

Before the
Administrative Hearing Commission
State of Missouri



DIRECTOR OF DEPARTMENT OF INSURANCE,))
FINANCIAL INSTITUTIONS AND))
PROFESSIONAL REGISTRATION,))

Petitioner,))

No. 12-0667 DI

vs.))

FIRST ACCEPTANCE INSURANCE COMPANY))
INCORPORATED,))

Respondent.))

CONSENT ORDER

The licensing authority filed a complaint. Section 375.921¹ gives us jurisdiction.

On July 26, 2012, the parties filed a "Joint Motion for Consent Order." Our review of the document shows that the parties have stipulated to certain facts and waived their right to a hearing before us. Because the parties have agreed to these facts, we incorporate them into this order and adopt them as stipulated. *Buckner v. Buckner*, 912 S.W. 2d 65, 70 (Mo. App., W.D. 1995). We conclude that Respondent is subject to disapproval of its Security Plus policy form under § 375.921. We incorporate the parties' proposed findings of fact and conclusions of law into this Consent Order.

SO ORDERED on August 1, 2012.


SREENIVASA RAO DANDAMUDI
Commissioner

¹Statutory references are to RSMo 2000 unless otherwise noted.

Before the
Administrative Hearing Commission
State of Missouri



DIRECTOR, DEPARTMENT OF INSURANCE,)
FINANCIAL INSTITUTIONS AND)
PROFESSIONAL REGISTRATION)
STATE OF MISSOURI,)

Petitioner,)

vs.)

FIRST ACCEPTANCE INSURANCE)
COMPANY INCORPORATED,)

Respondent.)

Case No.: 12-0667 DI

DECISION AND ORDER

The Administrative Hearing Commission (“Commission”) finds that the policy form submitted by First Acceptance Insurance Company, Incorporated (“First Acceptance”) to the Director (“the Director”) of the Department of Insurance, Financial Institutions and Professional Registration (“the Department”) shall be disapproved because the policy form contains language that does not comply with §379.150 and 20 C.S.R. 500-1.100(3)(A)(4), is not specific, certain, or unambiguous, and is not reasonably adequate to meet the needs of its insureds. We grant the Joint Motion for Consent Order, issue this Decision, and cancel the hearing.

Procedure

On April 27, 2012, the Director filed a petition seeking the disapproval of First Acceptance's policy form. On May 25, 2012, First Acceptance filed an answer.

Thereafter, the parties filed a joint motion for consent order. Our Regulation 1 CSR 15-3.446(1) provides that we may decide this case in favor of any party without a hearing upon a motion.

The following facts are undisputed.

Findings of Fact

1. Petitioner is the Director of the Department whose duties include, pursuant to Chapters 374 and 375, RSMo, the review and approval of tenant's or renter's insurance policy forms.
2. The Department issued a Certificate of Authority to First Acceptance on October 23, 2001, NAIC number 10336, for lines of authority including but not limited to Property and Liability Insurance, such license has been subsequently renewed annually and is currently active.
3. The Department received a tenant's or renter's policy form titled Security Plus Policy, described as a personal property policy, and containing tracking number SPMO 100 ed. Mar. 2012 ("Security Plus") on February 29, 2012 via the System for Electronic Rate and Form Filing ("SERFF").
4. Upon Departmental review, the Director believed the Security Plus policy form was not in compliance with the laws of Missouri.
5. Specifically, there are two separate provisions at issue within the Security Plus policy form.
6. The first provision at issue in the Security Plus policy form is under its Section I - Conditions, Loss Settlement section, which states in relevant part:

If we give you written notice within 30 days after we receive your signed, sworn proof of loss, *it is strictly our option* to elect (1) to pay you for the actual cash value at the time of loss, (2) to have the personal property repaired, or (3) to replace it with personal property of similar kind and quality.¹

7. The second provision at issue in the Security Plus policy form is under its Section I and II -Conditions, Cancellation section, which states:

If the return premium is not refunded with the notice of cancellation or when this policy is returned to us, we will refund it *within a reasonable time* after the date cancellation takes effect.²

8. Because First Acceptance did not adequately respond to Departmental inquiries and to avoid waiving the right to seek disapproval of the policy form, the Director filed a Petition with the Commission requesting that the Security Plus policy form be disapproved.

Conclusions of Law

We have jurisdiction to hear this case.³ First Acceptance admitted facts and those facts authorize disapproval of the policy form. But statutes and case law instruct that we must “separately and independently” determine whether such facts establish the propriety of the requested order.⁴ Therefore, we make the following independent assessment.

Reason for Disapproval

Section 375.921 authorizes the Commission to disapprove policy forms and states:

The administrative hearing commission shall hear the petition, and if it finds the policy form shall be disapproved, it shall render specific findings of fact and law disapproving the policy form in that it is not in compliance with the insurance laws of this state and does not contain such words, phraseology, conditions and provisions which are specific, certain and unambiguous and reasonably adequate to meet the needed requirement of those insured under such policies. In all other cases the policy form shall stand approved. During the pending of any action all such forms shall be deemed approved.

¹ *Security Plus Policy Missouri*, Section I –Conditions, Loss Settlement, p. 12 (SPMO 100 ed. Mar. 2012) (original emphasis omitted, emphasis added).

² *Security Plus Policy Missouri*, Sections I and II –Conditions, C. Cancellation, 4, p. 19 (SPMO 100 ed. Mar. 2012) (original emphasis omitted, emphasis added).

³Section 375.921. All statutory references are to RSMo 2000.

⁴ *Kennedy v. Missouri Real Estate Commission*, 762 S.W.2d 454, 456-57 (Mo. App., E.D. 1988).

If the Director chooses to submit a policy form to the Commission for disapproval, we shall disapprove the policy form if said form is not in compliance with the insurance laws of this state, or if said policy form does not contain provisions which are specific, certain or unambiguous, or if said policy form is not reasonably adequate to meet the needs of the insured. While a policy form that does not comply any aspect of §375.921 is subject to disapproval, in this instance the policy form shall be disapproved for all three reasons.

A. Violation of Missouri Law

1. Violation of Statute

Section 379.150 states:

Whenever there is a partial destruction or damage to property covered by insurance, it shall be the duty of the party writing the policies to pay the assured a sum of money equal to the damage done to the property, or repair the same to the extent of such damage, not exceeding the amount written in the policy, so that said property shall be in as good condition as before the fire, at the option of the insured.

The Security Plus policy form does not provide the insured the choice of settlement in the event that there is a partial destruction due to the peril of fire. The policy form shall be disapproved because it does not comply with §379.150.

2. Violation of Regulation

Regulation 20 CSR 500-1.100(3), Cancellation, states in relevant part:

(A) Any notice of cancellation, nonrenewal, reduction in amount or adverse modification must state the following:

4. That any excess premium not tendered must be refunded within thirty (30) days of this notice....

The Security Plus policy form does not give notice to the insured that, in the event of cancellation, the remaining premium will be refunded within 30 days of cancellation. Instead it

states that premium will be refunded within a reasonable time after cancellation. The policy form shall be disapproved because it does not comply with 20 CSR 50001.100(3)(A)4.

B. Policy Language that is Not Specific, Certain, or Unambiguous

In his petition, the Director pleads that there is reason to disapprove the Security Plus form filing because it contains language that is not specific, certain, or unambiguous as required by §375.921.

“Specific” is defined as “precisely formulated or restricted; definite; explicit; of an exact or particular nature.”⁵ “Certain” is defined as “ascertained; precise; identified; settled; exact; definitive; clearly known; unambiguous....”⁶ “An ambiguity exists when there is duplicity, indistinctness, or uncertainty in the meaning of the language in the policy. Language is ambiguous if it is reasonably open to different constructions.”⁷

The Security Plus policy form violates the specific, certain and unambiguous requirements of §375.921. Specifically, under its Section I and II -Conditions, Cancellation section the policy form states:

If the return premium is not refunded with the notice of cancellation or when this policy is returned to us, we will refund it *within a reasonable time* after the date cancellation takes effect.⁸

We find that the phrase “within a reasonable time” is unspecific, uncertain, or ambiguous when compared to the regulatory requirement of 30 days that is set out in 20 CSR 50001.100(3)(A)4. There is reason to disapprove the policy form under §375.921.

C. Policy Language that is Not Reasonably Adequate to Meet the Needs of the Insured

Finally, the Security Plus form filing is disapproved because it contains provisions that are not reasonably adequate to meet the needed requirement of insureds under the policy.

⁵ *Black's Law Dictionary* 1398 (6th ed., West 1990).

