

2016 Regular Session

HOUSE BILL NO. 476

BY REPRESENTATIVE HUVAL

INSURANCE: Specifies that insurance producers may not be required to provide certain information regarding insurance coverage

1 AN ACT

2 To amend and reenact R.S. 22:890, relative to certificates of insurance; to provide for use
3 of certain certificates of insurance; to provide for definitions; to provide that certain
4 parties may not request an insurance producer provide information or documentation
5 regarding insurance coverage other than a certificate of insurance; to allow certain
6 parties to request an addendum to a certificate of insurance from an insurer; and to
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 22:890 is hereby amended and reenacted to read as follows:

10 §890. Certificates of insurance

11 A. For the purposes of this Section:

12 (1) "Certificate" or "certificate of insurance" means any document,
13 instrument, or record, including an electronic record, no matter how titled or
14 described, which is prepared by an insurer or insurance producer and issued to a third
15 person not a party to the subject insurance contract, as evidence of property and
16 casualty insurance coverage. "Certificate" or "certificate of insurance" shall not
17 mean an insurance binder.

18 (2) "Certificate holder" means any person, other than a policyholder, that is
19 designated on a certificate of insurance as a "certificate holder" or any person, other
20 than a policyholder, to whom a certificate of insurance has been issued by an insurer
21 or insurance producer at the request of the policyholder.

1 (3) "Electronic record" shall have the meaning defined in R.S. 9:2602(7).

2 (4) "Insurance" shall have the meaning defined in R.S. 22:46(9).

3 (5) "Insurance producer" shall have the same definition as set forth in R.S.
4 22:1542.

5 (6) "Insurer" means an insurer as defined in R.S. 22:46(10) and any other
6 person engaged in the business of making property and casualty insurance contracts,
7 including but not limited to self-insurers, syndicates, risk purchasing groups, and
8 similar risk transfer entities. "Insurer" shall not mean any person self-insured for
9 purposes of workers' compensation, including any group self-insurance fund
10 authorized pursuant to R.S. 23:1195 et seq., any interlocal risk management agency
11 authorized pursuant to R.S. 33:1341 et seq., or any self-insured employer authorized
12 pursuant to R.S. 23:1168 et seq.

13 (7) "Lender" means an individual, partnership, corporation, limited liability
14 company, association, federally insured depository institution, or other entity, agent,
15 loan agent, servicing agent, or loan or mortgage broker, who makes, owns, or
16 services a loan.

17 (8) "Person" means any individual, company, insurer, organization,
18 reciprocal or inter-insurance exchange, business, partnership, corporation, limited
19 liability company, association, trust, or other legal entity, including any government
20 or governmental subdivision or agency.

21 ~~(8)~~(9) "Policyholder" means a person who has contracted with a property or
22 casualty insurer for insurance coverage.

23 ~~(9)~~(10) "Record" shall have the meaning defined in R.S. 9:2602(13).

24 ~~(10)~~(11) "Self-insurer" means any individual business or group of businesses
25 which have created a risk purchasing group, risk retention plan, syndicate, or other
26 form of self-insurance covering property or casualty risk exposures. "Self-insurer"
27 shall not mean any person self-insured for purposes of workers' compensation,
28 including any group self-insurance fund authorized pursuant to R.S. 23:1195 et seq.,

1 any interlocal risk management agency authorized pursuant to R.S. 33:1341 et seq.,
2 or any self-insured employer authorized pursuant to R.S. 23:1168 et seq.

3 B. No property or casualty insurer or insurance producer may issue a
4 certificate of insurance or any other type of document purporting to be a certificate
5 of insurance that will affirmatively or negatively alter, amend, or extend the
6 coverage provided by the referenced insurance policy. A certificate of insurance
7 shall also not convey any contractual rights to the certificate holder.

8 C. No person, other than a lender, wherever located, may prepare, issue, or
9 request the issuance of a certificate of insurance for risks located in this state unless
10 ~~the form has been filed with and approved by the commissioner of insurance. No~~
11 ~~person, wherever located, may alter or modify an approved certificate of insurance~~
12 ~~form unless the alteration or modification has been approved by the commissioner~~
13 of insurance certificate is issued on standard certificate of insurance forms
14 promulgated by the insurer, the Association for Cooperative Operations Research
15 and Development (ACORD), the American Association of Insurance Services
16 (AAIS), or the Insurance Services Office (ISO).

