

SENATE BILL 656

C4

11r1733
CF HB 982

By: **Senator Kelley**

Introduced and read first time: February 4, 2011

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 22, 2011

CHAPTER _____

1 AN ACT concerning

2 **Property and Casualty Insurance – Certificates of Insurance and Certificate**
3 **of Insurance Forms**

4 FOR the purpose of ~~prohibiting a person from preparing or issuing or requiring the~~
5 ~~preparation or issuance of a certificate of insurance unless the certificate of~~
6 ~~insurance form has been filed with and approved by the Maryland Insurance~~
7 ~~Commissioner; providing a certain exception; prohibiting a person from altering~~
8 ~~or modifying a certain certificate of insurance form; requiring the Commissioner~~
9 ~~to disapprove a certificate of insurance form or withdraw approval of a~~
10 ~~certificate of insurance form under certain circumstances; requiring a certificate~~
11 ~~of insurance to contain certain language; prohibiting a certificate of insurance~~
12 ~~from containing a reference to a certain contract; prohibiting a person from~~
13 ~~requiring an insurer or insurance producer to prepare or issue, or a policyholder~~
14 ~~to provide, a certificate of insurance that contains false or misleading~~
15 ~~information relating to the policy of insurance referenced in the certificate;~~
16 ~~prohibiting a person from preparing or issuing a certificate of insurance that the~~
17 ~~person knows contains certain information or that purports to amend, alter, or~~
18 ~~extend certain coverage; prohibiting a person from preparing, issuing, or~~
19 ~~requiring, either in addition to or in lieu of a certificate of insurance, an opinion~~
20 ~~letter or other document that is inconsistent with this Act; providing that a~~
21 ~~certificate of insurance is not a policy of insurance and does not amend, alter, or~~
22 ~~extend certain coverage or confer certain rights on a certificate holder;~~
23 ~~specifying the circumstances under which a certificate holder has a legal right~~
24 ~~to providing that the terms and conditions of a certain notice shall be governed~~
25 by the policy of insurance and may not be altered by a certificate of insurance;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



providing that a certificate of insurance or any other document prepared, issued, or required in violation of this Act is void and unenforceable; authorizing the Maryland Insurance Commissioner 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 Act; ~~authorizing the Commissioner to enforce this Act and impose certain penalties and remedies; requiring the Commissioner to adopt certain regulations;~~ providing for the application and construction of this Act; defining certain terms; requiring the Commissioner to conduct a certain study and report to certain committees of the General Assembly on or before a certain date; and generally relating to certificates of insurance and certificate of insurance forms.

BY adding to

Article – Insurance

Section 19–116

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Insurance

19–116.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “CERTIFICATE HOLDER” MEANS ANY PERSON, OTHER THAN A POLICYHOLDER, THAT REQUESTS, OBTAINS, OR POSSESSES A CERTIFICATE OF INSURANCE.

(3) (I) “CERTIFICATE OF INSURANCE” OR “CERTIFICATE” MEANS ANY DOCUMENT OR INSTRUMENT, HOWEVER TITLED OR DESCRIBED, THAT IS PREPARED OR ISSUED BY AN INSURER OR INSURANCE PRODUCER AS EVIDENCE OF PROPERTY INSURANCE OR CASUALTY INSURANCE COVERAGE.

(II) “CERTIFICATE OF INSURANCE” OR “CERTIFICATE” DOES NOT INCLUDE A POLICY OF INSURANCE OR AN INSURANCE BINDER.

(4) “INSURER” INCLUDES A PERSON THAT IS SELF-INSURED.

(5) “PERSON” INCLUDES A UNIT OF STATE OR LOCAL GOVERNMENT.

1 (6) "POLICYHOLDER" MEANS THE OWNER OF A POLICY OF
2 PROPERTY INSURANCE OR CASUALTY INSURANCE.

3 (B) (1) THIS SECTION APPLIES TO ALL CERTIFICATE HOLDERS,
4 POLICYHOLDERS, INSURERS, INSURANCE PRODUCERS, AND CERTIFICATES OF
5 INSURANCE PREPARED OR ISSUED AS EVIDENCE OF INSURANCE COVERAGE ON
6 PROPERTY, OPERATIONS, OR RISKS LOCATED IN THE STATE, REGARDLESS OF
7 WHERE THE CERTIFICATE HOLDER, POLICYHOLDER, INSURER, OR INSURANCE
8 PRODUCER IS LOCATED.