⁶ *Id.* at 225.

⁷ *Seeck v. Geico Gen. Ins. Co.*, 212 S.W.3d 129, 132 (Mo. banc 2007).

⁸ *Security Plus Policy Missouri*, Sections I and II –Conditions, C. Cancellation, 4, p. 19 (SPMO 100 ed. Mar. 2012) (original emphasis omitted, emphasis added).

The policy form provisions are the same ones that were previously discussed. An insured may need more protection in a policy form than what the state requires an insurer provide; however, an insured is entitled to the minimum coverage that the state deems appropriate through the enactment of its laws and regulations. Because these policy provisions do not reflect the rights due insureds under Missouri's laws, the provisions are not reasonably adequate to meet the needed requirements of the insured under the policy. This is reason to disapprove the policy form under §375.921.

Summary

For the foregoing reasons, we disapprove First Acceptance's Security Plus policy form under §375.921 and cancel the hearing.

SO ORDERED on _____.

Commissioner

BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

APR 27 2012

ADMINISTRATIVE HEARING
COMMISSION

DIRECTOR, DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND
PROFESSIONAL REGISTRATION
STATE OF MISSOURI,

Petitioner,

vs.

FIRST ACCEPTANCE INSURANCE
COMPANY INCORPORATED,

Respondent.

Serve:

Mark Reineke
Registered Agent of
First Acceptance Insurance
Company Incorporated
3813 Green Hills Village Drive
Nashville, Tennessee 37215-2610

Case No.:

PETITION

JOHN M. HUFF, Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, through counsel, petitions and requests the Administrative Hearing Commission find that the submitted policy form is not in compliance with the insurance laws of this state and does not contain such words, phraseology, conditions and provisions which are specific, certain and unambiguous and reasonably adequate to meet the needed requirements of those insured under such policy, and in support, states as follows:

INFORMATION RELEVANT TO ALL COUNTS

1. Petitioner is the Director ("Director") of the Missouri Department of Insurance, Financial Institutions and Professional Registration whose duties include, pursuant to Chapters 374 and 375, RSMo, the review and approval of tenant's or renter's insurance policy forms.
2. The Missouri Department of Insurance, Financial Institutions and Professional Registration ("Department") issued a Certificate of Authority to First Acceptance Insurance Company Incorporated ("First Acceptance") on October 23, 2001, NAIC number 10336, for lines of authority including but not limited to Property and Liability Insurance, such license has been subsequently renewed annually and is currently active.
3. First Acceptance's business address is 3813 Green Hills Village Drive, Nashville, Tennessee 37215.
4. First Acceptance's mailing address is PO Box 23410, Nashville, Tennessee 37202.
5. First Acceptance's telephone number is 615-844-1290.
6. The Department received a tenant's or renter's policy form titled Security Plus Policy, described as a personal property policy, and containing tracking number SPMO 100 ed. Mar. 2012 ("Security Plus") on February 29, 2012 via the System for Electronic Rate and Form Filing ("SERFF").¹
7. Said policy form is not in compliance with the laws of Missouri.
8. Over the past two months, the Department has attempted to contact First Acceptance on eight occasions to discuss amending the policy language so that it would conform to the laws of Missouri.
9. First Acceptance did not attempt to correct said policy form.

¹ A true and correct copy of the Security Plus policy form is attached to this Petition as Exhibit 1.

10. To avoid said policy form from being statutorily deemed approved, while not in compliance with the laws of Missouri, the Director filed this petition with the Commission.

11. Section 375.920, RSMo 2000² states in relevant part:

No insurer shall deliver any policy of ... tenant's or renter's insurance written upon property within this state until such policy form shall have been approved as provided for in sections 375.920 to 375.923. Upon submission of any form to the director of the department of insurance, financial institutions and professional registration, such form shall be deemed approved. The director of the department of insurance, financial institutions and professional registration shall review such form within sixty days, and may have a hearing during that time. If within that time he determines the policy form is not in compliance with the insurance laws of this state and does not contain such words, phraseology, conditions and provisions which are specific, certain and unambiguous and reasonably adequate to meet the needed requirements of those insured under such policies, he may file a petition with the administrative hearing commission asking that the policy be disapproved, stating specifically the reasons why such policy form shall be disapproved.

12. Section 375.921 states:

The administrative hearing commission shall hear the petition, and if it finds the policy form shall be disapproved, it shall render specific findings of fact and law disapproving the policy form in that it is not in compliance with the insurance laws of this state and does not contain such words, phraseology, conditions and provisions which are specific, certain and unambiguous and reasonably adequate to meet the needed requirement of those insured under such policies. In all other cases the policy form shall stand approved. During the pending of any action all such forms shall be deemed approved.

13. Section 379.150 states:

Whenever there is a partial destruction or damage to property covered by insurance, it shall be the duty of the party writing the policies to pay the assured a sum of money equal to the damage done to the property, or repair the same to the extent of such damage, not exceeding the amount written in the policy, so that said property shall be in as good condition as before the fire, at the option of the insured.

² All statutory references are to RSMo 2000 unless otherwise indicated.

14. Title 20 CSR 500-1.100(3)(A)4, provides in relevant part:

Any notice of cancellation, nonrenewal, reduction in amount or adverse modification must state the following ... That any excess premium not tendered must be refunded within thirty (30) days of this notice....

15. The Director may file this Complaint pursuant to §375.920.³
16. The Commission has jurisdiction over this Complaint pursuant to §375.921.

COUNT I

17. First Acceptance submitted the Security Plus policy form filing to the Department, which contains provisions that are not in compliance with the insurance laws of Missouri, are not specific, certain or unambiguous, and are not reasonably adequate to meet the needed requirements of its insureds and thus must be disapproved by the Commission pursuant to §375.921.
18. Petitioner realleges and expressly incorporates the allegations in paragraphs 1 through 7.
19. The Security Plus policy form filing contains a provision under its Section I -Conditions, Loss Settlement section, which states in relevant part:

If we give you written notice within 30 days after we receive your signed, sworn proof of loss, *it is strictly our option* to elect (1) to pay you for the actual cash value at the time of loss, (2) to have the personal property repaired, or (3) to replace it with personal property of similar kind and quality.⁴

20. The Security Plus policy form should be disapproved for the following specific reasons:

³ *Halpin v. Am. Fam. Mut. Ins. Co.*, 823 S.W.2d 479, 482 (Mo. banc 1992) (Director authorized "to litigate issues about policy language and provisions by petition to the Administrative Hearing Commission.").

⁴ *Security Plus Policy Missouri*, Section I -Conditions, Loss Settlement, p. 12 (SPMO 100 ed. Mar. 2012) (original emphasis omitted, emphasis added).

- a. In the event of a partial-loss fire, the foregoing Security Plus policy provision does not give the choice of settlement to the insured and is thereby not in compliance with §379.150.
 - b. Because this policy provision fails to accurately inform the insured of his or her rights, the provision is not specific, certain, or unambiguous.
 - c. Because this policy provision does not reflect the rights due insureds under Missouri law, the provision is not reasonably adequate to meet the needed requirements of the insureds.
21. Because this policy form has a provision that does not comply with §379.150, contains language that is not specific, certain, or unambiguous, and is not reasonably adequate to meet the needs of its insureds, the Commission must disapprove this policy form pursuant to §375.921.

COUNT II

22. First Acceptance submitted the Security Plus policy form filing to the Department, which contains provisions that are not in compliance with the insurance laws of Missouri, are not specific, certain or unambiguous, and are not reasonably adequate to meet the needed requirements of its insureds and thus must be disapproved by the Commission pursuant to §375.921.
23. Petitioner realleges and expressly incorporates the allegations in paragraphs 1 through 7.
24. The Security Plus policy form filing contains a provision under its Section I and II - Conditions, Cancellation section, which states:

If the return premium is not refunded with the notice of cancellation or when this policy is returned to us, we will refund it *within a reasonable time* after the date cancellation takes effect.⁵

25. The Security Plus policy form should be disapproved for the following specific reasons:
- a. In the event of cancellation, the Security Plus policy provision does not give notice to the insured that the remaining premium will be refunded within 30 days of cancellation and is thereby not in compliance with 20 CSR 500-1.100(3)(A)4.
 - b. Because this policy provision fails to accurately inform the insured of his or her rights, the provision is not specific, certain, or unambiguous.
 - c. Because this policy provision does not reflect the rights due insureds under Missouri law, the provision is not reasonably adequate to meet the needed requirements of the insureds.
26. Because this policy form has a provision that does not comply with 20 CSR 500-1.100(3)(A)4, contains language that is not specific, certain, or unambiguous, and is not reasonably adequate to meet the needs of its insureds, the Commission must disapprove this policy form pursuant to §375.921.

