



DEPARTMENT OF INSURANCE
State of North Carolina

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JIM LONG
COMMISSIONER OF INSURANCE

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MEMORANDUM

TO: All Property and Casualty Insurers Licensed in North Carolina

FROM: James E. Long
Commissioner of Insurance
State of North Carolina

Date: September 15, 2006

Re: Properly Addressing the Special Insurance Needs of Insureds in North Carolina

The North Carolina Department of Insurance has been receiving complaints concerning the inappropriate handling of special insurance needs of insureds. It has come to my attention that some insurance agents have been altering certificates of liability insurance and adding terms and conditions to certificates of liability insurance that do not appear in the insurance policy. For example, in some certificates of liability insurance where the insured is a general contractor engaged in construction projects in North Carolina, some agents have been altering certificates so that it appears that a certificate holder has a right of notice of cancellation against the insurer when there is no such notification provision in the policy itself. I am writing to notify you of the problem of agents altering insurance certificates, to request your assistance in educating your agent force and to request that you offer policies and policy endorsements that are designed to properly address the special needs of insureds and certificate holders in North Carolina.

Education of Your Agents

Please advise your agents that the North Carolina Department of Insurance has a longstanding position that insurance agents may not alter Certificates of Insurance. This position is based in part on North Carolina General Statute 58-3-150(a) which states “[i]t is unlawful for any insurance company licensed and admitted to do business in this State to issue, sell, or dispose of any policy, contract, or certificate, or use applications in connection therewith, until the forms of the same have been submitted to and approved by the Commissioner, and copies filed in the Department...”

Alteration of insurance certificates can have serious ramifications for agents. Such alterations may give rise to adverse administrative proceedings being initiated against an agent’s insurance licenses. These proceedings would be based in part on the following statutes:

NCGS 58-33-46(a)(5): The Commissioner may place on probation, suspend, revoke, or refuse to renew any license issued under this Article, in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes, for intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

NCGS 58-33-46(a)(8): The Commissioner may place on probation, suspend, revoke, or refuse to renew any license issued under this Article, in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes, for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere.

It should also be noted that certain alterations of certificates of insurance may also raise issues of possible criminal misconduct under a variety of criminal fraud statutes.

The bottom line is that no agent should engage in alterations of insurance certificates and companies should make sure that its agents refrain from such activity.

Properly Addressing the Special Insurance Needs of Contractors

If an insured wants special insurance provisions, the insured's insurance agent should request that the insurer write an insurance policy which contains the special provisions that the insured requires. Whether this is done through a policy endorsement or through an individual risk policy will depend on the situation. If and only if the policy contains such special provisions, then the insurance agent may properly insert an accurate statement of the special policy provisions in the special provisions block of the certificate of insurance.

Agents confronted with demands for special provisions must pass these market demands on to the insurance companies with an explicit request that these special provisions be included in the insurance policy. It is only the insurance carriers that can effectively address the insured's special insurance needs.

I am personally requesting that insurance companies offer policies and policy endorsements that fully and properly address the special insurance needs of insureds and that are in accordance with North Carolina insurance laws. In particular, I am personally asking that insurance companies offer policies and policy endorsements that fully and properly address the special insurance needs of general contractors and other entities and that are in accordance with North Carolina insurance laws. My staff and I are committed to expediting any insurance company policy and form filings that seek to offer such special provisions in their policies which are designed to address the special insurance needs of insureds in North Carolina.

Thank you in advance for all of your efforts to respond promptly and effectively to this issue.