

**PROPERTY AND CASUALTY CERTIFICATE OF
INSURANCE ACT**

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd E. Kiser

Senate Sponsor: Howard A. Stephenson

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



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) This part applies to:

44 (a) 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; and

46 (b) regardless of where located, the following in relation to a certificate of insurance
47 described in Subsection (2)(a):

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 or issued as evidence

59 of insurance coverage, 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 -- Fee.**

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 (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."

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 request or require the issuance of a 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:

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.

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.

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

Office of Legislative Research and General Counsel