

# CERTIFICATES OF INSURANCE

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# CERTIFICATES OF INSURANCE

- CERTIFICATE BASICS


- General Usage

- Generally a document produced by an insurance company which gives evidence of insurance limits and coverage for third parties
    - Provides that an insured has certain types of coverage at certain limits, and other information.



# CERTIFICATES OF INSURANCE

Use of certificates of insurance is grounded in the principle that insurance contracts are to be regulated, specific between an insured and an insurer, and not any other party. In addition, they are a useful as a “shorthand” document stating basic coverages. .” [\*TIG Ins. Co. v. Via Net\*, 178 S.W.3d 10, 18 \(Tex. App. - Houston \[1st. Dist.\] 2005 \(“TIG III”\), rev’d on other grounds, 211 S.W.3d 310 \(Tex. 2006\) \(“TIG IV”\).](#)



# CERTIFICATES OF INSURANCE

- Primary Industries
  - Transportation
  - Construction



# CERTIFICATES OF INSURANCE

- **APPLICABLE STATUTE - TEX. INS. CODE ANN. SECTION § 1811.001**

A body of case law arose over the years regarding use and application of certificates of insurance. This has been incorporated into the relevant statute, Tex. Ins. Code Ann. 1811.001, *et. seq.*

- **Statutory Definition – Texas**

“Certificate of insurance” means a document, instrument, or record, including an electronic record, no matter how titled or described, that is executed by an insurer or agent and issued to a third person not a party to the subject insurance contract, as a statement or summary of property or casualty insurance coverage. The term does not include an insurance binder or policy form.

Tex. Ins. Code Ann. 1811.001(3) (Vernon, 2019)



# CERTIFICATES OF INSURANCE

- Summary of Definition
  - Document, Instrument, or Record
  - Title or Description is irrelevant
  - Executed by insurer or agent
  - Issued to nonparty to the insurance contract that is described
  - Contains statement or summary of property or casualty insurance coverage
  - Excludes a binder or policy



# CERTIFICATES OF INSURANCE

- Other Relevant Definitions of the statute
  - Applies to: property, casualty, and certain types of liability insurance.  
§ 1811.001
  - Does not apply to real estate sales transactions- § 1811.002
  - Does not apply to life, health, or other medical policies or annuities-  
§ 1811.002



# CERTIFICATES OF INSURANCE

- Limitations On Certificates

- Cannot alter coverage or convey contractual rights of the certificate holder- § 1811.053(b) § 1811.002 [TIG Ins. Co. v. Sedgwick James of Washington, 184 F.Supp.2d 591, 597-98 \(S.D.Tex.2001\). Scottsdale Ins. Co. v. Shahinpour, 2006 WL 870642 \(S.D. Tex. 2006\)](#)
- May not “alter, amend, or extend terms of an insurance policy § 1811.053(a) [Granite Constr. Co. v. Bituminous Ins. Co., 832 S.W.2d 427 \(Tex. App.-Amarillo 1992, no writ\).](#)





# CERTIFICATES OF INSURANCE

- Limitations On Certificates
  - Must be on form approved by the Department of Insurance- § 1811.052;  
§ 1811.053
  - Cannot refer to a document other than the underlying contract§ 1811.054



# CERTIFICATES OF INSURANCE

- **Exclusivity**
  - An issuing party cannot issue any other document in addition or in lieu of that allowed by the statutory form § 1811.056
  - A person cannot require any other document in lieu of or in addition to an approved form § 1811.055



# CERTIFICATES OF INSURANCE

- Other Prohibited Actions
  - Changing forms from that mandated by the act - § 1811.053
  - Issuing false or misleading certificates - § 1811.00.54
  - Requesting any other document or correspondence instead of a certificate § 1811.055
  - Using a non approved form § 1811.052



# CERTIFICATES OF INSURANCE

- WHAT IS IN A CERTIFICATE ?

- Basic Content

- The Certificate must:**

- State coverage that is in effect;
      - Provide evidence of types of coverages provided (i.e., property, liability, errors and omissions);



# CERTIFICATES OF INSURANCE

- WHAT IS IN A CERTIFICATE?