WHEREFORE, based on the foregoing, Petitioner respectfully requests the Commission make specific findings of fact and conclusions of law disapproving Respondent's policy form in that it is not in compliance with the insurance laws of this state, does not contain such words, phraseology, conditions and provisions which are specific, certain and unambiguous and is not reasonably adequate to meet the needed requirements of those insured under such policies.

⁵ *Security Plus Policy Missouri*, Sections I and II—Conditions, C. Cancellation, 4, p. 19 (SPMO 100 ed. Mar. 2012) (original emphasis omitted, emphasis added).

Respectfully submitted,



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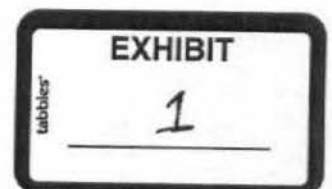
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SECURITY PLUS POLICY
MISSOURI

FIRST ACCEPTANCE INSURANCE COMPANY, INC.

3813 Green Hills Village Drive, Nashville, TN 37215
Customer Service: 1-800-321-0899 Claims: 1-800-779-2103



POLICY QUICK REFERENCE

PERSONAL PROPERTY POLICY



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PERSONAL PROPERTY POLICY



THIS PART OF THE POLICY DESCRIBES YOUR PERSONAL PROPERTY COVERAGE LISTED ON THE DECLARATIONS PAGE OF THIS POLICY. COVERAGE APPLIES ONLY IF A PREMIUM CHARGE IS INDICATED FOR THE RESPECTIVE COVERAGE.

DEFINITIONS – as used in the Personal Property Policy section of this policy.

Throughout this policy, **you** and **your** refer to:

1. the **named insured** shown on the **Declarations Page**; and
2. the **named insured's** spouse, if a **resident** of the same household.

We, us and **our** refer to the Company providing this insurance as referred to on the **Declarations Page**.

Accident means: a sudden, unexpected, and unintended **occurrence**.

Actual Cash Value means: the fair market value of the stolen or damaged property at the time of the loss.

Aircraft means: any contrivance used or designed for flight except model or hobby aircraft not used or designed to carry people or cargo.

Animal means: a living organism capable of motion and sensation but excluding a human being.

Application means the form entitled First Acceptance Insurance Company Application that contains statements, coverage options, and agreements that form a part of this policy.

Bodily injury means: bodily harm, sickness or disease, including death that results therefrom. **Bodily injury** does not include harm, sickness, disease or death arising out of a medically defined communicable disease or sexually transmitted disease contracted by any person or the exposure of such a disease by any person to any other person.

Business means: trade, profession or occupation; course of employment, or job; or commercial use of any kind.

Declarations Page means the document from **us** listing:

1. the types of coverage **you** have elected;
2. the limit for each coverage;
3. the cost for each coverage;
4. other information applicable to this policy.

Deductible – Unless otherwise noted in this policy, the following **deductible** provision applies: Subject to the policy limits that apply, **we** will pay only that part of the total of all loss payable under the Personal Property Policy section that exceeds the **deductible** amount shown on the **Declarations Page**.

Hovercraft means: a self-propelled motorized ground effect vehicle and includes, but is not limited to, flarecraft and air cushion vehicles.

Insured means: as respects to **your residence premises**,

- a. The **named insured**, and **residents** of **your** household who are:
 - (1) **Your** relatives; or
 - (2) Other persons under the age of 21 and in the care of any person named above;

- b. A student enrolled in school full time, as defined by the school, who was a **resident of your** household before moving out to attend school, provided the student is under the age of:
- (1) 24 and **your** relative; or
 - (2) 21 and in **your** care or the care of a person described in a.(1) above.

Insured location means:

- a. The **residence premises**;
- b. The part of other premises, other structures and grounds used by **you** as a residence; and
 - (1) Which is shown on the **Declarations Page**; or
 - (2) Which is acquired by **you** during the policy period for **your** use as a residence;
- c. Any premises used by **you** in connection with a premises described in **a.** and **b.** above;
- d. Any part of a premises:
 - (1) Not owned by an **insured**; and
 - (2) Where an **insured** is temporarily residing;
- e. Vacant land, other than farm land, owned by or rented to an **insured**;
- f. Land owned by or rented to an **insured** on which a one, two, three or four family dwelling is being built as a residence for an **insured**;
- g. Individual or family cemetery plots or burial vaults of an **insured**; or
- h. Any part of a premises occasionally rented to an **insured** for other than **business** use.

Loss means: sudden, direct, and accidental destruction or damage. **Loss** does not include diminution of value.

Named insured means the **named insured** as shown on the **Declarations Page**; and the spouse if a **resident** of the same household.

Occurrence means: an **accident**, including continuous or repeated exposure to substantially the same general harmful conditions, which results, during the policy period, in:

- a. **Bodily injury**; or
- b. **personal property** damage.

Personal property means: refer to the entirety of the section below entitled Personal Property Coverages.

Pollutant means any solid, liquid, gaseous, or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkaloids, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.

Residence employee means:

- a. An employee of an **insured**, or an employee leased to an **insured** by a labor leasing firm, under an agreement between an **insured** and the labor leasing firm, whose duties are related to the maintenance or use of the **residence premises**, including household or domestic services; or
- b. One who performs similar duties elsewhere not related to the **business** of an **insured**.

A **residence employee** does not include a temporary employee who is furnished to an **insured** to substitute for a permanent **residence employee** on leave or to meet seasonal or short-term workload conditions.

Residence premises means:

- a. The one family dwelling where **you** reside;
- b. The two, three or four family dwelling where **you** reside in at least one of the family units; or
- c. That part of any other building where **you** reside;
and which is shown as the **residence premises** on the **Declarations Page**.
Residence premises also includes other structures and grounds at that location.

Resident means a person living in **your** household. Any **resident** must be listed on the **application** and the policyholder must inform **us** within thirty (30) days of any changes in **residents**.

Watercraft means: a craft principally designed to be propelled on or in water by wind, engine power or electric motor.

SECTION I - PERSONAL PROPERTY COVERAGES

PERSONAL PROPERTY

Personal property, as described within this policy, is defined in this section and applies up to the limits shown on the **Declarations Page** for each **loss**.

1. Covered Personal Property

We cover **personal property** up to the limit shown on the **Declarations Page** which is owned or used by an **insured** while it is anywhere in the world.

2. Limit for Personal Property at Other Residences

Our limit of liability for personal property usually located at an **insured's** residence, other than the **residence premises**, is 10% of the limit of liability shown on the **Declarations Page** for **personal property** or \$1,000, whichever is greater. However, this limitation does not apply to **personal property**:

- a. Moved from the **residence premises** because it is being repaired, renovated or rebuilt and is not fit to live in or store **personal property** in; or
- b. In a newly acquired principal residence for more than 30 days from the time **you** begin to move the **personal property** there.

3. Special Limits of Liability

The special limit for each category shown below is the total limit for each **loss** for all **personal property** in that category. These special limits do not increase the **personal property** limit of liability as shown on the **Declarations Page**.

- a. \$200 on money, bank notes, bullion, gold other than goldware, silver other than silverware, platinum other than platinumware, coins, medals, scrip, stored value cards and smart cards.
- b. \$200 on securities, accounts, deeds, evidences of debt, letters of credit, notes other than bank notes, manuscripts, personal records, passports, tickets and stamps. This dollar limit applies to these categories regardless of the medium (such as paper or computer software) on which the material exists.
This limit includes the cost to research, replace or restore the information from the lost or damaged material.
- c. \$500 for **loss** by theft of jewelry, watches, furs, precious and semiprecious stones.
- d. \$500 for **loss** by theft of firearms and related equipment.
- e. \$500 for **loss** by theft of silverware, silver-plated ware, goldware, gold-plated ware, platinumware, platinum-plated ware and pewterware. This includes flatware, hollowware, tea sets, trays and trophies made of or including silver, gold or pewter.
- f. \$1,000 on electronic apparatus and accessories. This includes electronic apparatus and accessories in or upon a **motor vehicle**, but only if the apparatus is equipped to be operated by power from the **motor vehicle's** electrical system while still capable of being operated by other power sources. Accessories include antennas, tapes, wires, records, discs or other media that can be used with any apparatus.
- g. \$300 on theft of hand tools (not including lawn and garden tools and equipment).

