

11102902D

## SENATE BILL NO. 1372

Offered January 12, 2011

A *BILL to amend and reenact §§ 46.2-1527.5 and 46.2-1527.9 of the Code of Virginia, relating to the Motor Vehicle Transaction Recovery Fund.*

\_\_\_\_\_  
Patron—Marsden

\_\_\_\_\_  
Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-1527.5 and 46.2-1527.9 of the Code of Virginia are amended and reenacted as follows:**

§ 46.2-1527.5. Limitations on recovery from Fund.

The maximum claim of one judgment creditor against the Fund based on an unpaid final judgment arising out of any loss or damage by reason of a claim submitted under § 46.2-1527.2 or § 46.2-1527.3 involving a single transaction, shall be limited to ~~\$20,000~~ \$50,000, regardless of the amount of the unpaid final judgment of one judgment creditor.

The aggregate of claims against the Fund based on unpaid final judgments arising out of any loss or damage by reason of a claim submitted under § 46.2-1527.3 involving more than one transaction shall be limited to \$100,000, regardless of the total amounts of the unpaid final judgments of judgment creditors.

However, aggregate claims against the Fund under § 46.2-1527.2 shall be limited to \$50,000 and then only after the dealer's \$50,000 bond has been exhausted.

If a claim has been made against the Fund, and the Board has reason to believe that there may be additional claims against the Fund from other transactions involving the same licensee or registrant, the Board may withhold any payment from the Fund involving the licensee or registrant for a period not to exceed the end of the relevant license or registration period. After this period, if the aggregate of claims against the licensee or registrant exceeds \$100,000, a total of \$100,000 shall be prorated among the claimants and paid from the Fund in proportion to the amounts of their unpaid final judgments against the licensee or registrant.

However, claims against motor vehicle dealers and salespersons participating in the Motor Vehicle Transaction Recovery Fund pursuant to § 46.2-1527.2 shall be prorated when the aggregate exceeds \$50,000. Claims shall be prorated only after the dealer's \$50,000 bond has been exhausted.

On receipt of a verified claim filed against the Fund, the Board shall forthwith notify the licensee or registrant who is the subject of the unpaid judgment that a verified claim has been filed and that the licensee or registrant should satisfy the judgment debt. If the judgment debt is not fully satisfied 30 days following the date of the notification by the Board, the Board shall make payment from the Fund subject to the other limitations contained in this article.

Excluded from the amount of any unpaid final judgment on which a claim against the Fund is based shall be any sums representing (i) interest, (ii) punitive damages, and (iii) exemplary damages. Awards from the Fund shall be limited to reimbursement of costs paid to the dealer for all charges related to the vehicle including without limitation, the sales price, taxes, insurance, and repairs; other out of pocket costs related to the purchase, insuring and registration of the vehicle, and to the loss of use of the vehicle by the purchaser.

If at any time the Fund is insufficient to fully satisfy any claims or claim filed with the Board and authorized by this article, the Board shall pay such claims, claim, or portion thereof to the claimants in the order that the claims were filed with the Board. However, claims by retail purchasers shall take precedence over other claims.

§ 46.2-1527.9. Continuous bonding requirements for Fund nonparticipants.

Applicants for a renewal of a motor vehicle dealer's license may elect to obtain and continuously maintain a bond in the amount of \$100,000 in lieu of participation in the Motor Vehicle Transaction Recovery Fund, provided that such applicants have not been the subject of a claim against a bond issued pursuant to § 46.2-1527.2, or against the Fund for three consecutive years. The bond shall come from a corporate surety licensed to do business in the Commonwealth and approved by the Attorney General and shall be filed with the Board. The bond shall be conditioned on a statement by the applicant that the applicant will not practice fraud, make any fraudulent representation, or violate any provision of this chapter in the conduct of the applicant's business. In those cases in which the surety of a dealer electing continuous bonding under this section shall be liable pursuant to this section, the maximum liability to one claimant against the surety by reason of a claim involving a single transaction shall be limited to

INTRODUCED

SB1372

59 ~~\$20,000~~ *\$50,000* regardless of the amount of the claim by one claimant, and the aggregate liability of  
60 the dealer's surety to any and all persons, regardless of the number of claims made against the bond or  
61 the number of years the bond remains in effect shall in no event exceed \$100,000.

62 An applicant for a renewal of a motor vehicle dealer's license who is a member of a nonprofit  
63 organization established under 26 U.S.C. § 501(c) (6) that provides on behalf of its membership a  
64 blanket or umbrella bond in the amount of \$1 million satisfies the bonding requirements of this section.  
65 When posted, a blanket or umbrella bond shall be considered a dealer bond for the purposes of  
66 § 46.2-1527.10. The bond shall come from a corporate surety licensed to do business in the  
67 Commonwealth and approved by the Attorney General and shall be filed with the Board. In those cases  
68 in which the nonprofit organization's surety shall be liable pursuant to § 46.2-1527.10, the maximum  
69 liability to one claimant against the surety by reason of a claim involving a single transaction shall be  
70 limited to ~~\$20,000~~ *\$50,000*, regardless of the amount of the claim by one claimant, and the aggregate  
71 liability of the nonprofit organization's surety to any and all persons for claims against a single dealer  
72 shall in no event exceed \$100,000. In those cases in which the nonprofit organization's surety shall be  
73 liable pursuant to § 46.2-1527.10, the maximum liability to any and all persons, regardless of the  
74 number of claims made against the bond or the number of years the bond remains in force shall in no  
75 event exceed \$1 million.

76 The Board may, without holding a hearing, suspend the dealer's license during the period that the  
77 dealer does not have a sufficient bond on file. Dealers bonded under this article and those salespersons  
78 employed by such dealers shall be exempt from the Fund fees specified in § 46.2-1527.1.