

QUESTION: Is it legal for someone to complete and submit a non-standard certificate of insurance form?

ANSWER: Yes. New York's certificates of insurance law does not prohibit anyone from using a certificate of insurance form that is not on the Department of Financial Services list of approved forms. It does put two restrictions on the use of unapproved forms:

1. A certificate requester may not ask for an unapproved form and then retaliate against the insured if the insured does not provide it.
2. No one may use a certificate of insurance to change a policy's coverage or to grant rights that the policy does not grant. An unapproved certificate form might do this.

There are errors and omissions liability concerns that unapproved certificate forms present, but New York law does not necessarily make their use illegal.

New York INSURANCE LAW — CHAPTER 28 OF THE CONSOLIDATED LAWS Article 5 — CERTIFICATES OF INSURANCE

Ins. Law s 502 Prohibitions

In this state:

(a) With respect to a certificate of insurance evidencing that a policy provides personal injury liability insurance or property damage liability insurance, as defined in paragraphs thirteen and fourteen of subsection (a) of section one thousand one hundred thirteen of this chapter, no person or governmental entity shall wilfully require, as a condition of awarding a contract for work, or if a contract has already been awarded as a condition for work to commence or continue under the contract, or if the contract has been performed or partially performed as a condition for payment to be made under the contract, the issuance of a certificate of insurance unless the certificate is:

(1) a form promulgated by the insurer issuing the policy referenced in the certificate of insurance; or

(2) a standard certificate of insurance form issued by an industry standard-setting organization and approved for use by the superintendent or any other form approved for use by the superintendent. ...

(c) A certificate of insurance shall not amend, extend, or alter the coverage provided by the insurance policy to which the certificate of insurance makes reference. A certificate of insurance shall further not confer to any person any rights beyond those expressly provided by the policy of insurance referenced therein.