This is an important bill not just in NH but also in neighboring states that NH subcontractors work in. We strongly feel that the section 6 change needs to be made.

Funding:**FISCAL IMPACT:**

The Insurance Department states this bill will increase state expenditures and may increase state general fund revenue by an indeterminable amount in FY 2012 and each year thereafter. The Department states this bill may have an indeterminable fiscal impact on county and local expenditures. There is no fiscal impact on county and local revenue.

METHODOLOGY:

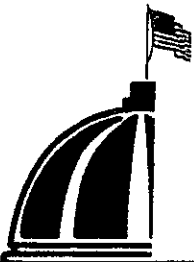
The Insurance Department states this bill establishes the model law relative to content and form of certificates of insurance, including the possibility that insurers would need to file certificates with the Department. The Department states certificates of insurance are not directly regulated by the Department. This bill will result in the Department dedicating resources to appropriately regulate the use of certificates that will increase costs. The Department does not anticipate the costs to be materially significant but is not able to forecast what the costs might be. The Department states any increased costs to the Department are borne by the insurance industry which may result in higher premiums. An increase in premiums would result in an increase in premium tax revenue. The Department is not able to determine the fiscal impact this bill will have on other state agencies, county agencies or local agencies that may require certificates of insurance from contractors and others that engage in work on their behalf.

Action:

Pending

Speakers

Testimony



Capitol Insights Group

Specializing in Legislative Analysis and Government Relations

March 29, 2011

TO: Sen. Russell Prescott-Chair Senate Commerce Committee
FR: Michael McLaughlin-Local Counsel American Council of Life Insurers (ACLI)
RE: HB419

HB419 as amended, seeks to codify the provisions of a Bulletin issued by the New Hampshire Department of Insurance dated July 29, 2009. The Bulletin was issued due to a problem that has come to the attention of the department that some insurance producers had been asked by insureds to issue Certificates of Insurance or other evidence of insurance that do not accurately reflect the policy. The specific incidences appear to have been on the length of time provided to an insured when a policy was being cancelled.

The conflict between an insurance producer and a large customer, typically in the construction field, was causing producers to seek some protection. The Bulletin required that a statement be added to any certificate that the certificate was issued as a matter of information only, thus talking much of the responsibility for inaccurate information off the producer.

The quick turn around and regular review of coverage in the construction field is far different than the world of real property lending. It is this distinction that has caused the ACLI to ask that HB419 be amended to create two classes of insurance certificates.

Life insurers are one of the primary sources of commercial mortgages holding over \$300 billion in commercial and multi-family mortgages. In New Hampshire alone life insurers hold over \$720 million in mortgage loans and own \$58 million in real property in the state.

Lenders have an acute interest in preserving and protecting the value of property and why it is essential that lenders are able to verify that uninterrupted property insurance is in place for the duration of the loan. Before a loan is closed, and annually upon expiration or renewal of the property insurance policy, lenders require the borrower to produce evidence of insurance. In the case of refinancing, this sometimes can be accomplished by presenting the lender with a copy of the policy, presuming that it has been delivered to the borrower. However, in the case of an acquisition of a property, insurance policies are seldom issued or even close to the time of loan closing, which necessitates alternative means for verifying the existence of insurance coverage until such time as the policy is issued.



Lenders understand that the insurance policy is the governing document once it is issued and delivered, and that nothing in the certificate can amend, extend or alter coverage, terms, exclusions or conditions afforded by the policies referenced in the certificate. However without acceptable evidence of insurance and in the absence of the policy itself, lenders would be forced to assume an unacceptable level of risk if the required property insurance is not in force or maintained as required by the loan. Proper loan documentation is good public policy, promotes sound lending practices and encourages economic development.

For these reason ACLI recommends that HB419 be amended to exclude lending transaction involving a mortgage or other security interest in any real or personal property. The amendment carving out mortgage transactions has recently been adopted in Oklahoma and offers producers the protection they received under the Department of Insurance Bulletin while at the same time recognizing the importance of protecting mortgage lenders.

