**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑57‑135 SO AS TO ENACT THE “CERTIFICATE OF INSURANCE ACT”, TO PROVIDE RELATED DEFINITIONS, TO PROVIDE FOR THE USE, LIMITATIONS, AND OTHER REQUIREMENTS OF A CERTIFICATE OF INSURANCE, TO PROVIDE FOR THE APPLICABILITY OF THE ACT, AND TO PROVIDE ENFORCEMENT AND PENALTIES FOR VIOLATIONS; AND TO AMEND SECTION 38‑1‑20, AS AMENDED, RELATING TO DEFINITIONS CONCERNING INSURANCE, SO AS TO REDEFINE “CERTIFICATE OF INSURANCE”.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 57, Title 38 of the 1976 Code is amended by adding:

“Section 38‑57‑135. (A) This act must be known and may be cited as the ‘Certificate of Insurance Act’.

(B) For purposes of this act:

(1) ‘Certificate of insurance’ means as defined in Section 38‑1‑20(12);

(2) ‘Director’ means as defined in Section 38‑1‑20(19);

(3) ‘Insurance producer’ means as defined in Section 38‑1‑20(30);

(4) ‘Insurer’ means as defined in Section 38‑1‑20(33); and

(5) ‘Person’ means as defined in Section 38‑1‑20(44).

(C) With respect to certificates of insurance:

(1) a person may not prepare, issue, or request or require the issuance of a certificate of insurance on property, operations, or risks located in this State unless the certificate of insurance form has been filed with and approved by the director by or on behalf of an insurer;

(2) the director shall prohibit the use of a certificate of insurance form if the form:

(a) is unfair, misleading, or deceptive, or violates public policy; or

(b) violates any law or regulation;

(3) a certificate of insurance form must be filed with the director for approval, and only may be filed by an individual insurer, the Association for Cooperative Operations Research and Development (ACORD), the American Association of Insurance Services (AAIS), and the Insurance Services Office (ISO); provided that an individual insurer is not required to file a certificate of insurance form that:

(a) is a current edition of the standard certificate of insurance form from ACORD, AAIS, and ISO filed with the department and approved by the director; or

(b) uses specific content and wording established by federal law, federal regulation, or any law or regulation of this State; and

(4) a certificate of insurance is not a policy of insurance and does not affirmatively or negatively amend, extend, or alter the coverage afforded by the policy to which the certificate of insurance makes reference. A certificate of insurance must not confer to any person new or additional rights beyond what the referenced policy of insurance expressly provides.

(D) A person may not:

(1) alter or modify a certificate of insurance form filed with and approved by the director;

(2) prepare, issue, or request or require the issuance of a certificate of insurance that contains any false or misleading information concerning the policy of insurance to which the certificate of insurance makes reference; or

(3) prepare, issue, or request or require the issuance of a certificate of insurance that purports to affirmatively or negatively alter, amend, or extend the coverage provided by the policy of insurance to which the certificate of insurance makes reference.

(E) A certificate of insurance may not warrant that the policy of insurance referenced in the certificate complies with the insurance or indemnification requirements of a contract. The inclusion of a contract number or description within a certificate of insurance may not be interpreted as warranting this compliance.

(F) A person is entitled to notice of cancellation, nonrenewal, material change, and any similar notice concerning a policy of insurance only if the person has such notice rights under the terms of the policy of insurance or any endorsement to the policy. The terms and conditions of the notice are governed by the policy of insurance or endorsement and may not be altered by a certificate of insurance.

(G) The provisions of this section apply to a certificate of insurance issued in connection with property, operations, or risks located in this State, regardless of the location of the policyholder, insurer, insurance producer, or person requesting or requiring the issuance of a certificate of insurance.

(H) A certificate of insurance or any other document or correspondence prepared, issued, requested, or required in violation of this section is null and void.

(I) To enforce the provisions of this section, the director may:

(1) examine and investigate the activities of any person that the director reasonably believes has been or is engaged in an act or practice prohibited by this section;

(2) issue an order to cease and desist, impose a fine for each violation, or both, pursuant to Section 38‑2‑10, against a person who violates a provision of this section; and

(3) adopt reasonable rules and regulations as he considers necessary and proper to carry out the provisions of this section.”

SECTION 2. Section 38‑1‑20(12) of the 1976 Code, as last amended by Act 323 of 2002, is further amended to read:

“(12) ‘Certificate of insurance’ means a ~~memorandum copy, complete or abbreviated, of an insurance contract~~ document or instrument, regardless of how titled or described, that is prepared or issued by an insurer or insurance producer as evidence of an insurance contract. The term does not include a policy of insurance, insurance binder, policy endorsement, or automobile insurance identification or information card.”

SECTION 3. This act takes effect upon approval by the Governor.

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