

NOTICE OF INTENT

DEPARTMENT OF INSURANCE OFFICE OF THE COMMISSIONER

CERTIFICATES OF INSURANCE

(LAC 37:Part XIII Regulations, Regulation 99, Chapter 139)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., R.S. 22:11 and R.S. 22:881.1, the Louisiana Department of Insurance gives notice that rulemaking procedures have been initiated to promulgate Regulation 99. Adoption of the proposed regulation is authorized by Acts 2010, No. 1017 of the Regular Session of the Louisiana Legislature. The purpose of Regulation 99 is to implement the provisions of Acts 2010, No. 1017, concerning the issuance, effect, and approval of certificates of insurance.

TITLE 37 INSURANCE Part XIII. Regulations Chapter 139 Regulation 99

CERTIFICATES OF INSURANCE

§ 13901. Authority

A. Regulation 99 is adopted in accordance with the provisions of R.S. 49:953 et seq., of the Administrative Procedure Act and the authority vested in the commissioner granted under the Louisiana Insurance Code, Title 22, R.S. 22:11 and R.S. 22:881.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36: (_____ 2010).

§13903. Purpose

A. The purpose of Regulation 99 is to implement the provisions of Acts 2010, No. 1017 of the Regular Session of the Louisiana Legislature, concerning the issuance, effect, and approval of certificates of insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36: (_____ 2010).

§13905. Scope and Applicability

A. Regulation 99 applies to certificates of insurance issued in reference to property, operations and risks in Louisiana insured by property and casualty insurance policies.

B. Regulation 99 applies to all certificate holders, policyholders, insurers, insurance producers, and certificate of insurance forms issued as a statement or evidence of any type of property and casualty insurance coverage on property, operations, or risks located in Louisiana, regardless of where the certificate holder, policyholder, insurer, or insurance producer is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36: (_____ 2010).

§13907. Exemptions

A. Regulation 99 shall not apply to:

1. ocean marine and foreign trade insurances;
2. self insurance for workers' compensation, including any group self insurance fund pursuant R.S. 23:1195;
3. interlocal risk management agency pursuant R.S. 33:1341;
4. automobile identification cards issued pursuant to R.S. 32:863.1.A(1)(a);
5. travel insurance;
6. credit card insurance; or
7. forced placed insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36: (_____ 2010).

§13909. Definitions

A. For the purposes of Regulation 99 and in accordance with R.S. 22:881.1 the following terms shall have the meaning ascribed herein unless the context clearly indicates otherwise:

Certificate or certificate of insurance—means any document, instrument, or record, including an electronic record, no matter how titled or described, which is prepared by an insurer or insurance producer and issued to a third person not a party to the subject insurance contract, as evidence of property and casualty insurance coverage. "Certificate" or "certificate of insurance" shall not mean an insurance binder.

Certificate holder—means any person, other than a policyholder, that is designated on a certificate of insurance as a "certificate holder" or any person, other than a policyholder, to whom a certificate of insurance has been issued by an insurer or insurance producer at the request of the policyholder.

Commissioner—Louisiana Commissioner of Insurance.

Electronic record—shall have the meaning defined in R.S. 9:2602(7).

Insurance—shall have the meaning defined in R.S. 22:46(9).

Insurance producer—shall have the same definition as set forth in R.S. 22:1542.

Insurer—means an insurer as defined in R.S. 22:46(10) and any other person engaged in the business of making property and casualty insurance contracts, including but not limited to self-insurers, syndicates, risk purchasing groups, and similar risk transfer entities. "Insurer" shall not mean any person self-insured for purposes of workers' compensation, including any group self-insurance fund authorized pursuant to R.S. 23:1195 et seq., any interlocal risk management agency authorized pursuant to R.S. 33:1341 et seq. or any self-insured employer authorized pursuant to R.S. 23:1168 et seq.

LDI—Louisiana Department of Insurance.

Person—means any individual, company, insurer, organization, reciprocal or inter-insurance exchange, business, partnership, corporation, limited liability company, association, trust, or other legal entity, including any government or governmental subdivision or agency.

Policyholder—means a person who has contracted with a property or casualty insurer for insurance coverage.

Record—shall have the meaning defined in R.S. 9:2602(13).

Self-insurer—means any individual business or group of businesses which have created a risk purchasing group, risk retention plan, syndicate, or other form of self-insurance covering property or casualty risk exposures. "Self-insurer" shall not mean any person self-insured for purposes of workers' compensation, including any group self-insurance fund authorized pursuant to R.S. 23:1195 et seq., any interlocal risk management agency authorized pursuant to R.S. 33:1341 et seq., or any self-insured employer authorized pursuant to R.S. 23:1168 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36: (_____ 2010).

§13911. Effect and Use of Certificates of Insurance

A. A certificate of insurance form that has been approved by the commissioner and properly executed and issued by a property and casualty insurer or an insurance producer, shall constitute a confirmation that the referenced insurance policy has been issued or that coverage has been bound notwithstanding the inclusion of "for information purposes only" or similar language on the face of the certificate.

B. The commissioner may approve a certificate of insurance form that does not state that the form is provided for information only or similar language, provided that the form states that the certificate of insurance does not confer any rights or obligations other than those conveyed by the policy and that the terms of the policy control.

