

Senate Engrossed House Bill

~~group excess liability insurance~~
(now: insurance; group excess liability)

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2007

AN ACT

AMENDING TITLE 20, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLE
6; RELATING TO INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 20, chapter 6, Arizona Revised Statutes, is
3 amended by adding article 6, to read:

4 ARTICLE 6. GROUP EXCESS LIABILITY INSURANCE POLICIES

5 20-1491. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "CERTIFICATE HOLDER" MEANS THE INDIVIDUAL NAMED INSURED GROUP
8 MEMBER UNDER A GROUP EXCESS LIABILITY INSURANCE POLICY.

9 2. "CERTIFICATE OF INSURANCE" MEANS THE CERTIFICATE OF INSURANCE,
10 EVIDENCE OF COVERAGE OR OTHER SUMMARY OF COVERAGE THAT IS ISSUED TO EACH
11 CERTIFICATE HOLDER UNDER A GROUP EXCESS LIABILITY INSURANCE POLICY.

12 3. "CONDITIONAL RENEWAL" MEANS A RENEWAL THAT IS CONDITIONED ON ANY
13 OF THE FOLLOWING:

14 (a) A CHANGE OF LIMITS.

15 (b) A CHANGE IN THE TYPE OF COVERAGE.

16 (c) A REDUCTION OR ELIMINATION OF COVERAGE.

17 (d) INCREASED DEDUCTIBLES OR THE ADDITION OF EXCLUSIONS.

18 (e) INCREASED PREMIUMS IN EXCESS OF TEN PERCENT, EXCEPT FOR PREMIUM
19 INCREASES THAT ARE GENERATED AS A RESULT OF INCREASED EXPOSURE UNITS OR AS
20 A RESULT OF EXPERIENCE RATING, LOSS RATING, RETROSPECTIVE RATING OR AUDIT.

21 4. "EXCESS LIABILITY INSURANCE" MEANS LIABILITY INSURANCE, AS
22 PRESCRIBED IN SECTION 20-252, PARAGRAPH 1, THAT PROVIDES EXCESS COVERAGE
23 AFTER THE CERTIFICATE HOLDER'S PRIMARY LIABILITY INSURANCE LIMITS HAVE
24 BEEN EXHAUSTED.

25 5. "EXCESS UNINSURED OR UNDERINSURED LIABILITY" MEANS DAMAGES FOR
26 BODILY INJURY, PERSONAL INJURY OR PROPERTY DAMAGE THAT THE CERTIFICATE
27 HOLDER OR AN IMMEDIATE FAMILY MEMBER OF THE CERTIFICATE HOLDER IS LEGALLY
28 ENTITLED TO RECEIVE FROM AN UNINSURED OR UNDERINSURED NEGLIGENT PERSON.

29 6. "GROUP EXCESS LIABILITY INSURANCE" MEANS EXCESS LIABILITY
30 INSURANCE THAT IS ISSUED ON A GROUP BASIS AND THAT COVERS GROUPS OF
31 PERSONS AS PRESCRIBED IN THIS ARTICLE.

32 7. "GROUP POLICYHOLDER" MEANS THOSE GROUPS IDENTIFIED IN SECTION
33 20-1492, SUBSECTION D TO WHICH A GROUP EXCESS LIABILITY INSURANCE POLICY
34 MAY BE ISSUED.

35 8. "IMMEDIATE FAMILY MEMBER" INCLUDES ANY OF THE FOLLOWING:

36 (a) THE CERTIFICATE HOLDER'S SPOUSE OR DOMESTIC PARTNER.

37 (b) ANY RELATIVE OF THE CERTIFICATE HOLDER WHO LIVES WITH THE
38 CERTIFICATE HOLDER.

39 (c) ANY PERSON WHO IS UNDER TWENTY-FIVE YEARS OF AGE AND WHO IS IN
40 THE CARE OF THE CERTIFICATE HOLDER.

