

Sixty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1302

Introduced by

Representatives Schobinger, Delzer, Dobervich, Kasper

Senators Klein, Krebsbach

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

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

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

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

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

17 (1) The full value of the policy; or
18 (2) The actual cash value or replacement cost of the property, ~~depending on the~~
19 policy provisions applicable to the structure in accordance with whether the
20 policy is written as an actual cash value policy or as a replacement cost
21 policy.

22 b. Subdivision a does not apply to:

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

- 1 (2) Policies for which limits have increased twenty-five percent or more due to
- 2 the construction of additions; or
- 3 (3) Policies for which the increased limits were approved by the insurer before
- 4 the loss.
- 5 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 d. In case of double insurance, each insurer shall contribute proportionally toward
- 9 the loss without regard to the dates of the insurance policies.