

**OPINION
67-94**

April 15, 1967 (OPINION)

Mr. L. F. Gerhart, Manager

Fire and Tornado Fund

RE: Insurance - Fire and Tornado Fund - Replacement Cost Insurance

This is in response to your letter in which you call our attention to Senate Bill No. 363, which amends several sections in chapter 26-24 of the North Dakota Century Code. You then ask for an opinion as to whether or not the State Fire and Tornado Fund under the new act would be permitted to write "replacement cost insurance" if that type of insurance coverage is desired.

In reviewing the provisions of Senate Bill No. 363, we find that section 26-24-02 of the North Dakota Century Code was amended by adding the following language: "* * * and at the option of the insured the fund shall have the authority to insure against any other risks of direct physical loss. * * *". Sections 26-24-04 and 26-24-09 were amended by adding the language: "* * * or any other risk of direct physical loss, * * *." Section 26-24-08 was amended by deleting the words, "is not depreciated", and inserting in lieu thereof, "insurable", so as to read: "* * * the insurable value of each public building, etc." Section 26-24-09 was further amended, as is material here, by deleting the language, "extended coverage endorsement", and substituting in lieu thereof the word, "endorsements", so as to make the pertinent portion of that section, as is material here, to read as follows: "* * * Upon application the commissioner shall provide for insurance against loss by fire * * * or any other risks of direct physical loss, all in the manner and subject to the restrictions of the standard fire insurance policy and standard endorsements, * * *." The uniform standard endorsements include the replacement cost endorsements.

The original Act prior to the amendments in Senate Bill No. 363 restricted the coverage to include only "extended coverage endorsement", which is only one of the standard endorsements. By permitting coverage to include all standard endorsements, the endorsement for replacement cost would be included in such general broad language.

It is therefore our opinion, based on the amendments provided for in Senate Bill No. 363, that the Fire and Tornado Fund may write replacement cost insurance if that type of insurance coverage is desired. It should be observed, however, that Senate Bill No. 363 does not contain the emergency clause or provision, and the amendments contained therein will not be effective until July 1, 1967.

HELGI JOHANNESON

Attorney General