

IN THE SENATE

SENATE BILL NO. 1390, As Amended

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO CERTIFICATES OF INSURANCE; AMENDING CHAPTER 18, TITLE 41, IDAHO
2 CODE, BY THE ADDITION OF A NEW SECTION 41-1850, IDAHO CODE, TO PROVIDE
3 DEFINITIONS, TO PROVIDE THAT NO PERSON MAY PREPARE, ISSUE OR KNOWINGLY
4 REQUEST THE ISSUANCE OF A CERTIFICATE OF INSURANCE UNLESS THE FORM HAS
5 BEEN FILED WITH THE DIRECTOR, TO PROVIDE THAT NO PERSON MAY ALTER OR
6 MODIFY A CERTIFICATE OF INSURANCE UNLESS THE ALTERATION OR MODIFICA-
7 TION HAS BEEN FILED WITH THE DIRECTOR, TO ESTABLISH PROVISIONS RELATING
8 TO THE DIRECTOR DISAPPROVING THE USE OF A FORM OR WITHDRAWING APPROVAL
9 OF A FORM, TO PROVIDE THAT EACH CERTIFICATE OF INSURANCE MUST CONTAIN
10 A STATEMENT, TO ESTABLISH THAT PROVISIONS RELATING TO CERTAIN FORMS
11 PROMULGATED AND FILED WITH THE DIRECTOR ARE NOT REQUIRED TO BE REFILED
12 BY INDIVIDUAL INSURERS, TO ESTABLISH PROVISIONS RELATING TO FALSE OR
13 MISLEADING INFORMATION, TO ESTABLISH PROVISIONS RELATING TO CERTAIN
14 DOCUMENTS THAT PURPORT TO AFFIRMATIVELY OR NEGATIVELY ALTER, AMEND
15 OR EXTEND CERTAIN COVERAGE, TO ESTABLISH PROVISIONS RELATING TO AP-
16 PPLICATION OF LAW, TO PROVIDE THAT A CERTIFICATE OF INSURANCE IS NOT A
17 POLICY OF INSURANCE, TO PROVIDE THAT A CERTIFICATE OF INSURANCE SHALL
18 NOT CONFER CERTAIN RIGHTS, TO PROVIDE THAT A CERTIFICATE OF INSURANCE
19 SHALL NOT CONTAIN CERTAIN REFERENCES, TO PROVIDE FOR NOTICE, TO PROVIDE
20 THAT ANY CERTIFICATE OF INSURANCE OR OTHER DOCUMENT PREPARED, ISSUED OR
21 REQUESTED IN VIOLATION OF THIS SECTION SHALL BE NULL AND VOID AND OF NO
22 FORCE AND EFFECT, TO PROVIDE FOR A PENALTY, TO PROVIDE THAT THE DIRECTOR
23 SHALL HAVE THE POWER TO EXAMINE AND INVESTIGATE CERTAIN ACTIVITIES AND
24 IMPOSE PENALTIES OR REMEDIES, TO PROVIDE FOR RULES AND TO PROVIDE THAT
25 THIS SECTION SHALL NOT APPLY TO CERTAIN CERTIFICATES; AMENDING SECTION
26 41-1823, IDAHO CODE, TO REVISE PROVISIONS RELATING TO BINDERS OR OTHER
27 CONTRACTS FOR TEMPORARY INSURANCE AND TO MAKE A TECHNICAL CORRECTION;
28 AND PROVIDING SEVERABILITY.
29

30 Be It Enacted by the Legislature of the State of Idaho:

31 SECTION 1. That Chapter 18, Title 41, Idaho Code, be, and the same is
32 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
33 ignated as Section 41-1850, Idaho Code, and to read as follows:

34 41-1850. CERTIFICATES OF INSURANCE. (1) For purposes of this section,
35 the following terms have the following meanings:

36 (a) "Certificate" or "certificate of insurance" means any document or
37 instrument, no matter how titled or described, which is prepared or is-
38 sued as evidence of property or casualty insurance coverage. "Certifi-
39 cate" or "certificate of insurance" shall not include a policy of in-
40 surance, insurance binder, policy endorsement or automobile insurance
41 identification card.

1 (b) "Certificate holder" means any person, other than a policyholder,
2 that requests, obtains or possesses a certificate of insurance.

3 (c) "Insurance producer" has the same meaning as provided for in title
4 41, chapter 10, Idaho Code.

5 (d) "Insurer" has the same definition as provided for in section
6 41-103, Idaho Code.

7 (e) "Person" means any individual, partnership, corporation, associ-
8 ation or other legal entity, including any government or governmental
9 subdivision or agency.

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

12 (g) "Group master policy" means an insurance policy that provides cov-
13 erage to eligible persons on a group basis through a group insurance
14 program.

15 (2) No person, wherever located, may prepare, issue or knowingly re-
16 quest the issuance of a certificate of insurance unless the form has been
17 filed with the director by or on behalf of an insurer. No person, wherever
18 located, may alter or modify a certificate of insurance form unless the al-
19 teration or modification has been filed with the director.