17 D. ~~The commissioner of insurance shall disapprove a form filed under this~~
18 ~~Section or withdraw approval of a form if that form:~~

19 (1) ~~Is unfair, misleading, or deceptive, or violates public policy.~~

20 (2) ~~Violates any state statute or regulation validly promulgated by the~~
21 ~~commissioner of insurance.~~

22 (3) ~~Requires certification of insurance coverages that are not available.~~

23 E. ~~The commissioner may approve a certificate of insurance form that does~~
24 ~~not state that the form is provided for information only or similar language, provided~~
25 ~~that the form states that the certificate of insurance does not confer any rights or~~
26 ~~obligations other than those conveyed by the policy and that the terms of the policy~~
27 ~~control. Further, use of such a form shall not be, in and of itself, cause for~~
28 ~~disapproval by the commissioner under the provisions of Subsection D of this~~
29 ~~Section.~~

1 ~~F.(1) The commissioner of insurance shall approve or disapprove certificate~~
2 ~~of insurance forms filed pursuant to this Section in writing within forty-five days of~~
3 ~~receipt of the form.~~

4 ~~(2) Standard certificate of insurance forms promulgated by the Association~~
5 ~~for Cooperative Operations Research and Development (ACORD), the American~~
6 ~~Association of Insurance Services (AAIS), or the Insurance Services Office (ISO)~~
7 ~~shall be filed, but are deemed approved by the commissioner of insurance, provided~~
8 ~~these forms comply with the provisions of this Section.~~

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

13 ~~H. E.(1)(a) No person may prepare, issue, or request an insurance producer~~
14 ~~prepare or issue, either in addition to or in lieu of a certificate of insurance, an~~
15 ~~opinion letter or other document or correspondence, instrument, or record, including~~
16 ~~an electronic record, that is inconsistent with this Section.~~

17 ~~(b) The provisions of Subparagraph (a) of this Paragraph shall not apply to~~
18 ~~lenders, as defined in this Section, or to certificates of insurance required or~~
19 ~~requested by a lender from a policyholder.~~

20 ~~(2)(a) however, A person may request that an insurer or insurance producer~~
21 ~~may prepare or issue an addendum that clarifies, explains, summarizes, or provides~~
22 ~~a statement of the coverages provided by a policy of insurance and otherwise~~
23 ~~complies with the requirements of this Section.~~

24 ~~(b) Notwithstanding Subparagraph (a) of this Paragraph, a lender may~~
25 ~~request that an insurer or insurance producer prepare or issue an addendum that~~
26 ~~clarifies, explains, summarizes, or provides a statement of the coverages provided~~
27 ~~by a policy of insurance and otherwise complies with the requirements of this~~
28 ~~Section.~~

1 ~~F.~~ F. The provisions of this Section shall apply to all certificate holders,
2 policyholders, insurers, insurance producers, and certificate of insurance forms
3 issued as a statement or evidence of insurance coverages on property, operations, or
4 risks located in this state, regardless of where the certificate holder, policyholder,
5 insurer, or insurance producer is located.

6 ~~J.~~ G. A certificate of insurance form which has been ~~approved by the~~
7 ~~commissioner~~ issued in accordance with this Section and properly executed and
8 issued by a property and casualty insurer or an insurance producer, shall constitute
9 a confirmation that the referenced insurance policy has been issued or that coverage
10 has been bound notwithstanding the inclusion of "for information purposes only" or
11 similar language on the face of the certificate. A certificate of insurance is not a
12 policy of insurance and does not affirmatively or negatively amend, extend, or alter
13 the coverage afforded by the policy to which the certificate of insurance makes
14 reference. A certificate of insurance shall not confer to a certificate holder new or
15 additional rights beyond what the referenced policy or any validly executed
16 endorsements of insurance provides.