Thank you for your consideration of this important matter.

HB 419-FN – AS AMENDED BY THE HOUSE

15Mar2011... 0709h

2011 SESSION

11-0747

01/09

HOUSE BILL *419-FN*

AN ACT relative to language in insurance certificates.

SPONSORS: Rep. Infantine, Hills 13

COMMITTEE: Commerce and Consumer Affairs

AMENDED ANALYSIS

This bill establishes the law relative to content and form of certificates of insurance.

Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struck through~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

15Mar2011... 0709h

11-0747

01/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to language in insurance certificates.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Section; Certificates of Insurance. Amend RSA 412 by inserting after section 6-a the following new section:

412:6-b Certificates of Insurance.

I. In this section:

- (a) "Certificate" or "certificate of insurance" means any document or instrument, no matter how titled or described, which is issued by an insurer or insurance producer as evidence of property or casualty insurance coverage. "Certificate" or "certificate of insurance" shall not include a policy of insurance or insurance binder.
- (b) "Certificate holder" means any person, other than a policyholder, who possesses a certificate of insurance or is identified as the certificate holder on the certificate.
- (c) "Insurance producer" means an insurance producer licensed under RSA 402-J.
- (d) "Insurer" means an entity established to conduct the kinds of insurance business as provided in RSA 401 and licensed in accordance with the provisions of RSA 402 or RSA 405.
- (e) "Person" means any individual, partnership, corporation, association, or other legal entity, including any government or governmental subdivision or agency.
- (f) "Policyholder" means a person who has contracted with a property or casualty insurer for insurance coverage.

II.(a) No person shall issue a certificate of insurance that:

- (1) Does not comply with the requirements of subparagraph (b).
- (2) Is not in the public interest.
- (3) Is contrary to public policy.
- (4) Is misleading, deceptive, or encourages misrepresentation.
- (5) Violates any law.

(b) The following are requirements for the content, purpose, issuance, and use of certificates of insurance:

(1) Each certificate other than a certificate of property insurance provided to a lender in a lending transaction involving a mortgage, lien, deed of trust, or other security interest in or on any real or personal property as security for a loan, shall contain the following statement, in sufficient font and size and located on the certificate to be readily identifiable:

"This certificate of insurance is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage, terms, exclusions, and conditions afforded by the policy or policies referenced herein."

(2) No person shall demand or require the issuance of a certificate of insurance from an insurer, insurance producer, or policyholder that contains any false or misleading information concerning any policy of insurance to which the certificate makes reference.

(3) No person shall knowingly prepare or issue a certificate of insurance that contains any false or misleading information.

(4) No person shall prepare or issue a certificate of insurance that purports to affirmatively or negatively alter, amend, or extend the coverage provided by any policy of insurance referenced in the certificate.

(5) The requirements of this section shall apply to certificates of insurance issued as evidence of insurance policies and coverage on property, operations, or any risk located in this state, regardless of where the certificate holder, policyholder, insurer, or insurance producer is located.

(6) No certificate of insurance shall contain references to contracts, including construction or service contracts, other than the referenced contract of insurance.

(7) A certificate holder shall only have a contractual right to notice of cancellation, nonrenewal, or any similar notice concerning a policy of insurance if the person is identified and designated within the policy or any endorsement to that policy as an additional insured and that policy or endorsement requires notice to be provided.

(c) The commissioner may publish sample certificates of insurance which provide templates as to form and content, which, in his or her opinion, meet the requirements of subparagraph (b) and are acceptable for use by insurers and insurance producers. In addition to templates developed by the commissioner, insurance industry trade organizations, and supporting entities, may submit templates for consideration and inclusion in the set of sample certificates so published.

(d) An insurer or insurance producer may prepare or issue an addendum to a certificate that clarifies and explains the coverage provided by any policy of insurance referenced in the certificate and otherwise complies with the requirements of this section.

