

Have You Notified Your Homeowners Insurance Company About Your Irrevocable Trust?

By: Brandon C. Walecka, Esq.

Walecka Law, P.C.

774-203-9003

Brandon@WaleckaLaw.com

Congratulations, you have taken the important step of creating an irrevocable trust to protect your real estate property should you need long-term care. However, you may have missed some important follow-up steps. Did you let your insurance company know of the change in the deed? Is your trust now the beneficiary of the policy?

Here's a possible scenario that could happen:

A couple meets with an attorney and decides to transfer their home by a deed to their newly established irrevocable trust. Their previous homeowner's insurance policy paid the proceeds of a claim directly to the couple. After the transfer to the irrevocable trust, the couple did not notify the insurance provider that the home was now owned by their irrevocable trust and therefore, the owner and the beneficiary of the policy should be the irrevocable trust. Tragically, months later their house was lost in a fire but the insurance company would not honor their insurance policy because of a specific clause in their contract excluding such a transfer. The couple was devastated. Even if the insurance company had honored the contract, the beneficiary of the policy would be the couple individually. This means the money would come to them and thus would be unprotected from long term care costs, defeating the intent behind creating the trust. If the couple then used the money to rebuild the house for the trust, it would start a new five-year lookback period for that money.

How can this scenario be avoided?

You must notify your homeowner's insurance company and request that they change the beneficiary of your homeowners/real estate insurance from yourselves to your trust (to accomplish this, the insurance company will likely want to see a copy of your trust). You should be able to make your trust the beneficiary on your policy without any change in premium. Once

accomplished, it may be appropriate to send your attorney a copy of your policy naming the trust as the beneficiary.

As you can see, real estate titles and trusts are complicated matters. It is a good idea to seek the advice of a qualified elder law attorney. You want a firm who will work with a homeowner and insurance agent to help to provide the necessary documents to ensure that if something should happen to your home you are covered. If this sounds like your situation, please reach out to a qualified attorney today!

The information contained in this article is not intended to make you an expert on estate planning nor is this article intended to replace the need for the advice of a professional. Rather, this article is simply intended to provide a basic understanding of why estate planning is important for everybody and a basic understanding of some of the more common estate planning tools. This article does not constitute legal advice.