

SESSION HANDOUT

E&O Prevention Using Certificates of Insurance in Applied TAM

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SESSION HANDOUT



Prepared for Applied Client Network

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Original Author:

Stephen Booth, AAM DHNT Insurance Agency

Updated By:

Steve Booth	DHNT	2012
Steve Booth	DHNT	2011
Steve Booth	DHNT	2010

Target Audience:

<input type="checkbox"/>	Accounting	<input type="checkbox"/>	Account Executive
<input type="checkbox"/>	Non-Insurance Accounting	<input checked="" type="checkbox"/>	Customer Service Representative
<input type="checkbox"/>	Administrative	<input type="checkbox"/>	New Producer
<input checked="" type="checkbox"/>	Principal	<input type="checkbox"/>	Experienced Producer
<input type="checkbox"/>	General	<input type="checkbox"/>	IT
<input type="checkbox"/>	Human Resources	<input type="checkbox"/>	Other: (describe)

Seminar Type: Servicing and Workflows

Seminar Level: Intermediate: An Intermediate level class takes the concepts originated from a basic level course, and adds more layers or parallel concepts. For functional courses, these classes will require the participant or attendee to have some basis to work from as they are learning new facets of the agency management system or software program.

Class Description: For any size account, demands are made to our commercial CSR staff to issue Certificates of Insurance with special language and changes. Are we allowed to make these changes to the COI form and what could be the implications of those actions? What obligations do you really have to these Certificate Holders? Find out if you are putting your agency in a potential E&O loss situation.

Learning Outcomes:

- Examine and understand the TAM Certificate Setup area.
- Review methods for proper completion of Certificates.

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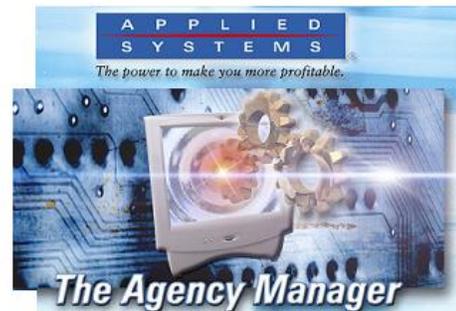
- Utilize procedures for compliance with state laws and E&O prevention.

Assumptions: This seminar is based on the following
TAM Version 11.1

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*E&O Prevention
In Creating
Certificates of Insurance
In TAM*



Here are some of the issues pertaining to Certificates of Insurance:

- It exists in two forms; Acord 24 – Property and Acord 25 – Liability
- An accepted legal form in all states
- Official filed form with the DOI in at least four states – KY, MN, WI & NC and now being considered a filed form in many more.
- Changes to the form create a breach of the legal form and creates a manuscripted form defensible only by the creators
- In its approved format, the COI must contain the second page of Disclaimers*
- Changes in the COI's Cancellation text should only be made by written permission by the insurance carrier and only when provided by the carrier on their letterhead with a Hold Harmless clause *
- The COI is only an issued form that certifies that certain coverages and limits exist for a client at the time the COI was created
- There exists NO legal contract (an offer and an acceptance) between the Holder and the agent or the insurance carriers
- Agents can and have been held liable for erroneous or misrepresentation of information on a Certificate
- If an agent states that an entity will be an Additional Insured, then that should be a true fact
- Holders do not understand or believe any of the above information and will turn your client against you for failing to provide a customized form
- Holders will claim that “other agents do not have a problem with their requirements” which is usually a gross exaggeration.

We'll begin with the steps to first setup the Certificates in your system then create and fax a new COI (We will be using Fax@vantage for our exercise). Next we will go through the policy renewal scenario where we will contact our client for holder renewal confirmations, then create and send the renewal Certificates.