4. Personal Property Not Covered

We do not cover:

- a. Articles separately described and specifically **insured**, regardless of the limit for which they are **insured**, in this or other insurance;
- b. Animals, birds or fish;
- c. **Motor vehicle** accessories, equipment and parts; or electronic apparatus and accessories designed to be operated solely by power from the electrical system of the **motor vehicle**.

Accessories include CD players, GPS systems, vehicle television and DVD players, tape players, citizens band radios, two-way mobile radios, scanning monitor receives, antennas, tapes, wires, records, discs or other media that can be used with any apparatus described above. The exclusion of **personal property** described above applies only while such **personal property** is in or upon the **motor vehicle**.

- d. **Motor vehicles** not required to be registered for use on public roads or personal property which are:
 - 1) Used solely to service an insured's residence; or
 - 2) Designed to assist the handicapped;
- e. **Aircraft** meaning any contrivance used or designed for flight including any parts whether or not attached to the **aircraft**. **We** do cover model or hobby **aircraft** not used or designed to carry people or cargo;
- f. **Hovercraft** and parts. **Hovercraft** means a self-propelled motorized ground effect vehicle and includes, but is not limited to, flarecraft and air cushion vehicles;
- g. **Personal property** of roomers, boarders, tenants and others who are not included in the definition of the **insured**.
- h. **Personal property** in an apartment or dwelling regularly rented or held for rental to others by an **insured**;
- i. **Personal property** rented or held for rental to others off the residence premises;
- j. **Business** data, including such data stored in:
 - 1) Books of account, drawings or other paper records; or
 - 2) Computers and related equipment.

We do cover the cost of blank recording or storage media, and of prerecorded computer programs available on the retail market;
- k. Credit cards, electronic fund transfer cards or access devices used solely for deposit, withdrawal or transfer of funds except as provided in C.6.-Credit Card, Electronic Fund Transfer Card Or Access Device, Forgery And Counterfeit Money under Section I – Personal property Coverages;
- l. Water or steam;
- m. Building materials and supplies for construction, reconstruction or remodeling of a building or structure;
- n. Motor vehicles, **trailers**, mobile homes, **watercraft**, outboard motors, **aircraft**, including their furnishings, equipment and parts;
- o. **Personal property** pertaining to a **business**, whether conducted on the premises or elsewhere; or
- p. Well pumps.

LOSS OF USE

The limit of liability for Loss of Use is the total limit for the coverages in 1. Additional Living Expense, 2. Fair Rental Value and 3. Civil Authority Prohibits Use below.

1. Additional Living Expense

If a **loss** by a Peril Insured Against under this policy to covered personal property or the building containing the personal property makes the residence premises not fit to live in, **we** cover any necessary increase in living expenses incurred by **you** so that **your** household can maintain its normal standard of living up to 10% of the limit of **Personal Property**.

Payment will be for the shortest time required to repair or replace the damage or, if **you** permanently relocate, the shortest time required for **your** household to settle elsewhere.

2. Fair Rental Value

If a **loss** covered under the personal property section of **your** policy makes that part of the residence premises rented to others or held for rental by **you** not fit to live in, **we** cover the fair rental value of such premises less any expenses that do not continue while it is not fit to live in up to 10% of the limit of **Personal Property**.

Payment will be for the shortest time required to repair or replace such premises.

3. Civil Authority Prohibits Use

If a civil authority prohibits **you** from use of the residence premises as a result of direct damage to neighboring premises by a Peril Insured Against, **we** cover the **loss** as provided in 1. Additional Living Expense and 2. Fair Rental Value above for no more than two weeks.

4. Loss or Expense Not Covered

We do not cover **loss** or expense due to cancellation of a lease or agreement.

The periods of time under 1. Additional Living Expense, 2. Fair Rental Value and 3. Civil Authority Prohibits Use above are not limited by expiration of this policy.

ADDITIONAL COVERAGES

1. Debris Removal

a. **We** will pay **your** reasonable expense for the removal of:

- (1) Debris of covered personal property if a Peril Insured Against that applies to the damaged debris of the property causes the **loss**; or
- (2) Ash, dust or particles from a volcanic eruption that has caused direct **loss** to a building or personal property contained in a building.

This expense is included in the limit of liability that applies to the damaged personal property. If the amount to be paid for the actual damage to the personal property plus the debris removal expense is more than the limit of liability for the damaged personal property, an additional 5% of that limit is available for such expense.

2. Reasonable Repairs

a. **We** will pay the reasonable cost incurred by **you** for the necessary measures taken solely to protect covered personal property that is damaged by a Peril Insured Against from further damage.

b. If the measures taken involve repair to other damaged **personal property**, **we** will only pay if that **personal property** is covered under this policy and the damage is caused by a Peril Insured Against. This coverage does not:

- (1) Increase the limit of liability that applies to the covered **personal property**; or
- (2) Relieve **you** of **your** duties, in case of a **loss** to covered personal property, described in Section I – Conditions – Duties after a Loss (4).

3. Fire Department Service Charge

We will pay up to \$500 for **your** liability assumed by contract or agreement for fire department charges incurred when the fire department is called to save or protect covered personal property from a Peril Insured Against. **We** do not cover fire department service charges if the personal property is located within the limits of the city, municipality or protection district furnishing the fire department response.

5. Personal Property Removed

We insure covered **personal property** against direct **loss** from any cause while being removed from a premises endangered by a Peril Insured Against and for no more than 30 days while removed.

This coverage does not change the limit of liability that applies to the personal property being removed.

6. Credit Card, Electronic Fund Transfer Card or Access Device, Forgery and Counterfeit Money

a. **We** will pay up to \$200 for:

- (1) The legal obligation of an **insured** to pay because of the theft or unauthorized use of credit cards issued to or registered in an **insured's** name;
- (2) **Loss** resulting from theft or unauthorized use of an electronic fund transfer card or access device used for deposit, withdrawal or transfer of funds, issued to or registered in an **insured's** name;
- (3) **Loss** to an **insured** caused by forgery or alteration of any check or negotiable instrument; and

All **loss** resulting from a series of acts committed by any one person or in which any one person is concerned or implicated is considered to be one **loss**.

A police report is required to be made within 24 hours of the theft or unauthorized use in order to receive coverage under this section.

b. We do not cover:

- (1) Use of a credit card, electronic fund transfer card or access device:
 - (a) By a **resident of your** household;
 - (b) By a person who has been entrusted with either type of card or access device; or
 - (c) If an **insured** has not complied with all terms and conditions under which the cards are issued or the devices accessed; or
- (2) **Loss** arising out of **business** use or dishonesty of an **insured**.

c. If the coverage in a. above applies, the following defense provisions also apply:

- (1) **We** may investigate and settle any claim or suit that **we** decide is appropriate. **Our** duty to defend a claim or suit ends when the amount **we** pay for the **loss** equals **our** limit of liability.
- (2) If a suit is brought against an **insured** for liability under a.(1) or a.(2) above, **we** will provide a defense at **our** expense by counsel of **our** choice.
- (3) **We** have the option to defend at **our** expense an **insured** or an **insured's** bank against any suit for the enforcement of payment under a.(3) above.

7. Grave Markers

We will pay up to \$1,000 for grave markers, including mausoleums, on or away from the **residence premises** for **loss** caused by a Peril Insured Against.

This coverage does not increase the limits of liability that apply to the damaged covered **personal property**.

PERILS INSURED AGAINST

We insure for direct physical **loss** to the **personal property** caused by any of the following perils unless the **loss** is excluded in Section I – Exclusions.

- 1. Fire or Lightning**
- 2. Windstorm or Hail**

This peril does not include **loss** to the **personal property** contained in a building caused by rain, snow, sleet, sand or dust unless the direct force of wind or hail damages the building causing an opening in a roof or wall and the rain, snow, sleet, sand or dust enters through this opening.

- 3. Explosion**
- 4. Riot or Civil Commotion**
- 5. Aircraft**

We will pay for damage to **your personal property** when struck by an **aircraft** or caused by objects falling from an **aircraft**, including self-propelled missiles and spacecraft.

6. Vehicles

We will not pay for damage caused by a vehicle which is owned or operated by any **resident** of the **insured location**.

7. Smoke

This peril means sudden and accidental damage from smoke, including the emission or puffback of smoke, soot, fumes or vapors from a boiler, furnace or related equipment only when such unit is vented to the exterior of the building. **We** will not pay for damage caused by smoke or sediment from a fireplace, heating unit, agricultural smudging, or from industrial operations.

