

# INSURANCE CODE

## SECTION 100-124.5

100. Insurance in this state is divided into the following classes:

- (1) Life.
- (2) Fire.
- (3) Marine.
- (4) Title.
- (5) Surety.
- (6) Disability.
- (7) Plate glass.
- (8) Liability.
- (9) Workers' compensation.
- (10) Common carrier liability.
- (11) Boiler and machinery.
- (12) Burglary.
- (13) Credit.
- (14) Sprinkler.
- (15) Team and vehicle.
- (16) Automobile.
- (17) [Reserved]
- (18) Aircraft.
- (19) Mortgage guaranty.
- (19.5) Insolvency.
- (19.6) Legal insurance.
- (20) Miscellaneous.

101. Life insurance includes insurance upon the lives of persons or appertaining thereto, and the granting, purchasing, or disposing of annuities.

102. Fire insurance includes:

(a) Insurance against loss by fire, lightning, windstorm, tornado, or earthquake.

(b) Insurance against loss of, or destruction of, or damage to, any of the following property, when such insurance includes loss thereof by fire and excludes coverage of property while in the custody of, or possession of, or being transported by, any carrier for hire or in the mail:

1. Accounts, books, maps, manuscripts, indexes and other valuable papers, documents and records incidental to the business or profession or activity in which the insured is engaged, resulting from any cause, but excluding any article constituting stock in trade or used as a sample or sold or held for sale.

2. Moneys, stamps, coins, bullion, securities, notes, drafts, acceptances or instruments of like kind or character, resulting from any cause, except:

(i) Forgery.

(ii) Any dishonest, fraudulent or criminal act of any officer, employee, partner, director, trustee or authorized representative of the insured.

(c) Insurance by means of an all-risk policy of the type commonly known as the "Personal Property Floater" against any and all kinds of loss of or damage to, or loss of use of, any personal property other

than merchandise.

The provisions of Section 2070 shall not apply to insurance written pursuant to subdivisions (b) or (c).

103. Marine insurance includes insurance against any and all kinds of loss of or damage to:

(a) Vessels, craft, aircraft, cars, automobiles and vehicles of every kind (excluding aircraft and automobiles operating under their own power or while in storage not incidental to transportation), as well as all goods, freights, cargoes, merchandise, effects, disbursements, profits, money, bullion, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests and all other kinds of property, and interests therein, in respect to, appertaining to or in connection with any and all risks or perils of navigation, transit, or transportation, including war risks, on or under any seas or other waters, on land or in the air, or while being assembled, packed, crated, baled, compressed or similarly prepared for shipment or while awaiting the same, or during any delays, storage, transshipment, or reshipment incident thereto including marine builder's risks, and all personal property floater risks.

(b) Person or to property in connection with or appertaining to a marine, inland marine, transit or transportation insurance including liability for loss of or damage arising out of or in connection with the construction, repair, maintenance or use of the subject matter of such insurance (but not including life insurance or surety bonds); but except as herein specified, shall not mean insurances against loss by reason of bodily injury to the person. Inland marine insurance shall be deemed to include hull insurance on water pleasure craft not used for commercial purposes of a size and type to be determined by the commissioner.

(c) Precious stones, jewels, jewelry, gold, silver and other precious metals, whether used in business or trade or otherwise and whether the same be in course of transportation or otherwise.

104. Title insurance means insuring, guaranteeing or indemnifying owners of real or personal property or the holders of liens or encumbrances thereon or others interested therein against loss or damage suffered by reason of:

(a) Liens or encumbrances on, or defects in the title to said property;

(b) Invalidity or unenforceability of any liens or encumbrances thereon; or

(c) Incorrectness of searches relating to the title to real or personal property.

105. Surety insurance includes:

(a) The guaranteeing of behavior of persons and the guaranteeing of performance of contracts (including executing or guaranteeing bonds and undertakings required or permitted in all actions or proceedings or by law allowed), other than insurance policies and other than for payments secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate.

(b) Insurance against loss resulting from the forgery or alteration of any instrument of any kind or character or of any signature thereon. Nothing in this section shall be deemed to limit

any of the powers of title insurers.