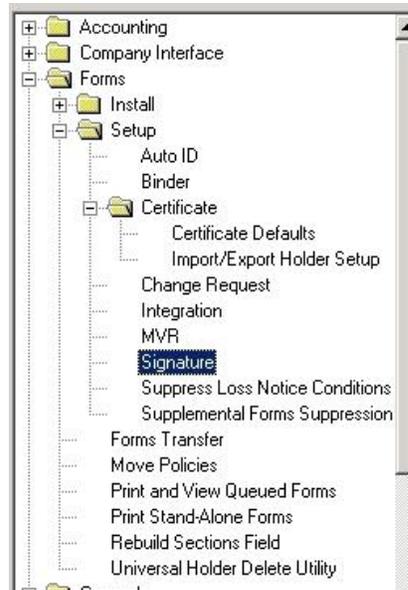
*these comments only apply to the use of the pre-2009/09 version of the COI

Setups for Certificates

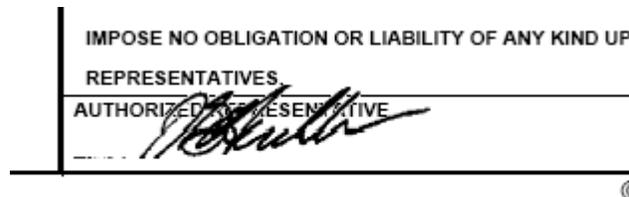
There are three areas in TAM that must be configured for Certificates.

First, to be able to send a COI electronically through email or fax, the Signature feature of TAM must be setup.

When the COI is queued to print, a default signature file will be used, either the user or the agency signature, based on setup. Remember that the signature must be of an agency staff member licensed and appointed by all companies represented on the form.



ASCnet can assist you in the creation of scanned signatures for a fee through the Member Benefits area. Applied has documentation that you can refer to for installation of signatures on your system.



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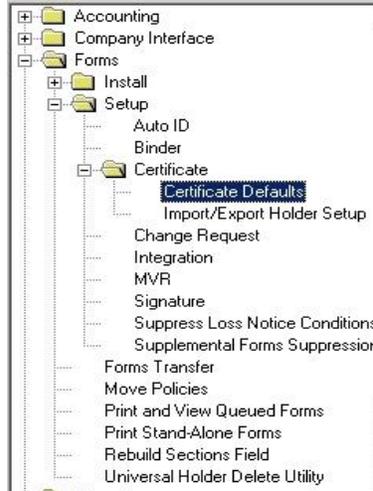
Only for agencies using the pre-2009/09 form, you need to access the Certificate setups area. This is the “dangerous” area because it allows you alter the COI’s Cancellation Clause text .Changes you make here can effect the options available in the Print dialog to alter the final form.

Let’s discuss the options in this utility.

Insured Name – based on your client data entry, you can choose to include the Attn field on the Cert.

Issue Date – when you create the COI, it can use the system date by default or you can manually enter a creation date.

Cancellation Clause – You have a choice of four options under each area -- Whether to include or exclude text for all or selected certificates. If you choose the “selected” option, the controls will be presented in the Print dialog.



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Here are examples of the Cancellation text with and without changes.

Many carriers no longer want COIs sent to them to clutter their files – as long as they are standard issue, they don't need the forms. Altered COIs, however, may fall outside your carrier's Hold Harmless rules.

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

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Envelope Type allows for adjustment of the Insured and Holder address information.

Written Notice # of Days – this number will be included in the Cancellation Clause and should be an agreeable period accepted by carriers – 20 days would be a common entry.

Holder options – Defaulting

Determine whether the certificate holders indicated on a certificate are also applied to subsequent certificates entered for the client. They may be unique to each certificate, shared by certificates, or either unique or shared. If you choose *Unique to Certificate*, the holders on a certificate are not transferred to a new certificate if one is added for the client. If you choose *Shared by Certificates*, when you add a new certificate for a client, the system copies the holders from the previous certificate to the newly added form. If you choose *Either Unique or Shared*, you are given the option to copy the holders from any of the client's previous certificates when you add a new certificate. A list of certificates from which to copy the holders displays.

Holder options – Issue Date

Next you choose to have the System Date printed in the holder area as default or pull the date from the Certificate print date.

Certificate Theory in TAM

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With our setups completed, let's look at the creation and theory of Certificates. First consideration is that there are two type of Certificates – the Acord 24 for Property and the Acord 25 for Liability – the majority will use the 25. There will be the need to create New COIs every year at renewal of the major policy. If policies and coverages have not changed, then we can replicate the prior COI information – but take great care to review all policy numbers, coverage limits and effective dates. To make sure that the COI contains updated information we should pull in the coverage information from the applications involved on every renewal.