9 (2) THIS SECTION MAY NOT BE CONSTRUED TO APPLY TO A
10 STATEMENT, SUMMARY, OR EVIDENCE OF PROPERTY INSURANCE, INCLUDING A
11 CERTIFICATE, REQUIRED BY A LENDER THAT HOLDS A LOAN SECURED BY:

12 (I) A MORTGAGE;

13 (II) A LIEN;

14 (III) A DEED OF TRUST; OR

15 (IV) ANY OTHER SECURITY INTEREST IN REAL OR PERSONAL
16 PROPERTY AS SECURITY FOR THE LOAN.

17 ~~(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~
18 ~~SUBSECTION, A PERSON MAY NOT PREPARE OR ISSUE OR REQUIRE THE~~
19 ~~PREPARATION OR ISSUANCE OF A CERTIFICATE OF INSURANCE UNLESS THE~~
20 ~~CERTIFICATE OF INSURANCE FORM HAS BEEN FILED WITH AND APPROVED BY~~
21 ~~THE COMMISSIONER.~~

22 ~~(2) ANY STANDARD CERTIFICATE OF INSURANCE FORM ADOPTED~~
23 ~~BY THE ASSOCIATION FOR COOPERATIVE OPERATIONS RESEARCH AND~~
24 ~~DEVELOPMENT (ACORD) OR THE INSURANCE SERVICES OFFICE (ISO) THAT~~
25 ~~OTHERWISE COMPLIES WITH THE REQUIREMENTS OF THIS SECTION IS DEEMED~~
26 ~~APPROVED BY THE COMMISSIONER.~~

27 ~~(3) A PERSON MAY NOT ALTER OR MODIFY A CERTIFICATE OF~~
28 ~~INSURANCE FORM THAT IS APPROVED BY THE COMMISSIONER UNDER~~
29 ~~PARAGRAPH (1) OF THIS SUBSECTION OR DEEMED APPROVED BY THE~~
30 ~~COMMISSIONER UNDER PARAGRAPH (2) OF THIS SUBSECTION.~~

31 ~~(D) THE COMMISSIONER SHALL DISAPPROVE A CERTIFICATE OF~~
32 ~~INSURANCE FORM FILED WITH THE COMMISSIONER UNDER THIS SECTION, OR~~
33 ~~WITHDRAW APPROVAL OF A CERTIFICATE OF INSURANCE FORM, IF THE FORM:~~

~~(1) IS UNJUST, UNFAIR, MISLEADING, OR DECEPTIVE, OR VIOLATES PUBLIC POLICY;~~

~~(2) FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION; OR~~

~~(3) VIOLATES ANY LAW, INCLUDING ANY REGULATION ADOPTED BY THE COMMISSIONER.~~

~~(E) EACH CERTIFICATE OF INSURANCE MUST CONTAIN SUBSTANTIALLY THE FOLLOWING LANGUAGE: "THIS CERTIFICATE OF INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS ON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, ALTER, OR EXTEND THE COVERAGE PROVIDED BY, OR THE TERMS, EXCLUSIONS, OR CONDITIONS STATED IN, THE POLICY OF INSURANCE REFERENCED IN THIS CERTIFICATE."~~

~~(F) (1) A CERTIFICATE OF INSURANCE MAY NOT CONTAIN A REFERENCE TO ANY CONTRACT, INCLUDING A CONSTRUCTION OR SERVICE CONTRACT, OTHER THAN THE CONTRACT OF INSURANCE REFERENCED IN THE CERTIFICATE.~~

~~(2) NOTWITHSTANDING ANY REQUIREMENT, TERM, OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH A CERTIFICATE OF INSURANCE IS PREPARED OR ISSUED, THE INSURANCE COVERAGE PROVIDED BY THE POLICY OF INSURANCE REFERENCED IN THE CERTIFICATE IS SUBJECT TO ALL THE TERMS, EXCLUSIONS, AND CONDITIONS OF THE POLICY.~~

~~(G) (C)~~ A PERSON MAY NOT REQUIRE AN INSURER OR INSURANCE PRODUCER TO PREPARE OR ISSUE, OR A POLICYHOLDER TO PROVIDE, A CERTIFICATE OF INSURANCE THAT CONTAINS FALSE OR MISLEADING INFORMATION RELATING TO THE POLICY OF INSURANCE REFERENCED IN THE CERTIFICATE.