(c) Any of the following insurance when included as a part of contract containing any such guarantee of behavior or performance or in a contract indemnifying any bank, banker, broker, financial or moneyed corporation or association, any state, political subdivision, public or municipal corporation, or any officer of any state, political subdivision, public or municipal corporation: Insurance indemnifying the insured named therein against loss or destruction from any cause of any evidences of debt of any kind or character, evidences of ownership of any kind or character, deeds, mortgages, warehouse receipts, bills of lading, certificates of stock, bonds, notes, drafts, checks, instruments of similar character, stamps, documents, money, precious metals of any kind or character, refined or unrefined, and articles made therefrom, jewelry, watches, necklaces, bracelets, gems and precious and semiprecious stones, and also against loss or damage, except by fire, to the insured's premises, furnishings, fixtures, equipment, safes and vaults therein caused by burglary, robbery, holdup, theft or larceny or attempt thereat. No such insurance indemnifying against loss of any property as specified herein shall indemnify against loss of any such property occurring while in the mail or in the exclusive custody or possession of a common carrier for the purpose of transportation, except for the purpose of transportation by an armored motor vehicle.

(d) No insurance may be written as surety insurance if it falls within the definition of financial guaranty insurance as set forth in Section 12100.

106. (a) Disability insurance includes insurance appertaining to injury, disablement or death resulting to the insured from accidents, and appertaining to disablements resulting to the insured from sickness.

(b) In statutes that become effective on or after January 1, 2002, the term "health insurance" for purposes of this code shall mean an individual or group disability insurance policy that provides coverage for hospital, medical, or surgical benefits. The term "health insurance" shall not include any of the following kinds of insurance:

(1) Accidental death and accidental death and dismemberment.

(2) Disability insurance, including hospital indemnity, accident only, and specified disease insurance that pays benefits on a fixed benefit, cash payment only basis.

(3) Credit disability, as defined in subdivision (2) of Section 779.2.

(4) Coverage issued as a supplement to liability insurance.

(5) Disability income, as defined in subdivision (i) of Section 799.01.

(6) Insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(7) Insurance arising out of a workers' compensation or similar law.

(8) Long-term care.

(c) In a statute that becomes effective on or after January 1, 2008, the term "specialized health insurance policy" as used in this code shall mean a policy of health insurance for covered benefits in a single specialized area of health care, including dental-only, vision-only, and behavioral health-only policies.

107. Plate glass insurance includes insurance against breakage of glass.

108. Liability insurance includes:

(a) Insurance against loss resulting from liability for injury, fatal or nonfatal, suffered by any natural person, or resulting from liability for damage to property, or property interests of others but does not include worker's compensation, common carrier liability, boiler and machinery, or team and vehicle insurance.

(b) (1) With respect to operations or property covered by a policy of liability insurance as defined in subdivision (a), insurance of medical, hospital, surgical and funeral loss or expense of the insured or other persons injured, and in the case of an automobile liability policy disability benefits to the insured or other persons injured and in the event of their death, funeral and accidental death benefits to their dependents, beneficiaries or personal representatives irrespective of legal liability of the insured, when issued with or supplemental to the insurance defined in subdivision (a);

(2) When issued with or supplemental to the insurance defined in subdivision (a), disability insurance covering the insured and members of his household, or other persons who customarily operate any automobile covered by such a policy and who are named in such policy; and such disability insurance may cover against accidental injury, death or dismemberment caused by any or all hazards as defined in such coverage;

(c) Insurance covering injuries sustained by an insured resulting from a tort committed by a third party against which such third party is not himself covered by liability insurance;

(d) Insurance coverage against the legal liability of the insured, and against loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in rendering professional services by any person who holds a certificate or license issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, a license issued pursuant to the Osteopathic Initiative Act, or license as a community clinic defined in subdivision (a) of Section 1203 of the Health and Safety Code, or a license as a health facility pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(e) The provisions of this code relating to disability insurance do not apply to insurance defined in this section.

108.1. Insurers admitted to transact liability insurance are also deemed to be admitted to transact workers' compensation insurance for the purpose of covering those persons defined as employees by subdivision (d) of Section 3351 of the Labor Code.

109. Workmen's compensation insurance includes insurance against loss from liability imposed by law upon employers to compensate employees and their dependents for injury sustained by the employees arising out of and in the course of the employment, irrespective of negligence or of the fault of either party.

110. Common carrier liability insurance includes insurance against loss resulting from liability of a common carrier for accident or injury, fatal or nonfatal, to any person but does not include liability or workmen's compensation insurance.

111. Boiler and machinery insurance includes insurance against loss of property and liability for damage to persons or property from explosion of, or accident to, boilers, tanks, pipes, pressure vessels, engines, wheels, electrical machinery, or apparatus connected therewith or operating thereby.