41 9. "ISSUED ON A GROUP BASIS" MEANS THE ISSUANCE OF A MASTER POLICY
42 TO A GROUP POLICYHOLDER, WITH CERTIFICATES OF INSURANCE ISSUED TO
43 CERTIFICATE HOLDERS, SOLELY FOR THE BENEFIT OF PERSONS OTHER THAN THE
44 GROUP POLICYHOLDER.

1 10. "NEGLIGENT PERSON" MEANS A NATURAL PERSON WHO IS IDENTIFIABLE
2 BY LEGAL NAME, WHO IS NOT AN IMMEDIATE FAMILY MEMBER OF THE CERTIFICATE
3 HOLDER AND WHO IS LEGALLY RESPONSIBLE FOR ANY DAMAGES THAT WERE SUSTAINED
4 BY THE CERTIFICATE HOLDER OR THE CERTIFICATE HOLDER'S IMMEDIATE FAMILY
5 MEMBER AND THAT WERE CAUSED BY AN ACCIDENT OR OFFENSE TO WHICH THE GROUP
6 EXCESS LIABILITY INSURANCE POLICY APPLIES.

7 20-1492. Group excess liability insurance; eligible groups

8 A. AN AUTHORIZED INSURER OR AN UNAUTHORIZED INSURER AS PROVIDED IN
9 CHAPTER 2, ARTICLE 5 OF THIS TITLE MAY OFFER GROUP EXCESS LIABILITY
10 INSURANCE IN THIS STATE. AN AUTHORIZED INSURER THAT ISSUES A GROUP EXCESS
11 LIABILITY INSURANCE POLICY IN THIS STATE SHALL FILE THE GROUP POLICY AND
12 THE CERTIFICATE OF INSURANCE FORMS WITH THE DEPARTMENT PURSUANT TO SECTION
13 20-398 BUT IS EXEMPT FROM THE REQUIREMENTS OF SECTION 20-385. THE TERMS
14 OF THE CERTIFICATE OF INSURANCE SHALL BE CONSISTENT WITH THE TERMS OF THE
15 GROUP EXCESS LIABILITY INSURANCE POLICY PURSUANT TO WHICH THE CERTIFICATE
16 OF INSURANCE IS ISSUED.

17 B. AN INSURER MAY ISSUE OR DELIVER A GROUP EXCESS LIABILITY
18 INSURANCE POLICY AND CERTIFICATE OF INSURANCE IN THIS STATE ONLY PURSUANT
19 TO THIS ARTICLE. IN ADDITION TO EXCESS LIABILITY COVERAGE, A GROUP EXCESS
20 LIABILITY INSURANCE POLICY MAY ALSO PROVIDE EXCESS UNINSURED MOTORIST,
21 EXCESS UNDERINSURED MOTORIST AND EXCESS UNINSURED OR UNDERINSURED
22 LIABILITY COVERAGE TO CERTIFICATE HOLDERS. THE TERMS AND CONDITIONS FOR
23 ANY EXCESS UNINSURED MOTORIST COVERAGE AND EXCESS UNDERINSURED MOTORIST
24 COVERAGE PROVIDED UNDER THE GROUP POLICY SHALL COMPLY WITH THIS TITLE.

25 C. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, A GROUP EXCESS
26 LIABILITY INSURANCE POLICY MAY PROVIDE COVERAGE FOR EXCESS UNINSURED
27 MOTORIST OR UNDERINSURED MOTORIST COVERAGE IN AMOUNTS THAT EXCEED THE
28 LIMITS SET FORTH IN SECTION 20-259.01.

29 D. AN INSURER MAY ISSUE A GROUP EXCESS LIABILITY INSURANCE POLICY
30 TO AN EMPLOYER THAT INSURES ONE OR MORE EMPLOYEES OF THE EMPLOYER. FOR
31 THE PURPOSES OF THIS SUBSECTION:

32 1. "EMPLOYEES" INCLUDE:

33 (a) THE OFFICERS, DIRECTORS, MANAGERS AND EMPLOYEES OF THE
34 EMPLOYER.

35 (b) THE PARTNERS IF THE EMPLOYER IS A PARTNERSHIP.

