

**NOTICE OF RULE ADOPTION—FINAL RULE**

**STATE OF MISSISSIPPI  
MISSISSIPPI DEPARTMENT OF INSURANCE**

Mississippi Department of Insurance  
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**Specific Legal Authority authorizing the promulgation of Rule:** This Regulation is promulgated by the Commissioner of Insurance pursuant to the authority granted to him by Miss. Code Ann. §§ 83-5-17; 83-5-29 through 83-5-51; and 83-17-1 through 83-17-89 (Rev. 2001); Mississippi Department of Insurance Regulation No. 88-101.

**Reference to Rules repealed, amended or suspended by the Rule:** N/A

**Date Rule Proposed:** February 20, 2009

**Explanation of the Purpose of the Proposed Rule and the reason(s) for proposing the rule:** The purpose and intent of this Regulation is to clarify and set out the basic responsibilities of insurance companies and insurance producers as to the extension or restriction of property and casualty insurance coverages by the use of a binder, certificate of insurance, indemnity agreement or any other type of instrument.

**The Agency Rule Making Record for this rule including any written comments received during the comment period and the record of any oral proceeding is available for public inspection by contacting the Agency at the above address.**

An oral proceeding was held on this rule on March 12, 2009, at 10:00a.m., at the South Conference Room, Tenth Floor, Woolfolk State Office Building, Jackson, MS.

An oral proceeding was not held on this rule.

**The Agency has considered the written comments and the presentations made in any oral proceedings, and**

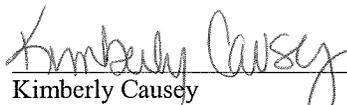
This rule as adopted is without variance from the proposed rule.

This rule as adopted differs from the proposed rule as there are minor editorial changes which affect the form rather than the substance of the rule.

The rule as adopted differs from the proposed rule. The differences however are:  
Within the scope of the matters in the Notice of Proposed Rule Adoption, the logical outgrowth of the contents of the Notice of Proposed Rule Adoption and the comments submitted in response thereto, and  
The Notice of Proposed Rule Adoption provided fair warning that the outcome of the proposed rule adoption could be the rule in question.

The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

**Effective Date of Rule:** Thirty days after final adoption

  
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Kimberly Causey  
Special Assistant Attorney General

**MISSISSIPPI DEPARTMENT OF INSURANCE  
REGULATION 2009-1**

**GENERAL PROPERTY AND CASUALTY BINDERS,  
CERTIFICATES OF INSURANCE OR INDEMNITY AGREEMENTS**

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**Section 1. Purpose.**

The purpose of this Regulation is to clarify and set out the basic responsibilities of insurance companies ("insurers") and insurance producers ("producers") as to the extension or restriction of property and casualty insurance commercial lines coverages by the use of a binder, certificate of insurance, indemnity agreement or any other similar type of instrument.

**Section 2. Authority.**

This Regulation is promulgated by the Commissioner of Insurance pursuant to the authority granted to him by Miss. Code Ann. §§ 83-5-17; 83-5-29 through 83-5-51; and 83-17-1 through 83-17-89 (Rev. 2001), as well as the provisions of Mississippi Department of Insurance Regulation No. 88-101, said regulation being the Rules of Practice and Procedure before the Mississippi Insurance Department.

**Section 3. Scope.**

This Regulation shall apply to all insurers writing property and casualty commercial lines insurance policies in the State of Mississippi, and all producers selling property and casualty commercial lines insurance policies in the State of Mississippi.

#### **Section 4. Requirements.**

- A. No insurer or producer may issue a binder, certificate of insurance, indemnity agreement or any other similar type of instrument which either affirmatively or negatively amends, extends or alters the coverage provided by its approved issued forms and endorsements.
- B. Each insurer or producer not using the standard ACORD or ISO Form "Certificate of Insurance", as filed with and approved by the Commissioner, shall file with the Commissioner for approval prior to use the form of the certificate of insurance or binder which will be used by such insurer or producer.
- C. Upon filing for approval by the Commissioner, each binder or certificate of insurance shall contain the following or a similar statement: **"This certificate of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by policy number \_\_\_\_\_ issued by \_\_\_\_\_."**
- D. No binder, certificate of insurance, indemnity agreement or any other similar type of instrument shall contain references to construction or service contracts or insurance requirements for the purpose of defining or amending coverage afforded by the policies to which the certificate makes reference. No certificate of insurance may be used to define, amend, extend, restrict or alter coverage afforded by the policies to which the certificate of insurance makes reference.
- E. No insurer or producer doing business in Mississippi shall have the authority to issue an "Agent's Opinion Letter" or any other similar correspondence purporting that an insurance policy provides coverages which the policy does not provide.
- F. This Regulation shall not apply to or otherwise affect duly issued endorsements to policies.

#### **Section 5. Date of Compliance.**

All insurers and producers shall comply with the provisions of this Regulation by October 1, 2009.

#### **Section 6. Violations and Penalties.**

Failure of an insurance producer to comply with a material provision of this regulation is considered a violation of Miss. Code Ann. § 83-17-71(1)(b) (Rev. 2001). Violation of said statute may subject the insurance producer to the suspension or revocation of the insurance producer's privilege license, the imposition of an administrative fine, or both.

Failure of an insurance company writing property and casualty policies in this State to comply with a material provision of this regulation is considered a violation of Miss. Code Ann. § 83-5-17 and §§ 83-5-39 through 83-5-51 (Rev. 1999). Violation of said statutes may subject the insurance company to the suspension or revocation of the insurer's Certificate of Authority, the imposition of an administrative fine, or both.

**Section 7. Severability.**

If any section or portion of a section of this Regulation or the application thereof is held by a court to be invalid, such invalidity shall not affect any other provision of that section or application of the Regulation which can be given effect without the invalid provision or application, and to this end the provisions of the Regulation are declared to be severable.

**Section 8. Effective Date.**

The Effective Date of this Regulation shall be thirty (30) days from filing for final adoption with the Secretary of State.

Done this the 24<sup>th</sup> day of March, 2009.

  
MIKE CHANEY  
COMMISSIONER OF INSURANCE