

HB1394_L.001

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee_____
DateCommittee on Business Affairs and Labor.

After consideration on the merits, the Committee recommends the following:

HB10-1394 be amended as follows:

- 1 Amend printed bill, page 3, strike lines 3 and 4 and substitute "ARISING
- 2 OUT OF CONSTRUCTION DEFECTS IS IN THE BEST INTEREST OF INSURERS,
- 3 CONSTRUCTION PROFESSIONALS, AND PROPERTY".
- 4 Page 4, line 12, after "AMBIGUITY" insert "OR UNCERTAINTY".
- 5 Page 4, strike lines 17 and 18 and substitute "IN PROPERTY DAMAGE,
- 6 INCLUDING DAMAGE TO THE WORK ITSELF, OTHER WORK, OR PROPERTY, IS
- 7 AN ACCIDENT UNLESS THE PROPERTY DAMAGE IS INTENDED AND EXPECTED
- 8 FROM THE STANDPOINT OF".
- 9 Page 4, line 24, after "POLICY;" add "AND".
- 10 Page 4, line 27, strike "PROPERTY; AND" and substitute "PROPERTY."
- 11 Page 5, line 7, strike "ORGANIZATION" and substitute "OFFICE, INC.,".
- 12 Page 5, line 12, strike "CONTRACT;" and substitute "CONTRACT; AND".
- 13 Page 5, line 15, after "GRANT" insert "OR RESTORE".
- 14 Page 5, line 17, after "EXCLUDE" insert "OR LIMIT".
- 15 Page 5, line 18, strike "CONTRACT" and substitute "INSURANCE POLICY".
- 16 Page 5, line 20, strike "COVERAGE IN A" and substitute "OR LIMITS



1 COVERAGE UNDER AN INSURANCE".

2 Page 5, strike lines 24 and 25 and substitute "INSURANCE POLICY BARS OR
3 LIMITS COVERAGE FOR THE INSURED'S LEGAL LIABILITY IN AN ACTION OR
4 NOTICE OF CLAIM CONCERNING A CONSTRUCTION DEFECT; AND".

5 Page 5, line 27, strike "COVERAGE GRANT" and substitute "INSURANCE
6 POLICY".

7 Page 6, after line 1 insert:

8 "(7) (a) AN INSURER'S DUTY TO DEFEND A CONSTRUCTION
9 PROFESSIONAL OR OTHER INSURED UNDER A LIABILITY INSURANCE POLICY
10 ISSUED TO A CONSTRUCTION PROFESSIONAL SHALL BE TRIGGERED:

11 (I) BY A POTENTIALLY COVERED LIABILITY DESCRIBED IN THE
12 NOTICE OF CLAIM MADE PURSUANT TO SECTION 13-20-803.5; OR

13 (II) BY A POTENTIALLY COVERED LIABILITY DESCRIBED IN THE
14 COMPLAINT, CROSS-CLAIM, COUNTERCLAIM, OR THIRD-PARTY CLAIM FILED
15 IN AN ACTION AGAINST THE CONSTRUCTION PROFESSIONAL CONCERNING
16 A CONSTRUCTION DEFECT.

17 (b) AN INSURER SHALL NOT DENY ITS DEFENSE OF AN INSURED
18 CONSTRUCTION PROFESSIONAL UNLESS AUTHORIZED BY LAW. AN INSURER
19 SHALL NOT WITHDRAW ITS DEFENSE OF AN INSURED CONSTRUCTION
20 PROFESSIONAL UNLESS AUTHORIZED BY LAW AND UNLESS THE INSURER
21 HAS RESERVED THE RIGHT IN WRITING WHEN ACCEPTING THE DEFENSE
22 OBLIGATION."

23 Page 6, line 5, strike "of" and substitute "in".

24 Page 6, strike lines 14 and 15 and substitute "INSURER SHALL NOT ISSUE
25 A COMMERCIAL LIABILITY INSURANCE POLICY TO A CONSTRUCTION
26 PROFESSIONAL THAT INCLUDES A".

27 Page 6, line 17, strike "A CLAIM" and substitute "ONE OR MORE CLAIMS".

28 Page 6, strike lines 21 through 23 and substitute:

29 "(3) AN INSURER SHALL NOT ISSUE A COMMERCIAL LIABILITY



- 1 INSURANCE POLICY TO A CONSTRUCTION PROFESSIONAL THAT EXCLUDES
- 2 OR LIMITS COVERAGE UNDER THE POLICY FOR ONE OR MORE CLAIMS
- 3 ARISING".

- 4 Page 6, line 26, strike "IF:" and substitute "UNLESS THE EXCLUSION OR
- 5 LIMITATION APPLIES TO THE FOLLOWING:".

- 6 Page 7, line 1, before "BODILY" insert "MANIFESTATION OF THE".

- 7 Page 7, line 6, strike "RESULTING FROM" and substitute "BECAUSE OF A
- 8 LOSS ARISING OUT OF".

- 9 Page 7, line 12, strike "FROM" and substitute "OUT OF".

- 10 Page 7, line 17, strike "REQUIRED" and substitute "DESCRIBED".

- 11 Page 7, line 20, strike "UNENFORCEABLE." and substitute
- 12 "UNENFORCEABLE AS AGAINST PUBLIC POLICY.".

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