

EXCESS LIABILITY INSURANCE OVERVIEW

The excess liability policy provides coverage for wrongful acts committed by employees in the performance of their job. It is administered by the Public Officers and Employees Liability Insurance Commission. Coverage is presently placed with Clarendon American Insurance Company with the following limits:

\$10,000,000 per employee
\$10,000,000 per occurrence
\$25,000,000 annual aggregate

The following is an outline of the coverage provided by the Excess Liability Insurance policy and addresses frequently asked questions. **This is intended as a general guide only. Specific questions and concerns should be directed to the Public Officers and Employees Liability Insurance Commission.**

THE POLICY:

The policy is an excess liability policy written on an occurrence basis. It is designed to provide coverage for errors and omissions of employees for losses in the performance of their job and for losses resulting in bodily injury and property damage. The policy pays judgments in excess of the Defense of State Employees Act (\$1,000,000) subject to policy terms, conditions, exclusions, and policy limits. The policy does not pay defense or investigative cost.

The policy is not designed to replace insurable coverages that are better provided for under other types of insurance policies (i.e. workers compensation, auto liability, or medical malpractice).

WHO IS COVERED - (G.S. 143.300.2)

All individuals currently employed by and working for the State and covered by the Defense of State Employees Act (i.e., you receive a State payroll check and the State withholds taxes and deductions for benefits)

Volunteer Workers (See Executive Order 48)

Agents of the State

Individuals previously employed by the State and covered by the Tort Claims Act and the policy during their period of employment with the State.

Individuals employed by the University system, Community Colleges, or Technical Colleges and covered by the Tort Claims Act.

NOTE:

Individuals should contact the personnel office if there is a question concerning their status as a state employee/volunteer/agent.

Independent contractors are not considered employees/agents of the State.

WHAT IS COVERED (G.S. 143-300.3)

An occurrence (act or accident) which results in a claim against a state employee, as provided in general statutes 143-300.2 through 143-300.6, unless excluded in the policy or general statutes.

Definitions (In General Terms)

Occurrence - is an act, omission, or accident made in the scope and course of an employee's employment.

Tort - A legal wrong (civil not criminal).

Negligence - a failure to properly act or not act when there is a responsibility to do so. (Must prove duty, breach of duty, proximate cause, and damages)

WHAT IS NOT COVERED (143-300.4)

General Statutes exclude coverage for the following:

An occurrence which is not within the scope and course of employment.

An occurrence which involves fraud, corruption, or malice.

An occurrence in which the State refuses to provide defense (i.e., conflict of interest; not in the best interest of the State).

The Policy has the following exclusions:

Nuclear Liability

Pollution

Asbestos

Criminal Acts

Liability for automobiles, aircraft, or watercraft.

Medical, surgical, dental, x-ray, services

Autopsies

Sexual/immoral acts or abuse

Workers' Compensation

Sickness/death arising out of, and in the course of employment

Terrorism

Fungus

Violation of Statutes in connection with sending transmitting or communication any materials or information

Silica

Covered Territory Endorsement (OFAC)

WHO DEFENDS - (G.S 143-300.3)

Upon request from a covered individual, the State may provide defense through:

The Attorney General

Employing other counsel

Other authorized insurance that provides defense coverage

Counsel provided by the governmental unit, which employs (ed), the individual.

PAYMENT OF JUDGMENTS (G.S. 143-300.6)

The first \$150,000/\$1,000,000 per person of all final judgments shall be paid by the department, agency, board, commission, institution, bureau, or authority which employs (ed) the individual.

Other commercial liability insurance shall be considered primary. (Tort judgments are excess of other commercial insurance and other insurance cannot be used in lieu of tort.)

The State's excess liability policy will respond to judgments in excess of \$1,000,000 to policy limits.

The State, through the Defense of State Employees Act and the excess liability policy, protects, defends and indemnifies employees from legal suits brought against them in the scope and course of their employment.