

Business Law

Text & Exercises *6th Ed.*

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Chapter 35: Insurance

Learning Outcomes

LO1

- **Discuss insurance as a component of risk management.**

LO2

- **Define important insurance concepts and terms.**


LO3

- **State when the coverage on an insurance policy begins.**

Learning Outcomes

- LO4** • Explain how courts interpret insurance provisions.
- LO5** • Identify defenses an insurance company may have against payment on a policy.

Insurance Concepts

- **Insurance**: contract by which the insurer (insurance company) promises to pay something of value (usually money) to its insured in the event of the insured's injury as a result of “covered” incidents.
- **Risk Management**: insurance is essentially a contractual arrangement for *transferring and allocating risk*. 

Insurance Concepts

- **Risk:** Prediction concerning potential loss based on known and unknown factors.
- **Risk Pooling:** spread the risk among a large number of people to make the premiums small, compared to the coverage.
- **Classifications of Insurance.**
 - All risk insurance (added terrorism).

- **Policy (Insurance contract).**
- **Premium is the consideration to be paid to the insurer.**
- **Underwriter (usually an insurance company).**
- **Broker v. Agent.**

Insurable Interest

- A person can insure anything in which he or she has an insurable interest.
- Types of insurable interest:
 - Life.
 - Property.

The Insurance Contract

- **Governed by the general principles of contract law, and regulated by the state.**
- **Application:** is an offer, which the insurance company can either reject or accept. And acceptance can sometimes be conditional.
 - Need consideration.
 - Parties need capacity.

The Insurance Contract

- **Application For Insurance. →**
- **Effective Date. →**
- **Provisions and Clauses. →**
- **Interpreting Provisions of an Insurance Contract. →**
- **Cancellation. →**
- **Basic Duties and Rights. →**
- **Defenses Against Payment. →**

Insurance Contract: Application

- **Filled in application attached to the policy and made a part of the contract.**
- **Misstatements or misrepresentation can void a policy, specially if company can show it would not have issued policy if it had known the facts.**

Insurance Contract: Effective Date

- **Effective date is important!**
- **Four facts to keep in mind:**
 1. Broker is agent for the applicant.
 2. Person (insured) who seeks insurance will usually be protected from the time of filing the application, provided a premium has been paid. Binder indicates a pending policy.



Insurance Contract

- **Effective Date (cont'd):**
 3. If parties agree, contract is not effective until policy is issued and delivered to insured.
 4. Parties may agree that life insurance policy is binding at the time of first premium payment.

Provisions and Clauses

Insurance Contract Provisions and Clauses

PROVISION	DEFINITION
Incontestability clause	An incontestability clause provides that after a policy has been in force for a specified length of time—usually two or three years—the insurer cannot contest statements made in the application.
Coinsurance clause	A coinsurance clause provides that if the owner insures his or her property up to a specified percentage—usually 80 percent—of its value, she or he will recover any loss up to the face amount of the policy. If the insurance is for less than the fixed percentage, the owner is responsible for a proportionate share of the loss.
Appraisal clause and arbitration clause	Insurance policies frequently provide that if the parties cannot agree on the amount of a loss covered under the policy or the value of the property lost, an appraisal (or estimate) by an impartial and qualified third party can be demanded. Similarly, many insurance policies include clauses that call for arbitration of disputes that may arise between the insurer and the insured concerning the settlement of claims.
Antilapse clause	An antilapse clause provides that the policy will not automatically lapse if no payment is made on the date due. Ordinarily, under such a provision, the insured has a <i>grace period</i> of thirty or thirty-one days within which to pay an overdue premium before the policy is canceled.
Cancellation	Cancellation of an insurance policy can occur for various reasons, depending on the type of insurance. When an insurance company can cancel its insurance contract, the policy or a state statute usually requires that the insurer give advance written notice of the cancellation. An insurer cannot cancel—or refuse to renew—a policy because of the national origin or race of an applicant or because the insured has appeared as a witness in a case against the company.

Insurance Contract

- **Cancellation.**
 - Insured can cancel policy at any time, and the insurer can cancel according to terms of policy.
 - Insurer must give written notice of cancellation.

- **Insurance company can raise any of the defenses that would be valid in any ordinary action or contract:**
 - Fraud, misrepresentation.
 - Not if information given was optional.
 - Not incorrect statement of age.
 - Concurrent causation doctrine.