

本期企劃

失能保險是否適用 複保險規定之探討

A Study on the Applicability of Double Insurance Rules to Disability Insurance

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摘要

依據我國保險法第36、37條規定，複保險之要保人應將他保險人之名稱及保險金額通知各保險人，若要保人故意不為通知，或意圖不當得利而為複保險者，其契約無效。複保險規定是否適用於人身保險，學說與實務具有爭議，直至大法官會議釋字第576號解釋指出，保險法就複保險之規定，不適用於人身保險。現今保險業務發達，各式保險商品相繼推出，而為分散因失能所生之風險，業界即推出失能扶助保險，或簡稱為失能保險。失能保險係為使當事人因失能後所生之經濟負擔進行填補，本文即就失能保險是否有複保險規定之適用進行討論。

In Taiwan, the Insurance Act includes provisions on Double Insurance, in Articles 36 and 37, which state that

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unless otherwise agreed, the proposer in a double insurance contract must notify each insurer of the names of other insurers and the amounts insured. If the proposer willfully fails to make the notification referred to in the preceding Article, or obtains double insurance with the intent to acquire undue profit, the contract shall be void. There has been ongoing debate in both academic and practical circles regarding whether the provisions of double insurance apply to life insurance. In Interpretation No. 576 issued by the Constitutional Court, it was stated that life insurance does not aim to compensate for specific property damages, and the integrity of life and body cannot be measured in monetary terms. Therefore, there is no issue of excess insurance, and thus, the provisions of the Insurance Act regarding double insurance do not apply to life insurance.

In the present day, with the development of the insurance industry and the introduction of various insurance products, the industry has launched disability assistance insurance (commonly referred to as disability insurance) in response to the need to disperse risks associated with disability. Disability insurance is designed to help individuals manage the economic burdens arising from disability. This article aims to explore whether the provisions on double insurance apply to disability insurance.

壹、前言

我國保險法第36、37條就複保險規定，除另有約定外，於複保險之要保人應將他保險人之名稱及保險金額通知各保險人，若要保人故意不為通知，或意圖不當得利而為複保險者，其契約無效。過往就複保險之規定是否適用於人身保