8. Vandalism or Malicious Mischief

This peril does not include **loss** to **personal property** on the **residence premises**, and any ensuing **loss** caused by any intentional and wrongful act committed in the course of the vandalism or malicious mischief, if the dwelling has been vacant for more than thirty (30) consecutive days immediately before the **loss**. A dwelling being constructed is not considered vacant. This peril does not include **loss** to **personal property** caused by or at the direction of the **insured**.

9. Theft – Forcible Entry

a. This peril includes theft of covered **personal property**, provided the **loss** is a result of forcible entry, and there is evidence of forcible entry and **loss** of **personal property** from a known place when it is likely that the **personal property** has been stolen. A police report must be made within 24 hours of the theft in order to recover under this peril.

b. This peril does not include **loss** caused by theft:

- (1) Committed by or at the direction of an **insured**;
- (2) In or to a dwelling under construction, or of materials and supplies for use in the construction until the dwelling is finished and occupied;
- (3) From that part of a **residence premises** rented by an **insured** to someone other than another **insured**; or
- (4) That occurs off the **residence premises** while at any other residence owned by, rented to, or occupied by an **insured**, except while an **insured** is temporarily living there. **Personal property** of an **insured** who is a student is covered while at the residence the student occupies to attend school as long as the student has been there at any time during the 30 days immediately before the **loss**.

10. Falling Objects

This peril does not include **loss** to the **personal property** contained in the building unless the roof or an outside wall of the building is first damaged by a falling object. Damage to the falling object itself is not included.

11. Weight of Ice, Snow or Sleet

This peril means weight of ice, snow or sleet which causes damage to the **insured's personal property** contained in the building.

12. Accidental Discharge or Overflow of Water or Steam

a. This peril means accidental discharge or overflow of water or steam from within a plumbing, heating, air conditioning or automatic fire protective sprinkler system or from within a household appliance.

b. This peril does not include **loss**:

- (1) To the system or appliance from which the water or steam escaped;
- (2) Caused by or resulting from freezing except as provided in Perils Insured Against 14.-Freezing;
- (3) On the **residence premises** caused by accidental discharge or overflow which occurs away from the building where the **residence premises** is located; or
- (4) Caused by mold, fungus or wet rot unless hidden within the walls or ceilings or beneath the floors or above the ceilings of a structure.

c. In this peril, a plumbing system or household appliance does not include a sump, sump pump or related equipment or a roof drain, gutter, downspout or similar fixtures or equipment.

d. Section 1 – Exclusion 3. - Water Damage, Paragraphs a. and c. that apply to surface water and water below the surface of the ground do not apply to **loss** by water covered under this peril.

13. Sudden and Accidental Tearing Apart, Cracking, Burning or Bulging

This peril means sudden and accidental tearing apart, cracking, burning or bulging of a steam or hot water heating system, an air conditioning or automatic fire protective sprinkler system, or an appliance for heating water.

This peril does not include **loss** caused by or resulting from freezing except as provided in Peril Insured Against 14. Freezing below.

14. Freezing

a. This peril means freezing of a plumbing, heating, air conditioning or automatic fire protective sprinkler system or of a household appliance but only if **you** have used reasonable care to:

- (1) Maintain heat in the building; or
- (2) Shut off the water supply and drain all systems and appliances of water.

However, if the building is protected by an automatic fire protective sprinkler system, **you** must use reasonable care to continue the water supply and maintain heat in the building for coverage to apply.

b. In this peril, a plumbing system or household appliance does not include a sump, sump pump or related equipment or a roof drain, gutter, downspout or similar fixtures or equipment.

15. Sudden and Accidental Damage from Artificially Generated Electrical Current

This peril does not include **loss** to tubes, transistors, electronic components or circuitry that are a part of appliances, fixtures, computers, home entertainment units or other types of electronic apparatus.

16. Volcanic Eruption

This peril does not include **loss** caused by earthquake, land shock waves or tremors.

EXCLUSIONS

We do not insure for **loss** caused directly or indirectly by any of the following. Such **loss** is excluded regardless of any other cause or event contributing concurrently or in any sequence to the **loss**. These exclusions apply whether or not the **loss** event results in widespread damage or affects a substantial area.

1. Ordinance or Law

Ordinance or Law means any ordinance or law:

- a. Requiring or regulating the construction, demolition, remodeling, renovation or repair of personal property, including removal of any resulting debris;
- b. The requirements of which result in a loss in value to **personal property**; or
- c. Requiring any **insured** or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, **pollutants**.

This Exclusion 1. applies whether or not the **personal property** has been physically damaged or even if the irritant or contaminant has a function with respect to your property or business.

2. Earth Movement

Earth Movement means:

- a. Earthquake, including land shock waves or tremors before, during or after a volcanic eruption;
- b. Landslide, mudslide or mudflow;
- c. Subsidence or sinkhole; or
- d. Any other earth movement including earth sinking, rising or shifting; caused by or resulting from human or **animal** forces or any act of nature unless direct **loss** by fire or explosion ensues and then **we** will pay only for the ensuing **loss**.

3. Water

This means:

- a. Flood, surface water, waves, including tidal wave and tsunami, tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind, including storm surge;
- b. Water which:
 - (1) Backs up through sewers or drains; or
 - (2) Overflows or is otherwise discharged from a sump, sump pump or related equipment;
- c. Water below the surface of the ground, including water which exerts pressure on, or seeps, leaks or flows through a building, sidewalk, driveway, patio, foundation, swimming pool or other structure; or
- d. Waterborne material carried or otherwise moved by any of the water referred to in 3.a. through 3.c. of this Exclusion.

This Exclusion (3.) applies regardless of whether any of the above, in 3.a. through 3.d., is caused by an act of nature or is otherwise caused.

This Exclusion (3.) applies to, but is not limited to, escape, overflow or discharge, for any reason, of water or waterborne material from a dam, levee, seawall or any other boundary or containment system.

However, direct loss by fire, explosion or theft resulting from any of the above, in 3.a. through 3.d., is covered.

4. Power Failure

Power Failure means the failure of power or other utility service if the failure takes place off the **residence premises**. But if the failure results in a **loss**, from a Peril Insured Against on the **residence premises**, **we** will pay for the **loss** caused by that peril.

5. Neglect

Neglect means neglect of an **insured** to use all reasonable means to save and preserve **personal property** at and after the time of a **loss**.

6. War

War includes the following and any consequence of any of the following:

- a. Undeclared war, civil war, insurrection, rebellion or revolution;
- b. Warlike act by a military force or military personnel; or

c. Destruction, seizure or use for a military purpose.

Discharge of a nuclear weapon will be deemed a warlike act even if accidental.

7. Nuclear Hazard

This Exclusion 7. pertains to Nuclear Hazard to the extent set forth in the Nuclear Hazard Clause section of Conditions under Section I.

8. Intentional Loss

a. Intentional Loss means any loss arising out of any act an **insured** commits or conspires to commit with the intent to cause a loss.

In the event of such loss, no **insured** is entitled to coverage, even **insureds** who did not commit or conspire to commit the act causing the loss.

b. However, this exclusion will not apply to deny payment to an innocent co-**insured** victim of domestic violence, when such coverage would otherwise be excluded under this provision if the **insured**:

(1) Files a police report; and

(2) Completes a sworn affidavit for the insurer that indicates both:

(a) The cause of the loss; and

(b) A pledge to cooperate in any criminal prosecution of the person committing the act causing the loss.

c. If payment is made pursuant to Paragraph 8.b., payment to the innocent co-**insured** may be limited to such innocent co-ownership interest in the property reduced by any payment to a mortgagee or other secured interest. However, **we** shall not be required to make any subsequent payment to any other **insured** for the part of any loss for which the innocent co-**insured** has received payment. In no event will **we** pay more than the Limit of Liability.

9. Governmental Action

Governmental Action means the destruction, confiscation or seizure of **personal property** by order of any governmental or public authority.

This exclusion does not apply to such acts ordered by any governmental or public authority that are taken at the time of a fire to prevent its spread, if the **loss** caused by fire would be covered under this policy.

SECTION I - CONDITIONS

Insurable Interest and Limit of Liability

Even if more than one person has an insurable interest in the **personal property** covered, **we** will not be liable in any one **loss**:

1. To an **insured** for more than the amount of such **insured's** interest at the time of **loss**; or
2. For more than the applicable limit of liability.

