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National Council of Insurance Legislators (NCOIL)

Model Act Regarding Interpretation of an Insurance Policy

**To be discussed during the Property & Casualty Insurance Committee on March 17th, 2019*

Drafting Note: The language below is based on Tennessee HB 1977 – enacted on March 22, 2018 – and is meant to set forth in statute the settled law regarding the “plain meaning rule” as applied to interpretation of insurance policies. States should work with stakeholders and the insurance department to amend the appropriate portion of insurance code to reflect the language below in order to avoid the “Restatement of the Law, Liability Insurance” that was approved at the 2018 Annual Meeting of the American Law Institute being construed as the state’s settled law on this issue.

Section 1. Title

This Act shall be known as the “Model Act Regarding Interpretation of an Insurance Policy.”

Section 2. Insurance Policy Interpretation

- (a) A policy of insurance is a contract and the rules of construction used to interpret a policy of insurance are the same as any other contract.
- (b) A policy of insurance must be interpreted fairly and reasonably, giving the language of the policy of insurance its ordinary meaning.
- (c) A policy of insurance must be construed reasonably and logically as a whole.
- (d) An insurance company's duty to defend depends solely on the allegations contained in the underlying complaint describing acts or events covered by the policy of insurance. This subsection (d) does not impose a duty to defend on an insurance company that has no duty to defend pursuant to this Act or that has an express exclusion of the duty to defend in the policy of insurance.

Section 3. Effective Date

This Act shall take effect immediately.