

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2007

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

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

1 AFTER THE CERTIFICATE HOLDER'S PRIMARY LIABILITY INSURANCE LIMITS HAVE BEEN
2 EXHAUSTED.

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

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

10 7. "GROUP POLICYHOLDER" MEANS THOSE GROUPS IDENTIFIED IN SECTION
11 20-1492, SUBSECTION C TO WHICH A GROUP EXCESS LIABILITY INSURANCE POLICY
12 MAY BE ISSUED.

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

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

15 (b) ANY RELATIVE OF THE CERTIFICATE HOLDER WHO LIVES WITH THE
16 CERTIFICATE HOLDER.

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

19 9. "NEGLIGENT PERSON" MEANS A NATURAL PERSON WHO IS IDENTIFIABLE BY
20 LEGAL NAME, WHO IS NOT AN IMMEDIATE FAMILY MEMBER OF THE CERTIFICATE HOLDER
21 AND WHO IS LEGALLY RESPONSIBLE FOR ANY DAMAGES THAT WERE SUSTAINED BY THE
22 CERTIFICATE HOLDER OR THE CERTIFICATE HOLDER'S IMMEDIATE FAMILY MEMBER AND
23 THAT WERE CAUSED BY AN ACCIDENT OR OFFENSE TO WHICH THE GROUP EXCESS
24 LIABILITY INSURANCE POLICY APPLIES.

25 20-1492. Group excess liability insurance; eligible groups

26 A. AN AUTHORIZED INSURER OR AN UNAUTHORIZED INSURER AS PROVIDED IN
27 CHAPTER 2, ARTICLE 5 OF THIS TITLE MAY OFFER GROUP EXCESS LIABILITY
28 INSURANCE IN THIS STATE. AN AUTHORIZED INSURER THAT ISSUES A GROUP EXCESS
29 LIABILITY INSURANCE POLICY IN THIS STATE SHALL FILE THE GROUP POLICY AND
30 THE CERTIFICATE OF INSURANCE FORMS WITH THE DEPARTMENT PURSUANT TO SECTION
31 20-398 BUT IS EXEMPT FROM THE REQUIREMENTS OF SECTION 20-385. THE TERMS OF
32 THE CERTIFICATE OF INSURANCE SHALL BE CONSISTENT WITH THE TERMS OF THE

1 GROUP EXCESS LIABILITY INSURANCE POLICY PURSUANT TO WHICH THE CERTIFICATE
2 OF INSURANCE IS ISSUED.

3 B. AN INSURER MAY ISSUE OR DELIVER A GROUP EXCESS LIABILITY INSURANCE
4 POLICY AND CERTIFICATE OF INSURANCE IN THIS STATE ONLY PURSUANT TO THIS
5 ARTICLE. IN ADDITION TO EXCESS LIABILITY COVERAGE, A GROUP EXCESS
6 LIABILITY INSURANCE POLICY MAY ALSO PROVIDE EXCESS UNINSURED MOTORIST,
7 EXCESS UNDERINSURED MOTORIST AND EXCESS UNINSURED OR UNDERINSURED LIABILITY
8 COVERAGE TO CERTIFICATE HOLDERS. THE TERMS AND CONDITIONS FOR ANY EXCESS
9 UNINSURED MOTORIST COVERAGE AND EXCESS UNDERINSURED MOTORIST COVERAGE
10 PROVIDED UNDER THE GROUP POLICY SHALL COMPLY WITH THIS TITLE.

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

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

18 1. "EMPLOYEES" INCLUDE:

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

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

21 (c) THE OFFICERS, MANAGERS AND EMPLOYEES OF A SUBSIDIARY OR ANY
22 AFFILIATED CORPORATIONS, COMPANIES, LIMITED LIABILITY COMPANIES, FIRMS OR
23 PARTNERSHIPS.

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

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

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

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

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

B. THE GROUP EXCESS LIABILITY INSURANCE POLICY SHALL PROVIDE SEPARATE LIMITS OF COVERAGE FOR EACH CERTIFICATE HOLDER. A GROUP EXCESS LIABILITY INSURANCE POLICY MAY NOT PROVIDE COVERAGE TO A GROUP POLICYHOLDER.

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

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

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

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

1 1. EXCEPT AS PROVIDED IN PARAGRAPH 5 OF THIS SUBSECTION, AN INSURER
2 MAY NONRENEW THE GROUP POLICY OR ANY CERTIFICATE OF INSURANCE ISSUED UNDER
3 THE POLICY IF THE INSURER COMPLIES WITH THE REQUIREMENTS OF THIS ARTICLE.
4 THE INSURER SHALL SEND NOTICE OF NONRENEWAL TO THE GROUP POLICYHOLDER AND
5 THE CERTIFICATE HOLDERS AT LEAST THIRTY DAYS BEFORE THE EFFECTIVE DATE OF
6 THE NONRENEWAL. IF AUTHORIZED BY THE INSURER AND AGREED TO BY THE GROUP
7 POLICYHOLDER, THE GROUP POLICYHOLDER MAY SEND NOTICE OF NONRENEWAL TO THE
8 CERTIFICATE HOLDERS AT LEAST THIRTY DAYS BEFORE THE EFFECTIVE DATE OF THE
9 NONRENEWAL ON BEHALF OF THE INSURER.