Duties After Loss

In case of a **loss** to covered **personal property**, **we** have no duty to provide coverage under this policy if the failure to comply with the following duties is prejudicial to us. These duties must be performed either by **you**, an **insured** seeking coverage, or a representative of either:

1. Give prompt notice to **us** or **our** agent;
2. Notify the police within twenty-four (24) hours of discovery of a **loss** by theft;
3. Notify the credit card or electronic fund transfer card or access device company in case of **loss** as provided for under Additional Coverages 6. - Credit Card, Electronic Fund Transfer Card Or Access Device, Forgery And Counterfeit Money under Section I – **Personal Property** Coverages;
4. Protect the **personal property** from further damage. If repairs to the **personal property** are required, **you** must:
 - a. Make reasonable and necessary repairs to protect the **personal property**; and
 - b. Keep an accurate record of repair expenses;
5. Cooperate with **us** in the investigation of a claim;
6. Prepare an inventory of damaged **personal property** showing the quantity, description, **actual cash value** and amount of **loss**. Attach all bills, receipts and related documents that justify the figures in the inventory;

7. As often as **we** reasonably require:
 - a. Show the damaged **personal property**;
 - b. Provide **us** with records and documents **we** request and permit **us** to make copies; and
 - c. Submit to examination under oath, while not in the presence of another **insured**, and sign the same;
8. Send to **us**, within 60 days after **our** request, **your** signed, sworn proof of **loss** which sets forth, to the best of **your** knowledge and belief:
 - a. The time and cause of **loss**;
 - b. The interests of all **insureds** and all others in the **personal property** involved and all liens on the **personal property**;
 - c. Other insurance which may cover the **loss**;
 - d. Changes in title or occupancy of the **personal property** during the term of the policy;
 - e. Specifications of damaged buildings and detailed repair estimates;
 - f. The inventory of damaged **personal property** described in 6. above;
 - g. Receipts for additional living expenses incurred and records that support the fair rental value **loss**; and
 - h. Evidence or affidavit that supports a claim under Additional Coverages 6. - Credit Card, Electronic Fund Transfer Card Or Access Device, Forgery And Counterfeit Money under Section I – **Personal Property** Coverages, stating the amount and cause of **loss**.

Loss Settlement

If **we** give **you** written notice within 30 days after **we** receive **your** signed, sworn proof of **loss**, it is strictly **our** option to elect (1) to pay **you** for the **actual cash value** at the time of **loss**, (2) to have the **personal property** repaired, or (3) to replace it with **personal property** of similar kind and quality.

Loss to a Pair or Set

In case of **loss** to a pair or set **we** may elect to:

1. Repair or replace any part to restore the pair or set to its value before the **loss**; or
2. Pay the difference between **actual cash value** of the **personal property** before and after the **loss**.

Actual cash value is calculated as the amount it would cost to repair or replace covered property, at the time of loss or damage, with material of like kind and quality, subject to a deduction for deterioration, depreciation and obsolescence. Actual cash value applies to valuation of covered property regardless of whether that property has sustained partial or total loss or damage.

The actual cash value of the lost or damaged property may be significantly less than its replacement cost.

Appraisal

If you or **we** fail to agree on the actual cash value or the amount of loss, an appraisal of the loss may take place. On the written request of either, each party shall select a competent and impartial appraiser within 20 days after receiving the request from the other. The two appraisers will choose an umpire. If they cannot agree upon an umpire within 15 days, you or **we** may request that the choice be made by a judge of a court of record in the state where the **residence premises** is located. The appraisers will separately set both the actual cash value and the amount of loss. If the appraisers submit a written report of an agreement to us, the amount agreed upon will be the actual cash value or the amount of loss. If the appraisers fail to agree, they will submit their differences to the umpire. The umpire shall make the award within 30 days after the umpire receives the appraisers' submissions of their differences. A decision agreed to by any two will set the amount of actual cash value and loss.

Each party will:

1. Pay its own appraiser; and
2. Bear the other expenses of the appraisal and umpire equally.

Other Insurance and Service Agreement

If a **loss** covered by this policy is also covered by:

1. Other insurance, **we** will pay only the proportion of the **loss** that the limit of liability that applies under this policy bears to the total amount of insurance covering the **loss**; or
2. A service agreement, this insurance is excess over any amounts payable under any such agreement. Service agreement means a service plan, **personal property** restoration plan, home warranty or other similar service warranty agreement, even if it is characterized as insurance.

Suit Against Us

No legal action can be brought against us unless:

1. There has been full compliance with all of the terms of this contract; and
2. The action is brought within the time limitations prescribed under Missouri law.

Loss Payment

We will adjust all **losses** with **you**. We will pay **you** unless some other person is named in the policy or is legally entitled to receive payment. **Loss** will be payable consistent with statutory guidelines after we receive **your** proof of **loss** and:

1. Reach an agreement with **you**;
2. There is an entry of a final judgment; or
3. There is a filing of an appraisal award with **us**.

Abandonment of Personal Property

We need not accept any **personal property** abandoned by an **insured**.

No Benefit to Bailee

We will not recognize any assignment or grant any coverage that benefits a person or organization holding, storing or moving **personal property** for a fee regardless of any other provision of this policy.

Nuclear Hazard Clause

1. Nuclear Hazard means any nuclear reaction, radiation, or radioactive contamination, all whether controlled or uncontrolled or however caused, or any consequence of any of these.
2. **Loss** caused by the nuclear hazard will not be considered **loss** caused by fire, explosion, or smoke, whether these perils are specifically named in or otherwise included within the Perils Insured Against.
3. This policy does not apply under Section I to **loss** caused directly or indirectly by nuclear hazard, except that direct **loss** by fire resulting from the nuclear hazard is covered.

Recovered Personal Property

If **you** or **we** recover any **personal property** for which **we** have made payment under this policy, **you** or **we** will notify the other of the recovery. At **your** option, the **personal property** will be returned to or retained by **you** or it will become **our personal property**. If the recovered **personal property** is returned to or retained by **you**, the **loss** payment will be adjusted based on the amount **you** received for the recovered **personal property**.

Volcanic Eruption Period

One or more volcanic eruptions that occur within a seventy-two (72) hour period will be considered as one volcanic eruption.

Policy Period

This policy applies only to **loss** which occurs during the policy period.

Loss Payable Clause

If the **Declarations Page** shows a loss payee for certain listed **insured personal property**, the definition of **insured** is changed to include that loss payee with respect to that **personal property**.

If **we** decide to cancel or not renew this policy, that loss payee will be notified in writing.

SECTION II – LIABILITY COVERAGES

PERSONAL LIABILITY

If a claim is made or a suit is brought against an **insured** for damages because of **bodily injury** or property damage caused by an **occurrence** to which this coverage applies, **we** will:

1. Pay up to our limit of liability for the damages for which an **insured** is legally liable; and
2. Provide a defense at **our** expense by counsel of **our** choice, even if the suit is groundless, false or fraudulent. **We** may investigate and settle any claim or suit that **we** decide is appropriate. **Our** duty to settle or defend ends when **our** limit of liability for the **occurrence** has been exhausted by payment of a judgment or settlement.

MEDICAL PAYMENTS TO OTHERS

We will reimburse up to \$500 only those necessary medical expenses that were paid within one (1) year from the date of the **accident** causing **bodily injury**. Medical expenses means reasonable charges for medical, surgical, x-ray, dental, ambulance, hospital, professional nursing, prosthetic devices and funeral services. This coverage does not apply to **you** or regular **residents** of **your** household. As to others, this coverage applies only:

1. To a person on the **insured location** with the permission of an **insured**; or
2. To a person off the **insured location**, if the **bodily injury**:
 - a. Arises out of a condition on the **insured location** or the ways immediately adjoining;
 - b. Is caused by the activities of an **insured**; or
 - c. Is caused by a **residence employee** in the course of the **residence employee's** employment by an **insured**; or

EXCLUSIONS

Motor Vehicle Liability

1. Coverages D – Personal Liability and E – Medical Payments to Others under the Personal Property Coverage section of this policy do not apply to any **motor vehicle liability** if, at the time and place of an **occurrence**, the involved **motor vehicle**:
 - a. Is registered for use on public roads;
 - b. Is not registered for use on public roads, but such registration is required by a law, or regulation issued by a government agency, for it to be used at the place of the **occurrence**; or
 - c. Is being:
 - (1) Operated in, or practicing for, any prearranged or organized race, speed contest or other competition;
 - (2) Rented to others;
 - (3) Used to carry persons or cargo for a charge; or
 - (4) Used for any **business** purpose.
 - d. Is a recreational vehicle designed for use off public roads.
2. If Exclusion A.1. does not apply, there is still no coverage for **motor vehicle liability** unless the **motor vehicle** is:
 - a. In dead storage on an **insured location**;
 - b. Used solely to service an **insured's** residence;
 - c. Designed to assist the handicapped and, at the time of an **occurrence**, it is:
 - (1) Being used to assist a handicapped person; or
 - (2) Parked on an **insured location**.