This means we need to first have the updated information in TAM to pull into the Certificate properly. You may have a CPP, a Business Auto, a Workers Comp and an Umbrella to pull the information. The form will pull from all policies you designate one at a time until you are ready to complete the COI. The Certificate *Master* that you will create should be thought of as a **template** that will be used every time you get a request from a holder during the year. You could have more than one Master for a particular year – depending on policies and situations

New Certificate Workflow

From a commercial client Policy List screen select Options and Certificate. You will be asked if this is a Liability or Property form. There are other options for renewal situations which we will cover later.

The Certificate selection window will only give you the first risk info from each policy, so you will only see PCKG until you select it and the subsections will appears. As you select each policy and subsection, you will move that application part into the Selection window.

#	Type	Policy Number
1	PCKG	660724J7247
1	FLTR	660724J7247
2	WC-S	WC717G7250
3	CR-S	15159062
4	GHEL	GH5654656
5	INLM	660724J7247
6	PCKG	

Section(s)

- Commercial App
- Property
- Equipment Floater
- Commercial Umbrella

Selection(s)

- Commercial Umbrella
- General Liability
- Workers Comp

Buttons: Select >>, << Delete, OK, Cancel

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When you have finished selecting the policies to be included on the Cert select the OK button and you will be asked to choose a GL class to for the clients major business description that will be entered in the Description field. You can Cancel from this option and enter any business description manually on the Desc tab.

When the COI is created on your screen, the first data that you must supply is the Title of this Certificate. Remember that this Master is like a template and will be used many times and may possibly need to be referred to for info in the future. A good practice is to title Certificates with the year and what policies are contained in the Certificate – for instance, this year’s COI with all policies included would be titled as follows:

11/12 FULL

If this contained just the GL and WC it would say GL&WC instead of FULL. Be sure to look over each page to make sure the information that has pulled over looks correct and the policy dates are current.

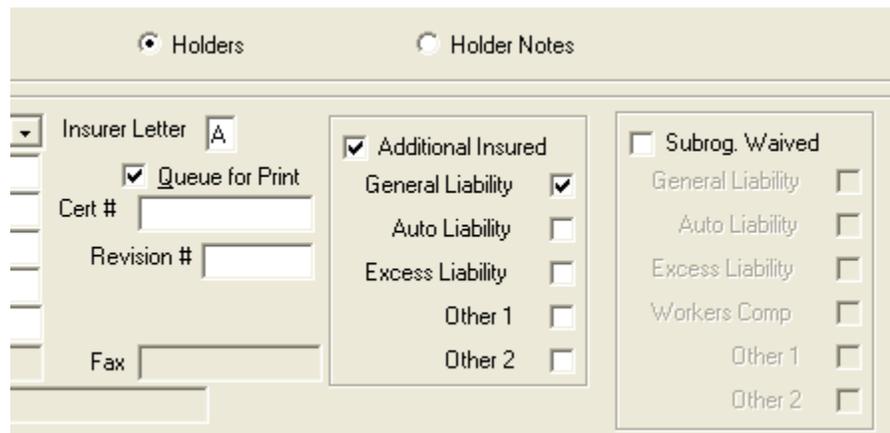
If there are specific details about your client’s operations such as permissible multi-state coverage, you can use the Desc tab to provide information that will be included each time this cert is used. If you need more text area for this Cert, you can add this to the Note tab which will also be included with this Certificate and printed each time. The next step is to go to the Holder tab and add holders to receive this COI. Click on Add in the Edit Bar and you will be prompted for the Holder code.

The tendency of most folks is to just add a new code and Holder info – this creates the horrific, messy list of holders that you may see under the Universal Holder list. Standard procedure should be to double click in the Code field and scan the list first. Creating a Holder Code should be thought out and made part of standard procedures. If your Holder is not there, then enter a new Holder code in the search field and select the Add button. Holder codes do not have to be entered, but without it, the holder cannot be accessed by any other user or in another year.

Notice that the Universal Cert Holder information now finally includes fields for a fax number and email address. This will allow you to pull this information into Fax@vantage when you are ready to send.

The screenshot shows a software dialog box titled "UNIVERSAL CERTIFICATE HOLDER" with a sub-header "NEWHOLD". The form contains the following fields: Name (with a cursor), Attn, Street, City, State, Zip, Phone, Fax, and Email. There are "OK" and "Cancel" buttons at the bottom.