112. Burglary insurance includes:

(a) Insurance against loss by burglary or theft or both.

(b) Insurance against loss of, or destruction of, or damage to, any of the following property, resulting from any cause, when such insurance includes loss thereof by burglary or theft, or both, and excludes coverage of property while in the custody of, or possession of, or being transported by, any carrier for hire or in the mail: Moneys, stamps, coins, bullion, securities, notes, drafts, acceptances or instruments of like kind or character, accounts, books, maps, manuscripts, indexes and other valuable papers, documents and records incidental to the business or profession or activity in which the insured is engaged.

(c) Insurance by means of an all-risk policy of the type commonly known as the "Personal Property Floater" against any and all kinds of loss of or damage to, or loss of use of, any personal property other than merchandise.

113. Credit insurance includes insurance of persons engaged in business against loss by reason of extending credit to those dealing with them, and insurance against loss from the failure of persons to meet existing or contemplated obligations to the insured. However, no insurance may be written as credit insurance if it falls within the definition of financial guaranty insurance as set forth in Section 12100.

114. Sprinkler insurance includes insurance against loss through damage by water to goods or premises arising from the breakage or leakage of sprinklers, pumps, or other apparatus placed for extinguishing fires, or loss arising from the breakage or leakage of water pipes, or through accidental injury to such sprinklers, pumps, or other apparatus.

115. Team and vehicle insurance includes insurance against loss through damage or legal liability for damage, to property caused by the use of teams or vehicles other than ships, boats, or railroad rolling stock, whether by accident or collision or by explosion of engine, tank, boiler, pipe, or tire of the vehicle, and insurance against theft of the whole or part of such vehicle.

116. (a) Automobile insurance includes insurance of automobile owners, users, dealers, or others having insurable interests therein, against hazards incident to ownership, maintenance, operation, and use of automobiles, other than loss resulting from accident or physical injury, fatal or nonfatal, to, or death of, any natural person.

(b) Automobile insurance also includes any contract of warranty, or guaranty that promises service, maintenance, parts replacement, repair, money, or any other indemnity in event of loss of or damage to a motor vehicle or a trailer, as defined by Section 630 of the Vehicle Code, or any part thereof from any cause, including loss of or damage to or loss of use of the motor vehicle or trailer by reason of depreciation, deterioration, wear and tear, use, obsolescence, or breakage if made by a warrantor or guarantor who is doing an insurance business.

(c) Automobile insurance also includes any agreement that promises repair or replacement of a motor vehicle, or part thereof, after a mechanical or electrical breakdown, at either no cost or a reduced cost for the agreement holder. However, automobile insurance does not include a vehicle service contract subject to Part 8 (commencing with Section 12800) of Division 2, or an agreement deemed not to be insurance under that part.

(d) The doing or proposing to do any business in substance equivalent to the business described in this section in a manner designed to evade the provisions of this section is the doing of an insurance business.

116.5. An express warranty warranting a motor vehicle lubricant, treatment, fluid, or additive that covers incidental or consequential damage resulting from a failure of the lubricant, treatment, fluid, or additive, shall constitute automobile insurance, unless all of the following requirements are met:

(a) The obligor is the primary manufacturer of the product. For the purpose of this section, "manufacturer" means a person who can prove clearly and convincingly that the per unit cost of owned or leased capital goods, including the factory, used to produce the product, plus the per unit cost of nonsubcontracted labor used to produce the product, exceeds twice the per unit cost of raw materials used to produce the product. "Manufacturer" also means a person who has formulated or produced, and continuously offered in this state for more than nine years, a motor vehicle lubricant, treatment, fluid, or additive.

(b) The commissioner has issued a written determination that the obligor is a manufacturer as defined in subdivision (a). An obligor shall provide the commissioner with all information, documents, and affidavits reasonably necessary for this determination to be made. Approval by the commissioner shall be obtained prior to January 1, 2004, or prior to the issuance of a warranty subject to this section, whichever is later. If the commissioner determines that the obligor is not a manufacturer, the obligor may obtain a hearing in accordance with Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The agreement covers only damage incurred while the product was in the vehicle.

(d) The agreement is provided automatically with the product at no extra charge.

