

**HOUSE BILL NO. 1190**

Introduced by

Representative Wald

1 A BILL for an Act to create and enact a new subsection to 26.1-40-15.2 and a new subsection  
2 to section 26.1-40-15.3 of the North Dakota Century Code, relating to uninsured and  
3 underinsured motorists; and to amend and reenact section 26.1-41-20, subsection 1 of section  
4 32-03.2-02.1, and section 39-05-20.2 of the North Dakota Century Code, relating to motor  
5 vehicle accidents and salvage certificates of title.

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

7 **SECTION 1.** A new subsection to section 26.1-40-15.2 of the North Dakota Century  
8 Code is created and enacted as follows:

9 In any claim for uninsured motorist benefits, the insured and the insurer each bear  
10 responsibility for one's own attorney's fees incurred unless the insurance contract  
11 specifically provides otherwise. It is neither a conflict of interest nor bad faith for an  
12 insurer to contest and press all defenses that the uninsured motorist could press.

13 **SECTION 2.** A new subsection to section 26.1-40-15.3 of the North Dakota Century  
14 Code is created and enacted as follows:

15 In any claim for underinsured motorist benefits, the insured and the insurer each  
16 bear responsibility for one's own attorney's fees incurred unless the insurance  
17 contract specifically provides otherwise. It is neither a conflict of interest nor bad  
18 faith for an insurer to contest and press all defenses that the underinsured motorist  
19 could press.

20 **SECTION 3. AMENDMENT.** Section 26.1-41-20 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **26.1-41-20. (~~Effective through July 31, 2003~~) Secured person exemption for no**  
23 **liability insurance.** In any action against a secured person to recover damages because of  
24 accidental bodily injury arising out of the ownership or operation of a secured motor vehicle in

1 this state, the secured person may not be assessed damages for noneconomic loss for a  
2 serious injury in favor of a party who has at least ~~two convictions~~ one prior unrelated conviction  
3 under section 39-08-20 and who was operating a motor vehicle owned by that party at the time  
4 of injury without a valid policy of liability insurance in order to respond to damages for liability  
5 arising out of the ownership, maintenance, or use of that motor vehicle.

6 **SECTION 4. AMENDMENT.** Subsection 1 of section 32-03.2-02.1 of the North Dakota  
7 Century Code is amended and reenacted as follows:

8 1. The party seeking damages is seeking property damages resulting from a  
9 ~~two-party~~ motor vehicle accident in which two parties are at fault;

10 **SECTION 5. AMENDMENT.** Section 39-05-20.2 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **39-05-20.2. Issuance of salvage certificate of title.** The owner of a vehicle that is  
13 damaged in excess of seventy-five percent of ~~is~~ the vehicle's retail value as determined by the  
14 national automobile dealers association official used car guide; shall forward the title for that  
15 vehicle to the department within ten days and the department shall issue a salvage certificate of  
16 title. Glass damage and hail damage must be excluded in the determination of whether a  
17 vehicle has been damaged in excess of seventy-five percent of the vehicle's retail value.

18 If a vehicle for which a salvage certificate of title has been issued is reconstructed, a  
19 regular certificate of title may be obtained by completing an application for the certificate. The  
20 applicant shall include with the application a certificate of inspection in the form required by the  
21 department, the salvage certificate of title, and a five dollar fee. The department shall place on  
22 the regular certificate of title and on all subsequent certificates of title issued for the vehicle the  
23 words "previously salvaged" and a notation that damage disclosure information is available  
24 from the department. The department may not issue a new certificate unless the vehicle  
25 identification number of the vehicle has been inspected and found to conform to the description  
26 given in the application or unless other proof of the identity of the vehicle has been provided to  
27 the satisfaction of the department.