

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

571Q0244

HOUSE BILL NO. 1099

Introduced by: Representatives Rounds, Boomgarden, Cutler, Dennert, Faehn, Feinstein, Greenfield, Kirkeby, Lucas, Novstrup (David), Russell, Street, and Turbiville and Senators Gillespie, Bartling, Gant, Gray, Maher, Miles, Schmidt, and Tieszen

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding insurance coverage
2 for residential property that is destroyed while under construction.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-10-10 be amended to read as follows:

5 58-10-10. Whenever any policy of insurance is written or renewed to insure any real
6 property in this state, including structures on land owned by a person other than the insured,
7 against loss by fire, tornado, or lightning and the property insured is wholly destroyed, without
8 criminal fault on the part of the insured or the insured's assigns, the amount of insurance written
9 in the policy shall be taken conclusively to be the true value of the property insured and the true
10 amount of loss and measure of damages, with the following conditions:

11 (1) This section applies only if a total fire loss occurs ninety days or more after the policy
12 was made or written or ninety days or more after the policy limits were increased by
13 twenty-five percent or more at the insured's request. However, within the first ninety
14 days, payment to the insured shall be in accordance with the terms and conditions of



1 the policy for valuation of the property absent stated amount;

2 (2) Subdivision (1) of this section does not apply to unchanged renewal policies, to
3 policies with inflation adjustment limits or to policies which are being converted to
4 replacement cost coverage from a lesser value form and upon which there is a written
5 agreement between the company and the insured that the policy will be written on a
6 valued basis;

7 (3) Builders' risk policies of insurance covering property in the process of being
8 constructed shall be valued and settled according to the actual value of that portion
9 of the construction completed at the time of the fire, tornado, or lightning loss;

10 (4) Property in the process of being newly constructed for the purpose of serving as a
11 residence, other than property covered by a builder's risk policy, shall be valued and
12 settled according to the terms and conditions of the policy for valuation of that
13 portion of the construction completed at the time of the fire, tornado, or lightning
14 loss;

15 (5) If two or more policies are written upon the same property interest, each insurer shall
16 pay only that proportion of the cost of the loss that the limit of liability under its
17 policy bears to the total amount of insurance covering the loss;

18 ~~(5)~~(6) Any claim for loss of an appurtenant structure or other appurtenant property covered
19 under the policy shall be settled for actual replacement or actual cash value,
20 depending on the policy provisions applicable to the structure or other property,
21 unless a specific value was assigned to each structure or property prior to the loss;
22 and

23 ~~(6)~~(7) This section does not apply to any claim for total loss to any building which is
24 insured under a commercial blanket form with one amount covering two or more

1 buildings. Any claim for total loss to a building so insured shall be settled for actual
2 replacement or actual cash value depending on the policy provisions applicable to the
3 building.