

IN THE SENATE

SENATE BILL NO. 1390

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO CERTIFICATES OF INSURANCE; AMENDING CHAPTER 18, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1850, IDAHO CODE, TO PROVIDE DEFINITIONS, TO PROVIDE THAT NO PERSON MAY PREPARE, ISSUE OR KNOWINGLY REQUEST THE ISSUANCE OF A CERTIFICATE OF INSURANCE UNLESS THE FORM HAS BEEN FILED WITH THE DIRECTOR, TO PROVIDE THAT NO PERSON MAY ALTER OR MODIFY A CERTIFICATE OF INSURANCE UNLESS THE ALTERATION OR MODIFICATION HAS BEEN FILED WITH THE DIRECTOR, TO ESTABLISH PROVISIONS RELATING TO THE DIRECTOR DISAPPROVING THE USE OF A FORM OR WITHDRAWING APPROVAL OF A FORM, TO PROVIDE THAT EACH CERTIFICATE OF INSURANCE MUST CONTAIN A STATEMENT, TO ESTABLISH THAT PROVISIONS RELATING TO CERTAIN FORMS PROMULGATED AND FILED WITH THE DIRECTOR ARE NOT REQUIRED TO BE REFILED BY INDIVIDUAL INSURERS, TO ESTABLISH PROVISIONS RELATING TO FALSE OR MISLEADING INFORMATION, TO ESTABLISH PROVISIONS RELATING TO CERTAIN DOCUMENTS THAT PURPORT TO AFFIRMATIVELY OR NEGATIVELY ALTER, AMEND OR EXTEND CERTAIN COVERAGE, TO ESTABLISH PROVISIONS RELATING TO APPLICATION OF LAW, TO PROVIDE THAT A CERTIFICATE OF INSURANCE IS NOT A POLICY OF INSURANCE, TO PROVIDE THAT A CERTIFICATE OF INSURANCE SHALL NOT CONFER CERTAIN RIGHTS, TO PROVIDE THAT A CERTIFICATE OF INSURANCE SHALL NOT CONTAIN CERTAIN REFERENCES, TO PROVIDE FOR NOTICE, TO PROVIDE THAT ANY CERTIFICATE OF INSURANCE OR OTHER DOCUMENT PREPARED, ISSUED OR REQUESTED IN VIOLATION OF THIS SECTION SHALL BE NULL AND VOID AND OF NO FORCE AND EFFECT, TO PROVIDE FOR A PENALTY, TO PROVIDE THAT THE DIRECTOR SHALL HAVE THE POWER TO EXAMINE AND INVESTIGATE CERTAIN ACTIVITIES AND IMPOSE PENALTIES OR REMEDIES AND TO PROVIDE FOR RULES; AMENDING SECTION 41-1823, IDAHO CODE, TO REVISE PROVISIONS RELATING TO BINDERS OR OTHER CONTRACTS FOR TEMPORARY INSURANCE AND TO MAKE A TECHNICAL CORRECTION; AND PROVIDING SEVERABILITY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 18, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1850, Idaho Code, and to read as follows:

41-1850. CERTIFICATES OF INSURANCE. (1) For purposes of this section, the following terms have the following meanings:

(a) "Certificate" or "certificate of insurance" means any document or instrument, no matter how titled or described, which is prepared or issued as evidence of property or casualty insurance coverage. "Certificate" or "certificate of insurance" shall not include a policy of insurance, insurance binder, policy endorsement or automobile insurance identification card.

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

1 (c) "Insurance producer" has the same meaning as provided for in title
2 41, chapter 10, Idaho Code.

3 (d) "Insurer" has the same definition as provided for in section
4 41-103, Idaho Code.

5 (e) "Person" means any individual, partnership, corporation, associ-
6 ation or other legal entity, including any government or governmental
7 subdivision or agency.