Once you have completed the Holder info, it will be transferred into your COI. The Holder will be Queued to Print by default after being added.



You can now designate this holder as an Additional Insured on specific lines of business as well as select the Insurer Letter (referenced on the first tab) that has this AI endorsement. You can now also designate if a Waiver of Subrogation has been allowed for a specific line of business.

If there are specific details that need to be added, such as reference to a job number or location, then you can enter that in the Holder Description area. But if you have a significant amount of information, then use the Holder Notes button at the top of the screen which will create a full page that will be included with this holder only.

When you are ready to print the Certificate, the Print dialog window opens with some options available. There are two options based on the COI from you are using.

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PRE 2009/09

Options - print this COI for **All** holders, or for those you **Select** from the list of all holders. The holders you have just added and are **Currently Queued**

Include Clause – based on the setup, you may have the option to change either of the alternative text options.

Signature – if installed, this will default to the user. You can choose alternative signature files if the agency signatures are installed.

Print / Communication

Holder Options
 All Selected Currently Queued

Include Clause
 Endeavor To But Failure To Mail

Producer JKR Joseph K. Reihel

Agency 1 The Agency Manager, Inc.

Branch 1 The Agency Manager, Inc.

Signature tt1.pcx

Number of Copies 1 Activity Record

Queue Print Preview

Printer Setup... fax@vantage On IcePortMR:

2009/09 and after

Options – the Queued are the Holders you have just added. If you need to reprint any, use the Modify button to select

Schedules - You can now include a specific schedule if necessary from the client files.

Signature – if installed, this will default to the user. You can choose alternative signature files if the agency signatures are installed.

Holder Options
 All Queued

Producer GGA Gina Galeaz

Agency Agency One

Branch 1 Agency One, Branch One

Signature SB

Number of Copies 1 Activity Record

Queue Print Preview

Printer Setup fax@vantage

Scheduled Attachments
 All Schedules
 Personal Automobile
 Commercial App Premise
 General Liability Hazard
 Business Auto Vehicle
 Workers Comp Location
 Transportation Vehicle
 Garage Dealer Vehicle
 Truckers Vehicle

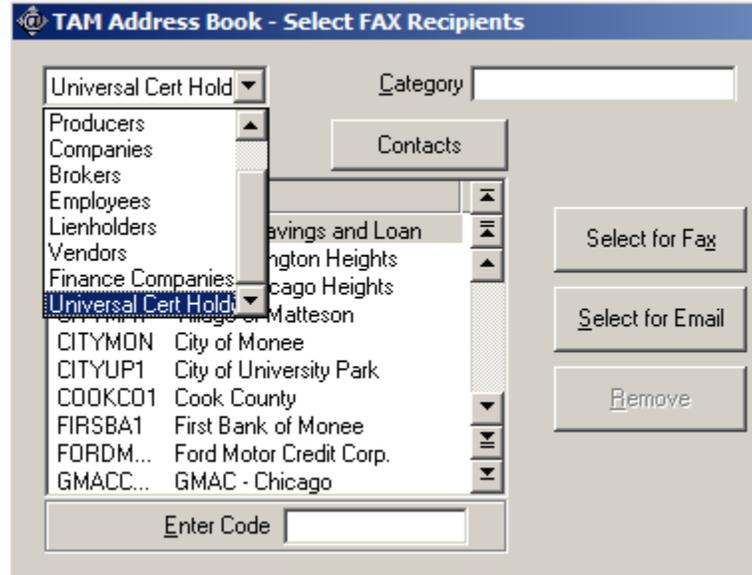
Top of Schedule Message
Attach to Certificate of Insurance

Your print job is ready to execute - in our example we will print into Fax@vantage to show the ability to use the stored holder information.

