

## **CHAPTER 26.1-32 LOSS AND NOTICE OF LOSS**

### **26.1-32-01. Liability of insurer for loss - Proximate and remote cause.**

An insurer is liable for a loss proximately caused by a peril insured against even though a peril not contemplated by the insurance contract may have been a remote cause of the loss. An insurer is not liable for a loss of which the peril insured against was only a remote cause. The efficient proximate cause doctrine applies only if separate, distinct, and totally unrelated causes contribute to the loss.

### **26.1-32-02. Liability of insurer for loss in rescuing thing insured.**

An insurer is liable when the thing insured is rescued from a peril insured against that otherwise would have caused a loss, if in the course of rescue the thing is exposed to peril not insured against which permanently deprives the insured of its possession in whole or in part. The insurer is liable, also, when a loss is caused by efforts to rescue the thing insured from a peril insured against.

### **26.1-32-03. Insurer not liable for excepted peril.**

When a peril is excepted specially in an insurance contract, a loss which would not have occurred but for that peril is excepted although the immediate cause of the loss was a peril which was not excepted. An insurer may contract out of the efficient proximate cause doctrine.

### **26.1-32-04. Willful act exonerates insurer, negligence does not.**

An insurer is not liable for a loss caused by the willful act of the insured, but the insurer is not exonerated by the negligence of the insured or of the insured's agents or others.

### **26.1-32-05. Notice of loss must be given promptly.**

In case of loss upon an insurance against fire, an insurer is exonerated if notice of the loss is not given to the insurer by some person insured or entitled to the benefit of the insurance without unnecessary delay.

### **26.1-32-06. Proof or notice of loss - Requirements.**

When preliminary proof of loss is required by an insurance policy, the insured is not bound to give such proof as would be necessary in a court, but it is sufficient for the insured to give the best evidence which the insured has at the time.

### **26.1-32-07. Waiver of defects in notice of loss.**

All defects in a notice of loss or in preliminary proof of loss which the insured might remedy and which the insurer omits to specify to the insured without unnecessary delay as grounds of objection are waived.

### **26.1-32-08. Proof of loss - Insurer to furnish blanks - Waiver.**

When notice of loss is given to the insurer on behalf of the insured or the beneficiary of a life insurance policy, the insurer, within twenty days after receipt of notice, shall furnish to the insured or beneficiary, as the case may be, a blank form of proof of loss. In the case of life insurance, the beneficiary shall have ninety days after receipt of the blank form in which to make proof of loss. In the case of insurance other than life insurance, the insured shall have sixty days after the blank form is furnished in which to make proof of loss. If the insurer fails to furnish a blank form of proof of loss within the required time, the insurer has waived the requirement of proof of loss. Any agreement made to waive the provisions of this section is void.

### **26.1-32-09. Waiver of delay in presenting notice or proof of loss.**

Delay in the presentation to an insurer of notice or proof of loss is waived if the delay is caused by any act of the insurer, or if the insurer fails to make a prompt and specific objection.

**26.1-32-10. Policy requiring corroboration - Proof of loss - How made.**

If an insurance policy requires the certificate or testimony of a person other than the insured for a preliminary proof of loss, it is sufficient for the insured to use reasonable diligence to procure the evidence and, in case of the refusal of the person to provide evidence, to furnish reasonable evidence to the insurer that refusal was not induced by any just grounds of disbelief of the facts necessary to be certified.