36 (c) THE OFFICERS, MANAGERS AND EMPLOYEES OF A SUBSIDIARY OR ANY
37 AFFILIATED CORPORATIONS, COMPANIES, LIMITED LIABILITY COMPANIES, FIRMS OR
38 PARTNERSHIPS.

39 (d) THE MEMBERS OF THE EMPLOYEE'S IMMEDIATE FAMILY.

40 2. "EMPLOYER" INCLUDES ANY TYPE OF CORPORATION, COMPANY, FIRM,
41 LIMITED LIABILITY COMPANY AND PARTNERSHIP.

42 E. AN INSURER MAY ESTABLISH UNDERWRITING CRITERIA FOR THE GROUP
43 POLICYHOLDER AND CERTIFICATE HOLDERS THAT APPLY AT ISSUANCE AND RENEWAL OF
44 THE GROUP POLICY AND THE CERTIFICATE OF INSURANCE. INSURERS SHALL TREAT
45 ALL ELIGIBLE GROUPS OF THE SAME CLASS IN A LIKE MANNER.

1 F. NOTHING IN THIS ARTICLE SHALL APPLY TO OR OTHERWISE PROHIBIT THE
2 ISSUANCE OF COMMERCIAL EXCESS LIABILITY INSURANCE POLICIES THAT PROVIDE
3 COVERAGE TO ONE OR MORE NAMED INSUREDS AND ITS OWNERS, EMPLOYEES,
4 CONTRACTORS, AGENTS OR REPRESENTATIVES UNDER A SINGLE LIMIT OF INSURANCE.
5 FOR THE PURPOSES OF THIS SUBSECTION, "COMMERCIAL" MEANS INSURANCE THAT
6 INSURES AGAINST THE RISKS ARISING FROM BUSINESS AND COMMERCIAL ACTIVITY.

7 20-1493. Group excess liability insurance policy; premiums;
8 cancellation; requirements

9 A. THE GROUP POLICYHOLDER MAY PAY THE PREMIUM FOR A GROUP EXCESS
10 LIABILITY INSURANCE POLICY FROM MONIES CONTRIBUTED WHOLLY BY THE GROUP
11 POLICYHOLDER, WHOLLY BY THE CERTIFICATE HOLDERS OR JOINTLY BY THE GROUP
12 POLICYHOLDER AND THE CERTIFICATE HOLDERS.

13 B. THE GROUP EXCESS LIABILITY INSURANCE POLICY SHALL PROVIDE
14 SEPARATE LIMITS OF COVERAGE FOR EACH CERTIFICATE HOLDER.

15 C. THE INSURER OR, IF AUTHORIZED BY THE INSURER AND AGREED TO BY
16 THE INSURANCE PRODUCER, THE GROUP POLICYHOLDER'S INSURANCE PRODUCER SHALL
17 DELIVER A COPY OF THE GROUP POLICY AND ANY ENDORSEMENT OR AMENDMENT TO THE
18 GROUP POLICYHOLDER. IF AUTHORIZED BY THE INSURER AND AGREED TO BY THE
19 GROUP POLICYHOLDER OR THE GROUP POLICYHOLDER'S INSURANCE PRODUCER, THE
20 GROUP POLICYHOLDER OR THE GROUP POLICYHOLDER'S INSURANCE PRODUCER MAY SEND
21 THE CERTIFICATE OF INSURANCE AND ANY ENDORSEMENT OR AMENDMENT TO THE
22 CERTIFICATE HOLDERS ON BEHALF OF THE INSURER.

23 D. THE CERTIFICATE OF INSURANCE SHALL CONTAIN ALL MATERIAL TERMS
24 AND CONDITIONS OF COVERAGE THAT ARE AFFORDED TO THE CERTIFICATE HOLDER,
25 INCLUDING A DISCLOSURE IN CLEAR AND EASILY UNDERSTANDABLE LANGUAGE OF ANY
26 LIMITATION, EXCLUSION OR REQUIRED UNDERLYING COVERAGE, OR A COPY OF THE
27 GROUP POLICY SHALL BE DELIVERED TO THE CERTIFICATE HOLDER WITHIN A
28 REASONABLE PERIOD OF TIME AFTER THE CERTIFICATE OF INSURANCE IS DELIVERED
29 TO THE CERTIFICATE HOLDER.

