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MAKING A CLAIM UNDER HOME INSURANCE POLICE

An insurance policy is a legally binding contract between insured and an insurance company. It states when, how and what insurer must pay for and in what circumstances.

Insured should check what policy are covered for when he (she) buy home insurance. This is particularly important when person live in an area where there could be problems with floods, bushfires or frequent crime. Insured should also ensure that the insured amount is sufficient to cover the costs of rebuilding home or replacing lost contents, bearing in mind that it can cost more than insured think to rebuild home.

Insured should check with insurer to avoid being underinsured. Many websites have calculators that let insured estimate the rebuilding costs; the most accurate calculators ask about 20 detailed questions about home. Insured can also take out total replacement policies where the insurer agrees to rebuild his (she) home to a similar standard and quality, rather than paying an agreed amount.

Unfortunately, if insured are at the point of making a claim, he (she) can no longer change the insured amount or the insured events in relation to that claim. Insured can only improve cover for the future.

Be aware also that home insurance may provide insured with additional benefits such as emergency alternative accommodation, removal of debris and demolishing, pay for architect, engineer and surveyor's fees. These additional benefits can be in addition to the sum insured. If insured have additional benefits cover, he (she) shouldn't forget to claim for them as well.

When insured take out an insurance policy or when he (she) renew it, he must disclose relevant information:

a) when the insurer asks specific questions, or
b) when there is information insured know, or should reasonably know, which would be relevant to the insurer's decision to accept the policy. This may include all prior insurance claims, existing damage or past renovations to home [2].

Insured are not required to disclose something he (she) don't know.

The insurer is required to give policy information to insured. This will usually contain a summary of what insured have disclosed for insured to check and correct if necessary. If insured arrange a policy over the phone, the call is often recorded. Therefore, the insurer will often have good evidence about what was said at the time.

If insured deal with the insurer over the phone, he (she) shouldn't answer questions that hr (she) do not understand. Insured may ask the insurer to explain further or get the assistance of an interpreter.

Before making an insurance claim, insured need to think about whether he (she) should a claim at all because it may affect ability to get insurance later, as well as the cost of future premiums. Insured may also have to pay an excess, being an amount of money insured agree to pay in the event of a claim. Insured may consider not claiming when there is very minor damage and the cost of repair is almost the same as or less than the cost of the excess [2].

Policy may require insured to notify insurer of the incident or the damage as soon as possible. A failure to notify insurer within a reasonable time may be a basis for refusal of a claim, so it is better not to delay.

If insured are making a claim over the phone, it is recommended to work out what he (she) are going to say before ring. It is important to keep descriptions simple and accurate. Insured should not ring the insurer if he (she) are upset or still in shock.

If possible, insured may get a claim form so he (she) have time to think about what happened so he (she) can describe it clearly.

If the insurer tells insured over the phone that he (she) cannot claim or a claim will be rejected, this may not be right. Insured should ask the insurer to put their reasons for rejection in writing so he (she) can get legal advice.

Insured may keep a note of phone claim (including who insured spoke to and when, the actual conversation and any claim number) or a copy of his (she) claim form.

If the claim is rejected on the basis of non-disclosure, insured should get legal advice or even lodge a complaint to the court.

Insurance policies often contain conditions that insured have to comply with, such as keeping home well maintained or having keyed locks on all windows and deadlocks on all external doors.

The insurer may refuse the claim if insured have failed to comply with a condition. However; if the failure did not contribute to the loss or damage suffered, the insurer cannot refuse a claim. For example, insured may have failed to have keyed locks on all windows as required by insurance policy but a thief enters home by smashing a window or knocking down the front door.

Insurance policies will also contain exclusion clauses saying when the insurer will not cover insured against certain types of loss or damage. Common examples are preexisting defects, «fair wear and tear» flood, damage arising from faulty construction or design subsidence, erosion, and seepage.

If the insurer denies the claim saying that the damage was caused by a pre-existing defect in the property, insured may argue that they cannot reject the claim because insured were unaware of the defect when he (she) took out the insurance policy (and a reasonable person in the circumstances would not have been aware of it). This is, for example, when the roof let water in because it was poorly constructed.

Insurance policies often exclude «fair wear & tear» and damage caused by the failure to maintain the home. For example, if a storm blew tiles off roof the insurer may reject a claim and say that home was old and the tiles needed replacement anyway because of their age. Then, insured will need to provide:

1) evidence to show that the damage was caused by a storm or other event covered by the policy;

2) evidence of regular maintenance work or inspections evidence of the state of repair of the home generally [2].

Some insurance policies do not cover damage caused by flood, or severely restrict the circumstances in which they will pay. Flood is usually defined as water overflowing from natural or man-made watercourses such as rivers, canals or storm water drains. It is distinguished from damage caused by rainwater or storm water, that is, rain that accumulates on the ground because of the severity of the storm.