~~(H) (D)~~ A PERSON MAY NOT PREPARE OR ISSUE A CERTIFICATE OF INSURANCE THAT THE PERSON KNOWS CONTAINS FALSE OR MISLEADING INFORMATION OR THAT PURPORTS TO AMEND, ALTER, OR EXTEND THE COVERAGE PROVIDED BY THE POLICY OF INSURANCE REFERENCED IN THE CERTIFICATE.

~~(I) (E)~~ A PERSON MAY NOT PREPARE, ISSUE, OR REQUIRE, EITHER IN ADDITION TO OR IN LIEU OF A CERTIFICATE OF INSURANCE, AN OPINION LETTER OR OTHER DOCUMENT THAT IS INCONSISTENT WITH THIS SECTION.

1 ~~(J)~~ (F) (1) A CERTIFICATE OF INSURANCE IS NOT A POLICY OF
2 INSURANCE AND DOES NOT AMEND, ALTER, OR EXTEND THE COVERAGE
3 PROVIDED BY THE POLICY OF INSURANCE REFERENCED IN THE CERTIFICATE.

4 (2) A CERTIFICATE OF INSURANCE DOES NOT CONFER ON A
5 CERTIFICATE HOLDER NEW OR ADDITIONAL ~~RIGHTS~~ COVERAGE BEYOND ~~THE~~
6 ~~RIGHTS~~ THE COVERAGE PROVIDED IN THE POLICY OF INSURANCE REFERENCED
7 IN THE CERTIFICATE.

8 ~~(K)~~ (1) ~~A CERTIFICATE HOLDER SHALL HAVE A LEGAL RIGHT TO~~
9 ~~NOTICE OF CANCELLATION, NONRENEWAL, MATERIAL CHANGE, OR OTHER~~
10 ~~SIMILAR MATTERS RELATING TO A POLICY OF INSURANCE REFERENCED IN A~~
11 ~~CERTIFICATE OF INSURANCE ONLY IF THE CERTIFICATE HOLDER IS LISTED AS A~~
12 ~~NAMED INSURED OR AN ADDITIONAL INSURED IN THE POLICY OR AN~~
13 ~~ENDORSEMENT TO THE POLICY, AND THE POLICY OR ENDORSEMENT REQUIRES~~
14 ~~THE NOTICE TO BE PROVIDED.~~

15 ~~(2)~~ (G) THE TERMS AND CONDITIONS OF ~~THE~~ A NOTICE OF
16 CANCELLATION, NONRENEWAL, MATERIAL CHANGE, OR OTHER SIMILAR
17 MATTERS RELATING TO A POLICY OF INSURANCE REFERENCED IN A
18 CERTIFICATE OF INSURANCE:

19 ~~(H)~~ (1) SHALL BE GOVERNED BY THE POLICY OF
20 INSURANCE; AND

21 ~~(H)~~ (2) MAY NOT BE ALTERED BY A CERTIFICATE OF
22 INSURANCE.

23 ~~(L)~~ (H) A CERTIFICATE OF INSURANCE OR ANY OTHER DOCUMENT
24 PREPARED, ISSUED, OR REQUIRED IN VIOLATION OF THIS SECTION IS VOID AND
25 UNENFORCEABLE.

26 ~~(M)~~ ~~(1)~~ (I) THE COMMISSIONER MAY EXAMINE AND INVESTIGATE THE
27 ACTIVITIES OF ANY PERSON THAT THE COMMISSIONER REASONABLY BELIEVES
28 HAS BEEN OR IS ENGAGED IN AN ACT OR PRACTICE PROHIBITED BY THIS
29 SECTION.

30 ~~(2)~~ ~~THE COMMISSIONER MAY ENFORCE THIS SECTION AND~~
31 ~~IMPOSE ANY AUTHORIZED PENALTY OR REMEDY AGAINST A PERSON THAT~~
32 ~~VIOLATES THIS SECTION.~~

~~(N) THE COMMISSIONER SHALL ADOPT REGULATIONS TO CARRY OUT
THIS SECTION, INCLUDING REGULATIONS THAT ESTABLISH AN APPROVAL
PROCESS FOR CERTIFICATE OF INSURANCE FORMS.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Insurance Commissioner shall study the impact of
requiring a certificate of insurance to be in a form that must be filed with and
approved by the Commissioner before use.

(b) The study shall include a review of states having similar requirements.

(c) The Commissioner shall include representatives of all interested parties
in the conduct of the study.

(d) On or before December 1, 2011, the Commissioner shall report the
findings and conclusions of the study, in accordance with § 2-1246 of the State
Government Article, to the Senate Finance Committee and the House Economic
Matters Committee.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2011.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.