

2001 DRAFTING REQUEST

Bill

Received: **04/30/2001**

Received By: **kahlepj**

Wanted: **Soon**

Identical to LRB:

For: **Phil Montgomery (608) 266-5840**

By/Representing: **Rose Smyrski**

This file may be shown to any legislator: **NO**

Drafter: **kahlepj**

May Contact:

Addl. Drafters:

Subject: **Insurance - other insurance**

Extra Copies:

Submit via email: **NO**

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Require property to be occupied primarily as dwelling for insurance policy limits to be taken as amount of loss

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kahlepj 04/30/2001	jdye 05/01/2001		_____			
/1			martykr 05/01/2001	_____	lrb_docadmin 05/01/2001	lrb_docadmin 05/01/2001	

FE Sent For:

<END>

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1?	kahlepj	1/5/01 jld	KonS	HH S / Lm			

FE Sent For:

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Slash 1
can be jacketed
RTK

Rose - Montgomery's office

4-30

draft companion to Resked
LRB-0995

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0995/P2dn

PJK:jld:km

April 9, 2001

We normally do not define terms in the statutes if the definition is the common or dictionary meaning of the term, which the definition of "primarily" is in this case. If you are concerned that "primarily" will be taken to mean something other than "mainly" or "chiefly," then we should use "mainly" or "chiefly" in place of "primarily" in s. 632.05 (2).

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

The people of the state of Wisconsin, represented in senate and assembly do enact as follows:

- 1 Section 1: 632.05(2) of the statutes as amended to read:
- 2 (2) TOTAL LOSS. Whenever any policy insures real property which is owned and occupied
- 3 by the insured primarily as a dwelling and the property is wholly destroyed, without criminal
- 4 fault on the part of the insured or the insured's assigns, the amount of the loss shall be taken
- 5 conclusively to be the policy limits of the policy insuring the property. In this subsection,
- 6 "primarily" means that the property's chief or main use is as a dwelling.

Pam

From: Vance, Vaughn
Sent: Thursday, April 05, 2001 11:49 AM
To: Kahler, Pam
Subject: FW: valued policy law change



VPLdraft1.doc

Pam:

Thanks for the help on the previous draft. I am forwarding you a revised draft of the Seider fix. Please let me know if you have questions. Also, please feel free to call Noreen (below).

Thanks again.

VAUGHN

-----Original Message-----

From: Eric Englund [mailto:eenglund@tds.net]
Sent: Thursday, April 05, 2001 10:25 AM
To: Vance Vaughn (E-mail)
Cc: Ron Kuehn (E-mail); Eileen Mallow (E-mail); Noreen Parrett (E-mail);
Gmyrski Rose (E-mail)
Subject: valued policy law change

Vaughn

Attached is the language change for the valued policy law that responds to Seider and works for us and the agent groups. Could you send it over to have it drafted. I know you had an earlier draft...but we need it this way. If the drafter has technical questions/concerns they can contact Attorney Noreen Parrett at 284 2615...assuming the drafter is Pam she has worked with Noreen in the past.

We have sent the draft to OCI for review/comment. We are not inclined to request introduction until OCI has signed off on the draft.

WISBAR

WISCONSIN SUPREME COURT CASELAW



2000 WI 76

SUPREME COURT OF WISCONSIN

Case No.: 98-1223

Complete Title

of Case:

Richard Seider and Jean Seider,

Plaintiffs-Appellants,

v.

Connie O'Connell, Commissioner of Insurance,

Defendant-Respondent-Petitioner.

ON REVIEW OF A DECISION OF THE COURT OF APPEALS

Reported at: 222 Wis.2d 80, 585 N.W.2d 885

(Ct. App. 1998-Published)

Opinion Filed: June 30, 2000

Submitted on Briefs:

Oral Argument: September 8, 1999

Source of APPEAL

COURT: Circuit

COUNTY: Dane

JUDGE: P. Charles Jones

JUSTICES:

Concurred:



~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Regen

1 AN ACT to amend 632.05 (2) of the statutes; relating to: limiting to property that
2 is primarily residential the type of property for which the amount of loss is the
3 insurance policy limits.

211 ✓ 612 659 ✓

Analysis by the Legislative Reference Bureau

Current law provides that, if real property that is owned and occupied as a dwelling is wholly destroyed, the amount of the loss, for insurance purposes, is the limits of any policy covering the property. A Wisconsin administrative rule provides that, if property owned and occupied as a dwelling is also used for commercial purposes, except on an incidental basis, the statute regarding the amount of loss in case of destruction does not apply to the property. The Wisconsin supreme court, in *Seider v. O'Connell*, ~~212~~ Wis. 2d ~~212~~, ~~212~~ N.W. 2d ~~212~~ (2000), determined that the administrative rule is invalid because it exceeds the statutory authority of the office of the commissioner of insurance, which promulgated the rule. Thus, if a property that is used for both commercial and residential purposes, such as a business over which the business owner lives, is wholly destroyed, the amount of the loss is the policy limits of any insurance policy covering the property. This bill provides that the statute requiring the policy limits to be the loss amount for wholly destroyed property applies only to property that is owned and occupied primarily as a dwelling.

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The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