(e) An insurance producer may charge a reasonable fee to the policyholder or to a certificate holder on behalf of the policyholder in order to cover costs associated with issuing the certificate which are not otherwise provided for in commissions or expense reimbursements that the insurer has contractually agreed to pay that insurance producer.

2 Effective Date. This act shall take effect January 1, 2012.

LBAO

11-0747

Revised 01/27/11

HB 419 FISCAL NOTE

AN ACT relative to language in insurance certificates.

FISCAL IMPACT:

The Insurance Department states this bill will increase state expenditures and may increase state general fund revenue by an indeterminable amount in FY 2012 and each year thereafter. The Department states this bill may have an indeterminable fiscal impact on county and local expenditures. There is no fiscal impact on county and local revenue.

METHODOLOGY:

The Insurance Department states this bill establishes the model law relative to content and form of certificates of insurance, including the possibility that insurers would need to file certificates with the Department. The Department states certificates of insurance are not directly regulated by the Department. This bill will result in the Department dedicating resources to appropriately regulate the use of certificates that will increase costs. The Department does not anticipate the costs to be materially significant but is not able to forecast what the costs might be. The Department states any increased costs to the Department are borne by the insurance industry which may result in higher premiums. An increase in premiums would result in an increase in premium tax revenue. The Department is not able to determine the fiscal impact this bill will have on other state agencies, county agencies or local agencies that may require certificates of insurance from contractors and others that engage in work on their behalf.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL GENERAL LIABILITY SPECIAL BROADENING ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SUMMARY OF COVERAGES

✓ 1. Additional Insured by Contract, Agreement or Permit	Included
2. Additional Insured - Broad Form Vendors	Included
3. Aggregate Limit per Location	Included
4. Alienated Premises	Included
5. Bodily Injury Redefined	Included
6. Broad Form Property Damage - Borrowed Equipment, Customers Goods & Use of Elevators	Included
7. Extended Property Damage	Included
8. Incidental Malpractice (Employed nurses, EMT's & paramedics)	Included
9. Knowledge of Occurrence	Included
10. Liberalization Clause	Included
11. Medical Payments - Increased Limit	\$ 10,000
12. Mobile Equipment Redefined	Included
13. Newly Acquired or Formed Organizations - Covered until end of policy period	Included
14. Non-owned Watercraft	51 ft.
15. Personal Injury - Broad Form	Included
16. Product Recall Expense	
- Each Occurrence Limit	\$ 25,000
- Aggregate Limit	\$ 50,000
17. Property Damage Legal Liability (Fire, Lighting, Explosion, Smoke or Leakage Damage)	\$ 500,000
18. Supplementary Payments Increased Limits	
- Bail Bonds	\$ 2,500
- Loss of Earnings	\$ 300
19. Unintentional Failure to Disclose Hazards	Included
20. Unintentional Failure to Notify	Included

This endorsement amends coverages provided under the Commercial General Liability Coverage Form through new coverages, higher limits and broader coverage grants.

* 1. **Additional Insured by Contract, Agreement or Permit**

Under Section II - Who is An Insured, Paragraph 5. is added as follows:

5. a. Any person or organization with whom you agreed, because of a written contract, written agreement or permit to provide insurance, is an insured, but only with respect to:

- (1) "Your work" for the additional insured(s) at the location designated in the contract, agreement or permit; or

(2) Premises you own, rent, lease or occupy.

This insurance applies on a primary basis if that is required by the written contract, written agreement or permit.

b. This provision does not apply:

- (1) Unless the written contract or written agreement has been executed or permit has been issued prior to the "bodily injury", "property damage", "personal injury" or "advertising injury".

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**Other Insurance – Primary and Non-Contributory
(Additional Insured)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following is added to Section IV – Commercial General Liability Conditions

4. Other Insurance**a. Additional Insureds**

If you agree in a written contract, written agreement or permit that the insurance provided to any person or organization included as an Additional Insured under Section II – Who is An Insured, is primary and non-contributory, the following applies:

If other valid and collectible insurance is available to the Additional Insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

1. Primary Insurance

This insurance is primary to other insurance that is available to the Additional Insured which covers the Additional Insured as a Named Insured. We will not seek contribution from any other insurance available to the Additional Insured except:

- i. For the sole negligence of the Additional Insured;
- ii. when the Additional Insured is an Additional Insured under another primary liability policy; or
- iii. when 2. below applies.

