

JAN 24 1990

Place On Calendar

HOUSE FILE 2165
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO HSB 598)

Passed House, Date 1-2-90 (p. 275) Passed Senate, Date 3/13/90 (p. 1053)

Vote: Ayes 71 Nays 0 Vote: Ayes 48 Nays 0

Approved March 26, 1990

A BILL FOR

5047 1 An Act relating to indemnification for odometer fraud from a
2 motor vehicle dealer's surety bond and increasing the amount
3 of the bond.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 2165

H-5047

- 1 Amend House File 2165 as follows:
- 2 1. Page 1, line 10, by striking the words
- 3 "~~twenty-five~~ fifty" and inserting the following:
- 4 "twenty-five".
- 5 2. Title page, lines 2 and 3, by striking the
- 6 words "and increasing the amount of the bond".

By KOENIGS of Mitchell

H-5047 FILED JANUARY 29, 1990
w/lt 2/2 (p. 275)

HOUSE FILE 2165

H-5062

- 1 Amend House File 2165 as follows:
- 2 1. Page 1, line 10, by striking the word "fifty"
- 3 and inserting the following: "thirty-five".

By MUHLBAUER of Crawford

H-5062 FILED JANUARY 31, 1990
Adopted 2/2 (p. 275)

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1 Section 1. Section 322.4, subsection 7, Code 1989, is
2 amended to read as follows:

3 7. Before the issuance of a motor vehicle dealer's license
4 to a dealer engaged in the sale of vehicles for which a
5 certificate of title is required under chapter 321, the
6 applicant shall furnish a surety bond executed by the
7 applicant as principal and executed by a corporate surety
8 company, licensed and qualified to do business within this
9 state, which bond shall run to the state of Iowa, be in the
10 amount of ~~twenty-five~~ fifty thousand dollars and be
11 conditioned upon the faithful compliance by the applicant as a
12 dealer with all of the statutes of this state regulating or
13 applicable to the business of a dealer in motor vehicles, and
14 indemnifying any person who buys a motor vehicle from the
15 dealer from any loss or damage occasioned by the failure of
16 the dealer to comply with any of the provisions of chapter 321
17 and this chapter, including, but not limited to, the
18 furnishing of a proper and valid certificate of title to the
19 motor vehicle involved in a transaction. The bond shall also
20 indemnify any motor vehicle purchaser from any loss or damage
21 caused by the failure of the dealer to comply with the
22 odometer requirements in section 321.71, regardless of whether
23 the motor vehicle was purchased directly from the dealer. The
24 bond shall be filed with the department prior to the issuance
25 of a license. The aggregate liability of the surety, however,
26 shall not exceed the amount of the bond.

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27 EXPLANATION

28 This bill increases the amount of a motor vehicle dealer's
29 surety bond from \$25,000 to \$50,000.

30 This bill also provides for indemnification, under the
31 motor vehicle dealer's surety bond, of a motor vehicle
32 purchaser who suffers loss or damage caused by a dealer's
33 failure to comply with the odometer requirements of section
34 321.71. A motor vehicle purchaser would be indemnified from
35 the bond regardless of whether the motor vehicle was purchased

- 1. directly from the dealer.
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NSB 598

TRANSPORTATION

HOUSE FILE 2165
BY (PROPOSED ATTORNEY
GENERAL BILL)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to indemnification for odometer fraud from a
2 motor vehicle dealer's surety bond.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 322.4, subsection 7, Code 1989, is
2 amended to read as follows:

3 7. Before the issuance of a motor vehicle dealer's license
4 to a dealer engaged in the sale of vehicles for which a
5 certificate of title is required under chapter 321, the
6 applicant shall furnish a surety bond executed by the
7 applicant as principal and executed by a corporate surety
8 company, licensed and qualified to do business within this
9 state, which bond shall run to the state of Iowa, be in the
10 amount of twenty-five thousand dollars and be conditioned upon
11 the faithful compliance by the applicant as a dealer with all
12 of the statutes of this state regulating or applicable to the
13 business of a dealer in motor vehicles, and indemnifying any
14 person who buys a motor vehicle from the dealer from any loss
15 or damage occasioned by the failure of the dealer to comply
16 with any of the provisions of chapter 321 and this chapter,
17 including, but not limited to, the furnishing of a proper and
18 valid certificate of title to the motor vehicle involved in a
19 transaction. The bond shall also indemnify any motor vehicle
20 purchaser from any loss or damage caused by the failure of the
21 dealer to comply with the odometer requirements in section
22 321.71, regardless of whether the motor vehicle was purchased
23 directly from the dealer. The bond shall be filed with the
24 department prior to the issuance of a license. The aggregate
25 liability of the surety, however, shall not exceed the amount
26 of the bond.

27 EXPLANATION

28 This bill provides for indemnification, under the motor
29 vehicle dealer's surety bond, of a motor vehicle purchaser who
30 suffers loss or damage caused by a dealer's failure to comply
31 with the odometer requirements of section 321.71. A motor
32 vehicle purchaser would be indemnified from the bond
33 regardless of whether the motor vehicle was purchased directly
34 from the dealer.

35 BACKGROUND STATEMENT

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SUBMITTED BY THE AGENCY

Under current law, the motor vehicle dealer's surety bond only indemnifies victims of odometer fraud who have purchased the vehicle directly from the dealer which was engaged in fraudulent activity. However, odometer fraud often goes undetected until the vehicle has passed through a number of owners following the dealer which was engaged in fraudulent activity. The amendment will insure that the person who buys the vehicle without knowledge of the odometer discrepancy and who owns the vehicle at the time the discrepancy is discovered will be indemnified from the offending dealer's surety bond for the person's loss or damage. The amendment is consistent with national cases regarding odometer fraud wherein courts have held that a dealer who engages in odometer fraud is liable to an injured buyer, whether or not the buyer purchased directly from the dealer or from an owner subsequent to the dealer.

HOUSE FILE 2165

AN ACT

RELATING TO INDEMNIFICATION FOR ODOMETER FRAUD FROM A MOTOR
VEHICLE DEALER'S SURETY BOND AND INCREASING THE AMOUNT OF
THE BOND.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 322.4, subsection 7, Code 1989, is
amended to read as follows:

7. Before the issuance of a motor vehicle dealer's license
to a dealer engaged in the sale of vehicles for which a
certificate of title is required under chapter 321, the
applicant shall furnish a surety bond executed by the
applicant as principal and executed by a corporate surety
company, licensed and qualified to do business within this
state, which bond shall run to the state of Iowa, be in the
amount of twenty-five ~~thirty-five~~ thousand dollars and be
conditioned upon the faithful compliance by the applicant as a
dealer with all of the statutes of this state regulating or
applicable to the business of a dealer in motor vehicles, and
indemnifying any person who buys a motor vehicle from the
dealer from any loss or damage occasioned by the failure of
the dealer to comply with any of the provisions of chapter 321
and this chapter, including, but not limited to, the
furnishing of a proper and valid certificate of title to the
motor vehicle involved in a transaction. The bond shall also
indemnify any motor vehicle purchaser from any loss or damage
caused by the failure of the dealer to comply with the
odometer requirements in section 321.71, regardless of whether
the motor vehicle was purchased directly from the dealer. The
bond shall be filed with the department prior to the issuance

of a license. The aggregate liability of the surety, however,
shall not exceed the amount of the bond.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and
is known as House File 2165, Seventy-third General Assembly.

Approved March 26, 1990

JOSEPH O'HERN
Chief Clerk of the House

TERRY E. BRANSTAD
Governor

HF
2165