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

10 (2) No person, wherever located, may prepare, issue or knowingly re-
11 quest the issuance of a certificate of insurance unless the form has been
12 filed with the director by or on behalf of an insurer. No person, wherever
13 located, may alter or modify a certificate of insurance form unless the al-
14 teration or modification has been filed with the director.

15 (3) The director shall disapprove the use of any form filed under this
16 section, or withdraw approval of a form, if the form:

17 (a) Is unfair, misleading or deceptive, or violates public policy;

18 (b) Fails to comply with the requirements of this section; or

19 (c) Violates any provision of title 41, Idaho Code, including any rule
20 promulgated by the director.

21 (4) Each certificate of insurance must contain the following or similar
22 statement: "This certificate of insurance is issued as a matter of informa-
23 tion only and confers no rights upon the certificate holder. This certifi-
24 cate does not alter, amend or extend the coverage, terms, exclusions and con-
25 ditions afforded by the policies referenced herein."

26 (5) The current edition of standard certificate of insurance forms pro-
27 mulgated and filed with the director by the association for cooperative op-
28 erations research and development or the insurance services office (ISO) are
29 not required to be refiled by individual insurers.

30 (6) No person, wherever located, shall demand or request the issuance
31 of a certificate of insurance or other document, record or correspondence
32 that the person knows contains any false or misleading information or that
33 purports to affirmatively or negatively alter, amend or extend the cover-
34 age provided by the policy of insurance to which the certificate makes refer-
35 ence.

36 (7) No person, wherever located, may knowingly prepare or issue a cer-
37 tificate of insurance or other document, record or correspondence that con-
38 tains any false or misleading information or that purports to affirmatively
39 or negatively alter, amend or extend the coverage provided by the policy of
40 insurance to which the certificate makes reference.

41 (8) The provisions of this section shall apply to all certificate hold-
42 ers, policyholders, insurers, insurance producers and certificate of insur-
43 ance forms issued as evidence of property or casualty insurance coverages on
44 property, operations or risks located in this state, regardless of where the
45 certificate holder, policyholder, insurer or insurance producer is located.

46 (9) A certificate of insurance is not a policy of insurance and does not
47 affirmatively or negatively alter, amend or extend the coverage afforded by
48 the policy to which the certificate of insurance makes reference. A certifi-
49 cate of insurance shall not confer to a certificate holder new or additional
50 rights beyond what the referenced policy of insurance provides.

(10) No certificate of insurance shall contain references to contracts other than the underlying contracts of insurance, including construction or service contracts. 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.

(11) A person is entitled to receive notice of cancellation, nonrenewal or any material change or any similar notice concerning a policy of insurance only if the person has such notice rights under the terms of the policy or any endorsement to the policy. The terms and conditions of the notice, including the required timing of the notice, are governed by the policy of insurance or endorsement and may not be altered by a certificate of insurance.

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

(13) Any person who violates this section shall be subject to an administrative penalty imposed by the director in an amount as provided for in section 41-117, Idaho Code, per violation.

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

(15) The director may, in accordance with section 41-211, Idaho Code, adopt reasonable rules as are necessary or proper to carry out the provisions of this section.

SECTION 2. That Section 41-1823, Idaho Code, be, and the same is hereby amended to read as follows:

41-1823. BINDERS. (1) Binders or other contracts for temporary insurance may be made orally or in writing, and shall be deemed to include all the usual terms of the policy as to which the binder was given together with such supplemental information and applicable endorsements as are designated in the binder, except as superseded by the clear and express terms of the binder.

(2) No binder shall be valid beyond the issuance of the policy or endorsement or policy expiration with respect to which it was given, or beyond ninety (90) days from its effective date, whichever period is the shorter.

(3) ~~If the policy has not been issued a binder may be extended or renewed beyond such ninety (90) days with the written approval of the director, or in accordance with such rules and regulations relative thereto as the director may promulgate.~~

~~(4)~~ This section shall not apply to life or disability insurances.

SECTION 3. SEVERABILITY. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.