



OKLAHOMA INSURANCE DEPARTMENT
STATE OF OKLAHOMA

BULLETIN NO. PC 2008-01

**TO: ALL PROPERTY & CASUALTY INSURERS
ALL PROPERTY AND CASUALTY PRODUCERS
ALL INSURERS ON THE NAIC QUARTERLY LISTING OF ALIEN
INSURERS**

RE: CERTIFICATES OF INSURANCE

FROM: KIM HOLLAND, INSURANCE COMMISSIONER

DATE: March 13, 2008

The Department is aware that some insurance producers or insurers have been asked to sign and issue preprinted certificate of insurance forms which include language that attempts to affirmatively or negatively amend, extend or alter the coverage of the underlying policy. Certificates of insurance are typically used to serve as proof of liability insurance and to summarize the terms of the policy in lieu of providing a full copy of the policy. The purpose of this Bulletin is to clarify the use of certificates of insurance by producers or insurers in Oklahoma.

Certificates of insurance must clearly and accurately state the insurance coverage provided. Any certificate of insurance issued by an insurer or producer that obscures or misrepresents the insurance coverage provided under the insurance policy is a violation of the Oklahoma Insurance Code and may subject the issuer to administrative penalties and/or license suspension or revocation.

Okla. Stat. tit. 36, § 3602 defines "policy" to mean "a contract of or agreement for effecting insurance, or the certificate thereof (emphasis added)." Okla. Stat. tit. 36, § 3610 requires insurers to file policies intended for use in Oklahoma with the Department for review and approval before the policy is used in Oklahoma. Section 3610 does not exempt a certificate of coverage from filing on the basis that it is not a part of the policy; while § 3610 exempts from filing those applications that the insurer does not require to be in writing or made a part of the policy, that exclusion is limited to applications meeting the requirements of the subordinate clause immediately following the words "or application form."

When an insurer or insurance producer acting as the insurer's agent executes a certificate of insurance or other evidence of coverage which goes beyond a mere synopsis of the policy, the

insurer or producer may be exceeding the policy language filed with and approved by the Department. If an insurer or its producer includes any statement in the certificate of insurance, the purpose of which is to amend or extend coverage under the underlying policy, including references to construction contracts, service contracts or insurance requirements, the insurer or producer is, in effect, changing the policy terms. By issuing such a certificate, the insurer or producer is in violation of the Oklahoma Insurance Code.

To ensure that consumers as well as third parties requesting a certificate of insurance are aware that the certificate does not expand or restrict coverage, an insurer or producer should include on the certificate a statement such as, "This certificate or memorandum of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by policy number _____ issued by _____ on _____."

Okla. Stat. tit. 36, § 1435.13(A)(5), authorizes the Insurance Commissioner to place on probation, censure, suspend or revoke a producer's license if the producer intentionally misrepresents the terms of an actual or proposed insurance contract. A producer who signs a certificate of insurance or issues an opinion that the producer knows alters or amends the coverages of the underlying policy, may be in violation of this section and thereby be subject to appropriate penalties under the Code.

It should also be noted that reliance upon a certificate of insurance in support of a claim against the underlying policy can raise an issue of criminal fraud. See Okla. Stat. tit. 21, §1662. Thus, insureds should be wary of certificates of insurance not issued directly by the insurer or the insurer's agent or those not issued on a form approved by the Oklahoma Insurance Department.

If an insured wants special insurance provisions, the insured's insurance agent should request that the insurer write an insurance policy which contains those special provisions. Whether this is done through a policy endorsement or through an individual risk policy will depend on the situation. If and only if the policy contains such special provisions may the insurance agent properly insert an accurate statement of the special policy provisions in the special provisions block of the certificate of insurance.

Questions regarding this bulletin should be directed to Kathie Stepp at kathiestepp@insurance.state.ok.us of the Property and Casualty Division or Susan Dobbins at susandobbins@insurance.state.ok.us of the Legal Division of the Oklahoma Insurance Department.

The Oklahoma Insurance Department encourages readers of this bulletin to periodically check the Department's web site <http://www.oid.state.ok.us/index.asp> for news and updates to Bulletins and other relevant material.

CERTIFICATES OF INSURANCE
FREQUENTLY ASKED QUESTIONS

Q.1. Does P&C Bulletin 2008-01 apply to all lines of P&C insurance?

A.1. Yes.

Q.2. Is the language "This certificate or memorandum of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by policy number____issued by____ on____" mandatory in all certificates?

A.2. No, the language is only a recommendation. Other language to the same effect may be approved. However, it is strongly urged that some kind of language indicating the role of the certificate be included in the form.

Q.3. I own and operate a mono-line workers compensation agency. On occasion, an insured will request that a particular "job number", etc. be inserted on the Certificate of Insurance under "Description of Operations (etc.)....." Is this permitted?

A.3. Yes, placing the particular "job number" in the place provided in a certificate would be acceptable pursuant to PC Bulletin 2008-01. The job number simply identifies the operation for which the certificate is offered.

Q.4. What do I do if a client's customer, for example a general contractor or an oil company, insists that I complete their form?

A.4. Although the customer may see this as a simple matter, it is not, as the customer may actually be asking for terms that are not included in the policy. We suggest that you give the customer a copy of the bulletin, to help educate them that a certificate is part of an insurance policy, that the certificate must be filed before use, and that neither an insurer or producer are free to vary the terms of the filed policy form without re-filing that form.

Q.5. What if the customer won't work with the client unless their form is completed?

A.5. Try to find out what really is the customer's concern. If the customer requires a specific notice that is not included in the policy form, find out if the insurer offers an endorsement on that issue. If the customer is insisting that that the insured have coverage that the insured does not, the insured may be able to work with the insurer to purchase the required coverage.

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