

**FIRST ENGROSSMENT  
with House Amendments  
ENGROSSED SENATE BILL NO. 2105**

Introduced by

Senators Krebsbach, Oehlke

Representative Frantsvog

1 A BILL for an Act to amend and reenact section 26.1-39-05 of the North Dakota Century Code,  
2 relating to property and casualty insurance valuation.

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

4 **SECTION 1. AMENDMENT.** Section 26.1-39-05 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **26.1-39-05. Face of policy to be paid in case of covered loss.**

7 1. Whenever any insurance policy is written or renewed to insure any real property in this  
8 state, including structures owned by persons other than the insured, against loss  
9 caused by or resulting from any covered cause of loss and the insured property is  
10 wholly or completely destroyed by any covered cause of loss without fraud on the part  
11 of the insured or the insured's assigns, the amount of the insurance written in the  
12 policy is the true value of the property insured and the true amount of loss and  
13 measure of damages, subject to the following conditions:

14 a. If the covered loss occurred within ninety days after the policy ~~was-~~  
15 ~~issued~~effective date or within ninety days after the policy limits were increased by  
16 twenty-five percent or more at the insured's request, the loss payable to the  
17 insured for covered loss incurred during the first ninety days is the lesser of:

18 (1) The full value of the policy; or the

19 (2) The actual cash value or replacement cost of the property, whichever is less-  
20 depending on the policy provisions applicable to the structure. This

21 b. subsection~~Subdivision a~~ does not apply to ~~unchanged renewal:~~

22 (1) Renewal policies ~~or policies with policy limits increases of less than~~  
23 twenty-five percent;

1                   (2) ~~-with inflation adjustment limits~~ Policies for which limits have increased  
2                                   twenty-five percent or more due to the construction of additions; or

3                   (3) Policies for which the increased limits were approved by the insurer before  
4                                   the loss.

5           b.c. Builder risk policies of insurance covering property in the process of being  
6                                   constructed must be valued and settled according to the actual value of that  
7                                   portion of construction completed at the time of any covered cause of loss.

8           e.d. In case of double insurance, each insurer shall contribute proportionally toward  
9                                   the loss without regard to the dates of the insurance policies.

10           2. This section does not apply as to personal property or any interest therein in the  
11                                   personal property.

12           3. This section does not apply to any claim for loss of an appurtenant structure or  
13                                   separate structure. Any claim for loss of an appurtenant or separate structure must be  
14                                   settled for actual replacement cost or actual cash value, depending on the policy  
15                                   provisions applicable to the structure, unless an appurtenant or separate structure is  
16                                   individually described in the policy and a value is assigned to that specific structure  
17                                   before the loss.