116.6. (a) Notwithstanding Section 116, a warranty issued by the warrantor of a vehicle protection product shall constitute an express warranty, as defined in Section 1791.2 of the Civil Code, and shall not constitute automobile insurance if the warrantor complies with all of the following requirements:

(1) The warrantor maintains an insurance policy with an admitted insurer providing coverage for 100 percent of the warrantor's obligations under the warranty. The insurance policy shall allow the warrantyholder to make a direct claim for payment from the insurer upon the failure of the warrantor to pay any covered claim within 60 days after a complete proof-of-loss has been filed with the party designated in the warranty. In addition, all of the following shall apply:

(A) The warrantor shall file with the commissioner a copy of the insurance policy. At any time, a warrantor may have on file with the commissioner only one active policy from one insurer.

(B) The insurer's liability under the policy shall not be negated by a failure of the warrantor, for any reason, to report the issuance of a warranty to the insurer or to remit moneys owed to the insurer.

(C) No policy cancellation by an insurer shall be valid unless a notice of the intent to cancel the policy is filed with the commissioner not less than 30 days prior to the effective date of the cancellation, or, in the event that the cancellation is due to fraud, material misrepresentation, or defalcation by the warrantor, not less than 10 days prior to that date.

(D) In the event an insurer cancels a policy that a warrantor has filed with the commissioner, the warrantor shall do either of the following:

(i) File a copy of a new policy with the commissioner, before the termination of the prior policy, providing no lapse in coverage following the termination of the prior policy.

(ii) Discontinue acting as a warrantor as of the termination date of the policy until a new policy becomes effective and is accepted by the commissioner.

(2) The warrantor does not use the words insurance, casualty, surety, mutual, or any other words descriptive of the casualty, insurance, or surety business or deceptively similar to the name or description of any insurance company or casualty or surety company in the vehicle protection product name or warranty or in any advertising or other materials provided to prospective purchasers.

(3) The warranty has been issued to a customer that is insured under a comprehensive vehicle insurance policy for the vehicle covered by the warranty agreement.

(4) The warranty is in writing and provides all of the following:

(A) The benefits are limited to the difference between the actual cash value of the stolen vehicle and the vehicle's replacement cost, temporary vehicle rental expenses, reimbursement for insurance policy deductible, and registration fees and taxes on a replacement vehicle or a fixed amount for those benefits.

(B) A statement that the warrantyholder shall be entitled to make a direct claim against the insurer covering the obligations of the warranty upon the failure of the warrantor to pay any covered claim within 60 days after a complete proof-of-loss has been filed with the party designated in the warranty.

(C) A disclosure stating clearly the name, address, and telephone number of the insurer covering the obligations of the warrantor.

(D) A toll-free telephone number established and operated by the warrantor for the warrantyholder to call for questions about the warranty or the procedures to file a claim.

(E) A statement that clearly indicates the terms of the warranty, whether new or used cars are eligible for the vehicle protection product, the method for calculating the benefits paid and provided to

the warrantyholder, and the procedure for filing a claim under the warranty.

(F) A disclosure in 10-point type or larger that reads as follows: "This agreement is a product warranty and is not insurance. It is not subject to state insurance laws but is subject to state law concerning warranties."

(G) A disclosure in 10-point type or larger that reads as follows: "To be eligible for this warranty, the warrantyholder must have comprehensive insurance coverage on the vehicle that is protected by the antitheft device."

(5) The benefit is payable upon the theft of the vehicle, as defined in the warranty, and subject to the satisfaction of the procedural proof of claim requirements of the warranty.

(b) For purposes of this section, the following definitions shall apply:

(1) "Warrantor" means the manufacturer or provider of a vehicle protection product who, under the terms of a vehicle protection product warranty, is the contractual obligor to the purchaser of a vehicle protection product.

(2) (A) "Vehicle protection product" means a vehicle protection device, system, or service that is installed on, or applied to, a vehicle, is designed to deter the theft of a vehicle, and includes a written warranty that provides if the product fails to deter the theft of the vehicle, that the warrantyholder shall be paid specified incidental costs by the warrantor as a result of the failure of the device, system, or service to perform pursuant to the terms of the warranty.

(B) For purposes of this section, "vehicle protection product" shall also include alarm systems, window etch products, body part marking products, steering locks, pedal and ignition locks, fuel and ignition kill switches, and electronic, radio, and satellite tracking devices.

(c) The commissioner may issue a stop order pursuant to Section 12921.8 to a warrantor who is in violation of the requirements of this section.

(d) A warrantor shall have the burden of proving that a claim filed in compliance with the terms and conditions of the warranty is not covered by the warranty. A warrantor shall have the burden of proving that a claim settlement amount fulfills the promises contained in the warranty.

