



Independent Insurance Agents of Texas

December 14, 2011

To: Interested Trade Groups and Associations

From: David VanDelinder, Executive Director

Re: SB 425 – Certificates of Insurance

I apologize for the impersonal nature of this communication. We wanted to get word out quickly and to a large number of trade groups and associations whose members may be affected by this change.

You may have heard of a change in the law effective Jan. 1, 2012 that affects certificates of insurance, and in turn may directly impact your members. We are awaiting administrative rules to implement this law from the Texas Department of Insurance (TDI), but in the absence of those, we thought you might appreciate some information from an organization that is monitoring this situation weekly.

SB 425 requires that all certificate of insurance forms, including electronic evidence of insurance, be approved by TDI before the form can be used to certify insurance after Jan. 1, 2012. Already approved is the ACORD 25 form, which is widely used in business as a standard certificate. Company or industry-specific forms will have to be approved by TDI, or a company can agree to accept the ACORD 25 form as evidence of casualty insurance. If you have members who require the use of their own certificate forms, you should advise them to file these forms immediately at:

P&C Intake Unit
Texas Department of Insurance
333 Guadalupe
Austin, TX 78701

With the exception of evidence of property insurance, after Jan. 1, 2012 it will be illegal for an agent or insurance company to issue evidence of insurance on a certificate form that has not been approved by TDI. It is also illegal for anyone to require an agent or insurance company to use a certificate form that has not been approved. Doing so could subject your members to large fines.

The law provides some guidance on the construction and limitations of certificates, as follows:

- A certificate is not a policy of insurance and does not amend, extend, or alter the coverage afforded by the referenced insurance policy.
- A certificate shall not confer to a certificate holder new or additional rights beyond what the referenced policy or any executed endorsement provides.
- A certificate may not contain a reference to a legal or insurance requirement contained in a contract other than the underlying contract of insurance or endorsement to the insurance policy.

- A person may have a legal right to notice of cancellation, nonrenewal or material change or any similar notice only if (1) the person is named within the policy or an endorsement to the policy, and (2) the policy or endorsement, or a state law or rule, requires notice to be provided.

Furthermore, the law provides this warning to certificate holders: **“A certificate of insurance that is executed, issued, or required and that is in violation of this chapter is void and has no effect.”**

We are happy to discuss this law with you or your staff, and we can provide upon request a brief article to go in your publications explaining the intent of the law. When rules are finally released by TDI, it is our understanding that associations will receive notice from TDI.