



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4938/1
AJM:amn/emw/ahe

2017 ASSEMBLY BILL 744

December 13, 2017 - Introduced by Representatives TUSLER, STEFFEN, NYGREN, BERCEAU, DOYLE, GENRICH, GOYKE, RIEMER, FELZKOWSKI, HORLACHER, KUGLITSCH, MURPHY, VORPAGEL, SPIROS, R. BROOKS and WICHGERS, cosponsored by Senators LASEE, CRAIG, BEWLEY, DARLING, L. TAYLOR, HANSEN, JOHNSON and STROEBEL. Referred to Committee on Insurance.

1 **AN ACT** *to amend* 631.36 (4) (b); and *to create* 628.34 (14) and 631.39 of the
2 statutes; **relating to:** insurance policy renewal in an affiliate and the use and
3 contents of certificates of insurance.

Analysis by the Legislative Reference Bureau

This bill exempts renewals of insurance policies, including policies that provide worker's compensation insurance, in an affiliate from certain requirements if certain other requirements are satisfied. The bill also specifies certain restrictions on the use of certificates of insurance.

Current law provides that, with certain exceptions, such as for substantial contractual breaches, a policyholder has the right to have an insurance policy renewed at the end of a term for an additional period of time that is the same as the expiring term, unless the insurer gives the policyholder at least 60 days' notice that the policy will not be renewed. Exceptions to this notice requirement include if the policyholder has insured elsewhere, has accepted replacement coverage, or has requested or agreed to nonrenewal, or if the policy is expressly designated as nonrenewable.

Under the bill, an insurer is not required to comply with those renewal requirements if the insurer renews a property or casualty insurance policy in an affiliate and certain other requirements are satisfied, including that the affiliate is authorized to write the type of policy being renewed, that all of the stock of, interest in, or control of the affiliate is held by one or more persons in the same insurance holding company system that includes the insurer, and that the insurer, at least 60

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days before the renewal date, sends the policyholder notice of the renewal in the affiliate. The notice must provide the affiliate's name, contact information, and A.M. Best or similar rating if lower than the insurer's rating and must specify that there will be no interruption of coverage, that, except for the rates, the terms and conditions will be substantially the same as the current policy's terms and conditions, and that the premiums will be determined according to the affiliate's rating plan.

The bill specifies that a certificate of insurance or other document used for evidence of insurance (certificate of insurance) is subject to certain restrictions with regard to its use and the information it contains. Under current law, an insurer, the insurer's agent or employee, and other certain specified persons are prohibited from providing any false or misleading information relating to an insurance contract. Current law prohibits an insurance intermediary, such as a person who negotiates for insurance on behalf of an insurer, from providing a misleading certificate of insurance. Current law also provides that a person who prepares, makes, or subscribes to a false or fraudulent document, such as a certificate of insurance, knowing that the document may be presented or used in support of an insurance claim is guilty of a Class A misdemeanor if the value of the claim does not exceed \$2,500 and a Class I felony if the value of the claim exceeds \$2,500.

The bill specifies that a certificate of insurance may not warrant that the certificate fulfills an insurance or indemnity requirement in a specific contract. Under the bill, no person may issue or require a certificate of insurance that contains false, misleading, deceptive, or unfairly discriminatory information or that otherwise violates public policy or law. Similarly, no person may prepare, issue, request, or require a certificate of insurance that purports to alter, amend, or extend insurance coverage.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 628.34 (14) of the statutes is created to read:
- 2 628.34 (14) EVIDENCE OF INSURANCE. (a) No person may prepare, issue, request,
- 3 or require a certificate of insurance or other document used for evidence of insurance
- 4 to do any of the following:
- 5 1. Contain information concerning the policy referenced by the certificate of
- 6 insurance or other document that is false, misleading, deceptive, unfairly
- 7 discriminatory, or that otherwise violates public policy or law, as determined by the
- 8 commissioner.

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1 2. Purport to alter, amend, or extend coverage provided by the policy referenced
2 by the certificate of insurance or other document.

