

HOUSE BILL 2454

By Sargent

AN ACT to amend Tennessee Code Annotated, Title 56,
relative to insurance.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, Part 1 is amended by
adding a new section as follows:

56-7-10___.

(a) As used in this section:

(1) "Certificate" or "certificate of insurance":

(A) Means any document or instrument, no matter how titled or
described, which is prepared or issued by an insurer or insurance
producer as evidence of property or casualty insurance coverage; and

(B) Does not include a policy of insurance or insurance binder,
including any policy of insurance which may be referred to as a certificate,
or any insurance information card or identification card issued in
conjunction with a motor vehicle insurance policy;

(2) "Certificate holder" means any person, other than a policyholder, that
requests, obtains, or possesses a certificate of insurance;

(3) "Commissioner" means the commissioner of commerce and
insurance;

(4) "Insurance producer" means a person required to be licensed under
the laws of this state to sell, solicit, or negotiate insurance under chapter 6, part 1
of this title;

(5) "Insurer":

(A) Means any person, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance; and

(B) Includes medical service plans, hospital service plans, health maintenance organizations, prepaid limited health care service plans, hospital medical service corporations, dental, optometric and other similar health service plans, all of which shall be deemed to be engaged in the business of insurance for the purposes of this section;

(6) "Person" means a natural or artificial entity, including, but not limited to, individuals, partnerships, associations, trusts, corporations, insurance producers, adjusters, any employer to the extent that the employer self-insures its workers' compensation liabilities pursuant to § 50-6-405(b) or a group of employers qualifying as self-insurers pursuant to § 50-6-405(c), or third party administrators; and

(7) "Policyholder" means a person who has contracted with an insurer for insurance coverage.

(b) No person, wherever located, shall prepare, issue, or request the issuance of a certificate of insurance unless the form has been filed with and approved by the commissioner. No person, wherever located, shall alter or modify an approved certificate of insurance form.

(c) The commissioner shall disapprove a form filed under this section, or withdraw approval of a form, if the form:

- (1) Is unjust, unfair, misleading, deceptive, or violates public policy;
- (2) Fails to comply with subsection (d); or

(3) Violates any law, including any regulation adopted by the commissioner.

(d) Each certificate of insurance shall contain the following or similar statement:
"This certificate of insurance is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage, terms, exclusions, and conditions afforded by the policies referenced herein."

(e) Standard certificate of insurance forms promulgated by the Association for Cooperative Operations Research and Development or the Insurance Services Office are deemed approved by the commissioner and are not required to be filed if the forms otherwise comply with this section.

(f) No person, wherever located, shall demand or request the issuance of a certificate of insurance from an insurer, insurance producer, or policyholder that contains any false or misleading information concerning the policy of insurance to which the certificate makes reference.

(g) No person, wherever located, shall knowingly prepare or issue a certificate of insurance that contains any false or misleading information or that purports to affirmatively or negatively alter, amend, or extend the coverage provided by the policy of insurance to which the certificate makes reference.

(h) No person shall prepare, issue, or request, either in addition to or in lieu of a certificate of insurance, an opinion letter or other document or correspondence that is inconsistent with this section; however, an insurer or insurance producer may prepare or issue an addendum to a certificate that clarifies and explains the coverages provided by a policy of insurance and otherwise complies with this section.

(i) This section shall apply to all certificate holders, policyholders, insurers, insurance producers, and certificate of insurance forms issued as evidence of insurance

coverages on property, operations, or risks located in this state, regardless of where the certificate holder, policyholder, insurer, or insurance producer is located.

(j) A certificate of insurance is not a policy of insurance and does not affirmatively or negatively amend, extend, or alter the coverage afforded by the policy to which the certificate of insurance makes reference. A certificate of insurance shall not confer to a certificate holder new or additional rights beyond what the referenced policy of insurance expressly provides.

(k) No certificate of insurance shall contain references to contracts, including construction or service contracts, other than the referenced contract of insurance. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which a certificate of insurance may be issued or may pertain, the insurance afforded by the referenced policy of insurance is subject to all the terms, exclusions, and conditions of the policy itself.

(l) A certificate holder shall have a legal right to notice of cancellation, nonrenewal, or any material change, or any similar notice concerning a policy of insurance only if the person is named within the policy or any endorsement and the policy or endorsement requires notice to be provided. The terms and conditions of the notice, including the required timing of the notice, are governed by the policy of insurance and cannot be altered by a certificate of insurance.

(m) An insurance producer may charge a reasonable service fee, as determined by the commissioner, for issuing a certificate to a policyholder, certificate holder or third party.

(n) Any certificate of insurance or any other document or correspondence prepared, issued, or requested in violation of this section shall be null and void and of no force and effect.

(o) Any person who violates this section may be fined up to one thousand dollars (\$1,000) per violation.

(p) The commissioner shall have the power to examine and investigate the activities of any person that the commissioner reasonably believes has been or is engaged in an act or practice prohibited by this section. The commissioner shall have the power to enforce this section and to impose any authorized remedy against any person who violates this section.

(q) The commissioner may adopt reasonable rules and regulations as are necessary or proper to carry out this section.

SECTION 2. The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 3. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect on July 1, 2012, the public welfare requiring it.