



Independent Insurance Agents & Brokers of Louisiana
18153 E. Petroleum Drive, Baton Rouge, LA 70809
Office: (225) 819-8007 | Fax: (225) 819-8027
www.IIABL.com | info@IIABL.com

TECHNICAL ADVISORY

TA #346

February 12, 2021

SUBJECT: LDI Regulation 30 – Certificates of Insurance

TABLE OF CONTENTS:

- [Background](#)
- [Main Points](#)
 - [R.S. 22:890.C.](#)
 - [LDI Regulation 30](#)
- [Necessary Action](#)
- [IIABL Legal Disclaimer](#)

BACKGROUND:

Regulation 30 was originally promulgated by the Louisiana Department of Insurance, Commissioner of Insurance, on April 23, 1969, and then amended LR 46:1687 in December 2020.

MAIN POINTS:

The purpose of original TA 346 issued on February 3, 2021 was to make people aware of LDI Regulation 30 which was issued to ensure compliance with R.S. 22:890.G. below.

Since then, IIABL has received important additional clarifications about the scope and application of Regulation 30.

R.S. 22:890.C. specifically states that the ACORD (as well as the ISO and AAIS) certificate of insurance form is statutorily recognized and approved by the Louisiana Legislature for use in Louisiana. The ACORD form is not in conflict with Reg 30 and the ACORD disclaimer language substantially complies with the law and regulation. No additional language is required to be added to the ACORD certificate of insurance form to comply with Regulation 30.

§890. Certificates of insurance

A. For the purposes of this Section:

(1) "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.

(2) "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



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certificate of insurance has been issued by an insurer or insurance producer at the request of the policyholder.

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

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

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

(6) "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.

(7) "Lender" means an individual, partnership, corporation, limited liability company, association, federally insured depository institution, or other entity, agent, loan agent, servicing agent, or loan or mortgage broker, who makes, owns, or services a loan.

(8) "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.

(9) "Policyholder" means a person who has contracted with a property or casualty insurer for insurance coverage.

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

(11) "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.

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

C. No person, other than a lender, wherever located, may prepare, issue, or request the issuance of a certificate of insurance for risks located in this state unless the certificate is issued on standard certificate of insurance forms promulgated by the insurer, the Association for Cooperative Operations Research and Development (ACORD), the American Association of Insurance Services (AAIS), or the Insurance Services Office (ISO).

D. No person shall demand or request the issuance of a certificate of insurance from an insurer, insurance producer, or policyholder that contains any false or misleading information concerning the policy of insurance to which the certificate makes reference.

E.(1)(a) No person may request an insurance producer prepare or issue, either in addition to or in lieu of a certificate of insurance, an opinion letter or other document or correspondence, instrument, or record, including an electronic record.

(b) The provisions of Subparagraph (a) of this Paragraph shall not apply to lenders, as defined in this Section, or to certificates of insurance required or requested by a lender from a policyholder.



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(2)(a) A person may request that an insurer 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 Section.

(b) Notwithstanding Subparagraph (a) of this Paragraph, a lender may request that an insurer or insurance producer 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 Section.

F. The provisions of this Section shall apply to all certificate holders, policyholders, insurers, insurance producers, and certificate of insurance forms issued as a statement or evidence of insurance coverages on property, operations, or risks located in this state, regardless of where the certificate holder, policyholder, insurer, or insurance producer is located.

G. A certificate of insurance form which has been issued in accordance with this Section 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. 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 shall not confer to a certificate holder new or additional rights beyond what the referenced policy or any validly executed endorsements of insurance provides.

H. No certificate of insurance shall contain references to legal or insurance requirements contained in any contracts, including but not limited to construction or service contracts. The certificate of insurance may list only the specific forms or endorsements contained in the underlying contracts of insurance. No certificate holder or other interested party may require an interpretation of those forms or endorsements from the insurance agent. The provisions of this Subsection shall not apply to lenders, as defined in this Section, or to certificates of insurance required or requested by a lender from a policyholder.

I. 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.

J. Any certificate of insurance and any attached addendum prepared, issued, or requested in violation of this Section shall be null and void and of no force and effect.

K. Any person who willfully violates this Section may be fined not more than one thousand dollars per violation.

L. The commissioner of insurance shall have the power to examine and investigate any complaint or allegation of specific violations by any person who has allegedly engaged in an act or practice prohibited by this Section and to enforce the provisions of this Section. Examinations or complaint investigations conducted by the commissioner under this Subsection shall be subject to the provisions of R.S. 22:1983(J).

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



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Acts 2009, No. 335, §1; Acts 2010, No. 375, §2, eff. Jan. 1, 2011; Acts 2010, No. 1017, §1, Subsections A, C, D, and E eff. Aug. 15, 2010, and Subsections B and F - P eff. Jan. 1, 2011; Acts 2016, No. 278, §1.

LDI REGULATION 30

Certificates of insurance are documents, including electronic records, that require persons or contractors to furnish to prove that they have insurance.

Some of these certificates purport to alter, amend, or extend the coverage provided by the referenced insurance policy in violation of R.S. 22:890.

Therefore, in order to avoid any misunderstanding of the effect of any certificate of insurance prepared and issued by an insurance company or its agent, any such certificate must contain the following or similar language:

This certificate of insurance neither affirmatively nor negatively alters, amends, or extends the coverage afforded by Policy Number (NUMBER) issued by (INSURER).

RULE
Department of Insurance
Office of the Commissioner

Regulation 30-Certificates of Insurance Coverage
(LAC 37: XIII.8101 and 8102)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended Regulation 30. This amendment has been promulgated in order to provide clarification regarding certificates of insurance coverage. This Rule is hereby adopted on the day of promulgation.

Title 37 INSURANCE
Part XIII. Regulations
Chapter 81. Regulation 30-Certificates of Insurance Coverage

§8101. Certificates of Insurance

A. It has come to the attention of this department that certificates of insurance for automobile and general liability insurance are being issued by companies or their agents. Certificates of insurance are documents, including electronic records, that many large corporations require persons or contractors employed by them to furnish to prove that they have insurance.

B. Some of these certificates purport to alter, amend, or extend the coverage provided by the referenced insurance policy in violation of R.S. 22:890.



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C. Therefore, in order to avoid any misunderstanding of the effect of any certificate of insurance prepared and issued by an insurance company or its agent, any such certificate must contain the following or similar language:

This certificate of insurance neither affirmatively nor negatively alters, amends, or extends the coverage afforded by Policy Number (NUMBER) issued by (INSURER).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:890.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, April 23, 1969, amended LR 46:1687 (December 2020).

§8102. Effective Date

A. Regulation 30, as amended, shall become effective upon final promulgation in the Louisiana Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:890.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, April 23, 1969, amended LR 46:1687 (December 2020).

James J. Donelon
Commissioner

Louisiana Register Vol. 46, No. 12 December 20, 2020

NECESSARY ACTION:

Please advise any agency personnel who issue certificates of insurance of the requirements of LDI Regulation 30 and ensure that certificates are issued in compliance with the regulation.

IIABL LEGAL DISCLAIMER:

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