30 E. THE INSURER MAY NOT DISCLOSE CLAIMS-RELATED INFORMATION ABOUT
31 ANY CERTIFICATE HOLDER TO THE GROUP POLICYHOLDER OTHER THAN THE EXISTENCE
32 OF A CLAIM.

33 F. THE FOLLOWING REQUIREMENTS APPLY TO THE CANCELLATION, NONRENEWAL
34 OR CONDITIONAL RENEWAL OF COVERAGE UNDER A GROUP EXCESS LIABILITY
35 INSURANCE POLICY:

36 1. EXCEPT AS PROVIDED IN PARAGRAPH 5 OF THIS SUBSECTION, AN INSURER
37 MAY NONRENEW THE GROUP POLICY OR ANY CERTIFICATE OF INSURANCE ISSUED UNDER
38 THE POLICY IF THE INSURER COMPLIES WITH THE REQUIREMENTS OF THIS ARTICLE.
39 THE INSURER SHALL SEND NOTICE OF NONRENEWAL TO THE GROUP POLICYHOLDER AND
40 THE CERTIFICATE HOLDERS AT LEAST THIRTY DAYS BEFORE THE EFFECTIVE DATE OF
41 THE NONRENEWAL. IF AUTHORIZED BY THE INSURER AND AGREED TO BY THE GROUP
42 POLICYHOLDER, THE GROUP POLICYHOLDER MAY SEND NOTICE OF NONRENEWAL TO THE
43 CERTIFICATE HOLDERS AT LEAST THIRTY DAYS BEFORE THE EFFECTIVE DATE OF THE
44 NONRENEWAL ON BEHALF OF THE INSURER.

1 2. EXCEPT AS PROVIDED IN PARAGRAPH 5 OF THIS SUBSECTION, AFTER A
2 GROUP POLICY OR CERTIFICATE OF INSURANCE HAS BEEN IN EFFECT FOR SIXTY
3 DAYS, OR IF THE GROUP POLICY OR CERTIFICATE OF INSURANCE IS A RENEWAL,
4 EFFECTIVE IMMEDIATELY, AN INSURER MAY CANCEL THE GROUP POLICY OR ANY
5 CERTIFICATE OF INSURANCE ISSUED UNDER THE POLICY AFTER THE EFFECTIVE DATE
6 OF THE GROUP POLICY OR CERTIFICATE OF INSURANCE BASED ON ANY OF THE
7 FOLLOWING:

8 (a) THE NONPAYMENT OF THE PREMIUM.

9 (b) THE CONVICTION OF THE GROUP POLICYHOLDER OR CERTIFICATE HOLDER
10 OF A CRIME THAT AROSE OUT OF ACTS THAT INCREASED ANY OF THE HAZARDS
11 INSURED AGAINST.

12 (c) ANY ACTS OR OMISSIONS BY THE GROUP POLICYHOLDER, THE GROUP
13 POLICYHOLDER'S REPRESENTATIVE OR THE CERTIFICATE HOLDER THAT CONSTITUTE
14 FRAUD OR MATERIAL MISREPRESENTATION IN OBTAINING OR CONTINUING THE GROUP
15 POLICY OR CERTIFICATE OF INSURANCE OR IN PRESENTING A CLAIM UNDER THE
16 GROUP POLICY OR CERTIFICATE OF INSURANCE.

17 (d) A SUBSTANTIAL CHANGE IN THE RISK ASSUMED BY THE INSURER SINCE
18 THE GROUP POLICY OR CERTIFICATE OF INSURANCE WAS ISSUED, EXCEPT TO THE
19 EXTENT THAT THE INSURER SHOULD REASONABLY HAVE FORESEEN THE CHANGE OR
20 CONTEMPLATED THE RISK IN WRITING THE CONTRACT.

21 (e) A DETERMINATION BY THE DIRECTOR THAT CONTINUING THE GROUP
22 POLICY OR CERTIFICATE OF INSURANCE WOULD PLACE THE INSURER IN VIOLATION OF
23 THE INSURANCE LAWS OF THIS STATE OR WOULD JEOPARDIZE THE SOLVENCY OF THE
24 INSURER.