Watercraft Liability

This policy does not cover **watercraft** liability.

Aircraft Liability

This policy does not cover **aircraft** liability.

Hovercraft Liability

This policy does not cover **hovercraft** liability.

Personal Liability and **Medical Payments to Others** do not apply to the following:

1. Expected or Intended Injury

Bodily injury or property damage which is expected or intended by an **insured** even if the resulting **bodily injury** or property damage:

- a. Is of a different kind, quality or degree than initially expected or intended; or
- b. Is sustained by a different person, entity, real or **personal property**, than initially expected or intended.

However, this Exclusion D.1. does not apply to **bodily injury** resulting from the use of reasonable force by an **insured** to protect persons or property;

2. Business

- a. **Bodily injury** or property damage arising out of or in connection with a **business** conducted from an **insured location** or engaged in by an **insured**, whether or not the **business** is owned or operated by an **insured** or employs an **insured**.

This Exclusion D.2. applies but is not limited to an act or omission, regardless of its nature or circumstance, involving a service or duty rendered, promised, owed, or implied to be provided because of the nature of the **business**.

b. This Exclusion D.2. does not apply to:

- (1) The rental or holding for rental of an **insured location**;
 - (a) On an occasional basis if used only as a residence;
 - (b) In part for use only as a residence, unless a single family unit is intended for use by the occupying family to lodge more than two roomers or boarders; or
 - (c) In part, as an office, school, studio or private garage; and
- (2) An **insured** under the age of 21 years involved in a part-time or occasional, self-employed **business** with no employees;

3. Professional Services

Bodily injury or property damage arising out of the rendering of or failure to render professional services;

4. Insured's Premises Not an Insured Location

Bodily injury or property damage arising out of a premises:

- a. **Owned** by an **insured**;
 - b. Rented to an **insured**; or
 - c. Rented to others by an **insured**;
- that is not an **insured location**;

5. War

Bodily injury or property damage caused directly or indirectly by war, including the following and any consequence of any of the following:

- a. Undeclared war, civil war, insurrection, rebellion or revolution;
- b. Warlike act by a military force or military personnel; or
- c. Destruction, seizure or use for a military purpose.

Discharge of a nuclear weapon will be deemed a warlike act even if accidental;

6. Communicable Disease

Bodily injury or **personal property** damage which arises out of the transmission of a communicable disease by an **insured**;

7. Sexual Molestation, Corporal Punishment or Physical or Mental Abuse

Bodily injury or property damage arising out of sexual molestation, corporal punishment or physical or mental abuse; or

8. Controlled Substance

Bodily injury or property damage arising out of the use, sale, manufacture, delivery, transfer or possession by any person of a Controlled Substance as defined by the Federal Food and Drug Law at 21 U.S.C.A. Sections 811 and 812. Controlled Substances include but are not limited to cocaine, LSD, marijuana and all narcotic drugs. However, this exclusion does not apply to the legitimate use of prescription drugs by a person following the orders of a licensed physician.

9. Animals

Bodily injury or property damage caused by any **animal owned** by or in the care, custody or control of an **insured**.

10. Failure To Supervise Or Negligent Supervision

Bodily injury or property damage arising out of failure to supervise or the negligent supervision of a person that results in one or more of the excluded events in Communicable Disease, Sexual Molestation, Corporal Punishment Or Physical Or Mental Abuse and Controlled Substance above.

11. Financial Transactions

Bodily injury or property damage arising out of any written or oral statement made by you or others on your behalf which is material to any financial transaction.

Personal Liability Coverage does not apply to:

1. Liability:

- a. For any **loss** assessment charged against **you** as a member of an association, corporation or community of property **owners**;
- b. Assumed under any contract or agreement entered into by an **insured**.

2. Property damage to property **owned** by an **insured**. This includes costs or expenses incurred by an **insured** or others to repair, replace, enhance, restore or maintain such property to prevent injury to a person or damage to property of others, whether on or away from an **insured location**;
3. Property damage to property rented to, occupied or used by or in the care of an **insured**. This exclusion does not apply to property damage caused by fire, smoke or explosion;
4. **Bodily injury** to any person eligible to receive any benefits voluntarily provided or required to be provided by an **insured** under any:
 - a. Workers' compensation law;
 - b. Non-occupational disability law; or
 - c. Occupational disease law;
5. **Bodily injury** or property damage for which an **insured** under this policy:
 - a. Is also an insured under a nuclear energy liability policy issued by the:
 - (1) Nuclear Energy Liability Insurance Association;
 - (2) Mutual Atomic Energy Liability Underwriters;
 - (3) Nuclear Insurance Association of Canada;
 or any of their successors; or
 - b. Would be an **insured** under such a policy but for the exhaustion of its limit of liability; or
6. **Bodily injury** to **you** or an **insured** as defined under the Definitions section.
This exclusion also applies to any claim made or suit brought against **you** or an **insured**:
 - a. to repay; or
 - b. share damages with;
another person who may be obligated to pay damages because of **bodily injury** to an **insured**.

Medical Payments to Others does not apply to **bodily injury**:

1. To a **residence employee** if the **bodily injury**:
 - a. Occurs off the **insured location**; and
 - b. Does not arise out of or in the course of the **residence employee's** employment by an **insured**;
2. To any person eligible to receive benefits voluntarily provided or required to be provided under any:
 - a. Workers' compensation law;
 - b. Non-occupational disability law; or
 - c. Occupational disease law;
3. From any:
 - a. Nuclear reaction;
 - b. Nuclear radiation; or
 - c. Radioactive contamination;
 all whether controlled or uncontrolled or however caused; or
 - d. Any consequence of any of these; or
4. To any person, other than a **residence employee** of an **insured**, regularly residing on any part of the **insured location**.

ADDITIONAL COVERAGES

We cover the following in addition to the limits of liability:

A. Claim Expenses

We pay:

1. Expenses **we** incur and costs taxed against an **insured** in any suit **we** defend;
2. Premiums on bonds required in a suit **we** defend, but not for bond amounts more than the Section II – Personal Liability limit of liability. **We** need not apply for or furnish any bond;
3. Reasonable expenses incurred by an **insured** at **our** request, including actual loss of earnings (but not loss of other income) up to \$250 per day, for assisting **us** in the investigation or defense of a claim or suit; and
4. Interest on the entire judgment which accrues after entry of the judgment and before **we** pay or tender, or deposit in court that part of the judgment which does not exceed the limit of liability that applies.

5. Prejudgment interest awarded against the **insured** on that part of the judgment we pay. If we make an offer to pay the applicable limit of liability, we will not pay any prejudgment interest based on that period of time after the offer.

B. First Aid Expenses

We will pay up to \$50 for expenses for first aid to others incurred by an **insured** for **bodily injury** covered under this policy. We will not pay for first aid to an **insured**.

C. Damage to Property of Others

1. We will pay, at replacement cost, up to \$1,000 per **occurrence** for property damage to property of others caused by an **insured**.
2. We will not pay for property damage:
 - a. To the extent of any amount recoverable under Section I – Personal Property Coverage;
 - b. Caused intentionally by or at the direction of an **insured**;
 - c. To property **owned** by an **insured**;
 - d. To property **owned** by or rented to a tenant of an **insured** or a **resident** in **your** household; or
 - e. Arising out of:
 - (1) A **business** engaged in by an **insured**;
 - (2) Any act or omission in connection with a premises **owned**, rented or controlled by an **insured**, other than the **insured location**; or
 - (3) The **ownership**, maintenance, occupancy, operation, use, loading or unloading of **aircraft**, **hovercraft**, **watercraft** or motor vehicles.

CONDITIONS

A. Limit of Liability

Our total liability under Personal Liability Coverage for all damages resulting from any one **occurrence** will not be more than the Personal Liability Coverage limit of liability shown on the **Declarations Page**. This limit is the same regardless of the number of **insureds**, claims made or persons injured. All **bodily injury** and property damage resulting from any one **accident** or from continuous or repeated exposure to substantially the same general harmful conditions shall be considered to be the result of one occurrence.

Our total liability under Medical Payments to Others for all medical expense payable for **bodily injury** to one person as the result of one **accident** will not be more than the Medical Payments to Others limit of liability shown on the **Declarations Page**.

