



BULLETIN 23-EX-9

TO: ALL INSURANCE AGENTS WRITING BUSINESS IN
THE STATE OF GEORGIA

FROM: JOHN F. KING
INSURANCE AND SAFETY FIRE COMMISSIONER

DATE: JUNE 6, 2023

RE: FREQUENTLY ASKED QUESTIONS REGARDING
CERTIFICATES OF INSURANCE IN GEORGIA

Understanding the intricacies and obligations surrounding certificates of insurance is vital for individuals, businesses, and organizations alike. Certificates of insurance play a critical role in documenting proof of insurance coverage. They serve as important tools for demonstrating compliance with legal requirements, contractual obligations, and risk management practices. These certificates provide concise summaries of insurance policies, outlining key details such as policy limits, effective dates, and coverage types. Certificates of insurance, however, do not amend, alter, or extend the coverage provided by the policy of insurance to which the certificate refers.

Through this FAQ, the Commissioner's Office strives to clarify various requirements and prohibitions related to certificates of insurance in Georgia. The Commissioner's Office aims to provide clear explanations regarding the issuance, requirements, proper usage, and limitations of these certificates, ensuring that all stakeholders can navigate the landscape with confidence and adhere to the established guidelines.

DISCLAIMER: The Georgia Office of Commissioner of Insurance ("OCI") is not in a position, nor is it authorized, to render or provide you a legal opinion or any legal advice regarding the scope and effect of the provisions of the Georgia code dealing with insurance matters or the Rules and Regulations of the Insurance Commissioner. All information contained herein is merely informal persuasive authority, is not law, and is not binding on OCI. Nothing contained herein shall be construed by any person or entity as an approval of any certificate of insurance by OCI.

1. **A certificate holder requests that the certificate of insurance name the holder as an additional insured, but the policy contains only a Blanket Additional Insured endorsement. May the certificate name the holder as an additional insured?**

No, although the certificate of insurance may state that the policy contains a Blanket Additional Insured endorsement. *See*, O.C.G.A. §§ 33-24-19.1(f); (g); (j); (k).

2. **A certificate holder requests that the certificate of insurance state that the policy contains a waiver of subrogation in the holder's favor, but the policy contains only a Blanket Waiver of Subrogation endorsement. May the certificate state that the policy contains a waiver of subrogation in the holder's favor?**

No, although the certificate of insurance may state that the policy contains a Blanket Waiver of Subrogation endorsement. *See*, O.C.G.A. §§ 33-24-19.1(f); (g); (j).

3. **Does Georgia law prohibit an agent or insurer from providing a copy of the policy or endorsements?**

No. Georgia law does not prohibit an agent or insurer from providing a copy of the policy or endorsements.

4. **May a certificate of insurance refer to the insurance requirements of another contract, such as a construction or service contract?**

No. O.C.G.A. § 33-24-19.1(k) states: "No certificate of insurance shall contain references to 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."

5. **A certificate holder requests that the certificate of insurance state that the holder will receive 30 days' notice of cancellation, nonrenewal, or material change in coverage. May the certificate contain this provision?**

Yes, so long as the provision mirrors the requirements in the insurance policy. The certificate cannot go beyond the policy's requirements. O.C.G.A. § 33-24-19.1(l) states:

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

As a result, if the certificate holder is named within the policy or an endorsement to the policy, **and** the policy or endorsement or Georgia law grants the certificate holder the right to receive notice of cancellation, nonrenewal, or material change, or any similar notice concerning the insurance policy, then the certificate may contain that information. The certificate may also cite the applicable statute or rule.

6. **I have an insured headquartered in Georgia with operations in another state. When I issue a certificate of insurance to a certificate holder in another state for the**

operations in that state, do I have to use a certificate of insurance form approved by the Georgia Commissioner of Insurance?

No, because the risk is in another state, and you are issuing the certificate to a certificate holder in that state. *See*, O.C.G.A. § 33-24-19.1(i).

7. **I have an insured headquartered in another state with operations in Georgia. When I issue a certificate of insurance for the operations in Georgia, do I have to use a certificate of insurance form approved by the Georgia Commissioner of Insurance?**

Yes. Regardless of where the certificate holder is located, you must use a certificate of insurance approved by Georgia OCI for a risk located in Georgia. O.C.G.A. § 33-24-19.1(i) states:

This Code section shall apply to all certificate holders, policyholders, insurers, insurance producers, and certificate of insurance forms issued as evidence of insurance coverages on property, operations, or risks located in this state, regardless of where the certificate holder, policyholder, insurer, or insurance producer is located.

8. **I have a risk in Georgia and an insured in Georgia, but the certificate holder is in another state. When I issue a certificate of insurance for the risk in Georgia to the certificate holder in another state, do I have to use a certificate of insurance form approved by the Georgia Insurance Commissioner?**

Yes. Regardless of where the certificate holder is located, you must use a certificate of insurance approved by Georgia OCI for a risk located in Georgia. *See*, O.C.G.A. § 33-24-19.1(i).

9. **Must a property and casualty agent or a surplus lines agent have an appointment with a managing general agent (MGA) or a property and casualty insurer to execute or issue a certificate of insurance?**

Yes. A property and casualty agent or a surplus lines agent must hold an appointment with the MGA or insurance company that issues the policy to deliver a certificate of insurance to a customer. Certificates of insurance may only be issued by an “insurer” or “insurance producer” as defined in O.C.G.A. § 33-24-19.1(a)(3); (a)(4).

