

40-905. Statement of value in policy; evidence of ownership of property; exceptions. (a) (1) Whenever any policy of insurance or an increase in the amount of coverage in an existing policy of insurance shall be written to insure any improvements upon real property in this state against loss by fire, tornado, windstorm or lightning, and the property insured shall be wholly destroyed, without criminal fault on the part of the insured or the insured's assigns, the amount of insurance written in such policy shall be taken conclusively to be the true value of the property insured, and the true amount of loss and measure of damages, and the payment of money as a premium for insurance shall be prima facie evidence that the party paying for such insurance is the owner of the property insured.

(2) Improvements on real property shall not be required to be insured for more than the reasonably estimated replacement cost of such improvements. Nothing herein shall prohibit a policy or endorsement to a policy as described in this subsection from containing an inflation guard provision or similar provision. Nothing in this section shall be deemed to create a private cause of action. For the purposes of this paragraph, "improvements on real property" means a fixture, building or other structure attached to real property and intended as a permanent addition to such real property.

(b) The provisions of subsection (a) shall not apply to:

(1) New policies of fire insurance or existing policies of fire insurance where there has been an increase in the amount of coverage of 25% or more, until such policies have been in effect for at least 60 days. If there is a total loss by fire within the sixty-day period and the insurer pays less than the face value of the policy, the insurer shall refund the difference in premium between the amount of insurance purchased and the premium applicable for the amount of the loss actually paid. This paragraph shall not apply to a loss by fire caused by lightning.

(2) Builder's risk policies of insurance covering property in the process of being constructed. The value of the property insured shall be the actual value of the property at the time of the loss.

History: L. 1927, ch. 231, 40-905; L. 1981, ch. 192, § 1; L. 2005, ch. 163, § 9; July 1.