3 3. Alter the terms and conditions of any notice requirement in the policy. A
4 person is entitled to notice of cancellation, nonrenewal, or any material change to the
5 policy, or to any similar notice concerning the policy only as provided in the policy or
6 an endorsement.

7 (b) No person may alter a certificate of insurance or other document used for
8 evidence of insurance after it is issued.

9 (c) No certificate of insurance or other document used for evidence of insurance
10 may warrant that the policy referenced by the certificate of insurance or other
11 document fulfills the insurance or indemnification requirements of a specific
12 contract.

13 (d) 1. Except as provided in subd. 2., this subsection applies to any certificate
14 of insurance or other document used for evidence of insurance that is issued by an
15 insurer as evidence of property or casualty insurance.

16 2. This subsection does not apply to any of the following:

17 a. A policy or endorsement.

18 b. A binder.

19 c. Evidence of motor vehicle liability insurance required under s. 344.62 (2).

20 **SECTION 2.** 631.36 (4) (b) of the statutes is amended to read:

21 631.36 (4) (b) *Exceptions.* This subsection does not apply if the policyholder has
22 insured elsewhere, has accepted replacement coverage, or has requested or agreed
23 to nonrenewal, if the policy is renewed in an affiliate in compliance with s. 631.39,
24 or if the policy is expressly designated as nonrenewable.

25 **SECTION 3.** 631.39 of the statutes is created to read:

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1 **631.39 Renewals in affiliates. (1) SCOPE.** This section applies to property
2 and casualty lines of insurance, excluding disability insurance, as defined in s.
3 645.675 (1) (h).

4 **(2) RENEWAL REQUIREMENTS.** An insurer may renew a policy in an affiliate
5 without having to comply with s. 102.31 (2) (a) or 631.36 (4) or s. INS 21.01 (6), Wis.
6 Adm. Code, if all of the following are satisfied:

7 (a) All of the stock of, interest in, or control of the affiliate is held by one or more
8 persons in the same insurance holding company system, as defined in s. 622.03 (2),
9 that includes the insurer.

10 (b) The affiliate holds a valid certificate of authority in this state for the kind
11 of business necessary to write the policy being renewed.

12 (c) If the policy renewed in the affiliate contains terms and conditions, except
13 for the rates and rating plan, that are less advantageous to the policyholder than the
14 policyholder's current policy, the insurer complies with the requirements of s. 631.36
15 (5).

16 (d) The insurer provides notice to the policyholder at least 60 days before the
17 renewal date that the policy will be renewed in an affiliate.

18 (e) The notice under par. (d) includes or states all of the following information:

19 1. The name and contact information of the company in which the policy will
20 be renewed and that it is affiliated with the insurer.

21 2. That there will be no interruption of coverage.

22 3. That the premium for the renewal policy will be determined according to the
23 rates and rating plan of the affiliate.

24 4. If the policy currently held by the policyholder is written by a mutual
25 company and will be renewed in an affiliate that is a stock insurance company, that

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1 the policy will be renewed in an affiliate that is a stock insurance company and the
2 policyholder will no longer have the rights that are granted to a mutual policyholder.

3 5. The A.M. Best or similar rating of the affiliate, if that rating is lower than
4 the current A.M. Best or similar rating of the insurer.

5 6. If the amount of the premium for the policy after it is renewed in the affiliate
6 will increase 25 percent or more from the amount of the premium prior to being
7 renewed in the affiliate, notice of the increased premium.

8 (f) If the policy is a worker's compensation insurance policy under ch. 102, the
9 insurer provides notice to the department of workforce development at least 60 days
10 prior to renewal of the policy in an affiliate notifying the department of the name of
11 the affiliate in which the policy is to be renewed.

12 **(3) APPLICABILITY OF OTHER LAW.** Sections 611.78 and 618.32 do not apply to
13 renewals under this section.

14 **SECTION 4. Initial applicability.**

15 (1) This act first applies to policies that are renewable on the first day of the
16 3rd month beginning after the effective date of this subsection.

17 **(END)**