

Part 5 Chapter 5: (2009-1) General Property and Casualty Binders, Certificates of Insurance or Indemnity Agreements.

Rule 5.01: 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.

Source: Miss. Code Ann. §§83-5-29 through 83-5-51 (Rev. 2011); 83-17-1 through 83-17-89 (Rev. 2011)

Rule 5.02: 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.

Source: Miss. Code Ann. §§83-5-29 through 83-5-51 (Rev. 2011); 83-17-1 through 83-17-89 (Rev. 2011)

Rule 5.03: 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.

Source: Miss. Code Ann. §§83-5-1 (Rev. 2011); 83-17-51 (Rev. 2011)

Rule 5.04: 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.

This Regulation shall not apply to or otherwise affect duly issued endorsements to policies.

Source: Miss. Code Ann. §§83-5-29 through 83-5-51(Rev. 2011); 83-17-1 through 83-17-89 (Rev. 2011)

Rule 5.05: Date of Compliance

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

Source: Miss. Code Ann. §§ 83-5-1; 83-17-87 (Rev. 2011)

Rule 5.06: 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.

Source: Miss. Code Ann. §§ 83-5-17 (Rev. 2011); 83-5-29 through 83-5-51 (Rev. 2011); 83-17-71 (Rev. 2011)

Rule 5.07: 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.

Source: Miss. Code Ann. § 83-5-1 (Rev. 2011)

Rule 5.08: 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 _____th day of March, 2009.

Source: Miss. Code Ann. § 25-43-3-113 (Rev. 2010)