

HOUSE BILL No. 2233

By Committee on Insurance

1-31

1 AN ACT concerning insurance; relating to exemptions from regulation as
2 insurance; service contracts; amending K.S.A. 2016 Supp. 40-201a and
3 repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2016 Supp. 40-201a is hereby amended to read as
7 follows: 40-201a. (a) The marketing, sale, offering for sale, issuance,
8 making, proposing to make and administration of a service contract shall
9 not be construed to be the business of insurance and shall be exempt from
10 regulation as insurance pursuant to chapter 40 of the Kansas Statutes
11 Annotated, and amendments thereto.

12 (b) For the purposes of this section; :

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

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

29 (3) "Service contract" does not include an automobile club service as
30 defined in K.S.A. 40-2507, and amendments thereto.

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

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

35 (B) *the removal of dents, dings or creases on a motor vehicle that can*
36 *be repaired using the process of paintless dent removal without affecting*

1 *the existing paint finish and without replacing vehicle body panels,*
2 *sanding, bonding or painting;*

3 *(C) the repair of chips or cracks in, or the replacement of, motor*
4 *vehicle windshields as a result of damage caused by road hazards; and*

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

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

10 (c) (1) No service contract—~~which~~ *that* is exempt from regulation as
11 insurance pursuant to chapter 40 of the Kansas Statutes Annotated, and
12 amendments thereto, pursuant to this section shall contain any provision
13 for consequential damages unless such consequential damages are caused
14 by the failure of service, repair, replacement or maintenance rendered
15 under the service contract.

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

21 Sec. 2. K.S.A. 2016 Supp. 40-201a is hereby repealed.

22 Sec. 3. This act shall take effect and be in force from and after its
23 publication in the statute book.