

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 SENATE BILL 1173

By: Holt

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5  
6 AS INTRODUCED

7 An Act relating to insurance; amending 36 O.S. 2011,  
8 Section 3640, which relates to certificate of  
9 insurance form; clarifying language; and providing an  
10 effective date.

11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 36 O.S. 2011, Section 3640, is  
13 amended to read as follows:

14 Section 3640. A. As used in this section:

15 1. "Certificate" or "certificate of insurance" means any  
16 document or instrument, no matter how titled or described, which is  
17 prepared or issued by an insurer or insurance producer as evidence  
18 of property or casualty insurance coverage. "Certificate" or  
19 "certificate of insurance" shall not include a policy of insurance  
20 or insurance binder;

21 2. "Certificate holder" means any person, other than a  
22 policyholder, that requests, obtains, or possesses a certificate of  
23 insurance;

1       3. "Insurance producer" shall be defined as provided in Section  
2 1435.2 of ~~Title 36 of the Oklahoma Statutes~~ this title;

3       4. "Insurer" shall be defined as provided in Section 103 of  
4 ~~Title 36 of the Oklahoma Statutes~~ this title; and

5       5. "Policyholder" means a person who has contracted with a  
6 property or casualty insurer for insurance coverage.

7       B. No person may prepare, issue, or request the issuance of a  
8 certificate of insurance unless the form has been filed with and  
9 approved by the Insurance Commissioner, except as provided in  
10 subsection E of this section. No person may alter or modify an  
11 approved certificate of insurance form.

12       C. The Commissioner shall disapprove a form filed pursuant to  
13 this section, or withdraw approval of a form, if the form:

14       1. Is unjust, unfair, misleading, or deceptive, or violates  
15 public policy;

16       2. Fails to comply with the requirements of subsection D of  
17 this section; or

18       3. Violates any law, including any regulation adopted by the  
19 Insurance Commissioner.

20       D. Each certificate of insurance shall contain the following or  
21 similar statement: "This certificate of insurance is issued as a  
22 matter of information only and confers no rights upon the  
23 certificate holder. This certificate does not amend, extend, or  
24

1 alter the coverage, terms, exclusions, and conditions afforded by  
2 the policies referenced herein."

3 E. Standard certificate of insurance forms promulgated by the  
4 Association of Cooperative Operations Research and Development or  
5 the Insurance Services Office are deemed approved by the Insurance  
6 Commissioner and shall not be required to be filed if the forms  
7 otherwise comply with the requirements of this section.

8 F. No person, wherever located, shall demand or require the  
9 issuance of a certificate of insurance from an insurer, insurance  
10 producer, or policyholder which contains any false or misleading  
11 information concerning the policy of insurance to which the  
12 certificate makes reference.

13 G. No person, wherever located, may knowingly prepare or issue  
14 a certificate of insurance that contains any false or misleading  
15 information or that purports to affirmatively or negatively alter,  
16 amend, or extend the coverage provided by the policy of insurance to  
17 which the certificate makes reference.

18 H. No person may prepare, issue, demand, or require, either in  
19 addition to or in lieu of a certificate of insurance, an opinion  
20 letter or other document or correspondence that is inconsistent with  
21 this section; provided, however, an insurer or insurance producer  
22 may prepare or issue an addendum to a certificate that clarifies and  
23 explains the coverages provided by a policy of insurance and  
24 otherwise complies with the requirements of this section.

1 I. The provisions of this section apply to all certificate  
2 holders, policyholders, insurers or insurance producers with regard  
3 to a certificate of insurance issued on property or casualty  
4 operations or a risk located in this state, regardless of where the  
5 certificate holder, policyholder, insurer or insurance producer is  
6 located. These provisions shall not be construed to apply to:

7 1. Evidence of insurance required by a lender in a lending  
8 transaction involving:

- 9 a. a mortgage,
- 10 b. a lien,
- 11 c. a deed or trust, or
- 12 d. any other security interest in real or personal  
13 property as security for a loan;

14 2. A certificate issued under:

- 15 a. a group or individual policy for:
  - 16 (1) life insurance,
  - 17 (2) credit insurance,
  - 18 (3) accident and health insurance,
  - 19 (4) long-term care benefit insurance, or
  - 20 (5) Medicare supplement insurance, or
- 21 b. an annuity contract; or

22 3. Standard proof of motor vehicle liability insurance pursuant  
23 to the requirements of Section 3636 of ~~Title 36 of the Oklahoma~~  
24 ~~Statutes~~ this title.

1 J. A certificate of insurance is not a policy of insurance and  
2 does not affirmatively or negatively amend, extend, or alter the  
3 coverage afforded by the policy to which the certificate of  
4 insurance makes reference. A certificate of insurance shall not  
5 confer to a certificate holder new or additional rights beyond what  
6 the referenced policy of insurance expressly provides.

7 K. No certificate of insurance shall contain references to  
8 contracts, including construction or service contracts, other than  
9 the referenced contract of insurance. Notwithstanding any  
10 requirements, term, or condition of any contract or other document  
11 with respect to which a certificate of insurance may be issued or  
12 may pertain, the insurance afforded by the referenced policy of  
13 insurance shall be subject to all the terms, exclusions and  
14 conditions of the policy itself.

15 L. A certificate holder shall only have a legal right to notice  
16 of cancellation, nonrenewal, or any material change, or any similar  
17 notice concerning a policy of insurance if the person is named  
18 within the policy or any endorsement as an additional insured and  
19 the policy or endorsement requires notice to be provided. The terms  
20 and conditions of the notice, including the required timing of the  
21 notice, are governed by the policy of insurance and cannot be  
22 altered by a certificate of insurance.

23 M. An insurance producer who is not associated with an  
24 insurer's captive distribution system may charge a reasonable

1 service fee for issuing a certificate to a policy holder or  
2 certificate holder.

3 N. Any certificate of insurance or any other document or  
4 correspondence prepared, issued, demanded, or required in violation  
5 of this section shall be null and void and of no force and effect.

6 O. Any person who violates this section may be fined up to One  
7 Thousand Dollars (\$1,000.00) per violation.

8 P. The Commissioner shall have the authority to examine and  
9 investigate the activities of any person that the Commissioner  
10 reasonably believes has been or is engaged in an act or practice  
11 prohibited by this section. The Commissioner shall have the  
12 authority to enforce the provisions of this section and impose any  
13 authorized penalty or remedy against any person who violates this  
14 section.

15 Q. The Commissioner may adopt reasonable rules ~~and regulations~~  
16 as are necessary or proper to carry out the provisions of this  
17 section.

18 SECTION 2. This act shall become effective November 1, 2012.

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