

304.5-070 Casualty insurance defined.

- (1) "Casualty insurance" includes:
 - (a) Vehicle insurance. Insurance against loss of or damage to any land vehicles or aircraft or any draft or riding animal or to property while contained therein or thereon or being loaded or unloaded therein or therefrom, from any hazard or cause, and against any loss, liability, or expense resulting from or incidental to ownership, maintenance, or use of any such vehicle, aircraft, or animal; together with insurance against accidental injury to individuals, irrespective of legal liability of the insured, including the named insured, while in, entering, alighting from, adjusting, repairing, cranking, or caused by being struck by a vehicle, aircraft, or draft or riding animal, if the insurance is issued as an incidental part of insurance on the vehicle, aircraft, or draft or riding animal;
 - (b) Liability insurance. Insurance against legal liability for the death, injury, or disability of any human being, or for damage to property; and provision of medical, hospital, surgical, disability benefits to injured persons and funeral and death benefits to dependents, beneficiaries, or personal representatives of persons killed, irrespective of legal liability of the insured, when issued as an incidental coverage with or supplemental to liability insurance;
 - (c) Workers' compensation and employer's liability. Insurance of the obligations accepted by, imposed upon, or assumed by employers under law for death, disablement, or injury of employees;
 - (d) Burglary and theft. Insurance against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation, or wrongful conversion, disposal or concealment, or from any attempt at any of the foregoing; including supplemental coverage for medical, hospital, surgical, and funeral expense incurred by the named insured or any other person as a result of bodily injury during the commission of a burglary, robbery, or theft by another; also insurance against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptances, or any other valuable papers and documents, resulting from any cause;
 - (e) Personal property floater. Insurance upon personal effects against loss or damage from any cause;
 - (f) Glass. Insurance against loss or damage to glass, including its lettering, ornamentation, and fittings;
 - (g) Boiler and machinery. Insurance against any liability and loss or damage to property or interest resulting from accidents to or explosions of boilers, pipes, pressure containers, machinery, or apparatus, and the inspection of and issuance of certificates of inspection upon boilers, machinery, and apparatus of any kind, whether or not insured;
 - (h) Leakage and fire extinguishing equipment. Insurance against loss or damage to any property or interest caused by the breakage or leakage of sprinklers, hoses, pumps and other fire extinguishing equipment or apparatus, water pipes or containers, or by water entering through leaks or openings in buildings, and

insurance against loss or damage to sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus;

- (i) Credit. Insurance, other than mortgage guaranty insurance, against loss or damage resulting from failure of debtors to pay their obligations to the insured;
- (j) Malpractice. Insurance against legal liability of the insured, and against loss, damage, or expense incidental to a claim of such liability, and including medical, hospital, surgical, and funeral benefits to injured persons, irrespective of legal liability of the insured, arising out of the death, injury, or disablement of any person, or arising out of damage to the economic interest of any person, as the result of negligence in rendering expert, fiduciary, or professional service;
- (k) Elevator. Insurance against loss of or damage to any property of the insured, resulting from the ownership, maintenance, or use of elevators, except loss or damage by fire, and the inspection of and issuance of certificates of inspection upon, elevators;
- (l) Congenital defects. Insurance against congenital defects in human beings;
- (m) Livestock. Insurance against loss of or damage to livestock from any cause;
- (n) Entertainments. Insurance indemnifying the producer of any motion picture, television, radio, theatrical, sport, spectacle, entertainment, or similar production, event, or exhibition against loss from interruption, postponement, or cancellation thereof due to death, accidental injury, or sickness of performers, participants, directors, or other principals;
- (o) Failure of certain institutions to record documents. Insurance indemnifying against loss from failure or omission to record as public records, liens of any kind upon personal property, given, held, delivered, or possessed as security or collateral for loans, advances, debts, or obligations of all kinds;
- (p) Automobile guaranty. Insurance of the mechanical condition or freedom from defective or worn parts of motor vehicles, other than as provided by manufacturer's warranty or as provided by KRS 190.090 to 190.140. Provided, however, the making of a service contract by a service contract provider that has obtained a reimbursement insurance policy shall not be considered a contract of or for insurance. As used in this paragraph:
 - 1. "Reimbursement insurance policy" means a policy of insurance which:
 - a. Provides reimbursement to the service contract provider under the terms of the service contracts issued or sold by the service contract provider or, in the event of the service contract provider's nonperformance, pays on behalf of the service contract provider all covered contractual obligations incurred by the service contract provider under the terms of the service contracts issued or sold by the service contract provider; and
 - b. Is issued by an admitted or authorized registered insurer, or properly exported to a nonadmitted insurer by a licensed surplus

lines broker, to a service contract provider;

