

AMENDMENTS TO LB 875

(Amendments to E & R amendments, AM7139)

Introduced by Beutler, 28

1           1. Insert the following new sections:

2           Sec. 4. Section 44-3521, Revised Statutes Supplement,  
3 2005, is amended to read:

4           44-3521 For purposes of the Motor Vehicle Service  
5 Contract Reimbursement Insurance Act:

6           (1) Director means the Director of Insurance;

7           (2) Mechanical breakdown insurance means a policy,  
8 contract, or agreement that undertakes to perform or provide repair  
9 or replacement service, or indemnification for such service, for  
10 the operational or structural failure of a motor vehicle due to  
11 defect in materials or workmanship or normal wear and tear and that  
12 is issued by an insurance company authorized to do business in this  
13 state;

14          (3) Motor vehicle means any motor vehicle as defined in  
15 section 60-339;

16          (4) Motor vehicle service contract means a contract or  
17 agreement given for consideration over and above the lease or  
18 purchase price of a motor vehicle that undertakes to perform or  
19 provide repair or replacement service, or indemnification for such  
20 service, for the operational or structural failure of a motor  
21 vehicle due to defect in materials or workmanship or normal wear  
22 and tear but does not include mechanical breakdown insurance;

1           (5) Motor vehicle service contract provider means a  
2 person who issues, makes, provides, sells, or offers to sell a  
3 motor vehicle service contract, except that motor vehicle service  
4 contract provider does not include an insurer as defined in section  
5 44-103;

6           (6) Motor vehicle service contract reimbursement  
7 insurance policy means a policy of insurance ~~providing~~ meeting  
8 the requirements in section 44-3523 that provides coverage for  
9 all obligations and liabilities incurred by a motor vehicle  
10 service contract provider under the terms of motor vehicle service  
11 contracts issued by the provider; and

12           (7) Service contract holder means a person who purchases  
13 a motor vehicle service contract.

14           Sec. 5. Section 44-3522, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           44-3522 No motor vehicle service contract shall be  
17 issued, sold, or offered for sale in this state unless:

18           (1) The motor vehicle service contract provider is  
19 insured under a motor vehicle service contract reimbursement  
20 insurance policy issued by an insurer authorized to do business in  
21 this state;

22           (2) True and correct copies of the motor vehicle service  
23 contract and the motor vehicle service contract reimbursement  
24 insurance policy have been filed with the director;

25           (3) The contract conspicuously states: ~~that~~

26           (a) That the obligations of the motor vehicle service  
27 contract provider to the service contract holder are covered under

1 the motor vehicle service contract reimbursement insurance policy;  
2 and

3 ~~(4) (b) The contract conspicuously states the name and~~  
4 address of the issuer of the motor vehicle service contract  
5 reimbursement insurance policy; and -

6 (4) The service contract shall contain the following  
7 notice in a conspicuous place as determined by the Department of  
8 Insurance:

9 NOTICE OF RISKS -- Neither the motor vehicle service  
10 contract nor the motor vehicle service contract reimbursement  
11 insurance policy are covered by the Nebraska Property and Liability  
12 Insurance Guaranty Association Act and, in the event of insolvency  
13 of any party to the contract, no coverage for any losses  
14 exists from the Nebraska Property and Liability Insurance Guaranty  
15 Association.

16 The issuer of the motor vehicle service contract  
17 reimbursement insurance policy is not a domestic entity and the  
18 Department of Insurance can give no assurance that the issuer has  
19 adequate reserves to cover potential losses.

20 I have read this NOTICE OF RISKS ..... (initials of  
21 service contract holder).

22 The second paragraph of the notice is not required if the  
23 motor vehicle service contract reimbursement insurance policy is  
24 issued by an insurer that is domiciled in Nebraska.

25 Sec. 6. Section 44-3523, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 44-3523 (1) No motor vehicle service contract

1 reimbursement insurance policy shall be issued, sold, or offered  
2 for sale in this state unless the policy conspicuously states that  
3 the ~~issuer of the policy~~ insurer will pay on behalf of the motor  
4 vehicle service contract provider all sums which the provider is  
5 legally obligated to pay in the performance of its contractual  
6 obligations under the motor vehicle service contracts issued or  
7 sold by the provider.

8 (2) The motor vehicle service contract reimbursement  
9 insurance policy shall completely and fully reimburse the motor  
10 vehicle service contract provider for all repair costs incurred  
11 under the motor vehicle service contract from the first dollar  
12 of coverage. The motor vehicle service contract reimbursement  
13 insurance policy shall not require or allow a motor vehicle service  
14 contract provider to assume any portion of direct or first-dollar  
15 liability for repairs under a motor vehicle service contract. The  
16 motor vehicle service contract reimbursement insurance policy shall  
17 not include any provision whereby the insurer provides coverage  
18 in excess of reserves held by the motor vehicle service contract  
19 provider or only in the event of the motor vehicle service contract  
20 provider's insolvency or default. All unearned premium reserves  
21 and claim reserve funds shall be established as liabilities on  
22 the books of the insurer in accordance with statutory accounting  
23 practices. This subsection shall not apply to programs directly  
24 obligating an automobile dealer to perform under the motor vehicle  
25 service contract.

26 2. Correct the operative date section and repealer so  
27 that the sections added by this amendment become operative three

- 1 calendar months after adjournment of this legislative session.
- 2                   3. Renumber the remaining sections and correct internal
- 3 references accordingly.