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TA 274

August 13, 2009

SUBJECT: New Certificates of Insurance Statute - Act 335 of the 2009 Louisiana Legislative Session

BACKGROUND: The Louisiana legislature passed HB 623 which became Act 335, a new law that regulates certificates of insurance. Act 335 is effective August 15, 2009. The Louisiana Department of Insurance (LDI) plans to issue a regulation to clarify how they will regulate this new law, but it will take some time for LDI to develop a comprehensive regulation.

MAIN POINTS: Act 335 defines "certificate of insurance" broadly as "any document issued by or on behalf of an insurer to a third party who has not contracted with the insurer to purchase an insurance policy and is provided for informational purposes only to advise a third party of the existence and limits of insurance coverage issued to the named insured." Based on this definition almost any evidence of insurance would be covered by the provisions of this statute.

The new law prohibits an insurer or producer from using a certificate of insurance to amend the provisions of the underlying policies. Existing statutes regulating policy forms have always had this same effect, but Act 335 clearly reaffirms this prohibition against the issuance of a certificate that does not accurately reflect the underlying policies.

The most important part of the new law limits the types of certificate forms that can be used by insurers and producers. This Section reads:

"Any insurer or insurance producer acting on behalf of the insurer issuing a certificate of insurance shall be authorized to use only the standard ACORD or ISO Form "Certificate of Insurance" or other form filed with and approved by the commissioner of insurance."

Act 335 establishes a clear statutory preference for the ACORD or ISO certificate of insurance forms. Other forms may only be used if they are approved by the commissioner of insurance. It appears that one key purpose of the bill is to regulate long form certificates of insurance in order to reduce or eliminate some of the burdensome requirements of some certificate holders. If the law is successful in curbing these abuses, it will be very positive for policyholders and producers.

However, there are also lots of questions about how this new law will be implemented, the impact on multistate policyholders and producers, and what long form certificates will be approved. IIABL is already working with LDI to understand and properly manage these various issues.

Until the LDI develops the regulation outlining the process and criteria for approval of non-ACORD or non-ISO form certificates the use of long form certificates are not authorized, and therefore may not be used by insurers or producers.

Remember, the law is effective August 15, 2009. So.....until LDI issues their regulation to clarify how producers should deal with Act 335, what does your agency do with long form certificates starting next week?

The law only allows you to use ISO or ACORD certificate of insurance forms. However, certificate holders (and therefore your policyholders) may demand that their long form certificate be completed. What do you do?

**NECESSARY
ACTION:**

In order to comply with the law and still satisfy your policyholders and/or certificate holders, your agency may want to develop certificate procedures whereby the agency issues and signs an ACORD or ISO certificate form, and attaches the completed but unsigned long form certificate or other policy questionnaire necessary to provide the certificate holder with the information they need to allow your policyholder to work. Your agency may also want to prepare a standard letter which explains your new certificate procedure, along with a copy of the new statute (attached), so that the certificate holder will understand your new agency procedures.

The law is effective August 15, 2009, so now is the time to review your certificate procedures and decide how your agency will respond to the new law.

IIABL will continue to work with LDI to address the numerous questions and issues. As soon as the LDI issues their regulation, IIABL will forward the regulation and other pertinent information to you.

Regular Session, 2009
HOUSE BILL NO. 623
BY REPRESENTATIVE BALDONE

ACT No. 335

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To enact R.S. 22:881.1, relative to insurance policies; to define certificates of insurance and
3 otherwise provide with respect to their issuance; and to provide for related matters.

4 Be it enacted by the Legislature of Louisiana:

5 Section 1. R.S. 22:881.1 is hereby enacted to read as follows:

6 §881.1. Certificates of insurance

7 A. For the purposes of this Section:

8 (1) "Certificate of insurance", as used by property and casualty insurers, shall
9 mean any document issued by or on behalf of an insurer to a third party who has not
10 contracted with the insurer to purchase an insurance policy and is provided for
11 informational purposes only to advise a third party of the existence and limits of
12 insurance coverage issued to the named insured.

13 (2) "Insurance producer" shall have the same definition as set forth in R.S.
14 22:1542.

15 B. No property or casualty insurer or insurance producer may issue a
16 certificate of insurance or any other type of document purporting to be a certificate
17 of insurance that will affirmatively or negatively alter, amend, or extend the
18 coverage provided by the referenced insurance policy. A certificate of insurance
19 shall also not convey any contractual rights to the certificate holder.

20 C. Any insurer or insurance producer acting on behalf of the insurer issuing
21 a certificate of insurance shall be authorized to use only the standard ACORD or ISO
22 Form "Certificate of Insurance" or other form filed with and approved by the
23 commissioner of insurance.

1 D. Pursuant to the Administrative Procedure Act, the commissioner of
2 insurance may adopt reasonable rules and regulations as are necessary or proper to
3 carry out the purposes of this Section.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____