

A NEW Certificate of Insurance



PARKER | SMITH | FEEK

February, 2011

By February 15, 2011, all Certificates of Insurance issued by Parker, Smith & Feek will be on the new industry standard, Acord Certificate Form 25 (9/2009). This new form was first introduced in 2009 but has only recently been available for use throughout the country. Over a period of time all insurance agents and brokers throughout the United States will begin utilizing this new Acord Certificate form, some because laws in specific states dictate that it be used, others because insurance carriers mandate the use of this form, or simply because certificate issuance programs now support only this new version. Because Parker, Smith & Feek works with clients in many states, and we have designed a new proprietary software program for issuing certificates (see our announcement of CertLINK below), we have elected to move to the new form. While the new certificate form allows for inclusion of some additional information, the majority of the standard insurance industry language of the old certificate still remains.

What Changes?

The most significant change to the certificate form is the removal of specific cancellation provisions. Reference to a specific number of cancellation days has been removed from the form, now indicating that cancellation will be handled per policy provisions. Insurance policies have always been subject to cancellation provisions. However, the cancellation language provided on the certificate gave Certificate Holders the impression that notification would be provided based solely on the issuance of the certificate. This was not the case, therefore, prompting the Acord Corporation to revise the wording on the certificate to affirm that the provisions of the actual policy dictate the direction, timing, and methods for delivery of cancellation notification.

Some Background on this Change

In most states, laws dictate that notice of cancellation be provided only to the first Named Insured, with no notification required to third parties. In Washington State, the RCW requires that insurance carriers provide notice of cancellation to *Interested Parties* (Additional Insureds and Loss Payees). We provide copies of all Certificates of Insurance issued by Parker, Smith & Feek to the insurance carriers so that notifications of cancellation can be provided **by the insurance carriers directly to those parties** if a policy cancellation does occur. Alaska's law (like most states) requires insurance carriers to send cancellation notice only to the first Named Insured on the policy.

Given Washington's unique cancellation law we would expect to have fewer issues regarding cancellation concerns for those clients operating in Washington. For clients outside Washington, the new certificate may be their first awareness that they will not be receiving notices of cancellation, non-renewal, or material changes in coverage.

The image shows a sample of the Acord Certificate of Liability Insurance form. A large red 'X' is drawn over the 'CANCELLATION' section, which contains the text: 'SHOULD ANY OF THE ABOVE POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE INSURED SHALL BE ADVISED BY THE INSURANCE CARRIER TO THE LEFT, AND FAILURE TO DO SO SHALL BE NEGLIGENT. THIS NOTICE SHALL BE HANDLED BY THE INSURER, ITS AGENTS OR AUTHORIZED REPRESENTATIVES.' The form includes various sections for policy information, coverages, and terms.

The "old" Certificate of Insurance

A NEW Certificate of Insurance

Many of our peers within the insurance brokerage community have reacted strongly to the introduction of the new Acord certificate, prompting the release of a variety of published materials sent to both clients and certificate holders suggesting that the issuance of certificates will be more difficult. We are aware of at least one large national broker who will no longer be issuing Certificates of Insurance on behalf of their clients, and will instead provide complete copies of the insurance policy to third parties in place of a certificate.

We are of the opinion that much of the information being disseminated is inaccurate, resulting in unnecessary confusion and concern. It is clear from reading this information that some brokers may be reacting to the additional work required to be absolutely certain that their certificates are an accurate representation of the insurance policy's terms and conditions. Parker, Smith & Feek has a long history of carefully reviewing contract and lease requirements and the issuance of appropriate certificates and endorsements affirming only those coverage terms and conditions which are present on the policy. We do not believe that the new Acord form is the cause for concern that many in our industry are suggesting.

A Note About Inbound Certificates

Certificates issued on your behalf is only one aspect of the overall picture regarding Certificates of Insurance. You also require subcontractors, tenants, vendors, and others to provide you with certificates affirming their ability to comply with the insurance provisions in your contracts and leases. We believe the new form represents positive change in how information is presented. Many brokers however, are now refusing to include reference to the various standard provisions (Additional Insured, Primary/Non-Contributory, and Waiver of Subrogation) on the certificate form, while others have simply decided that they will not check the boxes on the certificate which affirm the inclusion of Additional Insured and Waiver of Subrogation provisions. Parker, Smith & Feek will continue to complete the certificate form including these provisions when required by contract just as we have always done. The decision by some to limit the amount of detail being provided on the certificate may result in the need to review and revise your standard contract/lease requirements to specifically address the language you require on Certificates of Insurance. Parker, Smith & feek will assist in this process along with helping to educate others on those requirements so that the transition to these new industry forms is as smooth as possible for your staff.

We continue to recommend that you require notice of cancellation, non-renewal, and material change to protect your interests, although we believe that time and resources are best spent confirming that these parties have the appropriate coverages, policy limits, and important policy endorsements and policy provisions related to Additional Insured, Primary and Non-Contributory, and Waiver or Subrogation provisions, etc., rather than attempting to track the potential of policy cancellation. Cancellation language incorporated on an Acord Certificate form was never truly a guarantee of prior notice; therefore, it is our opinion that discontinuing the tracking of cancellation provisions will save considerable time with little increase in risk.

How Can We Help?

Some of the options we will make available to assist in gaining acceptance for the new certificate will include:

- Providing copies of State law addressing notice of cancellation. In Washington the law does require carriers to notice *Interested Parties* (Additional Insured, Loss Payee, etc.) However, in other states the law does not provide for notice to anyone other than the first Named Insured.

A NEW Certificate of Insurance

- Providing copies of specific cancellation provisions from each of the evidenced policies.
- Request that carriers specifically endorse the various policies to provide notice to the specific Certificate Holder. This will likely not be something that insurance carriers are willing to provide for all certificate holders and additional premiums may be charged by carriers. On a limited basis it may be an option.
- Carriers may as an alternative be willing to provide Blanket policy endorsements agreeing to notice all Certificate Holders on file with the carrier. However, since notifications will have to be made by the insurance carriers they may not be willing to provide this broad notification and may also seek additional premiums in order to undertake this type of process.
- We will review and make recommendations for modification of standard insurance provisions language in your contracts and agreements as it relates to the changes in the certificate form.
- We will also assist in the dialog with other Insurance Agents/Brokers to obtain the required language and documentation needed to comply with contract/lease requirements.

Introducing CertLINK

Our staff is very excited to transfer our processing of Certificates of Insurance to our own proprietary software program, CertLINK. Developed in-house, the new program is designed to speed the creation and issuance of certificates.

If you have any questions or concerns regarding the new Certificate of Insurance, please contact your Parker, Smith & Feek account service team.



CertLINK