C. 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.

D. A certificate of insurance shall not confer to a certificate holder new or additional rights beyond what the referenced policy or any validly executed endorsements of insurance provides.

E. An insurer or insurance producer may prepare or issue an addendum that clarifies, explains, summarizes, or provides a statement of the coverages provided by a policy of insurance and otherwise complies with the requirements of this Regulation 99.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36: (_____ 2010).

§13913. Filing Requirements

A. No person, wherever located, may prepare, issue, or request the issuance of a certificate of insurance for risks located in this state unless the form has been filed with and approved by the commissioner.

B. No person, wherever located, may alter or modify an approved certificate of insurance form unless the alteration or modification has been approved by the commissioner.

C. The commissioner shall approve or disapprove a certificate of insurance form within forty-five days of receipt of the form.

D. Each certificate of insurance form shall be filed separate and apart from other forms.

E. A person submitting a certificate of insurance form for approval shall include:

1. A cover letter which includes the person's full name and Federal Employer Identification Number (FEIN) or National Association of Insurance Commissioners (NAIC) number or producer license number.

2. Any person submitting a paper filing shall include two copies of all required documents, including a stamped, self-addressed envelope(s) of sufficient size for use in returning the company's forms filed.

F. Certificate of insurance form filings shall not require:

1. a statement of compliance.
2. a filing fee.

G. Except for the statutorily approved forms in R.S. 881.1(F)(2) and §13917.A, once a certificate of insurance has been properly submitted and approved, the LDI shall assign a certificate of insurance number for the approved form. The LDI shall provide written notice to the person that the certificate of insurance has been approved. Within 30 days of receipt of the written notice, the person shall incorporate the assigned LDI number and approval date on the certificate of insurance and resubmit the form for placement on the LDI certificate of insurance website.

H. The LDI number and approval date shall be placed on the certificate of insurance in the following format:

LA. Cert. Assigned
Dept. of Ins. LDI Date
of Ins. Ins. No. (mm/year)

LDI COI 123456 08 10

I. The commissioner will not approve any certificate of insurance that contains any references to legal or insurance requirements contained in any contracts other than the underlying contracts of insurance, including construction or service contracts.

J. The commissioner will disapprove any certificate of insurance form, or withdraw approval of a certificate of insurance form if it:

1. is unfair, misleading, or deceptive, or violates public policy.

2. violates any state statute or regulation validly promulgated by the commissioner.
3. requires certification of insurance coverages that are not available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36: (_____ 2010).

§13915. Certificates of Insurance Approved Prior to Promulgation of Regulation 99

A. Any person that received approval for a certificate of insurance prior to January 1, 2011, and did not receive an LDI certificate of insurance number shall provide written notice of the prior approval to the LDI. The notice of the prior approval shall include:

1. the person(s) name;
2. LDI's filing number; and
3. a copy of the approved certificate of insurance.

B. Pursuant to the written notice required in §13915.A, the LDI shall review the previously approved form to determine if it is compliant with R.S. 22:881.1 and Regulation 99. If deemed compliant, the LDI shall notify the person that the form is approved and provide the person the assigned LDI certificate of insurance number.

C. The person shall incorporate the LDI certificate of insurance number on the approved form using the format provided in §13913.H and shall resubmit the approved form to the LDI prior to use.

D. §13915.B and C do not apply to the statutorily approved forms in R.S. 881.1(F)(2) and §13917.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36: (_____ 2010).

§13917. Use of ACORD, AAIS AND ISO FORMS

A. Standard certificate of insurance forms promulgated by the Association for Cooperative Operations Research and Development (ACORD), the American Association of Insurance Services (AAIS), or the Insurance Services Office (ISO) shall be filed by those organizations, but are deemed approved by the commissioner unless the commissioner determines that these forms do not comply with the provisions of Regulation 99 and R.S. 22:881.1.

B. Once filed, these forms may be issued by any person authorized by such organizations to use their forms as evidence of property and casualty insurance coverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36: (_____ 2010).

§13919. Notice of Cancellation

A. A person shall have a legal right to notice of cancellation, nonrenewal, or any material change, or any similar notice concerning a policy of insurance, only if the person is named within the policy or any endorsement and the policy or endorsement, law, or regulation of this state requires notice to be provided. The terms and conditions of the notice, including the required timing of the notice, are governed by the policy of insurance in accordance with the laws and regulations of this state and cannot be altered by a certificate of insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36: (_____ 2010).

§13921. Investigations and Examinations of Complaints and Violations

A. The commissioner of insurance may examine and investigate any complaint or allegation of specific violations by any person who has allegedly engaged in an act or practice prohibited by R.S. 22:881.1. Any such examinations or complaint investigations conducted by the commissioner shall be subject to the provisions of R.S. 22:1983(J).

B. The commissioner may fine any person who willfully violates R.S. 22:881.1 not more than one thousand dollars per violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36: (_____ 2010).

§13923. Severability

A. If any Section or provision of this Regulation 99 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 99 to any persons or circumstances that can be given effect without the invalid Section or provision or application, and for these purposes the Sections and provisions of Regulation 99 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36: (_____ 2010).

§13925. Effective Date

A. Regulation 99 shall become effective upon final publication in the Louisiana Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:881.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 36: (_____ 2010).