

365.522 Liability -- Exceptions -- Motor vehicle insurance coverage requirements -- Construction.

- (1) (a) A peer-to-peer car sharing program shall assume the liability, except as provided in paragraph (b)1. of this subsection, of a shared vehicle owner for bodily injury and property damage to third parties and basic reparation benefits losses during the car sharing period in an amount stated in the car sharing program agreement, which amount shall not be less than:
 1. For bodily injury and property damage to third parties, the amounts set forth in KRS 304.39-110; and
 2. For basic reparation benefits, the amount set forth in KRS 304.39-020(2).
- (b) Notwithstanding the definition of "car sharing termination time" set forth in KRS 365.520, the assumption of liability required under paragraph (a) of this subsection:
 1. Shall not apply when a shared vehicle owner:
 - a. Makes an intentional or fraudulent material misrepresentation or omission to the peer-to-peer car sharing program before the car sharing period in which the accident occurs; or
 - b. Acts in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the car sharing program agreement; and
 2. Shall apply to bodily injury, property damage, and basic reparation benefits losses by damaged third parties required under KRS 304.39-080.
- (2) (a)
 1. A peer-to-peer car sharing program shall ensure that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are covered under a motor vehicle liability insurance policy that:
 - a. Provides coverage in amounts not less than the minimum amounts set forth in KRS 304.39-110; and
 - b. Either:
 - i. Recognizes that the motor vehicle insured under the policy is made available and used as a shared vehicle through a peer-to-peer car sharing program; or
 - ii. Does not exclude use of the motor vehicle as a shared vehicle by a shared vehicle driver.
 2. For purposes of this paragraph, "recognizes" means acceptance and recognition of coverage.
- (b)
 1. The requirements of paragraph (a) of this subsection may be satisfied by motor vehicle liability insurance maintained by:
 - a. The shared vehicle owner;
 - b. The shared vehicle driver;
 - c. The peer-to-peer car sharing program; or

- d. Any combination of the persons described in this subparagraph.
 2. In the event a claim occurs in another state with minimum coverage limits higher than the amounts set forth in KRS 304.39-110 during the car sharing period, the coverage maintained under this paragraph shall satisfy the difference in minimum coverage amounts, up to the applicable policy limits.
 - (c) Except as otherwise provided in this section:
 1. The insurance described in paragraph (b) of this subsection that is satisfying the insurance requirement of paragraph (a) of this subsection shall be primary during each car sharing period;
 2. In the event a bodily injury or liability claim occurs and there is more than one (1) motor vehicle liability insurance policy as permitted under paragraph (b)1.d. of this subsection, the order of priority of coverage shall be as follows, unless one (1) policy contains a provision affirmatively stating that the policy's coverage is primary and thereby is primary during the car sharing period:
 - a. A policy maintained by the shared vehicle driver is first in priority;
 - b. A policy maintained by the peer-to-peer car sharing program is next in priority; and
 - c. A policy maintained by the shared vehicle owner is last in priority; and
 3. If coverage is applicable through more than one (1) motor vehicle liability insurance policy as permitted under paragraph (b)1.d. of this subsection and more than one (1) of those policies contain a provision affirmatively stating that the policy's coverage is primary, the order of priority of coverage shall be as described in subparagraph 2.a. to c. of this paragraph.
 - (d) The insurer, insurers, or peer-to-peer car sharing program providing coverage under paragraph (a) or (b) of this subsection shall assume primary liability for a claim if a dispute exists as to:
 1. Who was in control of the shared vehicle at the time of the accident and the peer-to-peer car sharing program does not have available, did not retain, or fails to provide the information required under KRS 365.524(2); or
 2. Whether the shared vehicle was returned to the alternatively agreed upon location as required under KRS 365.520(1)(e)2.
 - (e) If insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with paragraph (b) of this subsection has lapsed or does not provide the required coverage, insurance maintained by a peer-to-peer car sharing program shall provide the coverage required by paragraph (a) of this subsection beginning with the first dollar of a claim and have the duty to defend such claim except under circumstances set forth in subsection (1)(b)1. of this section.
- (3) Coverage under a motor vehicle insurance policy maintained by a peer-to-peer car

sharing program shall not be dependent upon another motor vehicle insurer first denying a claim nor shall another motor vehicle insurance policy be required to first deny a claim.

- (4) Nothing in this section shall be construed to:
- (a) Limit the liability of a peer-to-peer car sharing program for any act or omission of the peer-to-peer car sharing program itself that results in injury to any person as a result of the use of a shared vehicle through a peer-to-peer car sharing program;
 - (b) Limit the ability of a peer-to-peer car sharing program to, by contract, seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement;
 - (c) Invalidate or limit an exclusion contained in a motor vehicle liability insurance policy, including any policy in use or approved for use that excludes coverage for motor vehicles made available for rent, sharing, or hire, or for any business use; or
 - (d) Invalidate, limit, or restrict an insurer's ability under existing law to:
 - 1. Underwrite any insurance policy; or
 - 2. Cancel and nonrenew policies.

Effective: January 1, 2023

History: Created 2022 Ky. Acts ch. 153, sec. 8, effective January 1, 2023.