- Basic Content

The Certificate must:

- Disclaim any provision of coverage by the Certificate;
    - Contains a statement that the document is informational only- § 1811.101(b)(1);
    - Specify that the policy controls over the certificate.

Cf § 1811.052; § 1811.101

Effect of the Certificate is to confirm that the referenced policy has been issued or that coverage has been bound (§ 1811.151)



# CERTIFICATES OF INSURANCE

- **Certificate Form**

No particular form is mandated by the statute. While the form must be approved by the Commissioner, a standard form promulgated by the Association for Cooperative Operations Research and Development, the American Association of Insurance Services, or the Insurance Services Office is automatically approved once filed with the Department of insurance, unless the Commissioner withdraws approval. (§ 1811.102)



# CERTIFICATES OF INSURANCE

- **Exemplar**

The exemplar is an example of a type of ACORD form approved by the Department of Insurance



# CERTIFICATES OF INSURANCE

- CERTIFICATE OF INSURANCE

Insureds or claimants have tried in various ways to secure coverage or benefits; primarily by attempting to claim that a Certificate was either a part of the underlying contract, or that issuing the certificate constituted a misrepresentation of coverage.

- Breach of Contract Created by the Certificate

Case law is clear that a contract is not created is not created by the Certificate, nor does the Certificate confer either insured or additional insured status on a party. [Scottsdale Ins. Co. v. Shahinpour, 2006 WL 870642 \(S.D. Tex. 2006\)](#); [Granite Constr. Co. v. Bituminous Ins. Co., 832 S.W.2d 427 \(Tex. App.-Amarillo 1992, no writ\)](#).

Potential exceptions [TIG Ins. Co v. Sedgwich James of Washington, 184 F.Supp. 2d. 591 \(S.D. Houston 1991\)](#)





# CERTIFICATES OF INSURANCE

- Misrepresentation

- As long as the Certificate complies with above referenced requirements, a cause of action for misrepresentation cannot be brought. See [TIG IV, 211 S.W.3d at 314](#); *Mendez*, 2008 WL 11502055 at 11
- Intent of the parties in issuing the certificate is not relevant *TIG Ins. Co.* 184 F.Supp.2d at 600-601;



# CERTIFICATES OF INSURANCE

- Misrepresentation

- Expectations of a the insured and a third party issuing the certificate is also not relevant [Shindler v. Mid-Continent Life Ins. Co., 768 S.W.2d 331, 334 \(Tex.App.-Houston \[14th Dist.\] 1989, n.w.h.\)](#) (citing [Sutton v. Grogan Supply Co., 477 S.W.2d 930, 935 \(Tex.App.-Texarkana 1972, no writ\)](#))
- Certificate holder suffers no damage when there are no separate, economic damages as a result of the misrepresentation- [In re Texas Property and Casualty Ins. Guaranty Co., 989 S.W.2d 880, 884 \(Tex.App.-Austin 1999, n.w.h.\)](#) (citing [Cockrell v. Republic Mortgage Ins. Co., 817 S.W.2d 106, 113 \(Tex.App.-Dallas 1991, n.w.h.\)](#); [Lancer Corp. v. Murillo, 909 S.W.2d 122, 127 \(Tex.App.-San Antonio 1995, n.w.h.\)](#))



# CERTIFICATES OF INSURANCE

## CONCLUSIONS REGARDING CERTIFICATES OF INSURANCE

Certificates of Insurance have a valuable purpose providing third parties with general insurance information about the status of an insured and the existence of an insurance policy. However, certificates of insurance do not contain any statements of coverage, nor do they confer additional insured status for all purposes. If exact coverage information is necessary, the full policy should always be requested and reviewed. “Given the numerous limitations and exclusions that often encumber [insurance] policies, those who take [COI’s] at face value do so at their own risk.” [TIG IV. 211 S.W.3d at 314](#) ; *Mendez*, 2008 WL 11502055 at 11



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