10. **May a certificate of insurance include a job number or contract number for identification purposes?**

Yes, if you are listing the job number or contract number for identification purposes only. The certificate **may not**, however, contain language such as “the insurer provides coverage in accordance with the terms of contract number _____” or similar language that would reference an insurance requirement in a contract other than the contract of insurance. *See*, O.C.G.A. § 33-24-19.1(k).

11. **What are the penalties for violating Georgia certificate of insurance requirements?**

The possible penalties for noncompliance include cease and desist orders, injunctive relief, administrative penalties, civil penalties of up to \$5,000 for each infraction, or any combination of these actions. *See generally*, O.C.G.A. §§ 33-24-19.1(n); (o); 33-2-24. These penalties can apply to certificate holders, agents, insurers, and any entities defined under O.C.G.A. § 33-24-19.1(a)(5).

12. May a certificate holder require that a certificate of insurance include a broad statement that there are no limitations or exclusions for residential construction exposure?

No. A certificate cannot say anything that is not the same as what is stated in the insurance policy. A statement such as “there are no limitations or exclusions for residential construction exposure” would have to be stated exactly like that in the policy to be added to certificate.

No certificate filed with OCI can say more than what’s in the related policy, pursuant to O.C.G.A § 33-24-19.1(j). However, a certificate holder may ask the agent whether the policy contains specific language or a specific exclusion or may request a copy of the policy.

13. Should an association or entity file its industry-specific certificate of insurance form with OCI for approval?

Yes, if the certificate of insurance is for risks located in this state. A person, including an association or entity, may not issue a certificate of insurance for risks located in this state unless the certificate of insurance form has been filed with and approved by OCI. *See*, O.C.G.A. § 33-24-19.1(b).

14. When should I check the box for “Additional Insured” on the ACORD certificate of insurance form?

You should check the “Additional Insured” box only if the policy includes an endorsement that names the certificate holder as an additional insured.

15. When should I check the box for “Waiver of Subrogation” on the ACORD certificate of insurance form?

You should check the “Waiver of Subrogation” box if the policy includes a Waiver of Subrogation endorsement that names the certificate holder.

16. A certificate holder requests that I complete a supplemental questionnaire in addition to the certificate of insurance form. Does O.C.G.A § 33-24-19.1 allow an agent to provide a supplemental questionnaire?

No. O.C.G.A § 33-24-19.1 allows only OCI approved certificates of insurance. Any form that falls under the definition of “certificate of insurance” in O.C.G.A § 33-24-19.1(a)(1) must be approved by OCI prior to issuance. You may show the relevant policy language to the certificate holder.

17. My agent has been asked to complete an affidavit on behalf of an insured that addresses insurance requirements in connection with a contract. Does O.C.G.A § 33-24-19.1 allow an agent to complete such an affidavit?

No. O.C.G.A § 33-24-19.1 allows only OCI approved certificates of insurance. Any form that falls under the definition of “certificate of insurance” pursuant to O.C.G.A § 33-24-19.1(a)(1) must comply with the statute. “No person may 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 [O.C.G.A. § 33-24-19.1].” O.C.G.A § 33-24-19.1(h). You may show the relevant policy language to the certificate holder.

18. A certificate holder asks to add more than the name of a person or the company to the “Certificate Holder” box on the ACORD 25 form. The certificate holder would like to list—in addition to the specific certificate holder name—individuals such as the corporate officers and employees of the certificate holder; all subsidiaries, affiliated entities, and assigns with the certificate holder; and all corporate officers and employees of the subsidiaries, affiliates, and assigns. Must the policyholder and agent comply with this request?

A certificate holder may not use the “Certificate Holder” box to imply or confer any new or additional rights beyond what the policy or any executed endorsement of insurance provides. See, O.C.G.A § 33-24-19.1. The certificate holder may not rely on the naming requirements of another legal contract beyond the underlying contract of insurance to compel an insurer or agent to comply with the other contract. *See*, O.C.G.A § 33-24-19.1(k).

In addition, O.C.G.A § 33-24-19.1(f) states that a person shall not require the issuance of a certificate of insurance from an insurer, agent, or policyholder that contains any false or misleading information concerning the policy of insurance to which the certificate refers. Violation of this chapter by a person, including an insurer or agent, is subject to the penalties outlined in FAQ #11.

19. May a certificate of insurance refer to explosion, collapse, and underground (x, c, u) all together?

No, each peril should be listed separately unless the coverage in the policy is provided on a combined basis.

A certificate may not use terms that would alter, amend, or extend coverage that is provided in the insurance policy. *See*, O.C.G.A. §§ 33-24-19.1(j). Some approved certificate forms may contain a schedule or supplement to list the covered perils.

20. Are certificates of insurance required to be filed with OCI?

Yes, certificates of insurance are required to be filed with OCI. O.C.G.A § 33-24-19.1(b). They cannot say anything on them that is not the same as what is stated in the insurance policy. *See*, O.C.G.A. §§ 33-24-19.1(f); (g); (j); (k).

A handwritten signature in black ink, appearing to read "John F. King". The signature is fluid and cursive, with the first name "John" written in a more legible style than the last name "King".

JOHN F. KING
INSURANCE AND SAFETY FIRE COMMISSIONER
STATE OF GEORGIA