

Virginia
Regulatory Hot Tip 2011 – 4
Professional Insurance Agents Association of Virginia and DC, Inc.

CERTIFICATES OF INSURANCE 101

Millions of certificates of insurance circulate throughout the United States each year,¹ but what exactly are they? Who issues them? Who receives them? What information do they contain? Why do we need them? Read on for the answers to these questions and more.

A certificate of insurance is a document requested of an insurance company. It is usually prepared by its authorized representative, be it a broker or an agent, as evidence of property or casualty insurance coverage.² The certificate contains a summary of the referenced insurance policy and does not modify or amend the policy.³ When an insured person requests a certificate of insurance for a third party, the company or authorized representative issues it directly to the third party, who is called the certificate recipient, certificate requestor, or certificate holder.⁴

When a third party, such as a government entity or big box company, contracts with a person for a specific contracting job, the third party normally will require the person to be covered by insurance.⁵ To prove he has coverage (or, in other words, in order to get the job), the person requests a certificate of insurance from his insurer.⁶ There are many scenarios in which this might happen: a building owner might require a tenant to have liability insurance; a building owner might require the mortgagor to have insurance; or an owner of equipment might require the lessee of that equipment to provide evidence of coverage. Contractors, temp

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agencies, and security guard services routinely request certificates of insurance in order to satisfy potential employers' concerns regarding worker's compensation insurance.⁷

A certificate of insurance generally includes the date of issuance, the name of the producer (agent/broker), the name and address of the insured person, the insurance companies providing the coverage, the type of insurance, policy numbers, the effective and expiration dates, the limits carried, a description of activities to which the certificate pertains, and the name of the certificate holder.⁸ It is important to note that a certificate of insurance merely verifies that at the date and time of issuance, the listed insurance policy was in force for the named insured.⁹ In other words, a certificate of insurance does not disclose any changes that may occur in the underlying policy after the issuance of the certificate.¹⁰

Each certificate of insurance contains a disclaimer located conspicuously at the top of the document. The disclaimer notifies the certificate holder that the certificate is issued as a matter of information only and that the certificate does not confer any rights upon the holder.¹¹ It also expressly provides that the certificate does not amend, extend, or alter the coverage of the insured person in the underlying policy.¹² The disclaimer further advises that the certificate does not create a contract between the insurer(s), their authorized representative, and the certificate holder.¹³ Previous forms of the certificate contained a notice of cancellation provision indicating that the company or its authorized representative would endeavor to notify the certificate holder within a specified time period in the event of cancellation of the policy. The elimination of this provision was an unwelcome change for many third-party certificate holders, and their response to the change is causing headaches for everyone involved.

Although certificates of insurance are a valuable tool, they are not without important limitations. It is essential for third parties to understand the nature of the certificate. Problems arise when a third party treats the certificate as something other than an informational tool that cannot modify or expand the insured person's policy.¹⁴ Some third parties are demanding that the authorized representative incorporate certain language into the certificate of insurance, such as a notice of cancellation provision, in an attempt to modify the underlying policy. This practice puts pressure on the insured or his representative to ask the company or its authorized representative to include the language or risk losing the insured's job opportunity. It also entices the company or its authorized representative to include the language or risk losing an account. In the present economy, the risk of losing a job opportunity or an account is motivation enough to at least consider adding the

offending language. In addition to being illegal, this creates uncertainty and confusion by including some language in the certificate that actually correlates with the underlying policy and other language that may be ineffective because it modifies or expands the coverage in the underlying policy. It is this tension between agents trying to serve their clients and third parties demanding changes to the language of the certificates (whether the third parties are representatives of the big box companies or the insured) that sparks the potential for litigation concerning certificates of insurance.

Stay tuned for Certificates of Insurance 102. We'll address these third-party problems in more detail and discuss the different solutions that have been implemented in some states as well as the National Conference of Insurance Legislators' proposed model law concerning certificates of insurance.

¹ David Eppstein, Adam Felton et al., Certificates of Insurance Webinar, National Association of Professional Insurance Agents (July 19, 2011), <http://www.pianet.com/IssuesOfFocus/HotIssues/InsuranceBusinessPractices/>.

² *Abuse of Certificates of Insurance a Continuing Problem*, PIAVA/DC Member Benefit News, July 31, 2011, at 6.

³ ROBERT E. KEETON, ALAN I. WIDISS, INSURANCE LAW: A GUIDE TO FUNDAMENTAL PRINCIPLES, LEGAL DOCTRINES AND COMMERCIAL PRACTICES 104, § 2.6(a) (1988).

⁴ Letter from Susan Sallada, BIC Chair, and Andy Harris, BIC Technical WG Chair, to BIC Members (June 28, 2011); Eppstein, *supra*, note 1.

⁵ Eppstein, *supra*, note 1.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Letter to BIC Members, *supra* note 4.

¹⁰ *Id.*

¹¹ Eppstein, *supra*, note 1.

¹² *Id.*

¹³ *Id.*

¹⁴ Letter to BIC Members, *supra* note 4.