If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in 3. below.

2. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:

(a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(b) That is Fire insurance for premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner;

(c) That is insurance purchased by the Additional Insured to cover the Additional Insured's liability as a tenant for "property damage" to premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner; or

(d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I – Coverage A – Bodily Injury And Property Damage Liability.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
Any Person or Organization Required by Contract	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

OTHER INSURANCE – ADDITIONAL INSURED: PRIMARY AND NONCONTRIBUTORY

This endorsement modifies insurance provided under the following:

COMMERCIAL LIABILITY UMBRELLA COVERAGE PART

The following is added to Paragraph 5.a. **OTHER INSURANCE** of **SECTION IV**:

With respect to any additional insured under Paragraph 3. of **SECTION II – WHO IS AN INSURED**, if the written contract or agreement to add the person or organization as an additional insured specifically requires this insurance to be primary and noncontributory to that person's or organization's own insurance, then this insurance shall be primary to, and will not seek contribution from, such other insurance. However, this insurance will be excess over any insurance to which such person or organization has been added as an additional insured.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

BLANKET ADDITIONAL INSURED (CONTRACTORS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. WHO IS AN INSURED – (Section II) is amended to include any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:
 - a) Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
 - b) If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies. The person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.
 - c) The insurance provided to the additional insured does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured applies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.
2. The insurance provided to the additional insured by this endorsement is limited as follows:
 - a) In the event that the Limits of Insurance of this Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement shall not increase the limits of insurance described in Section III – Limits Of Insurance.
 - b) The insurance provided to the additional insured does not apply to "bodily injury", "property damage" or "personal injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services, including:
 - i. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders or change orders, or the preparing, approving, or failing to prepare or approve, drawings and specifications; and
 - ii. Supervisory, inspection, architectural or engineering activities.
3. The insurance provided to the additional insured by this endorsement is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover under this endorsement. However, if the "written contract requiring insurance" specifically requires that this insurance apply on a primary basis or a primary and non-contributory basis, this insurance is primary to "other insurance" available to the additional insured which covers that person or organization as a named insured for such loss, and we will not share with that "other insurance". But the insurance provided to the additional insured by this endorsement still is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under such "other insurance".
4. As a condition of coverage provided to the additional insured by this endorsement:
 - a) The additional insured must give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:

COMMERCIAL GENERAL LIABILITY

- I. How, when and where the "occurrence" or offense took place;
 - II. The names and addresses of any injured persons and witnesses; and
 - III. The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b) If a claim is made or "suit" is brought against the additional insured, the additional insured must:
- I. Immediately record the specifics of the claim or "suit" and the date received; and
 - II. Notify us as soon as practicable.
- The additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c) The additional insured must immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.
- d) The additional insured must tender the defense and indemnity of any claim or "suit" to

any provider of "other insurance" which would cover the additional insured for a loss we cover under this endorsement. However, this condition does not affect whether the insurance provided to the additional insured by this endorsement is primary to "other insurance" available to the additional insured which covers that person or organization as a named insured as described in paragraph 3. above.

5. The following definition is added to SECTION V. - DEFINITIONS:

"Written contract requiring insurance" means that part of any written contract or agreement under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs and the "personal injury" is caused by an offense committed:

- a. After the signing and execution of the contract or agreement by you;
- b. While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.

Certificates of Insurance: Please Support House Bill 419

Background

Whenever businesses want proof that someone they do business with has insurance, they may obtain either (1) an insurance policy or insurance binder, which is in effect until the actual policy is issued, (2) or a certificate of insurance. Certificates are informational documents that provide a good faith snapshot or summarized reflection of the insurance policy to a third party.

