United Policyholders
Empowering the Insured

How to make sure a home held in a trust is properly insured

Most people who own real estate and do estate planning put their homes in a Revocable Trust. By doing this, people get incapacity protections, direct who they want to inherit their property and avoid probate at death.

In California, probate is a court supervised process that is fairly burdensome and expensive and takes a long time. Starting April 1, 2025, a primary residences can avoid probate at death and instead use a small estate affidavit process if the property is valued at $750,000 or less and is the primary residence of the decedent. Anything that does not meet this criteria will necessitate a revocable trust or other estate planning mechanism for the disposition of their property or go through probate.

As of February, 2025, more than 37,000 insurance claims have been filed by property owners impacted by the January Los Angeles wildfires. One of the many related issues those claimants are working through is that their home is held in a trust but the trust was not listed as an "additional named insured" on their insurance policy.

While this should be an easy problem to fix, it can cause problems. Where a property is held in trust, the trust should be specifically named on the policy as an additional named insured. Read below to better understand why and how you can better protect your real property with regard to your insurance.

Why You Need to Name Your Trust as an Additional Insured on Your Property Insurance

When you place your property in a revocable living trust, you're taking an important estate planning step. However, many property owners overlook a crucial detail: updating their insurance policies to reflect this change in ownership. Understanding why you need to name your trust as an additional insured is essential for maintaining proper coverage and protecting your assets.

The Legal Framework: Property Ownership and Insurance

When you transfer property into a revocable living trust, the trust becomes the legal owner of the property, even though you maintain control as the trustee. A revocable trust is a see-through entity for tax purposes and does not provide any additional liability protection. However, placing your property in a trust may create a disconnect as to insurance coverage. The property's legal owner (the trust) is now different from you (an individual) if you are the named insured on your insurance policy. Insurance companies are becoming very particular about ensuring that a named insured matches the legal owner of the property.

Why This Matters: The Risk of Denied Claims

An insurance adjuster and/or the insurance company that employs them may deny a claim where there's a mismatch between the property's legal owner and the named insured on the policy. There are a number of court decisions upholding their right to do so. Here's why:

Insurance policies operate on the principle of insurable interest – you can only insure property in which you have a financial stake. Although it has been widely understood that you are still the beneficial owner of the assets for income tax, estate tax and liability purposes, insurance companies may argue that when you transfer property to a trust, you technically no longer own it as an individual. Instead, the trust owns it, and you manage it as the trustee.

Many people believe that since they are the trustee of their revocable trust, naming the trust on the policy isn't necessary. However, insurance companies view the trust as a distinct legal entity, regardless of your role as both grantor and trustee. Thus adding the trust as an additional insured is one method of ensuring that all parties and entities align. It should not increase the cost of your insurance.

Real-World Implications

Consider this scenario: You transfer your home into your revocable living trust but don't update your homeowner's insurance policy. A significant loss occurs, and you file a claim. The insurance company's investigation reveals that the trust, not you individually, owns the property. This mismatch could give them grounds to attempt to deny your claim, leaving you financially exposed.

While under certain facts, a claim denial as a result of a misidentified insured could be legally remedied in a breach of contract (or possible reformation claim), such legal action will lead to delay and will be expensive.   To avoid unnecessary challenges, it's best to simply make sure the trust is the named insured or additional named insured on the policy, to correctly identify the owner of the property.

Another scenario is that if you were to perish in a disaster, and an insurance company is issuing benefits to you individually, those monies would have to go through probate before getting to your trust. With the trust as an additional insured, those insurance funds will be paid directly to the trust and you'll avoid probate.

The Solution: Adding Your Trust as an Additional Insured

To maintain seamless coverage, you should:

1. Contact your insurance agent/broker immediately after transferring property into a trust;
2. Request that the trust be added as an additional insured on all of your policies including your landlord coverage for rental properties and even earthquake insurance. .
3. Ensure the trust's name is listed exactly as it appears on your trust documents.
4. Obtain written confirmation of this change from your insurance company and agent/broker.

Additional Benefits

Adding your trust as an additional insured:

- Ensures continuous coverage without gaps
- Protects both you and the trust's interests
- Maintains the integrity of your estate plan
- Prevents potential claim denials
- Provides peace of mind knowing your assets are properly protected

Conclusion

While it may seem like a minor detail, naming your trust as an additional insured is a crucial step in protecting your assets. The small effort required to update your insurance policies pales in comparison to the potential financial impact of a denied claim. As with all aspects of estate planning, attention to detail matters. Consult with your insurance agent and estate planning attorney to ensure your trust and insurance arrangements work together seamlessly to protect your assets.

Remember: This is not just about following a legal formality – it's about ensuring that the careful estate planning you've done through your trust isn't undermined by an insurance coverage gap. Take the time to review and update your policies today.

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