17 ~~K.~~ H. No certificate of insurance shall contain references to legal or
18 insurance requirements contained in any contracts ~~other than the underlying contracts~~
19 ~~of insurance~~, including but not limited to construction or service contracts. The
20 certificate of insurance may list only the specific forms or endorsements contained
21 in the underlying contracts of insurance. No certificate holder or other interested
22 party may require an interpretation of those forms or endorsements from the
23 insurance agent. The provisions of this Subsection shall not apply to lenders, as
24 defined in this Section, or to certificates of insurance required or requested by a
25 lender from a policyholder.

26 ~~L.~~ I. A person shall have a legal right to notice of cancellation, nonrenewal,
27 or any material change, or any similar notice concerning a policy of insurance only
28 if the person is named within the policy or any endorsement and the policy or
29 endorsement, law, or regulation of this state requires notice to be provided. The

1 terms and conditions of the notice, including the required timing of the notice, are
2 governed by the policy of insurance in accordance with the laws and regulations of
3 this state and cannot be altered by a certificate of insurance.

4 ~~M. J.~~ Any certificate of insurance and any attached addendum prepared,
5 issued, or requested in violation of this Section shall be null and void and of no force
6 and effect.

7 ~~N. K.~~ Any person who willfully violates this Section may be fined not more
8 than one thousand dollars per violation.

9 ~~O. L.~~ The commissioner of insurance shall have the power to examine and
10 investigate any complaint or allegation of specific violations by any person who has
11 allegedly engaged in an act or practice prohibited by this Section and to enforce the
12 provisions of this Section. Examinations or complaint investigations conducted by
13 the commissioner under this Subsection shall be subject to the provisions of R.S.
14 22:1983(J).

15 ~~P. M.~~ Pursuant to the Administrative Procedure Act, the commissioner of
16 insurance may adopt reasonable rules and regulations as are necessary or proper to
17 carry out the purposes of this Section.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 476 Reengrossed

2016 Regular Session

Huval

Abstract: Provides that an insurer, but not an insurance producer, may be asked to prepare an addendum to a certificate of insurance that clarifies, explains, summarizes, or provides a statement of the coverages provided by an insurance policy. Further provides that a certificate of insurance may be issued only on standard forms promulgated by ACORD, AAIS, ISO, the insurer, or a lender and that the insurance producer may not be asked to provide an interpretation of the forms or endorsements listed on a certificate of insurance, other than by a lender.

Present law provides that either an insurance producer or insurer may be asked to provide an addendum to a certificate of insurance that clarifies, explains, summarizes, or provides a statement of the coverages provided by an insurance policy.

Proposed law provides that only the insurer may be asked to provide an addendum to a certificate of insurance that clarifies, explains, summarizes, or provides a statement of the coverages provided by an insurance policy. Further provides that an insurance producer may

not be asked to provide any additional documents other than a certificate of insurance, other than by a lender, as defined in the Section.

Present law allows the use of insurance certificates promulgated by the Association for Cooperative Operations Research and Development (ACORD) the American Association of Insurance Services (AAIS), or the Insurance Services Office (ISO), or any certificate approved by the commissioner of insurance. Proposed law allows only the use of certificates of insurance promulgated by an insurer, ACORD, AAIS, ISO, or by a lender.

Proposed law prohibits a certificate holder or other interested party, other than a lender, from requiring an interpretation of the forms and endorsements to an insurance policy that are listed on a certificate of insurance.

(Amends R.S. 22:890)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Add definition of "lender".
2. Only allow the issuance of certificates of insurance on standard certificate of insurance forms promulgated by the insurer, the Association for Cooperative Operations Research and Development (ACORD) the American Association of Insurance Services (AAIS), or the Insurance Services Office (ISO), unless a lender requests otherwise.
3. Delete provisions in current law that allow the use of forms other than those issued by ACORD, AAIS, or ISO.
4. Allow lenders to request an insurance producer provide additional information not contained in a certificate of insurance.
5. Specify that the certificate of insurance may list only the specific forms or endorsements contained in the underlying insurance policy.
6. Prevent a certificate holder or other interested party, other than a lender, from requiring an insurance producer to provide an interpretation of the forms and endorsements.
7. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Provide that a lender or policyholder may request an opinion letter or other documentation from an agent, in addition to the certificate of insurance.
2. Provide that a lender may request an agent prepare or issue an addendum that explains or provides a statement of coverages provided by a policy of insurance.
3. Make technical changes.