Certificates offer convenience and simplicity to their recipients, but they are fundamentally different than insurance policies. An insurance policy is the sole source of contractual rights, and only policies can convey rights to individuals or businesses. Certificates, on the other hand, merely provide useful information about the coverage in place as of the date of issuance and do not convey rights themselves or alter the insurance policy that they describe.

Certificates are provided, as a courtesy and without compensation, to third parties with whom the insurer and the agent have no business relationship. Problems have arisen because some requesters of certificates have attempted to alter the purpose, effect, and status of certificates. For example, some parties today (1) request the issuance of certificates that purport to expand insurance coverage beyond the terms of the underlying policies, (2) demand the inclusion of unreasonable terms and conditions, and (3) otherwise attempt to force insurance agents to issue certificates that are deceptive and misleading.

Provisions of House Bill 419

House Bill 419 addresses these marketplace problems and confusion by:

- Requiring the approval of certificate forms by the insurance department;
- Prohibiting any person from issuing or demanding the issuance of a certificate form that has not been approved by the insurance department or that includes false or misleading information;
- Affirming that certificates are not insurance policies and cannot be used to alter, revise, or modify an insurance policy;
- Codifying existing law and reflecting longstanding case law and standard business practices; and
- Authorizing the insurance commissioner to enforce the Act.

House Bill 419 ensures that certificates will be used for their intended purpose and helps prevent their misuse in the marketplace. The proposal has been narrowly crafted to avoid unintended consequences. H.B. 419 relates only to certificates of insurance and does not change the law concerning insurance policies, and it does not alter or impair the rights that any person has under an insurance policy. The only parties adversely affected are those who would demand the issuance of improper or misleading certificates that do not accurately depict the underlying insurance coverage. We urge you to support House Bill 419.




**The State of New Hampshire
Insurance Department**
21 South Fruit Street, Suite 14
Concord, NH 03301

Roger A. Sevigny
Commissioner

Alexander K. Feldvebel
Deputy Commissioner

BULLETIN
Docket No.: INS No. 09-048-AB

To: All Property and Casualty Insurers

From: Roger Sevigny 

Date: July 29, 2009

Subject: Guidance Concerning the Usage of Certificates of Insurance

NH law (RSA 417-C:2) requires at least ten (10) days notice of cancellation to the insured in the event of non-payment of premium or of a substantial increase in hazard. Insurers may increase this notice period at their discretion, but are not required to do so.

It has come to the attention of the New Hampshire Insurance Department that some insurance producers are being asked to issue Certificates of Insurance or other evidence of insurance coverage that do not reflect the insurer's ten (10) day cancellation standard. Specifically, the Department has received reports that the issuers of Certificates of Insurance are being asked to include a minimum thirty (30) day cancellation notice as part of the Certificate even though the insurer's standard provides a ten (10) day notice and the insurer has not authorized this change to their normal business practice. In at least some of the cases where this thirty (30) day notice was not provided, the insured is not being allowed to work on certain contracts, projects or job sites.

Certificates of Insurance are used to serve as proof of insurance and to summarize the terms, conditions and coverage included in the insurance policy, in lieu of providing a full copy of the policy. Certificates of Insurance issued as a summary or evidence of coverage must clearly state and accurately reflect the terms of the insurance policy and coverage provided. Issuing a Certificate of Insurance or other evidence of insurance coverage that misrepresents the policy terms, conditions or coverage is a violation of producer licensing laws and may subject the producer to license revocation. A producer issuing a Certificate of Insurance or other evidence of insurance coverage that provides

for a longer notice period than the insurer provides (for example, an increase of the minimum ten (10) day notice to thirty (30) days) without authority from the insurance company may also be subjecting his or her agency to an E&O exposure.

Each Certificate of Insurance or other evidence of insurance coverage shall include the following statement or one substantively similar: "This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policies referenced herein."

For further questions or information on Certificates of Insurance, please contact Deborah Stone at the New Hampshire Insurance Department at 1-603-271-2261 or visit the Department's website at www.nh.gov/insurance.