20 (3) The director shall disapprove the use of any form filed under this
21 section, or withdraw approval of a form, if the form:

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

23 (b) Fails to comply with the requirements of this section; or

24 (c) Violates any provision of title 41, Idaho Code, including any rule
25 promulgated by the director.

26 (4) Each certificate of insurance must contain the following or similar
27 statement: "This certificate of insurance is issued as a matter of informa-
28 tion only and confers no rights upon the certificate holder. This certifi-
29 cate does not alter, amend or extend the coverage, terms, exclusions and con-
30 ditions afforded by the policies referenced herein."

31 (5) The current edition of standard certificate of insurance forms pro-
32 mulgated and filed with the director by the association for cooperative op-
33 erations research and development (ACORD) or the insurance services office
34 (ISO) are not required to be refiled by individual insurers.

35 (6) No person, wherever located, shall demand or request the issuance
36 of a certificate of insurance or other document, record or correspondence
37 that the person knows contains any false or misleading information or that
38 purports to affirmatively or negatively alter, amend or extend the cover-
39 age provided by the policy of insurance to which the certificate makes refer-
40 ence.

41 (7) No person, wherever located, may knowingly prepare or issue a cer-
42 tificate of insurance or other document, record or correspondence that con-
43 tains any false or misleading information or that purports to affirmatively
44 or negatively alter, amend or extend the coverage provided by the policy of
45 insurance to which the certificate makes reference.

46 (8) The provisions of this section shall apply to all certificate hold-
47 ers, policyholders, insurers, insurance producers and certificate of insur-
48 ance forms issued as evidence of property or casualty insurance coverages on
49 property, operations or risks located in this state, regardless of where the
50 certificate holder, policyholder, insurer or insurance producer is located.

1 (9) A certificate of insurance is not a policy of insurance and does not
2 affirmatively or negatively alter, amend or extend the coverage afforded by
3 the policy to which the certificate of insurance makes reference. A certifi-
4 cate of insurance shall not confer to a certificate holder new or additional
5 rights beyond what the referenced policy of insurance provides.

6 (10) No certificate of insurance shall contain references to contracts
7 other than the underlying contracts of insurance, including construction or
8 service contracts. Notwithstanding any requirement, term or condition of
9 any contract or other document with respect to which a certificate of insur-
10 ance may be issued or may pertain, the insurance afforded by the referenced
11 policy of insurance is subject to all the terms, exclusions and conditions of
12 the policy itself.

13 (11) A person is entitled to receive notice of cancellation, nonrenewal
14 or any material change or any similar notice concerning a policy of insurance
15 only if the person has such notice rights under the terms of the policy or any
16 endorsement to the policy. The terms and conditions of the notice, including
17 the required timing of the notice, are governed by the policy of insurance or
18 endorsement and may not be altered by a certificate of insurance.

19 (12) Any certificate of insurance or any other document, record or cor-
20 respondence prepared, issued or requested in violation of this section shall
21 be null and void and of no force and effect.

22 (13) Any person who violates this section shall be subject to an ad-
23 ministrative penalty imposed by the director in an amount as provided for in
24 section 41-117, Idaho Code, per violation.

25 (14) The director shall have the power to examine and investigate the
26 activities of any person that the director believes has been or is engaged
27 in an act or practice prohibited by this section. The director shall have
28 the power to enforce the provisions of this section and impose any authorized
29 penalty or remedy against any person who violates this section.

30 (15) The director may, in accordance with section 41-211, Idaho Code,
31 adopt reasonable rules as are necessary or proper to carry out the provisions
32 of this section.

33 (16) This section shall not apply to any certificate of insurance pre-
34 pared and/or issued by an insurer pursuant to any federal law, rule or reg-
35 ulation, or any other law, rule or regulation of this state, in which the
36 specific content and form of said certificate is enumerated therein, or a
37 certificate issued to a person or entity that has purchased coverage under a
38 group master policy.

39 SECTION 2. That Section 41-1823, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 41-1823. BINDERS. (1) Binders or other contracts for temporary insur-
42 ance may be made orally or in writing, and shall be deemed to include all
43 the usual terms of the policy as to which the binder was given together with
44 such supplemental information and applicable endorsements as are designated
45 in the binder, except as superseded by the clear and express terms of the
46 binder.

47 (2) No binder shall be valid beyond the issuance of the policy, or the
48 endorsement, or the policy expiration, whichever is shortest, with respect

1 to which it was given, ~~or beyond ninety (90) days from its effective date,~~
2 ~~whichever period is the shorter.~~

3 (3) ~~If the policy has not been issued a binder may be extended or renewed~~
4 ~~beyond such ninety (90) days with the written approval of the director, or in~~
5 ~~accordance with such rules and regulations relative thereto as the director~~
6 ~~may promulgate.~~

7 ~~(4) This section shall not apply to life or disability insurances.~~

8 SECTION 3. SEVERABILITY. The provisions of this act are hereby declared
9 to be severable and if any provision of this act or the application of such
10 provision to any person or circumstance is declared invalid for any reason,
11 such declaration shall not affect the validity of the remaining portions of
12 this act.