

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Employee Benefits Liability Coverage Endorsement

This endorsement modifies insurance provided under the following:

SPECIAL LIABILITY POLICY FOR PUBLIC ENTITIES AND NON-PROFIT CORPORATIONS

A. Section VI. Exclusions is revised by the addition of the following:

This policy does not apply:

To “Non-Profit Directors And Officers Liability” or “Public Officials Errors and Omissions” for:

a. Dishonest, Fraudulent, Criminal Or Malicious Acts

Damages arising out of any intentional, dishonest, fraudulent, criminal or malicious act, error or omission, committed by any insured, including the willful or reckless violation of any statute.

b. Failure To Perform A Contract

Damages arising out of failure of performance of a contract by any insurer.

c. Insufficiency Of Funds

Damages arising out of an insufficiency of funds to meet any obligations under any plan included in the "Employee Benefit Program".

d. Inadequacy Of Performance Of Investment/Advice Given With Respect To Participation

Any "Claim" based upon:

(1) Failure of any investment to perform;

(2) Errors in providing information on past performance of investment vehicles; or

(3) Advice given to any person with respect to that person's decision to participate or not to participate in any plan included in the "Employee Benefit Program".

e. Available Benefits

Any "Claim" for benefits to the extent that such benefits are available, with reasonable effort and cooperation of the insured, from the applicable funds accrued or other collectible insurance.

f. Taxes, Fines Or Penalties

Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law.

g. Employment-Related Practices

Damages arising out of wrongful termination of employment, discrimination, or other employment-related practices.

B. Section VII. DEFINITIONS is revised as follows:

1. Paragraph I. is revised by the addition of the following:

“Non-Profit Directors and Officers Liability” also includes any act, error or omission of the “Participating Named Insured” negligently committed in the “Administration” of the “Participating Named Insured’s” “Employee Benefit Program”.

2. Paragraph V. is revised by the addition of the following:

“Public Officials Errors and Omissions” also includes any act, error or omission of the “Participating Named insured” negligently committed in the “Administration” of the “Participating Named Insured’s” “Employee Benefit Program”.

3. For the purposes of the coverage provided by this endorsement, the following definitions are added to the Section **VII. Definitions**:

a. "Administration" means:

- (1) Providing information to "Employees", including their dependents and beneficiaries, with respect to eligibility for or scope of an "Employee Benefit Program";
- (2) Handling records in connection with the "Employee Benefit Program"; or
- (3) Effecting, continuing or terminating any "Employee's" participation in any benefit included in the "Employee Benefit Program".

However, "Administration" does not include handling payroll deductions.

b. "Cafeteria Plans" means plans authorized by applicable law to allow employees to elect to pay for certain benefits with pre-tax dollars.

c. "Employee Benefit Program" means a program providing some or all of the following benefits to "Employees", whether provided through a "Cafeteria Plan" or otherwise:

- (1) Group life insurance, group accident or health insurance, dental, vision and hearing plans, and flexible spending accounts, provided that no one other than an "Employee" may subscribe to such benefits and such benefits are made generally available to those "Employees" who satisfy the plan's eligibility requirements;
- (2) Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an "Employee" may subscribe to such benefits and such benefits are made generally available to all "Employees" who are eligible under the plan for such benefits;
- (3) Unemployment insurance, social security benefits, workers' compensation and disability benefits; and
- (4) Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies.