

BUSINESS AND COMMERCE CODE

TITLE 5. REGULATION OF BUSINESSES AND SERVICES

SUBTITLE C. BUSINESS OPERATIONS

Chapter 113, consisting of Secs. 113.0001 to 113.0105, was added by Acts 2021, 87th Leg., R.S., Ch. 445 (H.B. 113), Sec. 1.

For another Chapter 113, consisting of Secs. 113.001 to 113.005, added by Acts 2021, 87th Leg., R.S., Ch. 561 (S.B. 398), Sec. 1, see Sec. 113.001 et seq., post.

For another Chapter 113, consisting of Secs. 113.001 to 113.003, added by Acts 2021, 87th Leg., R.S., Ch. 975 (S.B. 2116), Sec. 2, see Sec. 113.001 et seq., post.

CHAPTER 113. PEER-TO-PEER CAR SHARING PROGRAMS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 113.0001. DEFINITIONS. In this chapter:

(1) "Agreement" means the terms and conditions applicable to an owner and driver that govern the use of a shared vehicle through a peer-to-peer car sharing program. The term does not include a rental agreement as defined by Section 91.001.

(2) "Car sharing period" means the period of time beginning with the delivery period or, if there is no delivery period, the start time and ending at the termination time.

(3) "Delivery period" means the period of time during which a shared vehicle is being delivered to the location of the start time, if applicable, under the agreement.

(4) "Driver" means an individual who has been authorized to drive the shared vehicle by the vehicle's owner under an agreement.

(5) "Owner" means the registered owner, or a person or entity designated by the registered owner, of a vehicle made available for sharing to drivers through a peer-to-peer car sharing program.

(6) "Peer-to-peer car sharing" means the authorized use of a vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program. The term does not include the use of a private passenger vehicle from a rental company

under the terms of a rental agreement as those terms are defined by Section 91.001.

(7) "Peer-to-peer car sharing program" means a business platform that connects owners with drivers to enable vehicle sharing for financial consideration. The term does not include:

(A) a service provider who is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle; and

(B) a rental company as defined by Section 91.001.

(8) "Shared vehicle" means a vehicle that is available for sharing through a peer-to-peer car sharing program. The term does not include the use of a private passenger vehicle from a rental company under the terms of a rental agreement as those terms are defined by Section 91.001.

(9) "Start time" means the time when the shared vehicle becomes subject to the control of the driver at or after the time the reservation of a shared vehicle is scheduled to begin under the agreement.

(10) "Termination time" means the earliest of:

(A) the expiration of the period of time established for the use of a shared vehicle according to the agreement if the shared vehicle is returned to the location specified in the agreement;

(B) the time when the shared vehicle is returned to a location as alternatively agreed on by the owner and driver as communicated through a peer-to-peer car sharing program and which alternatively agreed on location is thereby incorporated into the agreement; or

(C) the time when the owner or owner's authorized designee takes possession and control of the shared vehicle.

Added by Acts 2021, 87th Leg., R.S., Ch. 445 (H.B. 113), Sec. 1, eff. September 1, 2021.

Sec. 113.0002. APPLICABILITY OF CHAPTER. This chapter

applies to automobile insurance policies in this state, including policies issued by a Lloyd's plan, a reciprocal or interinsurance exchange, or a county mutual insurance company.

Added by Acts 2021, 87th Leg., R.S., Ch. 445 (H.B. 113), Sec. 1, eff. September 1, 2021.

Sec. 113.0003. CONSTRUCTION OF CHAPTER. Nothing in this chapter may be construed to:

(1) limit the liability of a peer-to-peer car sharing program for any act or omission of the program itself that results in injury to a person as a result of the use of a shared vehicle through the program;

(2) limit the ability of a peer-to-peer car sharing program to, by contract, seek indemnification from the owner or driver for economic loss sustained by the program resulting from a breach of the agreement;

(3) have implications affecting construction of statutes outside this chapter, including statutes related to motor vehicle regulation, airport regulation, or taxation;

(4) invalidate or limit an exclusion contained in an automobile insurance policy, including an insurance policy in use or approved for use that excludes coverage for automobiles made available for rent, sharing, hire, or any business use; or

(5) invalidate, limit, or restrict an insurer's ability under law to:

(A) underwrite any insurance policy; or

(B) cancel or decline to renew an insurance policy.

Added by Acts 2021, 87th Leg., R.S., Ch. 445 (H.B. 113), Sec. 1, eff. September 1, 2021.

Sec. 113.0004. RULES. The commissioner of insurance may adopt rules necessary to implement this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 445 (H.B. 113), Sec. 1, eff. September 1, 2021.

SUBCHAPTER B. ASSUMPTION OF LIABILITY AND INSURANCE REQUIREMENTS

Sec. 113.0051. ASSUMPTION OF LIABILITY BY PEER-TO-PEER CAR SHARING PROGRAM. (a) Except as provided by Subsection (b), a peer-to-peer car sharing program shall assume liability of an owner for bodily injury or property damage to third parties or uninsured or underinsured motorist or personal injury protection losses by damaged third parties during the car sharing period in an amount stated in the agreement, which may not be less than, as applicable, the amounts:

(1) provided by Subchapter D, Chapter 601, Transportation Code;

(2) required for uninsured or underinsured motorist coverage under Section 1952.101, Insurance Code; or

(3) provided as the maximum amount of required personal injury protection coverage under Section 1952.153, Insurance Code.

(b) A peer-to-peer car sharing program is not required to assume liability of an owner if the owner:

(1) makes an intentional or fraudulent material misrepresentation or omission to the program before the car sharing period in which the loss occurred; or

(2) acts in concert with a driver who fails to return the shared vehicle in accordance with the agreement.

(c) Notwithstanding the definition of "termination time" under Section 113.0001 or this subchapter, the assumption of liability under Subsection (a) applies to bodily injury, property damage, uninsured and underinsured motorist, or personal injury protection losses by damaged third parties as required by Subchapter D, Chapter 601, Transportation Code, Section 1952.101, Insurance Code, and Section 1952.153, Insurance Code.

Added by Acts 2021, 87th Leg., R.S., Ch. 445 (H.B. 113), Sec. 1, eff. September 1, 2021.

Sec. 113.0052. INSURANCE REQUIRED. (a) A peer-to-peer car sharing program shall ensure that, during each car sharing period, the owner and the driver are insured under an automobile liability insurance policy that meets the requirements of this subchapter.

(b) Insurance maintained for purposes of this subchapter:

(1) must provide coverage in amounts not less than the amounts described by Section 601.072, Transportation Code;

(2) must be primary during each car sharing period;  
and

(3) must:

(A) recognize that the shared vehicle insured under the policy is made available and used through a peer-to-peer car sharing program and specifically provide coverage for that use;  
or

(B) not exclude the use of a shared vehicle by a driver.

(c) The coverage requirements of this subchapter may be satisfied by:

(1) automobile insurance maintained by the owner;

(2) automobile insurance maintained by the driver;

(3) automobile insurance maintained by the peer-to-peer car sharing program; or

(4) a combination of Subdivisions (1), (2), and (3).

(d) If a claim occurs in another state with minimum financial responsibility limits higher than the amounts described by Section 601.072, Transportation Code, during the car sharing period, the coverage maintained under Subsection (a) must satisfy the difference in minimum coverage amounts to the applicable policy limits.

Added by Acts 2021, 87th Leg., R.S., Ch. 445 (H.B. 113), Sec. 1, eff. September 1, 2021.

Sec. 113.0053. AUTOMOBILE INSURANCE POLICY EXCLUSIONS. An automobile insurer may exclude any coverage and the duty to defend or indemnify for any claim afforded under an owner's automobile insurance policy during a car sharing period, including an exclusion of:

(1) liability coverage for bodily injury and property damage;

(2) personal injury protection coverage;

(3) uninsured and underinsured motorist coverage;

- (4) medical payments coverage;
- (5) comprehensive physical damage coverage; and
- (6) collision physical damage coverage.

Added by Acts 2021, 87th Leg., R.S., Ch. 445 (H.B. 113), Sec. 1, eff. September 1, 2021.

Sec. 113.0054. CLAIMS RELATED TO PEER-TO-PEER CAR SHARING.

(a) An insurer or peer-to-peer car sharing program providing coverage under Section 113.0052(a) shall assume primary liability for a claim when:

(1) a dispute exists as to who was in control of the shared vehicle at the time of the loss and the program does not have available, did not retain, or fails to provide the information required by Section 113.0103; or

(2) a dispute exists as to whether the shared vehicle was returned to the alternatively agreed upon location described by Section 113.0001(10)(B).

(b) If, at the time of a claim, the automobile insurance maintained by an owner or driver has lapsed or does not provide the coverage required under this subchapter, insurance maintained by a peer-to-peer car sharing program shall provide the coverage beginning with the first dollar of a claim and the program shall defend the claim.

(c) Coverage under an automobile insurance policy maintained by the peer-to-peer car sharing program may not be dependent on another automobile insurer first denying a claim. Another automobile insurance policy is not required to first deny a claim.

Added by Acts 2021, 87th Leg., R.S., Ch. 445 (H.B. 113), Sec. 1, eff. September 1, 2021.

Sec. 113.0055. VICARIOUS LIABILITY. Notwithstanding any other law, a peer-to-peer car sharing program and an owner are not liable under a theory of vicarious liability in accordance with 49 U.S.C. Section 30106 or under any state or local law that imposes liability solely based on vehicle ownership.

Added by Acts 2021, 87th Leg., R.S., Ch. 445 (H.B. 113), Sec. 1,

eff. September 1, 2021.

Sec. 113.0056. CONTRIBUTION. An automobile insurer that defends or indemnifies a claim against a shared vehicle that is excluded under the terms of the insurer's policy may seek recovery against the peer-to-peer car sharing program's automobile insurer if the claim is:

(1) made against the shared vehicle's owner or the shared vehicle's driver for loss or injury that occurs during the car sharing period; and

(2) excluded under the terms of the insurer's policy.

Added by Acts 2021, 87th Leg., R.S., Ch. 445 (H.B. 113), Sec. 1, eff. September 1, 2021.

Sec. 113.0057. INSURABLE INTEREST. (a) Notwithstanding any other law, a peer-to-peer car sharing program has an insurable interest in a shared vehicle during the car sharing period.

(b) Nothing in this section creates a duty on a peer-to-peer car sharing program to maintain the coverage required under this subchapter.

(c) A peer-to-peer car sharing program may own and maintain as the named insured one or more policies of automobile insurance that separately or in combination provide coverage for:

(1) liability assumed by the program under an agreement;

(2) liability of the owner;

(3) damage to or loss of the shared vehicle; or

(4) liability of the driver.

Added by Acts 2021, 87th Leg., R.S., Ch. 445 (H.B. 113), Sec. 1, eff. September 1, 2021.

Sec. 113.0058. INSURANCE REQUIREMENTS. (a) An insurance policy providing coverage described by Section 113.0057(c)(2) or (4) must expressly provide liability coverage, without prior notice to the insurer, for all shared vehicles during the car sharing period, subject to any conditions or exclusions permitted by this chapter.

(b) An insurer authorized to engage in the business of insurance in this state or an eligible surplus lines insurer may issue an insurance policy described by Section 113.0057(c).

(c) A peer-to-peer car sharing program is not required to itemize or charge the owner or driver the amount payable as premium under a policy described by Section 113.0057(c) that is allocable to coverage provided to the owner or driver if:

(1) for the owner, the coverage is included without an additional or itemized charge in the fee charged by the program for the applicable car share reservation; or

(2) for the driver, the coverage is included without an additional or itemized charge in the cost of the reservation of the shared vehicle.

Added by Acts 2021, 87th Leg., R.S., Ch. 445 (H.B. 113), Sec. 1, eff. September 1, 2021.

#### SUBCHAPTER C. PEER-TO-PEER CAR SHARING PROGRAM RESPONSIBILITIES

Sec. 113.0101. REQUIRED DISCLOSURES AND NOTICE. (a) Each agreement entered into in this state must disclose to the owner and the driver:

(1) any right of the peer-to-peer car sharing program to seek indemnification from the owner or driver for economic loss sustained by the program resulting from a breach of the agreement;

(2) that an automobile insurance policy issued to the owner for the shared vehicle or to the driver does not provide a defense or indemnification for any claim asserted by the peer-to-peer car sharing program;

(3) that the peer-to-peer car sharing program's insurance coverage on the owner and the driver is in effect only during each car sharing period;

(4) that, for any use of the shared vehicle by the driver after the termination time, the owner and driver may not have insurance coverage;

(5) the daily rate, fees, and, if applicable, any insurance costs that are charged to the owner or driver;

(6) that the owner's automobile insurance may not

provide coverage for a shared vehicle;

(7) an emergency telephone number through which personnel capable of fielding roadside assistance and other customer service inquiries may be reached; and

(8) if applicable, any condition under which a driver must maintain a personal automobile insurance policy with certain applicable coverage limits on a primary basis to book a shared vehicle.

(b) When a person registers as an owner on a peer-to-peer car sharing program and before the owner makes a shared vehicle available for car sharing on the program, the program shall provide written notice to the owner that, if the shared vehicle has a lien against it, the shared vehicle's use through the program, including use without physical damage coverage, may violate the terms of the contract with the lienholder.

Added by Acts 2021, 87th Leg., R.S., Ch. 445 (H.B. 113), Sec. 1, eff. September 1, 2021.

Sec. 113.0102. AUTHORIZATION TO DRIVE REQUIRED. A peer-to-peer car sharing program may not enter into an agreement with a driver unless the driver who will operate the shared vehicle:

(1) is a resident of this state and holds a driver's license issued by this state that authorizes the driver to operate vehicles of the class of the shared vehicle;

(2) is a nonresident of this state and:

(A) holds a driver's license issued by the state or country of the driver's residence that authorizes the driver to operate vehicles of the class of the shared vehicle; and

(B) is at least the same age as that required of a resident of this state to drive; or

(3) is otherwise specifically authorized by this state to drive vehicles of the class of the shared vehicle.

Added by Acts 2021, 87th Leg., R.S., Ch. 445 (H.B. 113), Sec. 1, eff. September 1, 2021.

Sec. 113.0103. RECORD RETENTION. (a) A peer-to-peer car sharing program shall keep and maintain a record of:

(1) the name and address of each driver who has entered into an agreement with the program; and

(2) the driver's license number and place of issuance of each driver and individual who will operate a shared vehicle under the program.

(b) A peer-to-peer car sharing program shall collect and verify records related to use of a shared vehicle under the program, including:

(1) the times the vehicle is used;

(2) car sharing period pick-up and drop-off locations;

(3) money received by the owner; and

(4) fees paid by the driver.

(c) A peer-to-peer car sharing program shall provide information collected under Subsection (b) on request to the owner, the owner's insurer, or the driver's insurer to facilitate a claim coverage investigation, settlement, negotiation, or litigation.

(d) A peer-to-peer car sharing program shall retain information collected under Subsection (b) for a period of not less than the limitations period provided under Section 16.003, Civil Practice and Remedies Code, for a personal injury suit.

Added by Acts 2021, 87th Leg., R.S., Ch. 445 (H.B. 113), Sec. 1, eff. September 1, 2021.

Sec. 113.0104. RESPONSIBILITY FOR CAR SHARING EQUIPMENT.

(a) A peer-to-peer car sharing program is solely responsible for any equipment, including a global positioning system device or other special equipment, placed in or on a shared vehicle used under the program to monitor or facilitate the car sharing transaction. The program shall agree to indemnify and hold harmless the vehicle's owner for any damage to or theft of such equipment during the car sharing period not caused by the owner.

(b) A peer-to-peer car sharing program may seek indemnity from a driver for any loss of or damage to equipment described by Subsection (a) that occurs during the car sharing period.

Added by Acts 2021, 87th Leg., R.S., Ch. 445 (H.B. 113), Sec. 1, eff. September 1, 2021.

Sec. 113.0105. AUTOMOBILE SAFETY RECALL. (a) When a person registers as an owner on a peer-to-peer car sharing program and before the owner makes a shared vehicle available for car sharing on the program, the program shall:

(1) verify that the vehicle does not have a safety recall for which repairs have not been made; and

(2) notify the owner of the requirements under Subsection (b).

(b) If an owner receives notice of a safety recall on a shared vehicle:

(1) before the vehicle has been made available as a shared vehicle on a peer-to-peer car sharing program, the owner may not make the vehicle available as a shared vehicle on the program until the safety recall repair has been made;

(2) while the vehicle is available as a shared vehicle on a peer-to-peer car sharing program, the owner shall remove the vehicle from the program as soon as practicably possible after receiving the safety recall notice and until the safety recall repair has been made; or

(3) while the vehicle is being used in the possession of a driver, the owner shall notify the peer-to-peer car sharing program as soon as practicably possible after receiving the safety recall notice to allow the owner to address the safety recall repair.

Added by Acts 2021, 87th Leg., R.S., Ch. 445 (H.B. [113](#)), Sec. 1, eff. September 1, 2021.