

LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

BULLETIN NO. 09-02

TO: ALL PROPERTY AND CASUALTY INSURANCE COMPANIES

FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE

**RE: CERTIFICATES OF INSURANCE
CIVIL AND CRIMINAL PENALTIES**

DATE: FEBRUARY 3, 2009

The purpose of Bulletin No. 09-02 is to advise property and casualty insurance producers, brokers and insurers of some recent changes in Louisiana law with regard to Certificates of Insurance (COI). The Louisiana Department of Insurance (LDOI) is aware that property and casualty insurance producers, brokers and insurers are often requested to issue COI forms. A COI is a form that many corporations require of persons or contractors employed by them to furnish as proof that they have the required amount of liability insurance in place. In the past, COI forms have been amended, altered or modified to misrepresent the actual coverage provided by the insured's policy. This issue was originally addressed by the LDOI through Directive 42 issued on July 1, 1981. Through Directive 42 the LDOI made it clear that any COI was merely a synopsis of the underlying policy and could in no way amend, alter or modify the terms and/or conditions set forth in the underlying insurance policy.

The Louisiana Insurance Code, LSA-R.S. 22:1 et seq., clearly prevents a producer, broker or insurer from issuing a COI that alters amends or modifies the attendant underlying policy. LSA-R.S. 22:881 (redesignated from LSA-R.S. 22:654 by Acts 2008, No. 415, effective January 1, 2009) expressly states: "Every insurance contract shall be construed according to the entirety of its terms and conditions as set forth in the policy, and as amplified, extended, or modified by any rider, endorsement, or application attached to or made part of the policy." A COI is not a rider, endorsement or application. Any COI issued by a producer, broker or insurer that violates LSA-R.S. 22:881 may subject the producer, broker or insurer to the full array of administrative sanctions available to the LDOI. In addition to those administrative penalties, the Louisiana Insurance Code prescribes criminal penalties for knowingly supplying fraudulent insurance documents.

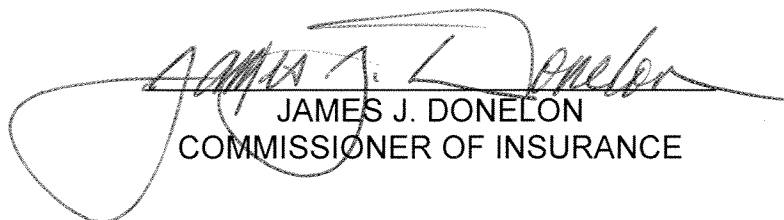
LSA-R.S. 22:44 (redesignated from LSA-R.S. 22:1462.1 by Acts 2008, No. 415, effective January 1, 2009) makes it unlawful for any person to intentionally and knowingly supply false or fraudulent material information pertaining to any document or statement required by the LDOI. If a producer, broker or insurer signs a COI that the producer, broker or insurer knows alters, amends or modifies the coverage of the underlying insurance policy, or if a policyholder or certificate holder amends, alters or modifies a COI issued by a producer, broker or insurer so that the COI amends, alters or modifies the underlying insurance policy, then he is in violation of the Louisiana Insurance Code and is subject to the full array of administrative sanctions available to the LDOI as well as the appropriate criminal penalties discussed below.

LSA-R.S. 14:72 makes it a criminal offense for any person to forge any document with the intent to defraud. The Louisiana Legislature, with the passage of Act No. 628 during the 2008 Regular Session, expounded on LSA-R.S. 14:72 by enacting LSA-R.S. 14:72.1.1 that specifically addresses this problem as it pertains to a COI as well as an insurance identification card.

LSA-R.S. 14:72.1.1 makes it a criminal offense for any person to knowingly produce or create a false COI, and it also makes it a criminal offense for any person to knowingly possess a forged COI. Thus, a policyholder or certificate holder may also be subject to criminal penalties for either possessing a COI that he knows to be forged or for forging the COI himself. A person intentionally producing, manufacturing or distributing a fraudulent document intended to serve as a COI or as proof of insurance shall be fined not more than five thousand dollars (\$5,000.00) or imprisoned with or without hard labor for not more than five years, or both. LSA-R.S. 14:72.1.1 also imposes penalties upon those who intentionally possess falsified insurance documents to use as a COI or as proof of insurance by fines up to five hundred dollars (\$500.00) or imprisonment up to six months, or both.

If you have any questions regarding the information and guidance provided in Bulletin No. 09-02, please contact the Fraud Division of the Louisiana Department of Insurance at (225) 342-5423.

Baton Rouge, Louisiana, this 3rd day of February, 2009.



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