Certificates

FAQs

WHAT IS A CERTIFICATE OF INSURANCE?

A certificate of insurance is a document that provides information about insurance policies. Millions of insurance certificates are issued every year, primarily in the United States. The majority of certificates are issued upon policy renewal to provide this information to third parties. These third parties are known as certificate requestors/holders. Generally speaking, certificates list one or more lines of insurance, the limits associated with those coverages, and the insurer providing coverage.

WHAT CERTIFICATES OF INSURANCE DOES ACORD PUBLISH?

ACORD publishes the following certificate of insurance forms:

- ACORD 20 - Certificate of Aviation Liability Insurance
- ACORD 21 - Certificate of Aircraft Insurance
- ACORD 22 - Intermodal Interchange Certificate of Insurance
- ACORD 23 - Automobile Certificate of Insurance
- ACORD 24 - Certificate of Property Insurance
- ACORD 25 - Certificate of Liability Insurance
- ACORD 27 - Evidence of Property Insurance
- ACORD 28 - Evidence of Commercial Property Insurance

WHY DO BROKERS AND AGENTS ISSUE CERTIFICATES OF INSURANCE?

Policyholders may request a certificate of insurance for many reasons. Some of the more common are:

- They are a tenant, and a building owner is requesting information about the existence of liability insurance coverage
- They are the mortgagor of a building, and are requesting information about the existence of property insurance coverage upon closing or renewal
- They leased equipment and the owner of equipment wants information about the existence of property insurance coverage while equipment is in possession of the client
- They need evidence of workers compensation insurance in order to obtain a contract.

WHAT'S THE DIFFERENCE BETWEEN A CERTIFICATE AND A POLICY?

A Certificate of Insurance is NOT an insurance policy, and does not serve to provide, endorse, amend, extend or alter in any way the terms of an insurance policy. Only an endorsement, rider or amendment to the policy can effect changes in coverage. Reference to a contract between the client and a third party on a certificate does not provide coverage.

WHY ARE THERE SEPARATE CERTIFICATES FOR PROPERTY INSURANCE AND LIABILITY INSURANCE?

Typically, a property insurance policy obligates the insurer to notify the mortgage holder in the event of policy cancellation. A typical liability insurance policy obligates an insurer to notify only the first named insured and no one else of policy cancellation, unless the policy is endorsed to provide notice to another party. For this reason, ACORD working groups recommended publishing separate certificates.

I'M AN INSURANCE PRODUCER, AND A CLIENT HAS ASKED ME TO USE AN OLDER VERSION OF AN ACORD CERTIFICATE—WHAT SHOULD I DO?

As is true for all ACORD forms, we monitor and revise our forms as regulatory requirements change, and, where necessary, file them with state insurance departments as required. Any earlier editions of our forms that have been withdrawn from the forms library are not kept up-to-date as to regulatory requirements, and therefore should not be distributed for use. You should tell your client that a non-current version of an ACORD form may not be compliant with insurance regulations and that its use would be risky. It is imperative that all ACORD forms users use the most current versions of our forms. You can determine which of ACORD's forms are current by referring to our website (www.acord.org).

MY AGENCY MANAGEMENT SYSTEM STILL PROVIDES AN OLDER CERTIFICATE, AND A CLIENT HAS ASKED ME TO ISSUE ONE. WHAT SHOULD I DO?

You should ask your agency management system vendor if a software update containing current ACORD forms is available and how you can obtain that update. Vendors have certain software-updating obligations in response to forms revisions.

To use ACORD forms you have to be licensed by ACORD. Generally speaking, under ACORD's present licensing regime, agents and brokers can be licensed in two ways. One way is to buy ACORD forms-producing software from an ACORD-licensed vendor. In that case, the purchaser becomes authorized to use ACORD forms via that software. If an agent or broker wants to use an ACORD form other than through an ACORD-licensed vendor, it is easy to become licensed through ACORD's Advantage program. (The program is detailed at <http://www.acord.org/standards/forms/advantage/Pages/default.aspx>).

