



**SMITH, ROLFES  
& SKAVDAHL  
COMPANY LPA**

## VALUED POLICY LAWS

### *Summary by State*

#### **Arkansas**

A.C.A. § 23-88-101



The Arkansas statute applies to a total loss by fire or natural disasters but excludes flood and earthquake. The insured may collect the full amount stated in the policy or the full amount for which the insurance company collects the premium without considering depreciation. It does not apply to personal property, detached or appurtenant structures.

#### **California**

Cal. Ins. Code § 2054, § 2056, § 2058



California law allows, in the event of a total loss to a building, for the insured to recover the whole amount in the policy. In the event of a partial loss, the insured may recover the whole amount of the loss. Provisions in the policy regarding repair or replacement of the building shall prevail over the statute.

The insurer may be required to pay more than the amount stated in the policy, if there are stipulations in the policy concerning repairing or replacing the building.

#### **Florida**

Fla. Stat. § 627.702



The Florida valued policy statute requires payment of the policy limit in the event of a total loss by a covered peril, in the absence of any change increasing the risk. In the event of a partial loss by fire or lightning the insurer's liability is the actual amount of the loss. The insurer may repair or replace the property provided the insurer return to the insured a portion of the premium equal to that portion of the premium paid for limits of insurance on the structure in excess of the cost of replacement.

#### CINCINNATI

600 Vine Street • Suite 2600  
Cincinnati, Ohio 45202  
(513) 579-0080  
Fax: (513) 579-0222

#### COLUMBUS

65 E. State Street • Suite 2000  
Columbus, Ohio 43215  
(614) 469-7130  
Fax: (614) 469-7146

#### DETROIT

39555 Orchard Hill Place • Suite 600  
Novi, Michigan 48375  
(248) 374-5020  
Fax: (248) 348-5760

#### FT. MITCHELL, KY

300 Buttermilk Pike • Suite 324  
Ft. Mitchell, Kentucky 41017  
(859) 547-1200  
Fax: (859) 547-1219

## VALUED POLICY LAWS

### *Summary by State*

#### **Georgia**

O.C.G.A. § 33-32-5



The Georgia statute only applies to family residential buildings which are wholly destroyed by fire. The insurer must pay the value in the policy except to the extent of any depreciation between the date of the policy and the loss. The insurer is not prevented from repairing or replacing the property at its own expense.

#### **Kansas**

K.S.A. § 40-905



The Kansas statute covers real property, which is wholly destroyed by fire, tornado, windstorm or lightning. The value in the policy is considered the true value of the property. This does not apply to either new or existing policies when there is a 25% increase in coverage within 60 days before the loss.

#### **Louisiana**

LSA-R.S. 22:1318



Louisiana's law only applies to fire insurance policies for immovable property. The statute requires that if the insurer places a value on the property and uses that value to determine premiums, then in the event of a total loss, the insurer must compensate the insured for that value. A different method may be used to compute the value of the loss, but the method must be listed in the application and the policy. Any provision that is contrary to the statute is null and void.

#### **Mississippi**

Miss. Code Ann. § 83-13-5



Mississippi's statute only applies to fire insurance. In the event the building is totally destroyed by fire, the insurer must pay the amount stated in the policy. The insurer is not allowed to attach a three-quarter clause to the fire insurance policy.

#### **Missouri**

§ 379.140 R.S.Mo.



The Missouri statute applies to loss or damage by fire. It applies to both real and personal property. In the event of a total loss, the insurer must pay the total amount of the policy less the depreciation of the property between the time of the issuance of the policy and the loss. In a partial loss, the insurer must pay the comparable percentage of the total value as the damaged part bears to the whole property.

## VALUED POLICY LAWS

### *Summary by State*

#### **Montana**

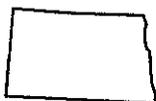
Mont. Code Anno., § 33-24-102



The Montana statute covers improvements on real property and is not limited to specific perils. In the event of a total loss, the value stated in the policy is taken as the true value of the property. The loss must not be the criminal fault of the insured or insured's assigns. The insurance company may assert fraud in obtaining the policy as a defense.

#### **North Dakota**

N.D. Cent. Code, § 26.1-39-05



The North Dakota statute covers real property damaged by any peril covered by the insurance policy. In the event of a total loss, the amount written in the policy is the true value of the property. If the loss happens within 90 days of an increase in policy limits of 25%, the loss payable is either the full value of the policy or the actual cash value or the replacement cost, whichever is lower. It does not apply to appurtenant or separate structures, which must be settled for actual replacement cost or actual cash value.

#### **New Hampshire**

RSA 407:11



New Hampshire's law covers buildings totally destroyed by fire or lightning. The insured value will be the actual value unless over-insurance was fraudulently obtained. In the event of a partial loss, the insured is allowed to recover the actual loss sustained.

#### **Ohio**

ORC Ann. 3929.25



Ohio's statute applies to any building or structure which is damaged by fire or lightning. In the event of a total loss, the full value of the policy must be paid. However, if the policy requires repair or replacement of the building to be completed in order for the insured to be paid the full policy value, then the amount will be paid according to the policy.

#### **South Carolina**

S.C. Code Ann. § 38-75-20



South Carolina law requires the insurer to pay the full amount of the policy, if there is a total loss by fire. In the event of a partial loss, the insured may recover the actual value of the loss. This does not apply to chattel or personal property.

## VALUED POLICY LAWS

### *Summary by State*

#### **South Dakota**

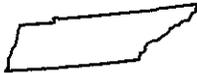
S.D. Codified Laws § 58-10-10



South Dakota law covers policies that insure against loss by fire, tornado, or lightning. In the event of a total loss, the stated value in the policy will be the true value of the property. If a total fire loss happens within 90 days of an increase of 25% of the policy limits, then the value of the property is determined by the policy. A loss of appurtenant property shall be settled for actual replacement cost or actual cash value, unless a specific amount was assigned. Any claim for a building insured under a commercial blanket with one amount for two or more buildings shall be settled for actual replacement cost or actual cash value.

#### **Tennessee**

Tenn. Code Ann. § 56-7-801



Tennessee law applies to loss by fire.

T.C.A. § 56-7-801 – Provides that there is a period of 90 days after which a “fire insurance policy” is issued for an inspection to occur, and prohibits any “fire insurance policy” being issued for an amount in excess of the fair market value of any building or structure;

T.C.A. § 56-7-802 – Provides for a return of premium where buildings “totally destroyed by fire” were over-valued and too high a premium was charged. The statute applies to “buildings within the state insured against loss by fire” which “are totally destroyed by fire”; and

T.C.A. § 56-7-803 – With respect to losses occurring more than ninety (90) days after policy inception, the statute provides that the value as shown on the application or policy shall be “conclusively presumed to be reasonable, and settlement shall be made on that basis.”

#### **Texas**

Tex. Ins. Code 862.053



Texas law only covers fire losses. In the event of a total loss by fire, the policy is deemed a liquidated demand for the full value of the policy. It does not apply to personal property. This statute must be incorporated into the fire insurance policy.

#### **Wisconsin**

Wis. Stat. § 632.05



Under Wisconsin law, an insurer may agree to replace destroyed property with new material of like size, kind and quality. The value of any insured real property, occupied as a dwelling, which is totally destroyed, is determined by the value in the insurance policy.

## VALUED POLICY LAWS

### *Summary by State*

#### **West Virginia**

W. Va. Code § 33-17-9



West Virginia law applies to fire insurance on real property. In the event of a total loss, the insured may collect the total value stated in the policy. In the event of a partial loss, the liability is the amount of the partial loss.