B. Severability of Insurance

This insurance applies separately to each **insured**. This condition will not increase **our** limit of liability for any one **occurrence**.

C. Duties After Occurrence

In case of an **occurrence**, **you** or another **insured** will perform the following duties that apply. We have no duty to provide coverage under this policy if **your** failure to comply with the following duties is prejudicial to **us**. **You** will help **us** by seeing that these duties are performed:

1. Give written notice to **us** or **our** agent as soon as is practical, which sets forth:
 - a. The identity of the policy and the **named insured** shown on the **Declarations Page**;
 - b. Reasonably available information on the time, place and circumstances of the occurrence; and
 - c. Names and addresses of any claimants and witnesses;
2. Cooperate with **us** in the investigation, settlement or defense of any claim or suit;
3. Promptly forward to **us** every notice, demand, summons or other process relating to the **occurrence**;
4. At **our** request, help **us**:
 - a. To make settlement;
 - b. To enforce any right of contribution or indemnity against any person or organization who may be liable to an **insured**;
 - c. With the conduct of suits and attend hearings and trials; and
 - d. To secure and give evidence and obtain the attendance of witnesses;
5. With respect to Damage To Personal Property Of Others under Section II – Additional Coverages, submit to **us** a sworn statement of **loss** and show the damaged property, if in an **insured's** control;

6. No **insured** shall, except at such **insured's** own cost, voluntarily make payment, assume obligation or incur expense other than for first aid to others at the time of the **bodily injury**.
- D. Duties of an Injured Person – Coverage F – Medical Payments to Others**
1. The injured person or someone acting for the injured person will:
 - a. Give **us** written proof of claim, under oath if required, as soon as is practical; and
 - b. Authorize **us** to obtain copies of medical reports and records.
 2. The injured person will submit to a physical exam by a doctor of **our** choice when and as often as **we** reasonably require.
- E. Payment of Claim – Coverage F – Medical Payments to Others**
Payment under this coverage is not an admission of liability by an **insured** or **us**.
- F. Suit Against Us**
1. No action can be brought against **us** unless there has been full compliance with all of the terms under this Section II.
 2. No one will have the right to join **us** as a party to any action against an **insured**.
 3. Also, no action with respect to Personal Liability Coverage can be brought against **us** until the obligation of such **insured** has been determined by final judgment or agreement signed by **us**.
- G. Bankruptcy of an Insured**
Bankruptcy or insolvency of an **insured** will not relieve **us** of **our** obligations under this policy.
- H. Other Insurance**
This insurance is excess over other valid and collectible insurance except insurance written specifically to cover as excess over the limits of liability that apply in this policy.
- I. Policy Period**
This policy applies only to **bodily injury** or **personal property** damage which occurs during the policy period.

SECTIONS I AND II – CONDITIONS

- A. Liberalization Clause**
If **we** make a change which broadens coverage under this edition of **our** policy without additional premium charge, that change will automatically apply to **your** insurance as of the date **we** implement the change in **your** state, provided that this implementation date falls within sixty (60) days prior to or during the policy period stated on the **Declarations Page**.
This Liberalization Clause does not apply to changes implemented with a general program revision that includes both broadenings and restrictions in coverage, whether that general program revision is implemented through introduction of:
1. a subsequent edition of this policy; or
 2. an amendatory endorsement.
- B. Waiver or Change of Policy Provisions**
This policy contains all the agreements between **you** and **us**. The terms of this policy may not be changed or waived except by endorsement issued by **us**.
A waiver or change of a provision of this policy must be in writing by **us** to be valid. **Our** request for an appraisal or examination will not waive any of **our** rights.
- C. Cancellation**
1. **You** may cancel this policy at any time by returning it to **us** or by letting **us** know in writing of the date cancellation is to take effect.
 2. **We** may cancel this policy only for the reasons stated below by letting **you** know in writing to **your** last known address of the date cancellation takes effect. This cancellation notice may be delivered to **you**, or mailed to **you** at **your** last known address shown on the **Declarations Page**. Proof of mailing will be sufficient proof of notice.
 - a. When **you** have not paid the premium, **we** may cancel at any time by letting **you** know at least ten (10) days before the date cancellation takes effect.
 - b. When this policy has been in effect for less than sixty (60) days and is not a renewal with **us**, **we** may cancel for any reason by letting you know at least 30 days before the date cancellation takes effect.
 - c. When this policy has been in effect for sixty (60) days or more, or at any time if it is a renewal with **us**, **we** may cancel:

- (1) If there has been a material misrepresentation of fact which if known to **us** would have caused **us** not to issue the policy; or
 - (2) If the risk has changed substantially since the policy was issued.
This can be done by letting **you** know at least thirty (30) days before the date cancellation takes effect.
- d. When this policy is written for a period of more than one year, **we** may cancel for any reason at anniversary by letting **you** know at least thirty (30) days before the date cancellation takes effect.
3. When this policy is canceled, the premium for the period from the date of cancellation to the expiration date will be refunded pro rata.
 4. If the return premium is not refunded with the notice of cancellation or when this policy is returned to **us**, **we** will refund it within a reasonable time after the date cancellation takes effect.

D. Nonrenewal

We may elect not to renew this policy. **We** may do so by delivering to **you**, or mailing to **you** at **your** last known mailing address, written notice at least thirty (30) days before the expiration date of this policy. Proof of mailing will be sufficient proof of notice.

E. Assignment

Assignment of this policy will not be valid unless **we** give **our** written consent.

F. Subrogation

An **insured** may waive in writing before a loss all rights of recovery against any person. If not waived, we may require an assignment of rights of recovery for the loss to the extent that payment is made by us.

If an assignment is sought, an **insured** must sign and deliver all related papers and cooperate with us.

If payment is made to an innocent co-**insured** for a loss arising from an act of domestic violence, the rights of that **insured** to recover against the perpetrator are transferred to us to the extent of **our** payment. Following the loss, the innocent co-**insured** may not waive such rights to recover against the perpetrator of the domestic violence.

Subrogation does not apply to Personal Liability Coverage or Paragraph C. - Damage to Personal Property of Others under Section II – Additional Coverages.

G. Death

If any person named on the **Declarations Page** or the spouse, if a **resident** of the same household, dies, the following apply:

1. **We** insure the legal representative of the deceased but only with respect to the **personal property** of the deceased covered under the policy at the time of death; and
2. **Insured** includes:
 - a. An **insured** who is a member of **your** household at the time of **your** death, but only while a **resident** of the **residence premises**; and
 - b. With respect to **your personal property**:
 - (1) the person having proper temporary custody of the **personal property** until appointment and qualification of a legal representative.
 - (2) The grantee beneficiary designated under a beneficiary deed, which has been properly recorded prior to the death of the grantor, but only for the period from the date of the person's death until the first of the following occurs:
 - (a) A period of 30 days from the date of the **insured** death;
 - (b) The date that alternative coverage is obtained on such property; or
 - (c) The end of the policy period as shown on the **Declarations Page**.

H. Duplicate Payments

No one will be entitled to receive duplicate payments for the same elements of damage.

I. Conformity to Statute

Terms of the policy conflicting with written laws of the state in which the policy is issued are changed to conform to such laws.

J. Misrepresentation or Fraud

This policy was issued in reliance upon the information provided on **your** insurance **application**. The statements made by **you** on the **application** are deemed to be representations. By acceptance of this policy, **you** agree that the **application** forms a part of the policy.

If any representation contained in the **application** is false, misleading or materially affects the acceptance or rating of this risk by **us**, by direct misrepresentation, by omission, by concealment of facts or incorrect statements, or in case of any fraud or attempted fraud touching any matter regarding this policy, whether before or after a **loss**, this policy will be null and void from its inception. This means that **we** will not be liable for any claims or damages which would otherwise be covered unless **we** have certified this policy as proof of financial responsibility.

We do not provide coverage for any **insured** that has made fraudulent statements or engaged in fraudulent conduct in connection with any **accident** or **loss** for which coverage is sought under this policy. **We** may deny coverage for an **accident** or **loss** if **you** or an **insured** have knowingly concealed or misrepresented any material fact or circumstance, or engaged in fraudulent conduct, in connection with the presentation or settlement of a claim.

IN WITNESS WHEREOF, **we** have caused this policy to be executed and attested, but this policy shall not be valid unless countersigned by **our** duly authorized representative.

First Acceptance Insurance Company, Inc.
3813 Green Hills Village Drive, Nashville, TN 37215

Customer Service#: 1-800-321-0899
Claims Phone#: 1-800-779-2103



President – John Barnett