

1                   **PROPERTY AND CASUALTY CERTIFICATE OF**  
2   **INSURANCE ACT**

3   2011 GENERAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: Todd E. Kiser**

6   Senate Sponsor: Howard A. Stephenson

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill modifies the Insurance Code to address issues related to certificates of  
11 insurance for property and casualty insurance.

12                   **Highlighted Provisions:**

13                   This bill:

- 14                   ▶ provides for the scope of the provisions;
- 15                   ▶ defines terms;
- 16                   ▶ requires filing of forms, with exceptions;
- 17                   ▶ addresses the scope of certificates of insurance;
- 18                   ▶ requires certain language to be included in a certificate of insurance;
- 19                   ▶ prohibits false and misleading practices;
- 20                   ▶ addresses notice requirements;
- 21                   ▶ provides for enforcement; and
- 22                   ▶ authorizes rulemaking.

23                   **Money Appropriated in this Bill:**

24                   None

25                   **Other Special Clauses:**

26                   None

27                   **Utah Code Sections Affected:**

28                   ENACTS:

29                   **31A-22-1701**, Utah Code Annotated 1953

- 30           **31A-22-1702**, Utah Code Annotated 1953
- 31           **31A-22-1703**, Utah Code Annotated 1953
- 32           **31A-22-1704**, Utah Code Annotated 1953
- 33           **31A-22-1705**, Utah Code Annotated 1953
- 34           **31A-22-1706**, Utah Code Annotated 1953
- 35           **31A-22-1707**, Utah Code Annotated 1953



37 *Be it enacted by the Legislature of the state of Utah:*

38           Section 1. Section **31A-22-1701** is enacted to read:

39                           **Part 17. Property and Casualty Certificate of Insurance Act**

40           **31A-22-1701. Title -- Scope of part.**

41           (1) This part is known as the "Property and Casualty Certificate of Insurance Act."

42           (2) (a) Except as provided in Subsection (2)(b), this part applies to a certificate of  
43 insurance issued on or after May 10, 2011, as evidence of insurance coverage on property,  
44 operations, or risks located in this state.

45           (b) This part applies on and after July 1, 2012, to a certificate of insurance that is  
46 issued as evidence of insurance coverage on property, operations, or risks located in this state if  
47 the certificate of insurance is an exhibit to a contract executed before July 1, 2012.

48           (c) This part applies, regardless of where located, to the following in relation to a  
49 certificate of insurance described in Subsection (2)(b):

50           (i) a certificate holder;

51           (ii) a policyholder;

52           (iii) an insurer; or

53           (iv) an insurance producer.

54           Section 2. Section **31A-22-1702** is enacted to read:

55           **31A-22-1702. Definitions.**

56           Notwithstanding Section 31A-1-301, as used in this part:

57           (1) "Certificate holder" means a person who:

58 (a) requests, obtains, or possesses a certificate of insurance; and

59 (b) is not a policyholder.

60 (2) "Certificate of insurance" means a document that is prepared for or issued to a  
61 person who is not a policyholder as evidence of insurance, regardless of how it is titled or  
62 described.

63 (3) "Insurer" means:

64 (a) an insurer as defined in Section 31A-1-301; and

65 (b) any other person engaged in the business of making insurance or a surety contract.

66 (4) "Person," in addition to the definition in Section 31A-1-301, includes:

67 (a) to the extent not prohibited by federal law:

68 (i) the federal government; or

69 (ii) an administrative unit of the federal government;

70 (b) the state;

71 (c) an administrative unit of the state;

72 (d) a political subdivision of the state; or

73 (e) an administrative unit of a political subdivision of the state.

74 (5) "Policyholder" means a person who contracts with a property and casualty insurer  
75 for insurance coverage.

76 Section 3. Section **31A-22-1703** is enacted to read:

77 **31A-22-1703. Filing of form.**

78 (1) Notwithstanding Section 31A-21-201, a person may not:

79 (a) prepare, issue, or request the issuance of a certificate of insurance unless the  
80 certificate of insurance form is filed with the commissioner; or

81 (b) modify a filed certificate of insurance form unless filed with the commissioner.

