

ACORD 855 TX (2015/02) - Texas Risk Pool Certificate of Liability Coverage

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Purpose of the Certificate of Coverage

This form is based on the ACORD 25, Certificate of Liability Insurance, and has been modified for the use of Texas risk pools. The word "Insurance" has therefore been changed to "coverage" throughout the form. The certificate is "issued as a matter of information only, and confers no rights upon the certificate holder. This certificate does not affirmatively or negatively amend, extend, or alter the coverage afforded by the risk pool".

The above information is included in the opening statement of the form.

ACORD developed the Texas risk pool - specific form in response to a request from the Texas Association of School Boards Risk Management Fund ("Fund") which is authorized by Texas statutes as a risk sharing pool for member Texas school districts and other governmental entities. The Fund has been in existence since 1974 and is one of the oldest, largest and financially strongest risk pools in the nation. With over 1,100 participating school districts, the Fund provides a wide variety of coverages, including property, liability, auto and workers compensation.

Historically, the Fund has provided evidence of coverage through letters and other documents to its members for use in their dealings with other businesses, vendors, and various state and local governmental agencies. This documentation has worked well over the years. However, in the 2011 legislative session, the Texas legislature required, for the first time, that forms used to provide evidence of insurance coverage be filed with and approved by the Texas Department of Insurance ("TDI"). The legislation also provided that national forms, such as ACORD, would satisfy this requirement. Although this legislation does not apply to the Fund and other similar risk sharing arrangements, it has resulted in increasing resistance by businesses and governmental agencies to accept the Fund's traditional documentation of coverage and an insistence on an "approved" certificate of coverage.

ACORD therefore created this customized certificate for the use of the TASB and other Texas risk pools, to present the nature of risk pool - provided coverages.

Generally speaking, the purpose of Certificates of Insurance has been the topic of frequent discussions throughout the industry. Attention centers around the true purpose of a certificate and the rights, if any, it conveys to a certificate holder. This is particularly important when the difference between a certificate holder and lien holder, loss payee, or mortgagee is considered.

In a 1974 court decision (*United States Pipe & Foundry Co. v United States Fidelity & Guar. Co.*, 505 F. 2d 88 (5th Cir. 1974), the court ruled that a certificate is not a contract between the holder and the insurer. It only provides information to an interested third party that insurance is in force at the time of issuance. The court also stated: "The provision regarding notification in the event of cancellation is a mere promise, unsupported by any consideration." Although some companies provide notice of cancellation to certificate holders, they are not obliged to do so, since the holder is not a party to the contract.

The Certificate of Liability Coverage is used for most casualty situations in which the covered entity / person named has requested certification to a third party of issued casualty coverages. The uses can include large and small contracting or manufacturing risks, lessor/lessee agreements, or other areas of liability certification.