

P.L.2015, CHAPTER 195, *approved January 11, 2016*
Senate, No. 3270

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:

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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:

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

5 (2) Prepare, issue, request, or require the issuance of, a certificate
6 of insurance that purports to affirmatively or negatively alter, amend,
7 or extend the coverage provided by the policy of insurance to which
8 the certificate of insurance makes reference.

9 b. A certificate of insurance shall not warrant that the policy of
10 insurance referenced in the certificate complies with the insurance or
11 indemnification requirements of a contract, and the inclusion of a
12 contract number or description within a certificate of insurance shall
13 not be interpreted as providing such a warranty.

14
15 6. (New section) A person shall be entitled to notice of
16 cancellation, nonrenewal, or any material change, and to any similar
17 notice concerning a policy of insurance only if the person has such
18 notice rights under the terms of the policy of insurance or any
19 endorsement to the policy. The terms and conditions of the notice shall
20 be governed by the policy of insurance or endorsement and shall not
21 be altered by a certificate of insurance.

22
23 7 (New section) The provisions of this act shall apply to all
24 certificates of insurance issued in connection with property,
25 operations, or risks located in this State, regardless of where the
26 policyholder, insurer, insurance producer, or person requesting or
27 requiring the issuance of a certificate of insurance is located.

28
29 8. (New section) A certificate of insurance or any other
30 document or correspondence prepared, issued, requested, or required
31 in violation of this act shall be null and void.

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

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

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

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

7 4. a. A person or a practitioner violates this act if he:

8 (1) Presents or causes to be presented any written or oral
9 statement as part of, or in support of or opposition to, a claim for
10 payment or other benefit pursuant to an insurance policy or the
11 "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174
12 (C.39:6-61 et seq.), knowing that the statement contains any false or
13 misleading information concerning any fact or thing material to the
14 claim; or

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

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

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

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

33 (b) an insurance policy, knowing that the statement contains any
34 false or misleading information concerning any fact or thing
35 material to an insurance application or contract; **[or]**

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

40 (6) Prepares, presents or causes to be presented to any insurer or
41 other person, or demands or requires the issuance of, a certificate of
42 insurance that contains any false or misleading information
43 concerning the policy of insurance to which the certificate makes
44 reference, or assists, abets, solicits or conspires with another to do
45 any of these acts. As used in this paragraph, "certificate of
46 insurance" means a document or instrument, regardless of how
47 titled or described, that is, or purports to be, prepared or issued by
48 an insurer or insurance producer as evidence of property or casualty

1 insurance coverage. The term shall not include a policy of
2 insurance, insurance binder, policy endorsement, or automobile
3 insurance identification or information card.

4 b. A person or practitioner violates this act if he knowingly
5 assists, conspires with, or urges any person or practitioner to violate
6 any of the provisions of this act.

7 c. A person or practitioner violates this act if, due to the
8 assistance, conspiracy or urging of any person or practitioner, he
9 knowingly benefits, directly or indirectly, from the proceeds
10 derived from a violation of this act.

11 d. A person or practitioner who is the owner, administrator or
12 employee of any hospital violates this act if he knowingly allows
13 the use of the facilities of the hospital by any person in furtherance
14 of a scheme or conspiracy to violate any of the provisions of this
15 act.

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

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

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

42 (2) Has his vehicle principally garaged in the other state, when,
43 in fact, that person has his motor vehicle principally garaged in this
44 State.

45 This subsection shall not apply to a person who insures a vehicle
46 in another state, as permitted by and in accordance with the laws of
47 that state, based on a second residence, or attendance at an
48 educational institution, in that other state, if in obtaining the policy

1 the person truthfully discloses to the insurance company or
2 producer the state of the person's principal residence and the state
3 where the vehicle is principally garaged.

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

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6 11. This act shall take effect on the 90th day next following
7 enactment.

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STATEMENT

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12 This bill, the "Certificates of Insurance Act," governs the use of
13 certificates of insurance and provides the Commissioner of Banking
14 and Insurance with certain enforcement authority with respect to
15 their use.

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

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

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

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

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

46 The bill provides that a person shall be entitled to a notice of
47 cancellation, nonrenewal, or any material change, or to any similar
48 notice concerning a policy of insurance, only if the person has such

1 notice rights under the terms of the policy of insurance or any
2 endorsement to the policy. The terms and conditions of the notice
3 shall be governed by the policy of insurance or endorsement and
4 shall not be altered by a certificate of insurance.

5 The bill's provisions apply to all certificates of insurance issued
6 in connection with property, operations, or risks located in this
7 State, regardless of where the policyholder, insurer, insurance
8 producer, or person requesting or requiring the issuance of a
9 certificate of insurance is located. A certificate of insurance or any
10 other document or correspondence prepared, issued, requested, or
11 required in violation of any provision of the bill shall be null and
12 void.

13 The bill also makes certain actions regarding false or misleading
14 information in a certificate of insurance a violation of the "New
15 Jersey Insurance Fraud Prevention Act," P.L.1983, c.320 (C.17:33A-
16 1 et seq.).

17 Finally, the commissioner may enforce the bill's provisions,
18 without limiting the commissioner's authority to enforce applicable
19 provisions of existing New Jersey law. The commissioner may
20 adopt rules and regulations necessary to effectuate the bill's
21 provisions.

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26 "Certificates of Insurance Act;" governs use of certificates of
27 insurance; provides DOBI with enforcement authority.