(e) The requirements of this section shall not apply under either of the following conditions:

(1) The warrantor is a manufacturer of motor vehicles, as defined pursuant to Section 672 of the Vehicle Code, or a distributor of motor vehicles, as defined pursuant to Section 296 of the Vehicle Code.

(2) The warranty only provides for the repair or replacement of the vehicle protection product subsequent to a mechanical or electrical breakdown of the vehicle protection product.

(f) Nothing in this section is intended to affect any pending litigation.

118. Aircraft insurance includes insurance of aircraft owners, users, dealers or others having insurable interests therein, against loss through hazards incident to ownership, maintenance, operation and use of aircraft, other than against loss resulting from accident or physical injury, fatal or nonfatal, to any natural person.



119. Mortgage guaranty insurance includes insurance against financial loss by reason of the nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate.

119.5. Insolvency insurance includes insurance against loss arising from the failure of an insolvent insurer to discharge its obligations under its insurance policies.

119.6. Legal insurance includes the assumption of a contractual obligation to reimburse the insured against all or a portion of his fees, costs, and expenses related to or arising out of services performed by or under the supervision of an attorney who is an active member of the bar of any jurisdiction or jurisdictions of the United States, in which these legal services are performed.

Legal insurance does not include any of the following:

(a) Retainer contracts made by an individual lawyer or law firm with an individual client with the fee based on an estimate of the nature and the amount of services that will be provided to that specific client, and similar contracts made with a group of clients involved in the same or closely related legal matters (such as class actions);

(b) Plans providing no benefits other than consultation and advice on matters in connection with, or a part of, referral services.

(c) Plans providing limited benefits on simple legal matters on a voluntary and informal basis, not involving a legally binding promise, in the context of an employment or educational or similar relationship; or

(d) Legal services provided by labor unions or employee associations to their members in matters relating to employment or occupation.

(e) Legal service incidental to other insurance coverages.

The foregoing is not intended as an exclusive list of legal services plans or arrangements which do not constitute legal insurance as defined by this section.

120. Miscellaneous insurance includes insurance against loss from damage done, directly or indirectly by lightning, windstorm, tornado, earthquake or insurance under an open policy indemnifying the producer of any motion picture, television, theatrical, sport, or similar production, event, or exhibition against loss by reason of the interruption, postponement, or cancellation of such production, event, or exhibition due to death, accidental injury, or sickness preventing performers, directors, or other principals from commencing or continuing their respective performance or duties; and any insurance not included in any of the foregoing classes, and which is a proper subject of insurance.

121. Except as otherwise stated, the enumeration in this chapter of the kinds of insurance in a particular class does not limit any such kind to any one of such particular classes, inasmuch as the

classification of similar insurance may vary with the subject matter, risk, and connected insurances; but the fact that similar kinds of insurance occur in different classes does not extend or change the scope of any such class.

122. (a) An insurer admitted for all the classes of insurance defined in Sections 102, 107, 108, 112 and 120 is authorized, in addition to the underwriting powers granted by such classes, to include any and all insurance described in paragraph (b) in a policy which contains fire coverage written on a form complying with either Section 2070 or Section 2071 and which provides insurance covering only noncommercial risks and covering either residence properties (not more extensive than a four-family dwelling) and appurtenances, or the contents thereof other than merchandise, or both.

(b) Such insurance is any or all insurance against all risks of physical loss of, damage to, or personal liability (except workmen's compensation) for injury to person or damage to property incident to, any or all of the following:

(1) The location described and property covered by the fire insurance policy as described in subdivision (a),

(2) Personal effects,

(3) Boats not over 16 feet in length (including furnishings, equipment, outboard motors, and trailers); provided the physical loss or damage coverage does not exceed five hundred dollars (\$500),

(4) Personal property intended primarily for residential or recreational use, (excluding boats except as provided above),

(5) Farm implements or self-propelled vehicles, excluding automobiles and aircraft, and,

(6) Horses, including accouterments and vehicles or implements to be drawn thereby.

123. An insurer admitted to transact liability insurance may extend such insurance on noncommercial or farm risks to include insurance of the legal liability of the insured for damage to property caused by use of "teams" or "vehicles" as the meaning thereof is limited by Section 115.

124. "Financial guaranty insurance" means that insurance as defined by Section 12100.

124.5. "Homeowners' insurance" means insurance covering the risks described in subdivision (a) of Section 675.

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