25 (f) THE LOSS OF REINSURANCE THAT APPLIES TO THE RISK INSURED
26 AGAINST, BUT ONLY IF THE ABSENCE OF REINSURANCE RESULTED FROM THE
27 TERMINATION OF TREATY REINSURANCE OR FACULTATIVE REINSURANCE INITIATED OR
28 IMPLEMENTED BY THE REINSURER OR REINSURERS OF THE INSURER ISSUING THE
29 GROUP POLICY.

30 (g) THE DISCOVERY OF GROSSLY NEGLIGENT ACTS BY THE GROUP
31 POLICYHOLDER, THE GROUP POLICYHOLDER'S REPRESENTATIVE OR THE CERTIFICATE
32 HOLDER THAT MATERIALLY INCREASED ANY OF THE HAZARDS INSURED AGAINST.

33 3. THE INSURER SHALL SEND NOTICE OF CANCELLATION TO THE GROUP
34 POLICYHOLDER AND THE CERTIFICATE HOLDERS IF THE GROUP POLICY IS BEING
35 CANCELED OR TO AFFECTED CERTIFICATE HOLDERS IF ONE OR MORE CERTIFICATES OF
36 INSURANCE ARE BEING CANCELED AT LEAST THIRTY DAYS BEFORE THE EFFECTIVE
37 DATE OF THE CANCELLATION. IF AUTHORIZED BY THE INSURER AND AGREED TO BY
38 THE GROUP POLICYHOLDER, THE GROUP POLICYHOLDER MAY SEND NOTICE OF
39 CANCELLATION TO THE CERTIFICATE HOLDERS IF THE GROUP POLICY IS BEING
40 CANCELED OR TO AFFECTED CERTIFICATE HOLDERS IF ONE OR MORE CERTIFICATES OF
41 INSURANCE ARE BEING CANCELED AT LEAST THIRTY DAYS BEFORE THE EFFECTIVE
42 DATE OF THE CANCELLATION ON BEHALF OF THE INSURER.

43 4. THE GROUP POLICY SHALL SET FORTH THE CONDITIONS AND TIMING ON
44 WHICH A CERTIFICATE HOLDER'S COVERAGE WILL TERMINATE FOLLOWING THE

1 TERMINATION OF A CERTIFICATE HOLDER'S EMPLOYMENT WITH THE GROUP
2 POLICYHOLDER.

3 5. AN ACT OR OMISSION BY A CERTIFICATE HOLDER MAY NOT CONSTITUTE
4 THE BASIS FOR CANCELLATION OF THE GROUP POLICY.

5 6. THE NOTICE OF CANCELLATION AND ANY REFUND OF UNEARNED PREMIUM
6 MAY BE SENT SEPARATELY, BUT BOTH MUST BE SENT WITHIN THIRTY DAYS BEFORE
7 THE EFFECTIVE DATE OF THE CANCELLATION.

8 G. WITH THIRTY DAYS' WRITTEN NOTICE TO THE INSURER AND EACH
9 CERTIFICATE HOLDER, A GROUP POLICYHOLDER MAY CANCEL OR NONRENEW THE GROUP
10 POLICY FOR ANY REASON.

11 H. IF A CERTIFICATE HOLDER SUSTAINS A LOSS THAT WOULD BE COVERED BY
12 THE GROUP POLICY AND THAT OCCURS BEFORE THE EFFECTIVE DATE OF THE
13 CANCELLATION, NONRENEWAL OR CONDITIONAL RENEWAL OF THE GROUP POLICY OR THE
14 CERTIFICATE HOLDER'S CERTIFICATE OF INSURANCE, WHETHER INITIATED BY THE
15 INSURER, GROUP POLICYHOLDER OR CERTIFICATE HOLDER, THE LOSS REMAINS
16 COVERED AS PROVIDED UNDER THE GROUP POLICY NOTWITHSTANDING THE
17 CANCELLATION, NONRENEWAL OR CONDITIONAL RENEWAL.