10 2. EXCEPT AS PROVIDED IN PARAGRAPH 5 OF THIS SUBSECTION, AFTER A
11 GROUP POLICY OR CERTIFICATE OF INSURANCE HAS BEEN IN EFFECT FOR SIXTY DAYS,
12 OR IF THE GROUP POLICY OR CERTIFICATE OF INSURANCE IS A RENEWAL, EFFECTIVE
13 IMMEDIATELY, AN INSURER MAY CANCEL THE GROUP POLICY OR ANY CERTIFICATE OF
14 INSURANCE ISSUED UNDER THE POLICY AFTER THE EFFECTIVE DATE OF THE GROUP
15 POLICY OR CERTIFICATE OF INSURANCE BASED ON ANY OF THE FOLLOWING:

16 (a) THE NONPAYMENT OF THE PREMIUM.

17 (b) THE CONVICTION OF THE GROUP POLICYHOLDER OR CERTIFICATE HOLDER
18 OF A CRIME THAT AROSE OUT OF ACTS THAT INCREASED ANY OF THE HAZARDS INSURED
19 AGAINST.

20 (c) ANY ACTS OR OMISSIONS BY THE GROUP POLICYHOLDER, THE GROUP
21 POLICYHOLDER'S REPRESENTATIVE OR THE CERTIFICATE HOLDER THAT CONSTITUTE
22 FRAUD OR MATERIAL MISREPRESENTATION IN OBTAINING OR CONTINUING THE GROUP
23 POLICY OR CERTIFICATE OF INSURANCE OR IN PRESENTING A CLAIM UNDER THE GROUP
24 POLICY OR CERTIFICATE OF INSURANCE.

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

29 (e) A DETERMINATION BY THE DIRECTOR THAT CONTINUING THE GROUP POLICY
30 OR CERTIFICATE OF INSURANCE WOULD PLACE THE INSURER IN VIOLATION OF THE
31 INSURANCE LAWS OF THIS STATE OR WOULD JEOPARDIZE THE SOLVENCY OF THE
32 INSURER.

1 (f) THE LOSS OF REINSURANCE THAT APPLIES TO THE RISK INSURED
2 AGAINST, BUT ONLY IF THE ABSENCE OF REINSURANCE RESULTED FROM THE
3 TERMINATION OF TREATY REINSURANCE OR FACULTATIVE REINSURANCE INITIATED OR
4 IMPLEMENTED BY THE REINSURER OR REINSURERS OF THE INSURER ISSUING THE GROUP
5 POLICY.

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

9 3. THE INSURER SHALL SEND NOTICE OF CANCELLATION TO THE GROUP
10 POLICYHOLDER AND THE CERTIFICATE HOLDERS IF THE GROUP POLICY IS BEING
11 CANCELED OR TO AFFECTED CERTIFICATE HOLDERS IF ONE OR MORE CERTIFICATES OF
12 INSURANCE ARE BEING CANCELED AT LEAST THIRTY DAYS BEFORE THE EFFECTIVE DATE
13 OF THE CANCELLATION. IF AUTHORIZED BY THE INSURER AND AGREED TO BY THE
14 GROUP POLICYHOLDER, THE GROUP POLICYHOLDER MAY SEND NOTICE OF CANCELLATION
15 TO THE CERTIFICATE HOLDERS IF THE GROUP POLICY IS BEING CANCELED OR TO
16 AFFECTED CERTIFICATE HOLDERS IF ONE OR MORE CERTIFICATES OF INSURANCE ARE
17 BEING CANCELED AT LEAST THIRTY DAYS BEFORE THE EFFECTIVE DATE OF THE
18 CANCELLATION ON BEHALF OF THE INSURER.

19 4. THE GROUP POLICY SHALL SET FORTH THE CONDITIONS AND TIMING ON
20 WHICH A CERTIFICATE HOLDER'S COVERAGE WILL TERMINATE FOLLOWING THE
21 TERMINATION OF A CERTIFICATE HOLDER'S EMPLOYMENT WITH THE GROUP
22 POLICYHOLDER.

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

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

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

1 H. IF A CERTIFICATE HOLDER SUSTAINS A LOSS THAT WOULD BE COVERED BY
2 THE GROUP POLICY AND THAT OCCURS BEFORE THE EFFECTIVE DATE OF THE
3 CANCELLATION, NONRENEWAL OR CONDITIONAL RENEWAL OF THE GROUP POLICY OR THE
4 CERTIFICATE HOLDER'S CERTIFICATE OF INSURANCE, WHETHER INITIATED BY THE
5 INSURER, GROUP POLICYHOLDER OR CERTIFICATE HOLDER, THE LOSS REMAINS COVERED
6 AS PROVIDED UNDER THE GROUP POLICY NOTWITHSTANDING THE CANCELLATION,
7 NONRENEWAL OR CONDITIONAL RENEWAL."

8 Amend title to conform

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JUSTIN WILMETH

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