

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 297

(Senator Kelley)

Finance

Economic Matters

Property and Casualty Insurance - Certificates of Insurance and Certificate of Insurance Forms

This bill requires a certificate of insurance form to be filed with and approved by the Insurance Commissioner and prohibits a person from altering or modifying an approved certificate of insurance. The Commissioner must adopt regulations to carry out the bill.

Fiscal Summary

State Effect: The bill's changes can be handled with existing budgeted resources of the Maryland Insurance Administration (MIA). Special fund revenues increase due to the \$125 filing fee for each form filing.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill requires the Commissioner to disapprove 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 the bill; or (3) violates any law or any regulation adopted by the Commissioner.

A standard certificate of insurance form adopted by the Association for Cooperative Operations Research and Development (ACORD) or the Insurance Services Office (ISO) that otherwise complies with the bill's requirements is considered to be approved by the

Commissioner. Additionally, the Commissioner may designate any certificate of insurance form required by a federal agency as deemed approved.

Current Law: As established by Chapters 514 and 515 of 2011, “certificate of insurance” is defined as 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. A certificate of insurance does not include a policy of insurance or an insurance binder. State law regarding certificates of insurance does not apply to a statement, summary, or evidence of property insurance, which includes a certificate, required by a lender that holds a loan secured by a mortgage, a lien, a deed of trust, or any other security interest in real or personal property as security for the loan.

A person is prohibited from preparing or issuing or requiring an insurer, insurance producer, or policyholder to prepare, issue, or provide a certificate of insurance that the person knows is false or misleading in any way or that purports to change the coverage of the policy referenced in the certificate. Additionally, 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 State law.

A certificate of insurance is not a policy of insurance and does not change the coverage provided by the policy referenced in the certificate, confer on the certificate holder any new or additional coverage not granted by the policy, or alter the terms and conditions of a notice of cancellation, nonrenewal, material change, or other similar matter relating to an insurance policy.

A certificate of insurance or any other document prepared, issued, or required in violation of State law is void and unenforceable. The Commissioner may examine and investigate the activities of any person the Commissioner reasonably believes has been or is engaged in a prohibited act or practice.

Background: According to MIA, it has received four complaints alleging that a certificate of insurance has been improperly amended or altered since 2008. When a business wants proof that someone it does business with has insurance, the business may obtain either an insurance policy or binder or a certificate of insurance. Certificates are only informational and provide a good faith summary of the insurance policy to a third party.

Certificates may have been prepared or altered in a way that does not accurately summarize the policy. A third party may not realize a certificate’s inaccuracies; for example, the certificate could indicate that insurance is in a higher amount or more broad than what is really in the policy.

Chapters 514 and 515 of 2011 also required MIA to study the impact of requiring a certificate of insurance to be in a form that must be filed with and approved by the Commissioner and to report any findings by December 1, 2011. MIA issued this report on February 17, 2012. MIA reports that, as of October 2011, 12 states required that certificates of insurance be filed with the state's insurance commissioner for prior approval.

State Revenues: MIA advises that, if ISO forms are used, the filing fee is a one-time fee of \$125 charged to ISO. However, if the organization does not use ISO forms, the filing fee is \$125 for each certificate of insurance.

Additional Information

Prior Introductions: SB 656 and HB 982 of 2011, as introduced, contained similar provisions but did not include those provisions when enacted as Chapters 514 and 515.

Cross File: HB 463 (Delegate Rudolph) - Economic Matters.

Information Source(s): Maryland Insurance Administration, Department of Legislative Services

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