

Don't Leave Home without It

A homeowner takes a two-month vacation and leaves his house vacant. Six weeks into his dream vacation, his neighbor calls and says someone broke into his house and started a fire that destroyed the home. The homeowner calls his insurance agent. The insurance agent reviews the policy and discovers it does not seem to cover the loss because the house was vacant for more than 30 days. The carrier confirms there is no coverage. The homeowner's next phone call is to his attorney—and he sues his agent.

Most homeowner's policies exclude at least certain categories of claims if the home has been vacant for an extended period, usually 30 or 60 days. A home may be left vacant for a number of reasons: an extended vacation; a lengthy out of town work assignment; a move; renovations; or a move into a retirement home that leaves the house vacant while the family decides what to do with it. In any of these situations, if there is a loss after the house has been vacant for 30 days (60 days in some policies), the homeowner's insurer might deny the claim based on the vacancy.

Insurance companies take the position that an extended vacancy increases the risk of losses such as fire, vandalism, mischief and water damage.

Lack of coverage during vacancy can be addressed in most policies by purchasing an endorsement that replaces the vacancy limitation. If a client has a policy with a company that does not offer such an endorsement, the client may be able to purchase a separate vacant-home policy. Vacant-home policies can be significantly more expensive than standard homeowner's policies and are generally offered only by specialty insurers. Because most agents will have had little or no experience with these more specialized insurers, agents should take time to investigate the company and confirm that it is a reputable company with an acceptable rating.

How can you try to avoid being sued in these situations?

- It is not a good idea to state on the application that the house is occupied even though the client expects it will be very shortly. If there is some delay and a loss occurs with the house still vacant, the insurer might deny the claim.
- Determine if the homeowner's policy has the option of a vacancy endorsement. If a vacancy endorsement is available, offer it to the client. If the client declines the endorsement, document the client's refusal to buy the coverage for protection if there is an uncovered loss later on. A client facing a substantial uncovered loss may be willing to testify that the agent did not make him aware of the need for a vacancy endorsement. Such testimony, however, is not very persuasive if the agent is able to point to a contemporaneous letter to the client and/or note in the file documenting the client's rejection of the coverage.
- An unexpected change in a client's circumstances might result in a vacancy exposure that the client had not anticipated years earlier when the homeowner's policy was originally purchased. If an agent tells his client in writing to advise him of any changes in circumstances, that may prompt a client to contact the agent about an upcoming vacancy. Sometimes an agent might learn about a change of circumstances in some informal way such as a client mentioning at a social occasion that he is going to Europe for the summer. If there is a substantial uncovered loss due to the extended vacancy, the client might argue that the social conversation should have prompted the agent to investigate and recommend an endorsement adding vacancy coverage.

While most clients will not leave their homes vacant for extended periods, addressing the issue beforehand and having documentation can help avoid uncovered losses and possible E&O claims. 

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Bringing Home the Vacant

While vacant properties can present potential E&O exposure, they also present a selling opportunity for producers, but do you have a market for these types of risks? Visit www.bigimarkets.com to learn more. Here are some tips to avoid E&O claims involving vacant properties:

- Develop a complete property inventory to determine who owns the property, where it is located, the nature of the property and the types of losses to which the property is exposed.
- Learn how the property is used and how often it is occupied.
- If the property is vacant, make the insured aware of existence of or restrictions in coverage such as suspension of coverage for broken glass, no coverage for vandalism and no coverage for freezing pipes due to insufficient heat.
- Make sure the carrier is aware of which properties are vacant.
- Send out a letter to existing clients making them aware of a potential exposure for vacant properties and let them know you have a market to assist them.

—D.H.