

## HOUSE BILL NO. 1382

Introduced by

Representative Keiser

1 A BILL for an Act to create and enact a new section to chapter 26.1-40 of the North Dakota  
2 Century Code, relating to coverage for loss of value to insured motor vehicles and motor vehicle  
3 body damage; to amend and reenact sections 26.1-40-01 and 39-05-17.2 of the North Dakota  
4 Century Code, relating to coverage for loss of value to insured motor vehicles and motor vehicle  
5 body damage disclosure; and to provide a penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.** A new section to chapter 26.1-40 of the North Dakota Century Code is  
8 created and enacted as follows:

9 **Loss of value - Covered unless specifically excluded.**

- 10 1. Every policy must provide coverage for any loss of value to a motor vehicle the  
11 same as it would any other covered loss under the policy, unless the policy  
12 specifically excludes coverage for loss of value in a format the commissioner  
13 adopts by rule. The amount of the loss must be payable whether the claim is made  
14 under the automobile liability or automobile physical damage coverages of the  
15 policy.
- 16 2. When a policy provides coverage for loss of value, the loss is recoverable under  
17 the policy only when the vehicle is sold or traded or the owner of the vehicle  
18 recognizes the loss of value in some other similar fashion. It is the responsibility of  
19 the insured or claimant to provide adequate proof of the loss of value to the insurer.  
20 Knowingly presenting or causing the presentation of any false or misleading  
21 information regarding loss of value to an insurer is a fraudulent insurance act under  
22 section 26.1-02.1-02 and is subject to the penalties provided in section  
23 26.1-02.1-05.

3. When a policy provides coverage for loss of value, the policy must allow a claim for the loss to be made within the three years following the occurrence of the event which caused the loss. The policy may provide a longer time period in which to make a claim for loss of value. The policy must provide coverage of claims for loss of value in a manner at least as favorable to the insured or claimant as the following:

a. For claims made in year one, one hundred percent of the loss of value.

b. For claims made in year two, ninety percent of the loss of value.

c. For claims made in year three, eighty percent of the loss of value.

**SECTION 2. AMENDMENT.** Section 26.1-40-01 of the North Dakota Century Code is amended and reenacted as follows:

**26.1-40-01. Definitions - Limitations.** As used in sections 26.1-40-02 through 26.1-40-12:

1. "Declination" means the refusal of an insurer to issue a policy upon receipt of a written nonbinding application or written request for coverage from its agent or an applicant. The offering of insurance coverage with a company within an insurance group which is different from the company requested on the nonbinding application or written request for coverage, or the offering of policy coverage or rates substantially less favorable than requested in the nonbinding application or written request for coverage, is a declination.

2. "Loss of value" means the loss of market value, or residual diminution of value, caused by a covered occurrence under a valid automobile policy, which remains after the physical damage to the vehicle has been repaired.

3. "Nonpayment of premium" means failure of the insured to discharge when due any of the insured's obligations in connection with the payment of premium on a policy, or any installment of the premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

~~3.~~ 4. "Policy" means any automobile policy which includes automobile liability coverage, uninsured motorist coverage, underinsured motorist coverage, automobile medical payments coverage, basic or optional excess no-fault benefits, or automobile

physical damage coverage, delivered or issued for delivery in this state, insuring as the named insured an individual residing in this state, and under which the insured vehicles designated in the policy are of the following types only:

- a. A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance, nor rented to others.
- b. Any four-wheel motor vehicle with a load capacity of one thousand five hundred pounds [680.39 kilograms] or less which is not used in the occupation, profession, or business of the insured, nor used as a public or livery conveyance, nor rented to others.
- c. Any motorcycle as that term is defined in section 39-01-01 that is not used as a public or livery conveyance, nor rented to others.

"Policy" does not include any policy that has been in effect less than sixty days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy; any policy issued under the North Dakota assigned risk plan; any policy insuring more than six motor vehicles; any policy covering the operation of a garage, automobile sales agency, repair shop, service station, or public parking place; any policy providing insurance only on an excess basis; or any other contract providing insurance to a named insured even though the contract may incidentally provide insurance with respect to such motor vehicles.

~~4.~~ 5. "Renewal" or "to renew" means:

- a. The issuance and delivery by an insurer of a policy replacing, at the end of the previous policy period, a policy previously issued and delivered by the same insurer;
- b. The issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term; or
- c. The extension of the term of a policy beyond its policy period or term pursuant to a provision for extending the policy by payment of a continuation premium.

Any policy with a policy period or term of less than six months must be considered as if written for a policy period or term of six months except in case of termination under any of the circumstances specified in subsection 2 of section 26.1-40-05.

Any policy written for a term longer than one year or any policy with no fixed

1 expiration date must be considered as if written for successive policy periods or  
2 terms of one year and any termination by an insurer effective on an anniversary  
3 date of the policy is deemed a failure to renew.

4 ~~5-~~ 6. "Termination" means either a cancellation or nonrenewal of automobile insurance  
5 coverage in whole or in part. A cancellation occurs during the policy term. A  
6 nonrenewal occurs at the end of the policy term. An insurer's substitution of  
7 insurance upon renewal which results in substantially equivalent coverage is not a  
8 termination.

9 **SECTION 3. AMENDMENT.** Section 39-05-17.2 of the 1995 Supplement to the North  
10 Dakota Century Code is amended and reenacted as follows:

11 **39-05-17.2. Body damage disclosure - Rules - When required - Penalty.**

12 1. Before January 1, 1992, the The department shall adopt rules relating to the  
13 manner and form of disclosing motor vehicle body damage on the certificate of title  
14 to a motor vehicle. The rules must provide for a damage disclosure statement from  
15 the transferor to the transferee at the time ownership of a motor vehicle is  
16 transferred and provide that the department must refuse to transfer the title without  
17 the required damage disclosure statement.

18 2. Motor vehicle body damage disclosure requirements apply only to the transfer of  
19 title on all current year models of motor vehicles and those models manufactured in  
20 the four years before the current model year. When a motor vehicle has been  
21 subject to this disclosure requirement and more than five years have elapsed since  
22 the date of manufacture, the holder of the certificate of title with the damage  
23 disclosure may have the disclosure removed and a new certificate of title issued for  
24 a fee of five dollars.

25 3. As used in this section, "motor vehicle damage" means a change in the body  
26 structure of a motor vehicle, generally resulting from a vehicular crash or accident,  
27 including loss by fire, vandalism, weather, or submersion in water, resulting in  
28 damage to the motor vehicle which exceeds five thousand dollars or thirty percent  
29 of the predamage retail value of the motor vehicle as determined by the national  
30 automobile dealers official used car guide, whichever is greater. The term does

- 1                    not include body or structural modifications, normal wear and tear, glass damage,  
2                    hail damage, or items of normal maintenance and repair.  
3                4. A person who violates rules adopted pursuant to this section is guilty of a class A  
4                    misdemeanor.