

2021 Kansas Statutes

40-201a. Service contract; definitions; exemption from regulation. (a) The marketing, sale, offering for sale, issuance, making, proposing to make and administration of a service contract shall not be construed to be the business of insurance and shall be exempt from regulation as insurance pursuant to chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

(b) For the purposes of this section:

(1) "Service contract" means a contract or agreement for a separate or additional consideration, for any specified duration, to service, repair, replace or maintain all or any part of any structural component, appliance or utility system of any residential property, consumer good or other property; or to indemnify for service, repair, replacement or maintenance for consumer good or other property, due to a defect in materials, workmanship, normal wear and tear; or as a result of power surges or as a result of accidental damage from the handling of any consumer good or other property, with or without additional provision for indemnity payments, when service repair or replacement is not reasonably, commercially or economically feasible. A service contract may also include additional provisions for incidental payment of indemnity under limited circumstances, including, but not limited to, towing, rental and emergency road service.

(2) "Service contract" also includes any nonconsumer commercial service contract.

(3) "Service contract" includes, but is not limited to, a contract that offers any one or more of the following services:

(A) The repair or replacement of tires or wheels on a motor vehicle damaged as a result of coming into contact with road hazards;

(B) 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; and

(C) the replacement of a motor vehicle key or key-fob in the event that the key or key-fob becomes inoperable or is lost or stolen.

(4) "Service contract" does not include an automobile club service contract. As used in this paragraph, "automobile club service contract" means a service contract that provides, in consideration of dues, assessments or periodic payments of money, promises to assist in matters relating to travel and the operation, use and maintenance of an automobile in the supply of features or services or reimbursement thereof, which may include:

(A) Such services as community traffic safety services, travel and touring service, theft or reward service, map service, towing service, emergency road service, bail bond service and legal fee reimbursement service in the defense of traffic offenses, none of which enumerated features or services, if provided by the promisor itself, shall be subject to the insurance laws of this state;

(B) the purchase of accidental injury and death benefits insurance coverage issued, as provided by applicable statutes, by an insurance company authorized to do business in Kansas; or

(C) such other features or services not deemed by the commissioner to constitute the business of insurance.

(5) "Road hazard" means a hazard that is encountered while driving a motor vehicle, including, but not be limited to, potholes, rocks, wood debris, metal parts, glass, plastic, curbs or composite scraps.

(c) (1) No service contract that is exempt from regulation as insurance pursuant to chapter 40 of the Kansas Statutes Annotated, and amendments thereto, pursuant to this section shall

contain any provision for consequential damages unless such consequential damages are caused by the failure of service, repair, replacement or maintenance rendered under the service contract.

(2) No service contract that is exempt from regulation as insurance pursuant to chapter 40 of the Kansas Statutes Annotated, and amendments thereto, pursuant to this section shall contain any provision, except as exempt by this section, that would otherwise be covered by a contract of property or liability insurance issued in this state.

History: L. 2005, ch. 140, § 1; L. 2006, ch. 73, § 1; L. 2017, ch. 72, § 3; L. 2021, ch. 108, § 2; July 1.