If a claim is rejected on the basis of flood, insured need to get advice because:

- sometimes the insurer agrees to pay claims anyway when many people are affected;

- if there is damage caused by both rainwater and floodwater, insured may be able to get a claim

paid where, for example, the rainwater entered home and caused the damage first, or the particular damage claimed was caused by rainwater coming through a hole in the roof as opposed to caused by the flood water;

- however, if the water that entered the home and caused the damage was combination of both floodwater and rainwater, and neither of the above applies, insured may not be covered at all.

To establish fraud, the insurer needs to prove that insured intended to deceive the insurer. If fraud is established, the insurer can reject a claim and void policy. This means insured no longer have insurance cover. In serious cases the matter may be referred to the police. However, the insurer cannot rely on fraud if the fraud was minor and it would be unfair for the insurer to reject the claim.

Insurers are always on the lookout for fraud. When investigated, be cooperative and provide all relevant information. If insured think the information requested is excessive or irrelevant and/or the investigation is taking too long, he (she) should complain to the insurer. Insured should try to be assertive but not rude or aggressive.

If insured are being investigated for fraud, he should get legal advice immediately. Also, insured make sure that an interpreter is arranged for the investigation if insured cannot speak language well.

If insured feel he (she) have been dealt with unfairly, court can review the decision of the insurance company to determine whether there is an arguable case of fraud.

Insurers sometimes cancel insurance policies in the middle of the cover period. This may be done in response to additional information provided by insured that increases the insurer's risk to an unacceptable level. Another more common reason is that insured have failed to pay the premium for the policy. This often happens when insured have opted to pay premium in instalments via direct debit and direct debit has failed.

If insurer tells insured that policy has been cancelled, he (she) should get advice about whether they had sufficient reasons to cancel the policy and whether they took appropriate steps to inform insured of the cancellation. Insured should also consider taking out another insurance policy in the meantime just in case he (she) need to make a claim.

What can insured do if a claim is rejected:

- request an internal review with insurer's internal dispute resolution department as soon as possible;

- alternatively, insured may go to court;

- alternatively, insured may choose to do nothing or give up - get legal advice before he (she) do this.

LITERATURE

1. General Insurance Code of Practice [Electronic source]. — Access mode : <http://www.codeofpractice.com.au/>
2. Home Insurance Matters [Electronic source]. — Access mode : <http://www.insurancelaw.org.au/>

SUMMARY

Tokareva V.O. Making a claim under home insurance police. – Article.

The article is devoted to the some aspects of making a claim under home insurance police. What Insured should do when he make a claim on home building or contents insurance; when his claim is delayed; when a claim is rejected. Reasons when insurer rejected of a claim are analyzed. There are four main reasons for rejection of a claim: non-disclosure; exclusion clauses; fraud; policy cancellation.

Keywords: insurance law, home insurance, insurance police, insurance fraud, insured, insurer.

АННОТАЦІЯ

Токарева В.А. Порядок подачі заявлення страховщику о выплате страхового возмещения по договору страхования жилья. – Стаття.

Стаття посвячена розгляду питань стосовно подачі заявлення страховщика о наступлении страхового случая и выплате страхового возмещения на примере договора страхования жилья и практики страхования Австралии. Проанализированы обязанности страхователя при наступлении страхового случая, объем которых зависит от характера страхового события. Рассмотрены основания отказа страховщика в удовлетворении заявления страхователя о выплате страхового возмещения. Существуют следующие четыре основания отказа страховщика от осуществления страхового возмещения: не предоставление страхователем информации об известных ему обстоятельствах, имеющих значение для оценки страхового риска, события которые не охватываются договором страхования то есть исключены из страхового покрытия, мошенничество страхователя, отмена договора страховщиком.

Ключевые слова: страховое право, страхование жилья, полис страхования, страховщик, страхователь, страховое мошенничество.

АНОТАЦІЯ

Токарева В.О. Порядок подання заяви страховику про виплату страхового відшкодування за договором страхування житла. – Стаття.

Стаття присвячена розгляду питань стосовно подання заяви страховика про настання страхового випадку та виплату страхового відшкодування на прикладі договору страхування житла та практики страхування Австралії. Проаналізовані обов'язки страхувальника при настанні страхового випадку, обсяг яких залежить від характеру страхової події. Розглянуто підстави відмови страховика у задоволенні заяви страхувальника про виплату страхового відшкодування. Існують такі чотири основні підстави відмови страховика від здійснення страхового відшкодування: не надання страхувальником інформації про відомі йому обставини, що мають значення для оцінки страхового ризику; події які не охоплюються договором страхування тобто є виключеними зі страхового покриття; шахрайство страхувальника; скасування договору страховиком.

Ключові слова: страхове право, страхування житла, поліс страхування, страховик, страхувальник, страхове шахрайство.