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ATTORNEYS AT LAW

What Homeowners' Insurance Can Do For You

So — you already know you should have homeowners' insurance. But what type should you have?

As you might expect, the answer to that question is a reflection of your unique situation and your individual needs. That's why an assessment of both beforehand is critical to ensuring that you select and purchase the correct policy. Homeowners' insurance can help you in two distinct ways:

- It can help you to pay for damage to your home, or the items and possessions inside your home, in the event of fire, theft, or some other misfortunate occurrence
- It can help you to pay for injuries suffered by other people who were on your property at the time they suffered the injury

Choosing your coverage

With that in mind, there are different types of homeowners' insurance, each designed to address a particular risk or concern. The main types of policies are listed below, along with a small description of what they offer.

- Contents coverage (basic policy) — This one is pretty much self-explanatory. The policy covers both your home and the contents inside your home against what are considered standard risks (fire, theft, etc.)
- Liability coverage — This policy will protect you in case another person is injured while on your property.
- Off-site coverage — Let's say that you take some of your possessions out of your home to another location, which would be the case if you went on vacation. Would those possessions still be insured if they were stolen or damaged? They might be, if you have this type of coverage.
- "All-risk" policy — Some people feel more at ease with a policy that covers every possible contingency. However, you should know the terms of these types of policies very carefully, since they could contain certain exclusions. For example, some policies exclude damage caused by an earthquake or flood. If that's the case, you might consider adding a "rider" to your package.

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What Homeowners' Insurance Can Do For You (continued)

- “Riders” — These are also called “endorsements” or “floaters.” They’re designed to account for exclusions that exist in other policies that you own. Riders can cover damage caused by a specific event (earthquake, flood) or provide additional coverage for the full value of certain items, like jewelry or collectibles.

Choosing a liability limit

The next consideration in terms of homeowners’ insurance is that of liability limits (liability insurance, as you remember, protects you against claims from third parties). You should choose limits which reflect what you believe to be your amount of exposure, and that exposure is tied directly to what you own and/or how much of it you own.

Typically, liability limits are represented by a combination of two numbers. The first number refers to the coverage of loss to a single person, while the second number refers to the coverage of loss which occurred during a single incident or accident. For example, a

liability limit of 30/60 would denote coverage of \$30,000 for a single person and \$60,000 for a single incident.

Keep in mind that there is no minimum liability limit for homeowners’ insurance policies. However, most lenders require that you carry an insurance policy that is at least equal to the amount of your outstanding mortgage. However, an amount equal to your mortgage probably isn’t sufficient, either, since that amount does not include the possessions that are located inside the house, not to mention whatever monetary wealth you possess.

As a result, you might want to opt for an increased liability limit, which in many cases are very affordable.

As with all aspects of homeowners’ insurance, there are many options available. Consequently, there are many decisions that need to be made. By being fully aware of all of your options, you can more easily make decisions that will benefit you—now and in the future.

The Complexities of Disinheritance Law

The act of attempting to disinherit somebody can be a complex and tricky proposition, one that depends upon a number of different factors. Among those factors are where the person wanting to do the disinheriting lives (specifically which state in which they live) and who they want to disinherit.

More than likely, the two people that somebody would be most interested in disinheriting are either

- 1.) their spouse, or
- 2.) their child. (After all, everybody else in the world is automatically excluded unless specifically mentioned in the will.)

We’ll pretend, for a moment, that you are the person attempting to disinherit someone. Let’s start at the far end of the spectrum — a scenario in which your spouse will receive half of your assets, no matter what. This would happen if you live in a community property state.

Of course, you can leave your half of your assets to whoever you’d like to leave it to . . . but your spouse is getting the other half.

Okay, but suppose you don’t live in a community property state? Then what? Unfortunately for you, these states still stipulate that your spouse is entitled to a least a portion of your estate, and they’re entitled to it regardless of whether or not you mention them in your will. In fact, it would be in your best interest (if you truly want to control what your spouse receives and what they don’t) that you do mention them in your will. In essence, “leaving them out” out of your will doesn’t actually leave them out. See how complex this can be?

The first step is to know what your state stipulates in the area of disinheritance law.

The second step is to make sure that you mention your spouse in your will and leave them a designated portion of your estate. Why? Because if you don’t, they’ll automatically receive half.

Now keep in mind that if the portion you leave to your spouse is less than what the state stipulates, your spouse can contest the will in the hopes of securing the stipulated amount. (For example, it could be one-fourth, one-third, etc.) Of course, you could just leave your spouse the amount stipulated by the state, leaving them little recourse.

It's also unwise to not mention your child in your will if it's your goal to disinherit them. That's because if you do so, court officials will go on the assumption that you

simply forgot. As a result, your child will receive a portion of your estate, even though that wasn't your intention at all. In this instance, you should clearly state in your will that you are leaving your child out of it. That's the only way to truly ensure that your wishes are met.