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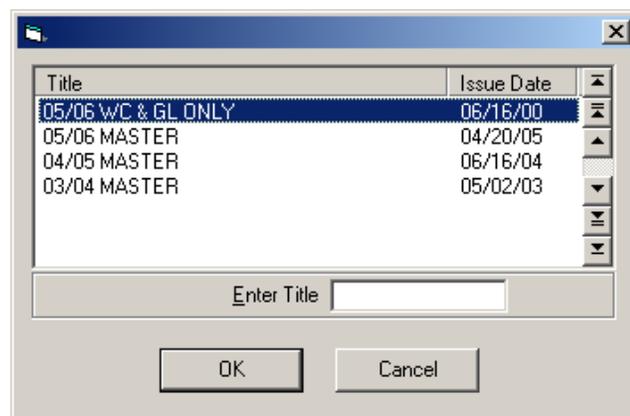
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In our @fax workflow we would be able to go into the TAM address book and choose our holder from the Universal Holder list – where we can select whether to fax or email the Certificate. Then choose Activity Notify and select your client’s name to have an activity (which is date and time stamped) attached to the client when the process is successfully completed (as well as having the complete fax attached to your client and capable of being quickly resent).



Adding Holders to Existing Certificates

As the need arises to issue more COIs during the year, select the Certificate option for your client. In the Menu line choose *File-View* to get a list of available Certificates. Your list should look similar to the one shown here.



Select from the Master list the COI you would need (for example FULL or GL&WC).

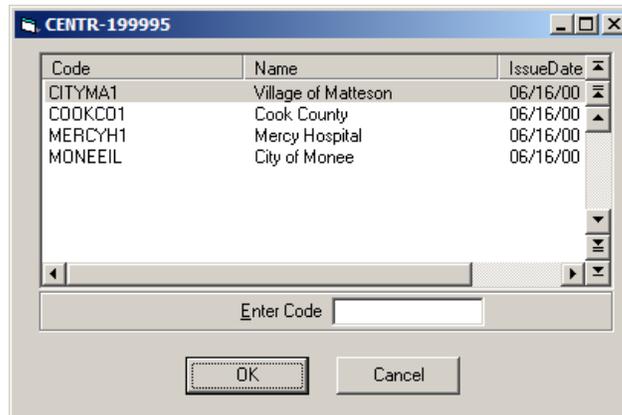
If you receive a request to send a COI to a holder, you may want to confirm that this has not been done already by another staff member. Therefore you will want to check the existing list of holders for the Certificate.

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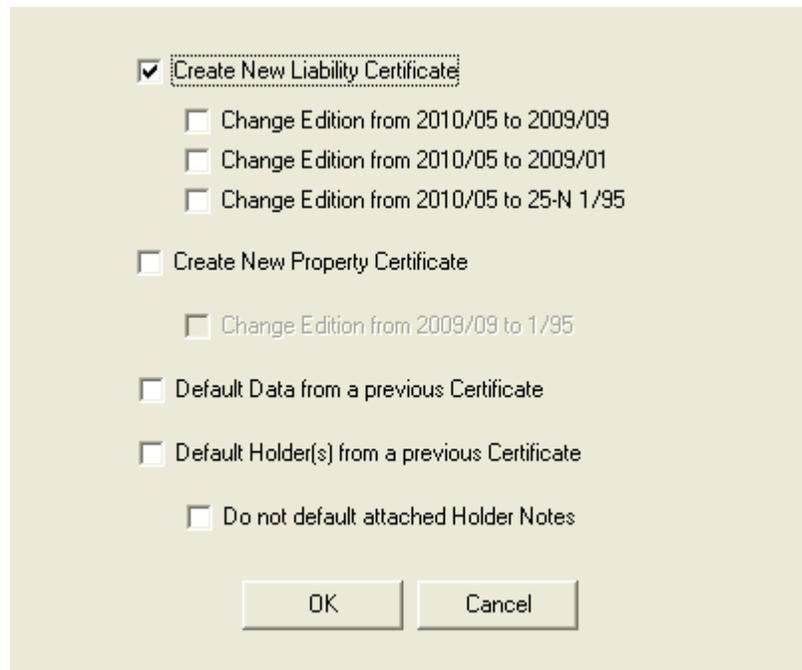
To check existing holders for a COI, go to the Holder tab and choose *File-View* from the Menu line to see the holder list as shown on the right.

If the holder has not been added already, use the same workflow as discussed above.



