

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

SENATE BILL NO. 2150
(Senator Klein)
(Representative Lefor)

AN ACT to amend and reenact section 9-01-21 of the North Dakota Century Code, relating to vehicle theft protection product warranties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 9-01-21 of the North Dakota Century Code is amended and reenacted as follows:

9-01-21. Property service contracts - Exemption.

1. The marketing, selling, offering for sale, issuing, making, providing, or proposing to make and the administering of a property service contract or vehicle theft protection product warranty is not subject to the provisions of title 26.1.
2. A property service contract is a contract or agreement for a separately stated consideration, for a specific duration, to provide for the repair, replacement, or maintenance or for the indemnification for the repair, replacement, or maintenance of new or used property if an operational or structural failure is due to a defect in materials, manufacturing, or normal wear and tear. Property covered under a property service contract may include motor vehicles; residential appliances; residential systems, including plumbing, electrical, heating, cooling, and ventilation; and other residential property. The contract may provide coverage for:
 - a. Damage to property resulting from power surges;
 - b. Accidental damage to property resulting from handling; ~~and~~
 - c. Payment of indemnity for incidental damages, such as food spoilage, towing, and rental and emergency road service;
 - d. The repair or replacement of tires and wheels on a motor vehicle damaged as a result of coming into contact with a road hazard;
 - e. The removal of dents, dings, or creases on a motor vehicle which can be repaired using the process of paintless dent removal without affecting the existing paint finish and without sanding, bonding, painting, or replacing a vehicle body panel;
 - f. The repair of small motor vehicle windshield chips or cracks which may include replacement of the windshield for chips or cracks that cannot be repaired;
 - g. The replacement of a motor vehicle key or key fob if the key or key fob becomes inoperable, lost, or stolen; or
 - h. In conjunction with a motor vehicle leased for use, the repair, replacement, or maintenance of property; or indemnification for repair, replacement, or maintenance; due to excess wear and use or damage to items, including tires, paint cracks or chips, missing interior or exterior parts; or excess mileage resulting in a lease-end charge; or any other charge for damage deemed excess wear and use by a lessor under a motor vehicle lease, provided the payment may not exceed the purchase price of the vehicle.

3. Under a vehicle theft protection program warranty, incidental costs may be reimbursed in either a fixed amount specified in the warranty or by use of a formula itemizing specific incidental costs incurred by the warranty holder. Payments may not duplicate any benefits or expenses paid to the warranty holder by an insurer providing comprehensive coverage under a motor vehicle insurance policy covering the stolen motor vehicle. However, the payment of incidental costs at a pre-established, flat amount of seven thousand five hundred dollars or less does not duplicate any benefits or expenses payable under the comprehensive motor vehicle insurance policy.
4. For the purpose of this section, unless the context otherwise requires:
 - a. "Incidental costs" means expenses specified in a vehicle theft protection program warranty and incurred by the warranty holder due to the failure of a vehicle theft protection program to perform as provided in the contract.
 - b. "Vehicle theft protection product" means a device or system installed on or applied to a motor vehicle, which is designed to prevent loss or damage to a motor vehicle from theft, and includes a vehicle theft protection program warranty.
 - c. "Vehicle theft protection product warranty" means a written agreement by a warrantor which provides, if the vehicle theft protection product fails to prevent loss or damage to a motor vehicle from theft, the warrantor will pay to or on behalf of the warranty holder specified incidental costs resulting from the failure of the vehicle theft protection product to perform pursuant to the terms of the vehicle theft protection product warranty.
 - d. "Road hazard" means a hazard encountered while driving a motor vehicle which includes potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2150.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 90 Nays 0 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State