82 (2) The commissioner shall object to the use of, or prohibit the use of, a certificate of  
83 insurance form filed under this section if the certificate of insurance form:

84 (a) is unfair, misleading, or deceptive;

85 (b) violates public policy;

86 (c) fails to comply with Section 31A-22-1704; or

87 (d) violates any law, including a rule made by the commissioner in accordance with  
88 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

89 (3) A standard certificate of insurance form filed for use by a nationally recognized  
90 insurance rating organization that is licensed by the commissioner, is considered filed for use  
91 for purposes of this section or Section 31A-21-201.

92 Section 4. Section **31A-22-1704** is enacted to read:

93 **31A-22-1704. Scope of certificate of insurance -- Required statement.**

94 (1) A certificate of insurance is not an insurance policy and does not affirmatively or  
95 negatively amend, extend, or alter the coverage afforded by an insurance policy to which a  
96 certificate of insurance refers.

97 (2) A certificate of insurance may not confer to a certificate holder a right that is not  
98 provided by an insurance policy to which the certificate of insurance refers.

99 (3) (a) A certificate of insurance may not refer to a contract that is not an insurance  
100 policy, including a construction or service contract.

101 (b) Notwithstanding any requirement, term, or condition of a document with respect to  
102 which a certificate of insurance may be issued or may pertain, the insurance coverage afforded  
103 by a referenced insurance policy is subject to the terms, exclusions, and conditions of the  
104 insurance policy itself.

105 Section 5. Section **31A-22-1705** is enacted to read:

106 **31A-22-1705. False or misleading practices.**

107 (1) A person may not knowingly request or require the issuance of a certificate of  
108 insurance from an insurer, insurance producer, or policyholder that contains false or misleading  
109 information concerning an insurance policy to which the certificate of insurance refers.

110 (2) A person may not knowingly prepare or issue a certificate of insurance that:

111 (a) contains false or misleading information; or

112 (b) purports to affirmatively or negatively alter, amend, or extend the coverage  
113 provided by an insurance policy to which the certificate of insurance refers.

114 (3) (a) A person may not prepare, issue, or request an opinion letter or other document,  
115 either in addition to or in lieu of a certificate of insurance that is inconsistent with this part.

116 (b) An insurer or insurance producer may prepare or issue an addendum to a certificate  
117 of insurance that clarifies or explains the coverage provided by an insurance policy if the  
118 addendum complies with this part.

119 Section 6. Section **31A-22-1706** is enacted to read:

120 **31A-22-1706. Notice of cancellation, nonrenewal, or material change.**

121 (1) A certificate holder only has a right to a notice of cancellation, nonrenewal, a  
122 material change, or to a similar notice if the certificate holder has rights to the notice under the  
123 terms of the insurance policy to which the certificate of insurance refers, or under any rider, or  
124 endorsement to the insurance policy.

125 (2) The terms and conditions of a notice described in Subsection (1), including the  
126 required timing of the notice, is governed by the insurance policy. A certificate of insurance  
127 may not alter a term or condition of the notice.

128 Section 7. Section **31A-22-1707** is enacted to read:

129 **31A-22-1707. Enforcement -- Rulemaking.**

130 (1) A certificate of insurance or other document that is prepared, issued, or requested in  
131 violation of this part is void.

132 (2) The commissioner may bring action in accordance with Section 31A-2-308 and  
133 Title 63G, Chapter 4, Administrative Procedures Act, for a violation of this part.

134 (3) The commissioner may:

135 (a) examine and investigate the activities of any person who the commissioner believes  
136 has been or is engaged in an act prohibited by this part;

137 (b) enforce this part; and

138 (c) impose a penalty or enforce a remedy authorized by this title for a violation of this  
139 part.

140 (4) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah  
141 Administrative Rulemaking Act, that are necessary and proper to carry out this part.