IMPORTANT CHANGE in v10

For the few times that you may need to re-print or re-send a COI from a prior year, you would select the Certificate Title from the list then select the appropriate holder from the list of Holders that was used on that Certificate. Due to the adoption of the 2009/09 form in v10, all prior COIs in TAM will be issued on the new form which creates E&O problems. If you need to send a COI that was created on the older form, you will have to re-create that cert utilizing the options now found on the Add Certificate window.



Pre - Renewal Workflow

For the client that has a large number of holders on their Certificates, a good step to prevent excess work on your part would be to send your client a listing of the holders on the COI and request an update for active holders that need to be sent a renewal Certificate.

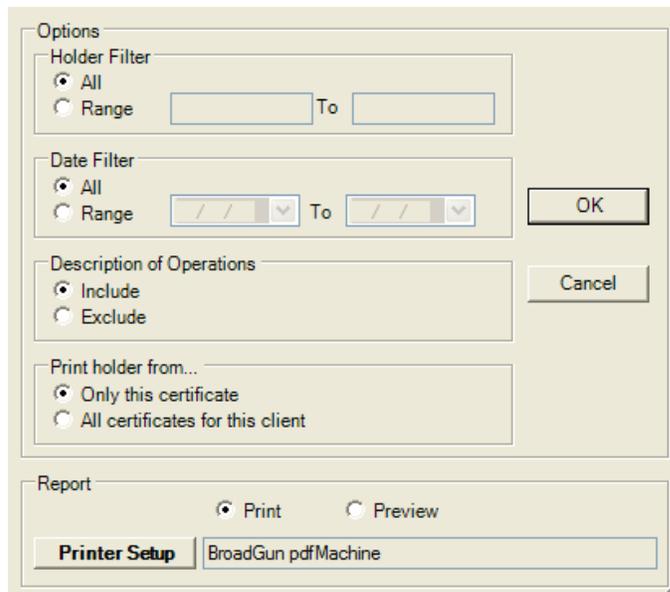
From the Holder screen you can see the selections available under the Schedule option.

To create the renewal Holder list select List and the follow dialog.



Here you can see the ability you have to filter your Certificate Holder report.

It would be a good idea to include the Description of Operations and restrict the list to Only this Certificate.



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When you select to print this report, you will have an Alpha sorted list of the holders per your settings. Be aware that this report does not yet include the holder's fax number or email address. Send this list to your client with an adequate amount of time for follow ups and response.

C E R T I F I C A T E H O L D E R L I S T

Customer: CENTR-1

Range: All

Dates: All

Date 04/12/09
Page 1

Central Construction

Code	Name	Street	City	ST	Zip Code	Iss Date	Queued
CITYMA1	Village of Matteson	10524 Governor's Highway	Matteson	IL	60457		Yes

Description of Operations
General Contractor-Office bldg
General Contractor

COOKCO Cook County

148 Division Street

Chicago

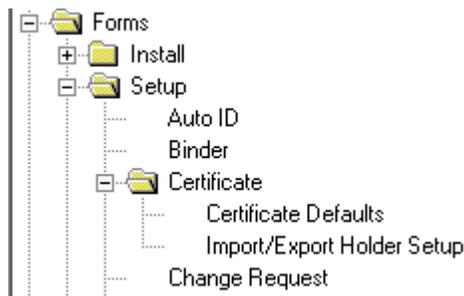
IL 60058

Yes

Description of Operations
General Contractor-Office bldg
General Contractor

Effective in TAM v9 there are new options available for you and your clients in the pre-renewal process. Instead of a print out, you now have the option of sending or receiving the hold list in Excel.

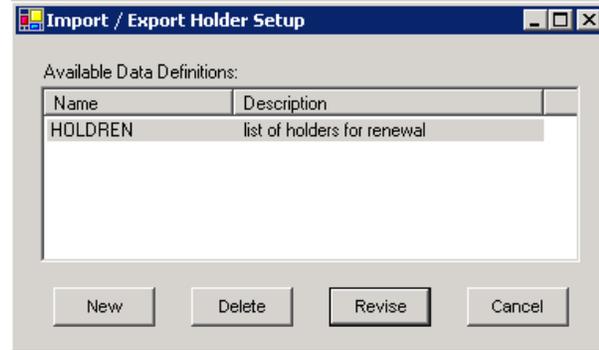
To take advantage of this feature, you must first access the setup area in the Utilities menu.



