

**PROPERTY AND CASUALTY CERTIFICATE OF  
INSURANCE ACT**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Todd E. Kiser**

Senate Sponsor: Howard A. Stephenson

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ provides for the scope of the provisions;
- ▶ defines terms;
- ▶ requires filing of forms, with exceptions;
- ▶ addresses the scope of certificates of insurance;
- ▶ requires certain language to be included in a certificate of insurance;

~~↔ [↔ provides for the charging of a service fee;] ↔~~

- ▶ prohibits false and misleading practices;
- ▶ addresses notice requirements;
- ▶ provides for enforcement; and
- ▶ authorizes rulemaking.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

H.B. 79



28 **Utah Code Sections Affected:**

29 ENACTS:

- 30 **31A-22-1701**, Utah Code Annotated 1953
- 31 **31A-22-1702**, Utah Code Annotated 1953
- 32 **31A-22-1703**, Utah Code Annotated 1953
- 33 **31A-22-1704**, Utah Code Annotated 1953
- 34 **31A-22-1705**, Utah Code Annotated 1953
- 35 **31A-22-1706**, Utah Code Annotated 1953
- 36 **31A-22-1707**, Utah Code Annotated 1953

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

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

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

41 **31A-22-1701. Title -- Scope of part.**

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

43 (2) ~~H~~→ [This] (a) Except as provided in Subsection (2)(b), this ~~H~~→

43a part applies to ~~H~~→ [:

44 ~~(a)~~ ~~H~~→ a certificate of insurance issued on or after May 10, 2011, as evidence of insurance  
 45 coverage on property, operations, or risks located in this state ~~H~~→ [;and] .

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

46 ~~(b) regardless~~ (c) This part applies, regardless ~~H~~→ of where located, ~~H~~→ to ~~H~~→ the  
 46a following in relation to a certificate of insurance  
 47 described in Subsection (2) ~~H~~→ ~~(a)~~ (b) ~~H~~→ :

- 48 (i) a certificate holder;
- 49 (ii) a policyholder;
- 50 (iii) an insurer; or
- 51 (iv) an insurance producer.

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

53 **31A-22-1702. Definitions.**

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

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

- 56 (a) requests, obtains, or possesses a certificate of insurance; and
- 57 (b) is not a policyholder.

58 (2) "Certificate of insurance" means a document that is prepared ~~H~~→ for ~~H~~→ or issued  
 58a ~~H~~→ to a person who is not a policyholder ~~H~~→ as evidence

59 of insurance ~~Ĥ~~→ **[coverage]** ←~~Ĥ~~ , regardless of how it is titled or described.

60 (3) "Insurer" means:

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

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

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

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

65 (i) the federal government; or

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

67 (b) the state;

68 (c) an administrative unit of the state;

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

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

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

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

74 **31A-22-1703. Filing of form.**

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

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

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

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

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

82 (b) violates public policy;

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

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

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

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

90 **31A-22-1704. Scope of certificate of insurance -- Required statement** ~~H→~~ [--Fee] ~~←H~~ .

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

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

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

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

102 ~~H→ [(4) A certificate of insurance shall contain a statement similar to the following: "This~~  
 103 ~~certificate of insurance is issued as a matter of information only and confers no rights upon the~~  
 104 ~~certificate holder. This certificate of insurance does not amend, extend, or alter the coverage,~~  
 105 ~~terms, exclusions, and conditions afforded by an insurance policy referenced in this certificate~~  
 106 ~~of insurance."]~~ ~~←H~~

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

108 **31A-22-1705. False or misleading practices.**

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

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

113 (a) contains false or misleading information; or

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

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

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

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

122 **31A-22-1706. Notice of cancellation, nonrenewal, or material change.**

123 (1) A certificate holder only has a right to a notice of cancellation, nonrenewal, a  
124 material change, or to a similar notice if ~~H~~→ [:

125 ~~—— (a) the certificate holder is named as an additional insured in the insurance policy to~~  
126 ~~which the certificate of insurance refers or in an addendum to the insurance policy; and~~

127 ~~—— (b) the insurance policy or an endorsement requires notice to be provided to the~~  
128 ~~certificate holder.] the certificate holder has rights to the notice under the terms of the insurance~~  
128a ~~policy to which the certificate of insurance refers, or under any rider, or endorsement to the~~  
128b ~~insurance policy. ←H~~

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

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

133 **31A-22-1707. Enforcement -- Rulemaking.**

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

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

138 (3) The commissioner may:

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

141 (b) enforce this part; and

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

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

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Legislative Review Note  
as of 1-26-11 3:48 PM

Office of Legislative Research and General Counsel

# FISCAL NOTE

H.B. 79

SHORT TITLE: **Property and Casualty Certificate of Insurance Act**

SPONSOR: **Kiser, T.**

2011 GENERAL SESSION, STATE OF UTAH

## STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill may result in revenue from penalties established in this bill. The amount of revenue will depend upon the level of penalties established by rule.

## LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

## DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.