Regardless of where users lawfully obtain ACORD forms, it is strongly suggested that they regularly go to ACORD's website (www.acord.org) to obtain information on the currency of the forms being utilized and, if necessary, follow the instructions to download the current versions.

Once a form is outdated, ACORD no longer checks on whether it remains regulatorily compliant. Thus, anyone using an outdated form does so at great risk.

You should consult with your legal adviser on how ACORD's licensing requirements apply to your situation and how you may be affected in the future by any changes ACORD may make to its present licensing structure.

WHY DID THE CERTIFICATE CHANGES HAPPEN IN LATE 2009/EARLY 2010?

Some of the changes involved formatting enhancements proposed by an ACORD working group, and voted on by our membership. Other changes were made as a result of changes in state insurance department regulatory requirements. As ACORD often does for the sake of efficiency in our forms production process, in order to minimize the number of times we revise any specific form, we combined these two sets of changes and updated the certificates to reflect all necessary revisions.

The updates associated with the regulatory requirements involved two areas on these forms:

- The disclaimer text found near the top of the certificates (immediately below the form title)
- The cancellation text found near the bottom of the certificates

This document focuses on the cancellation text revisions. For reference, here is a comparison of the old text and the new text:

Old Text	New Text
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL ___ DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

ACORD's Certificates Forms Working Group had been in the process of reviewing various certificates for possible enhancements. During the summer of 2009, working group participants made the following recommendations concerning the old cancellation text:

- The fill-in field for a number of days should be removed. The amount of advance notice required under an insurance policy may vary based upon a carrier's own practices. Some insurance policies include cancellation provisions with allowances for more than one count of days, dependent on the reason for cancellation. For example, many policies may be cancelled with 10 days notice for non-payment, and 30 days notice for other reasons. Therefore, one fill-in field on the certificates for the number of days is inadequate. The precise advance notice at cancellation may vary based on policy language as well as regulatory requirements.
- The word "endeavor" should be removed. Policy cancellation provisions generally don't use the phrase "endeavor to". Only a policy can obligate an insurer to provide notice of cancellation. Unless a policy's provisions explicitly provide for notice to a party also listed as the certificate holder on the certificate of insurance, the insurer is not obliged to notify that party.

At about the same time the Certificates Working Group was considering the cancellation text, the South Dakota Insurance Department issued several Certificates of Insurance Bulletins (2009). As a result, ACORD had to make specific changes to its Certificate Disclaimer Statement(s) (which state in part "This certificate is issue as a matter of information only...") and to its Cancellation Provision(s). ACORD presented the draft cancellation text developed by the working group to the South Dakota regulators and confirmed that the text satisfied its regulatory requirements.

Certificates of insurance may be viewed as a summarized reflection of an insurance policy and are only informational. The policy is the definitive source for its provisions, not the certificate. If any party in addition to the first named insured desires a copy of a cancellation notice in the event the policy is cancelled, that party should be expressly endorsed onto the policy as a cancellation notice recipient.

A Certificate of Insurance/Evidence of Insurance Additional Remarks Section, as well as the ACORD 101 Additional Remarks Forms may also be used to include more information about the policy, e.g. Number of Days of Written Notice.

WHAT IS THE STATUS OF CERTIFICATE UPDATES?

ACORD published new releases of all of its certificate forms in late 2009/early 2010. New versions of the ACORD 24 and ACORD 25 were published in October 2009 and the others were published January 2010. ACORD plans to release new editions of the ACORD 23 & 25 later in 2010 to address non-regulatory formatting changes approved by membership vote in November, 2009. The next release of the ACORD 23 will be expanded in scope to include leased equipment.

WHY ARE THE ACORD 27 & 28 TITLED "EVIDENCE" FORMS?

The ACORD 27 and 28 forms are certificates of insurance designed for delivery to parties that have a financial interest in the property covered by the policy listed on each. These parties are typically lending institutions and the lending community prefers the title "Evidence of..." as contrasted with "Certificate of...". Regardless of the "Evidence" reference in the title, these forms are certificates of insurance, and as stated in the forms, and as required by regulation, are issued as a matter of information only.