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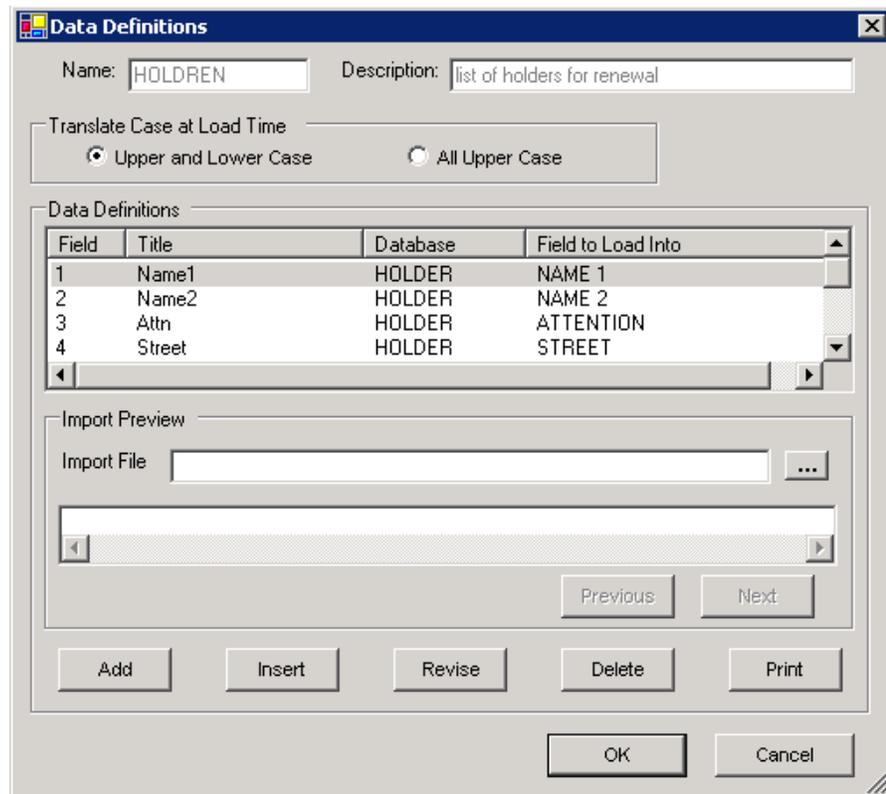
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You have the ability to define the structure (fields and order) of your input and export files and assign them names. This allows you some flexibility with the way your client may organize their Holder data.



In this example, the Title field may represent the name at the top of the column on the spreadsheet from your client – or the order in which you would like to export the data from the Holder info. You have some limitations to the data, but you should find this sufficient.

Now you can email these Excel(data) lists to be updated easily by your clients.



Once you have setup the definitions, you can access this feature through the Holder tab Options menu.



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Renewal Workflow

An easy feature of TAM is the renewal COI process.

On the New Certificate option dialog we have some timesaving renewal features.

These options can be selected together or independent of each other.

Create New Liability Certificate

Change Edition from 2010/05 to 2009/09

Change Edition from 2010/05 to 2009/01

Change Edition from 2010/05 to 25-N 1/95

Create New Property Certificate

Change Edition from 2009/09 to 1/95

Default Data from a previous Certificate

Default Holder(s) from a previous Certificate

Do not default attached Holder Notes

OK Cancel

Default Data – This option has now changed due to the form change in v10 – refer to the prior information. If you have added Certs using the older form, then the only time you will have the default option is when you choose this COI to also use the old form. If you have Certs on the new version, then the default will pull from those new forms only.

If you are renewing an account where the carriers, policy numbers and limits will be the same as the prior term and the only thing that should require updating are the policy effective dates, then you can elect to pull the policy information from a prior COI of your choice. Be aware that you need to thoroughly review the data before printing since any changes made to the referenced policies during the year will not be carried into this COI. Failure to catch altered information will create an E&O exposure.

Default Holders – If you want to re-populate the Holder entries on this renewal certificate you can pull the holder information from a prior COI of your choice. All the holders will be queued to print at this point.