2. "Service contract" means a contract or agreement given for a separately stated consideration for a specific duration to perform or to provide reimbursement for:
 - a. The repair, replacement, or maintenance of a motor vehicle for the operational or structural failure of the motor vehicle due to a defect in materials, workmanship, or normal wear and tear, with or without additional provisions for incidental payment of indemnity under limited circumstances, including but not limited to towing, rental, and emergency road service;
 - b. The repair or replacement of tires or wheels on a motor vehicle damaged as a result of coming into contact with road hazards, including but not limited to potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps;
 - c. The removal of dents, dings, or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels, sanding, bonding, or painting;
 - d. The repair of chips or cracks in or the replacement of motor vehicle windshields as a result of damage caused by road hazards, including but not limited to potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps; or
 - e. The replacement of a motor vehicle key or key fob if the key or key fob becomes inoperable or is lost or stolen.

The term "service contract" does not include a contract for regular maintenance only or a product warranty provided under the Magnuson-Moss Warranty Act, 15 U.S.C. secs. 2301 et seq.; and

3. "Service contract provider" means the person who is contractually obligated to the purchaser of a service contract under the terms of the service contract.

The requirement that the service contract provider have an insurance policy shall not apply where the service contract provider is a manufacturer or distributor of motor vehicles or a wholly owned subsidiary of a manufacturer or distributor; and

- (q) Miscellaneous. Insurance against any other kind of loss, damage, or liability properly a subject of insurance and not within any other kind of insurance as defined in this subtitle, if the insurance is not disapproved by the commissioner as being contrary to law or public policy. A service contract to repair, replace, or maintain consumer products shall not be insurance, if the maker of the service contract registers with the commissioner and provides:

1. Evidence of a sufficient net worth, as determined by the commissioner, to assure the performance of the duties of the maker created by all of the contracts made by the maker; or

2. Evidence of an insurance policy or performance bond with an authorized insurer as defined in KRS 304.1-100, to assure the performance of the duties of the maker created by all of the service contracts made by the maker.

As set forth in subparagraph 2. of this paragraph, if the maker of the service contract is unable to perform the duties imposed thereby, the purchaser of the service contract shall then be considered a policyholder of the insurer. The service contract shall conspicuously state the name and address of the licensed underwriting insurer and contain a statement that the holder shall be entitled to make a direct claim against the insurer upon the failure of the maker to pay any claim within sixty (60) days after the claim has been filed with the maker. The requirements of this paragraph shall not apply where the maker is a manufacturer of consumer products. If the maker of the service contract registers with the commissioner and subsequently determines that the information submitted pursuant to subparagraph 1. of this paragraph no longer reflects a sufficient net worth as determined by the commissioner, to assure the performance of the duties of the maker created by all of the contracts made by the maker, the maker shall notify the commissioner of the change in circumstances. Each registration filing with the commissioner shall be filed within thirty (30) calendar days in advance of the selling of service contracts to repair, replace, or maintain consumer goods. The commissioner is authorized to promulgate administrative regulations pursuant to KRS Chapter 13A to effectuate this paragraph.

- (2) Provision of medical, hospital, surgical, and funeral benefits and of coverage against accidental death or injury, as incidental to and part of other insurance as stated under paragraphs (a) (vehicle), (b) (liability), (d) (burglary), (g) (boiler machinery), (j) (malpractice), and (k) (elevator) of subsection (1) of this section shall for all purposes be deemed to be the same kind of insurance to which it is so incidental, and shall not be subject to provisions of this code applicable to life and health insurances.

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History: Amended 2016 Ky. Acts ch. 57, sec. 1, effective July 15, 2016. -- Amended 2012 Ky. Acts ch. 96, sec. 5, effective July 12, 2012. -- Amended 2010 Ky. Acts ch. 24, sec. 991, effective July 15, 2010. -- Amended 1996 Ky. Acts ch. 291, sec. 1, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 375, sec. 1, effective July 15, 1994. -- Amended 1986 Ky. Acts ch. 146, sec. 1, effective July 15, 1986. -- Created 1970 Ky. Acts ch. 301, subtit. 5, sec. 7, effective June 18, 1970.