WHAT IS THE CURRENT AND FUTURE STATUS OF THE ACORD 27 AND 28?

ACORD's Certificates Working Group identified consideration of potential revisions to the ACORD 27 and 28 forms as a priority in 2008. Throughout 2008 and 2009, much time and effort was spent attempting to resolve differences of opinions concerning these forms, as well as related formatting enhancements. Active participants in the group represented lenders, producers, and insurers. In brief, despite extensive efforts, the participants were unable to come to consensus. The current forms reflect the result of required regulatory changes, and formatting changes developed by ACORD members in an ACORD working group, and voted on in our regular maintenance request process.

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: April 19, 2011

THE COMMITTEE ON Commerce
to which was referred House Bill 419-FN
AN ACT relative to language in insurance certificates

Having considered the same, the committee recommends that the Bill:
OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 4-0

AMENDMENT # 1491s

Senator Raymond White
For the Committee

Patrick Murphy 271-3067

New Hampshire General Court - Bill Status System

Docket of HB419

Docket Abbreviations

Bill Title: relative to language in insurance certificates.*Official Docket of HB419:*

Date	Body	Description
1/21/2011	H	Introduced 1/6/2011 and Referred to Commerce and Consumer Affairs; HJ 11 , PG. 185
2/9/2011	H	Public Hearing: 2/17/2011 11:00 AM LOB 302
2/16/2011	H	==CANCELLED== Executive Session: 2/25/2011 10:00 AM LOB 302
2/23/2011	H	Executive Session: 3/1/2011 3:00 PM LOB 302
3/10/2011	H	Committee Report: Ought to Pass with Amendment #0709h for Mar 15 (Vote 16-0; CC); HC 22 , PG.525
3/10/2011	H	Proposed Committee Amendment #2011-0709h ; HC 23 , PG.619-620
3/15/2011	H	Amendment #0709h Adopted, VV; HJ 26 , PG.702-703
3/15/2011	H	Ought to Pass with Amendment #0709h: MA VV; HJ 26 , PG.702-703
3/23/2011	S	Introduced and Referred to Commerce; SJ 11 , Pg.192
3/24/2011	S	Hearing: 3/29/11, Room 102, LOB, 9:20 a.m.; SC17
4/20/2011	S	Committee Report: Ought to Pass with Amendment #2011-1491s , 4/27/11; SC21
4/27/2011	S	Committee Amendment 1491s, AA, VV; SJ 14 , Pg.275
4/27/2011	S	Ought to Pass with Amendment 1491s, MA, VV; OT3rdg; SJ 14 , Pg.275
4/27/2011	S	Passed by Third Reading Resolution; SJ 14
5/18/2011	H	House Concurs with Senate AM #1491s (Rep Hunt): MA VV; HJ 44 , PG.1531
6/1/2011	S	Enrolled; SJ 20 , Pg.547
6/1/2011	H	Enrolled; HJ 48 , PG.1669
6/9/2011	H	Signed By Governor 06/07/2011; Effective 01/01/2012; Chapter 0137

NH House

NH Senate

Other Referrals

COMMITTEE REPORT FILE INVENTORY

HB 419-FN ORIGINAL REFERRAL

_____ RE-REFERRAL

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1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
 2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
 3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
 4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

DOCKET (Submit only the latest docket found in Bill Status)

COMMITTEE REPORT

CALENDAR NOTICE

HEARING REPORT

PREPARED TESTIMONY AND OTHER SUBMISSIONS HANDED IN AT THE PUBLIC HEARING

SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 1392h _____ - AMENDMENT # _____
 - AMENDMENT # 1491s _____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED AS AMENDED BY THE HOUSE
 FINAL VERSION _____ AS AMENDED BY THE SENATE

_____ OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

DATE DELIVERED TO SENATE CLERK

8-5-11

BY:

Patrick Murphy
COMMITTEE AIDE