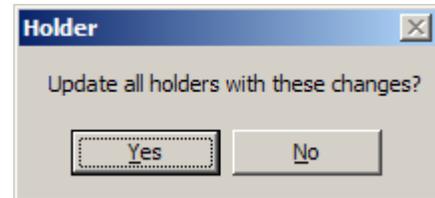
With the renewal Master Certificate now created, you would give it a Title based on the year and policies included. If you have mixed methods of sending these out (some by mail, others by fax, and others by email) you may need to sort using the Selected option for each group. A quick way to handle this situation is to create Master Certificates for each method – such as:

06/07 MASTER – email

06/07 MASTER - fax

The Universal Holder List

On occasion you may need to clean out or update Holder information available through the Universal Holder List. If you make a change, you will be asked if you want to Update ALL holders – this will alter your certificate history and could create an E&O hazard. Your best response is to say No to this option.



Adjusting the Cancellation Clause (older forms only)

Current beliefs by large corporations, real estate companies and government entities are that the Certificates of Insurance actually mean something. They believe that the COI has some sort of magical power granted to the holder. A full understanding of the Acord Certificate of Insurance form reveals that this piece of paper is merely a statement in which the issuer (your agency) “certifies” that the insured has the presented insurance policies, coverages and limits at the time of the presentation of the certificate to the holder, but conditions on the insured’s account could change by the next day.

And that important text at the bottom states that the issuer of the policies (your carriers) will only “attempt” to contact the holder– there is no absolute granted by the un-altered certificate. In fact, since no legal exchange occurs between the agent or carrier and the holder (no instance of an offer and acceptance) there are no contractual obligations to the holder. This document is just a piece of paper. And no matter how many times you tell the holder this, they still insist that “the following text must be printed on the COI exactly as shown on our request” – and they will also add that they have never had a problem getting this from other agents. If they could only hear what we say about them after we hang up!

Don’t get the impression that an agent or agency cannot get in real legal trouble with the holder. Situations have occurred where the agency representative – in an effort to pacify their insured and the bothersome holder - has issued a COI with customized language and information about holders being listed as additional insureds, as well as showing coverage limits or policies that don’t truly exist. Agents have been held liable for inaccurate or misrepresenting information on a COI – and also for failing to add those new Additional Insureds to the effected policies.

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Current information released by the major E&O carriers for insurance agencies in 2008 are reporting that claims from agents issuing certificates improperly have taken the number two position in number of claims. And while changes made to Certificates are intentional by the agent, proving intent to defraud has not been an issue with the E&O carriers, so they are currently defending most claims.

The issue that arises in these cases is the misrepresentation of facts that would be material to the Holder granting work to the insured. In some states, these situations can result in legal reprimands ranging from misdemeanors to felonies. In the state of NC for instance, misuse of a COI can result in a class H felony. Important items to consider are to always check the COI for accuracy, use only the most current Acord forms, change or add language only when granted permission in writing by the carriers including a Hold Harmless, and notify your contractor clients annually of your limited abilities when issuing Certificates. Here is a sample letter for your consideration.

To all of our contractor clients:

There has been a tremendous amount of confusion surrounding what the Certificate of Insurance (COI) actually does and what capabilities we, as your agent, have in regards to requests for these Certificate requests.

The only way we are permitted to alter the language on a COI is by written permission of the insurance carrier involved on that one Certificate. This permission may take a period of several days to receive. The COI is simply a form issued to a holder (who may or may not also be an Additional Insured on some policies) that shows what policies, coverage limits and effective dates are in force on your account at the time we issued the COI. There are no contractual obligations granted by this form to the holder.

The Additional Insured request can **only** be granted on the policies that allow such requests (General Liability and Business Auto). If there is a request to list a Certificate Holder as an Additional Insured, we will add them to the policies as requested and any additional premium will be billed to you.

Waivers of Subrogation in any request will have to be agreed to by the affected carrier and provided to us in writing by that carrier. This permission may take a period of several days to receive.

While we strive to provide you prompt service in your requests for Certificates, we cannot be held responsible for delays in your ability to be compensated because a COI cannot be issued according to a contract you have entered into. We are not responsible if you do not contact us before you enter into a contract requiring coverages, limits or COI language changes that we cannot legally comply with.

To avoid any problems, please contact us in advance to signing a contract that stipulates any coverages, additional insured clauses or special language that has to be included on a COI. Thank you for your cooperation. Please contact us with any questions.

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