

# Blades, Crout & Proulx LLC

*Risk Management Consultants - Established 1926*

## What Is Allowed On Certificates of Insurance

### **Introduction**

Almost every week I read something new in an insurance publication, industry group newsletter, insurer email, State Insurance Department bulletin and so on pertaining to what “is” and “is not” allowed on certificates of insurance.

With all of this information (and some misinformation) in the insurance marketplace; it is easy to understand how misreading a bulletin or quickly scanning a new state regulation or even not having enough time in the day to stay current, can cause confusion and frustration on this topic. How many of us have heard “that is not allowed” from an insurance agent or insurer as respects a specific request for information on a certificate of insurance?

We will take a look at two legislative changes and a State Insurance Department bulletin aimed at certificates of insurance. By using this type of information, you will be able to show what is allowed on a certificate, clear up misconceptions the agent or insurer may have and/or provide guidance to obtain the correct information you need.

### **What is a Certificate of Insurance**

The basic function of the certificate of insurance as a matter of information only remains unchanged. A certificate of insurance is:

Evidence that an insurance policy is in effect, on the day it was issued, and summarizes the type of policy in place, duration of the policy, policy limits and the individual insurer(s) who issued the policies listed on the certificate.

Certificates do not amend, alter or change the insurance policies reflected on them. The certificate holder must look to the actual policyholder’s insurance policies to determine if there is appropriate coverage in place.

### **Legislative Changes**

The State of Texas amended its insurance code effective January 1, 2012, by specifically addressing property and casualty certificates of insurance. Here are some of the areas the amended code deals with:

DEFINITIONS. "Certificate of insurance" means a document, instrument, or record, including an electronic record, no matter how titled or described, that is executed by an insurer or agent and issued to a third person not a party to the subject insurance contract,

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as a statement or summary of property or casualty insurance coverage. The term does not include an insurance binder or policy form.

**APPLICABILITY.** This chapter applies to a certificate holder, policyholder, insurer, or agent with regard to a certificate of insurance issued on property or casualty operations or a risk located in this state, regardless of where the certificate holder, policyholder, insurer, or agent is located.

**PROHIBITED ACTS AND PRACTICES.** (a) A property or casualty insurer or agent may not issue a certificate of insurance or any other type of document purporting to be a certificate of insurance if the certificate or document alters, amends, or extends the coverage or terms and conditions provided by the insurance policy referenced on the certificate or document. (b) A certificate of insurance or any other type of document may not convey a contractual right to a certificate holder.

**RIGHTS CONFERRED.** A certificate of insurance does not confer to a certificate holder new or additional rights beyond what the referenced policy or any executed endorsement of insurance provides.

**CIVIL PENALTY; INJUNCTION.** (a) A person, including an insurer or agent, who willfully violates this chapter is subject to a civil penalty of not more than \$1,000 for each violation.

New Hampshire enacted a statute effective January 1, 2012 to address the content, purpose, issuance and use of certificates in part as follows:

(4) No person shall prepare or issue a certificate of insurance that purports to affirmatively or negatively alter, amend, or extend the coverage provided by any policy of insurance referenced in the certificate.

(5) The requirements of this section shall apply to certificates of insurance issued as evidence of insurance policies and coverage on property, operations, or any risk located in this state, regardless of where the certificate holder, policyholder, insurer, or insurance producer is located.

(6) No certificate of insurance shall contain references to contracts, including construction or service contracts, other than the referenced contract of insurance, unless such reference is in relation to coverage or other requirements of the insurance contract.

(7) A certificate holder shall only have a contractual right to notice of cancellation, nonrenewal, or any similar notice concerning a policy of insurance if the person is identified and designated within the policy or any endorsement to that policy as an additional insured and that policy or endorsement requires notice to be provided.

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## **Bulletin**

New Jersey Bulletin #11-04 from the Commissioner regarding Certificates states:

The purpose of this Bulletin is to remind producers that certificates of insurance should be used only to provide evidence of insurance in lieu of a copy of the actual policy, and cannot be used to amend, expand or alter its terms.

Department continues to urge all insurers to review their oversight procedures regarding certificates of insurance in order to avoid misrepresentations of the terms and conditions of their policies, and to remind their producers about the consequences of providing improper certificates.

All insurers are encouraged to provide copies of this Bulletin to all of their appointed agents and employee producers, if any.

Each of these recent communications demonstrates the heightened concern state regulators have to provide additional clarification and guidance regarding certificates of insurance.

## **Summary**

This proliferation of information from State Insurance Departments does not alter the need for certificates and the types of information that they provide, but rather highlights the growing awareness that certificates of insurance are not a substitute for obtaining copies of the actual insurance policy, insurance policy language, and insurance policy endorsements which extend or provide the desired coverage that the certificate holder is seeking.

When you run into “that is not allowed”, take the time to confirm what the state regulations are regarding certificates of insurance where the operations or risk is located and communicate that information to the agent or insurer who is issuing the certificate. You will speed up the collection process, reduce the number of emails and minimize the time and energy spent in obtaining correctly issued certificates of insurance.

*Please visit our web site: [www.bladesrisk.com](http://www.bladesrisk.com)*