

## ILLINOIS LAW MANUAL

### CHAPTER XII

### EXCLUSIONS TO COVERAGE

#### F. WATERCRAFT EXCLUSION

The standard comprehensive general liability insurance policy contains an exclusion precluding coverage for bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any watercraft owned or operated by or rented or loaned to any insured. Use includes operation and loading, or unloading. The exclusion does not apply, however, to watercraft while ashore on premises owned or rented by the named insured. It also does not apply to any watercraft not owned by the named insured that is less than 26 feet long and not being used to carry persons or property for a charge.

In addition, the standard homeowners policy contains an exclusion precluding coverage for bodily injury or property damage arising out of the ownership, maintenance, use, loading or unloading of a watercraft:

- (a) owned by or rented to any insured if it has inboard or inboard-outboard motor power of more than 50 horsepower;
- (b) owned by or rented to any insured if it is a sailing vessel, with or without auxiliary power, 26 feet or more in overall length;
- (c) powered by one or more outboard motors with more than 25 total horsepower owned by any insured;
- (d) designated as an airboat, air cushion, or similar type of craft; or

- (e) owned by any insured which is a personal watercraft using water jet pump power by an internal combustion engine as the primary source of propulsion.

This exclusion does not apply to bodily injury to a residence employee arising out of and in the course of the residence employee's employment by an insured. The watercraft exclusion does not apply while the watercraft is on the residence premises.

In *Allstate Ins. Co. v. Gutenkauf*, 103 Ill. App. 3d 889 (1981), a case of first impression and the only Illinois case addressing this exclusion, the Appellate Court analyzed the watercraft exclusion under two homeowners policies. The insured owned a home covered by an Allstate policy and a summer home on a lake covered by a Fireman's Fund policy. The insured also owned a vacant lot adjacent to his summer home with other members of his family and a seventeen-foot power boat with a 110 horsepower inboard-outboard motor. The insured was using his boat at the summer home. The boat was ten to fifteen feet from shore in front of the vacant lot when it lurched back and injured his daughter who was standing in the water waiting to water ski.

The Allstate policy excluded coverage for injury arising from the "ownership, maintenance, operation, use, loading, or unloading of any . . . (c) watercraft, *while away from the premises*, if with inboard or inboard-outboard power exceeding 50 horsepower."

Further, the Allstate policy defined “premises” as “all one-family dwellings where an insured maintains a residence, vacant land owned by an insured, and private approaches and other premises incidental to those premises.” The Fireman’s Fund policy excluded coverage for injury:

arising out of the ownership, maintenance, operation, use, loading, or unloading of any watercraft: (1) owned by or rented to any insured if the watercraft has inboard or inboard-outboard motor power of more than 50 horsepower.

However, the exclusion did not apply to bodily injury occurring on the “residence premises,” which was defined as “a one- or two-family dwelling building, appurtenant structures, grounds, and private approaches thereto.”

The court addressed the question of whether the injuries occurred on “premises” as that word was used in the policies. The court concluded that, since the occurrence took place ten to fifteen feet from the shoreline in the lake and the insured’s daughter was neither touching the insured’s property nor the pier, it did not occur on the “premises” and the watercraft exclusion applied. Allstate, 103 Ill. App. 3d at 892-94. Also, the court rejected the insured’s argument that the term “premises” was ambiguous. Id. at 896.