FIRST REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 407

96TH GENERAL ASSEMBLY

1093L.04T 2011

AN ACT

To amend chapter 379, RSMo, by adding thereto one new section relating to certificates of insurance for property and casualty insurance coverage.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 379, RSMo, is amended by adding thereto one new section, to be known as section 379.108, to read as follows:

379.108. 1. As used in this section, the following terms shall mean:

(1) "Certificate of insurance", any document or instrument, no matter how titled or described, which is prepared or issued by an insurer or insurance producer as a statement of property or casualty insurance coverage. Certificate of insurance shall not include a policy of insurance, insurance binder, or evidence of commercial property insurance required by a lender in a lending transaction involving a mortgage, lien, deed of trust, or other security interest in or on any real or personal property as security for a loan;

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

(3) "Director", the director of the department of insurance, financial institutions and professional registration;

(4) "Insurance producer", the same meaning as such term is defined in section 375.012;

EXPLANATION — Matter enclosed in bold-faced brackets **[**thus**]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

(5) "Insurer", any insurance company or mutual formed or regulated under the provisions of chapter 379 or 380, and any other person engaged in the business of making insurance or surety contracts, including self-insurers;

(6) "Person", any individual, partnership, corporation, association, or other legal entity, including any government or governmental subdivision or agency;

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

2. No person shall prepare, issue, or request the issuance of a certificate of insurance unless the form has been filed with the director. No person shall alter or modify a filed certificate of insurance form.

3. Each certificate of insurance shall contain the following or similar statement:

"This certificate of insurance is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage, terms, exclusions and conditions afforded by the policies referenced herein.".

4. Standard certificate of insurance forms promulgated by the Association for Cooperative Operations Research and Development or the Insurance Services Office are deemed in compliance when filed with the director and may be adopted and used by any of their respective members.

5. No person, wherever located, 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.

6. No person, wherever located, shall knowingly prepare or issue a certificate of insurance that contains any false or misleading information or that purports to affirmatively or negatively alter, amend, or extend the coverage or rights provided by the policy of insurance to which the certificate makes reference.

7. No person shall prepare, issue, or request, either in addition to or in lieu of a certificate of insurance, an opinion letter or other document or correspondence that is inconsistent with this section; except that, an insurer or insurance producer may prepare or issue an addendum to a certificate that lists the forms and endorsements by a policy of insurance and otherwise complies with the requirements of this section.

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

9. A certificate of insurance is not a policy of insurance and does not affirmatively or negatively amend, extend, or alter 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 of insurance expressly provides.

10. No certificate of insurance shall contain references or opinions on the effect of any contracts, including construction or service contracts, other than the referenced contract of insurance. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which a certificate of insurance may be issued or may pertain, the insurance afforded by the referenced policy of insurance is subject to all the terms, exclusions, and conditions of the policy itself.

11. A certificate holder shall only have a legal right to notice of cancellation, nonrenewal, or any material change, or any similar notice concerning a policy of insurance if the person is named within the policy or any endorsement or rider and the policy or endorsement or rider 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 and shall not be created or altered by a certificate of insurance.

12. An insurance producer may charge a reasonable service fee for issuing a certificate to a policyholder or certificate holder. Such fee shall be considered a permissible incidental fee under section 375.052.

13. Any certificate of insurance or any other document or correspondence prepared, issued, or requested in violation of this section shall be null and void and of no force and effect.

14. If the director determines that a person has violated this section, the director may issue such administrative orders as authorized under section 374.046. A violation of this section is a level two violation under section 374.049.

15. The director shall have the power to examine and investigate the activities of any person that the director reasonably believes has been or is engaged in an act or practice prohibited by this section. The director shall have the power to enforce the provisions of this section and impose any authorized penalty or remedy against any person who violates this section.

16. The director may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the

general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

17. Any lender requesting use of an evidence of commercial property insurance exempted under subdivision (1) of subsection 1 of this section which has not been approved for use by the insurer issuing the insurance policy and the insurance producer has advised the lender in writing that the insurance provider has not been authorized to use the requested evidence of commercial insurance shall have no cause of action against an insurance producer arising from the use of such form, except for acts of intentional misrepresentation or fraud.

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