Understanding the complexities of disinheritance law and anticipating how they can affect your individual situation will help you to properly plan for who gets what when you're gone — as well as who gets nothing.

The New Year Brings New Changes to Illinois DUI Law

With celebrations of the 2009 New Year came with it a drastic new change in Illinois' DUI laws. Out with the old are judicial driving permits (JDPs) and in with the new are monitoring device driving permits (MDDPs).

JDPs: Historically, JDPs were granted by courts and issued by the Secretary of State under certain circumstances to drivers while their license was summarily suspended for DUI. Several limitations existed for the driver in need of a JDP. First, the driver had to be a "first offender" or one not previously convicted or assigned court supervision for DUI or statutory summary suspended within 5 years prior to the date of the current conviction. Second, the driver had to show an undue hardship existed with no alternative means of transportation. Third, the JDP only allowed the driver to drive (a) to/from class, if a student; (b) to/from a doctor's office to receive medical treatment; or (c) to/from work. Fourth, issuance of a JDP depended on the outcome of a required alcohol/drug evaluation.

MDDPs: Now, an eligible first offender wishing to drive, after serving the required 30 day "hard" suspension period of the summary suspension, may ask the Court to have the Secretary of State issue a MDDP.¹ Under the new law, the Court has no authority to object to issuance of a MDDP and no longer requires an alcohol/drug evaluation prior to the court granting the request for MDDP. Moreover, the driver no longer needs to show a hardship exists, nor are there limitations on when or

where a driver may operate his vehicle. However, one wishing to drive with a MDDP must generally obtain and install a breath analysis ignition interlock device (BAIID) at the driver's cost in the driver's specified vehicle. One seeking to drive an employer's vehicle without such a device will have to petition the court to seek an exemption.² The device must be installed by a licensed provider within 14 days of issuance of the MDDP with the installer notifying the Secretary of State of installation of the device in the driver's vehicle. Failure to do so will result in the MDDP being canceled. The driver will also need to return on a monthly basis so the installer can calibrate and monitor the device.

Before driving, the driver must blow into the device so it can analyze the driver's breath for the presence of alcohol. If the device detects alcohol above a certain level, the vehicle will not start. Once the vehicle is started, the driver must periodically, when instructed by the device, provide additional breath samples for analysis. The new law requires a driver to keep a diary of any failed starts identifying the factual circumstances surrounding the reason for the failed start.

The costs associated with obtaining an MDDP are approximately as follows: (1) \$85 for installation paid to the installer; (2) \$80/month for a rental fee on the device paid to the installer; and (3) \$30/month for the MDDP administration fee paid to the secretary of state.

1. Motorists without valid driving privileges, those convicted of reckless homicide, persons under age 18 and motorists without a valid license need not apply because a MDDP will not be issued.

2. However, the exemption will not be granted to an employer-owned vehicle where the company is owned, wholly or partially by the person holding the MDDP.

Consequences for Violating the MDDP

Once a driver has been granted a MDDP by the Court, he/she should immediately proceed to install the BAIID device in the driver's specified vehicle. Failure to do so may result in termination of the MDDP.

A driver has 14 days from the time the MDDP is issued by the Secretary of State to install the BAIID device. Any driver issued a MDDP caught driving without a MDDP will be charged with driving on a suspended license, a Class 4 felony. The court must sentence violators to a minimum jail sentence of 30 days. Moreover, the driver will lose his MDDP, will not be eligible for reinstatement at the conclusion of the summary suspension and will only be eligible for a restricted driving permit (RDP). RDP requires the driver apply with the Illinois Secretary of State.

A driver with an MDDP who is cited for a DUI violation after issuance of an MDDP will have the MDDP immediately confiscated by the police and sent to the Court. The Court shall conduct a hearing whether to cancel the MDDP. If a MDDP driver is issued a citation for any other traffic related offense during the period of the MDDP, the court shall determine whether the violation constitutes grounds for canceling the MDDP.

Lastly, a person will not be in compliance with the MDDP if the driver (a) attempts to tamper or circumvent the proper operation of the BAIID device; (b) provides tainted breath samples in excess of the number of times allowed under the rules; and/or (c) fails to provide sufficient evidence to the Secretary of State that the BAIID was installed in the designated vehicle. A violation of any one or more compliance requirements will result in the period of the summary suspension being extended an additional 3 months beyond the originally imposed suspension period. A further consequence, if a driver violates the Secretary of State's rules for a third time, a person's vehicle must be impounded for 30 days at the driver's own expense. A fourth violation results in the driver being ineligible for reinstatement after termination of the summary suspension.

This article is intended to only summarize the new changes in the law. The reader is encouraged to seek legal advice if you have specific questions or concerns. **Please contact Morelli Legal Counsel, P.C. with any questions at 630.377.7500.**