Bulletin 2009-08 – Certificates of Insurance

(Effective March 12, 2009)

The Department of Insurance ("Department") is aware that some licensed insurance agents ("agents") or insurers are being asked to issue preprinted or client-furnished certificate of insurance documents or other evidences of insurance coverage ("other evidence documents") which include language that purports to amend or alter terms of the underlying insurance policies. These certificates of insurance or other evidence documents are typically used in lieu of providing a full copy of the policy and serve as proof of insurance and to summarize terms of the policy. This bulletin is to clarify the use of certificates of insurance or other evidence documents by agents or insurers in Ohio.

Certificates of insurance or other evidence documents must clearly and accurately state the insurance coverage provided. Any certificate or other evidence documents issued by an insurer or agent that obscures or misrepresents the insurance coverage or terms of an insurance policy is a violation of the Ohio Revised Code and may subject the issuer to civil penalties and/or license suspension or revocation. Therefore, an insurance agent may not issue a certificate of insurance or other evidence document that does not accurately represent the terms or conditions of the policy without written authority from the insurer to alter the terms or conditions of that policy, or unless the agent has written underwriting authority to do so.

When an insurer provides a certificate of insurance or other evidence document that goes beyond a synopsis of the policy, the insurer may be exceeding the underlying policy language. Any statement in the certificate or other evidence document that amends or extends coverage of the underlying policy, including references to construction contracts, service contracts, or insurance requirements could be, in effect, changing the policy terms and the insurer may be bound by those changes.

When an insurance agent executes a certificate of insurance or other evidence document which goes beyond a mere synopsis of the policy, the agent may be exceeding the policy language. If the agent includes any statement in the certificate or other evidence document that amends or extends coverage of the underlying policy, including references to construction contracts, service contracts, or insurance requirements, the agent could be, in effect, changing the policy terms. By issuing such a certificate or other evidence document, the agent may be in violation of Ohio insurance laws.

Ohio Revised Code section 3901.21(A) defines misrepresenting the terms or benefits of an insurance policy as an unfair and deceptive act or practice in the business of insurance. Pursuant to the authority in section 3905.14(B)(8) of the Revised Code, the Superintendent may impose a civil penalty or suspend or revoke the insurance license of an agent who is found to have committed an unfair or deceptive act or practice.

Revised Code section 3905.14(B)(5) authorizes the Superintendent to impose civil penalties or to suspend or revoke the license of an agent if the agent intentionally misrepresents the terms of an actual or proposed insurance contract. An agent who signs a certificate of insurance or other evidence document or issues an opinion that the agent knows alters or amends the coverage of the underlying policy may be in violation of this section and thereby be subject to administrative penalties under the Revised Code.

A certificate of insurance, an ACORD ("Association for Cooperative Operations Research and Development") form, or other evidence documents should not provide false information.

The following guidelines should be reviewed and adhered to by insurers and agents when issuing certificates of insurance or other evidence documents relating to commercial insurance:

1. No agent may issue a binder, certificate of insurance or indemnity agreement, affidavit, other evidence document, or any other instrument which either affirmatively or negatively amends, extends, or alters or misrepresents the terms, conditions, or coverage provided by the underlying insurance policy.

2. Each certificate of insurance or evidence document should contain the following statement or one substantively similar: "This document neither affirmatively nor negatively amends, extends, or alters the terms of or the coverage afforded by policy referenced herein.

3. Certificates of insurance or other evidence documents should not contain references to construction contracts, service contracts, or insurance requirements for the purpose of amending coverage afforded by the policies to which the certificate of insurance or evidence document makes reference. No certificate of insurance or evidence document may be used to amend, extend, restrict or alter the terms or coverage of policies to which the certificate or other evidence document makes reference.

Mary Jo Hudson
Superintendent of Insurance