

**§ 58-43-5. Limitation as to amount and term; indemnity contracts for difference in actual value and cost of replacement; functional replacement.**

No insurance company or insurance producer shall knowingly issue any fire insurance policy upon property within this State for an amount which, together with any existing insurance thereon, exceeds the fair value of the property, nor for a longer term than seven years: Provided, any fire insurance company authorized to transact business in this State may, by appropriate riders or endorsements or otherwise, provide insurance indemnifying the insured for the difference between the actual value of the insured property at the time any loss or damage occurs, and the amount actually expended to repair, rebuild or replace on the premises described in the policy, or some other location within the State of North Carolina with new materials of like size, kind and quality, property that has been damaged or destroyed by fire or other perils insured against: Provided further, that the Commissioner may approve forms that permit functional replacement by the insurance company, at the insured's option. Functional replacement means to replace the property with property that performs the same function when replacement with materials of like size, kind, and quality is not possible, necessary, or less costly than obsolete, antique, or custom construction materials and methods. Forms and rating plans may also provide for credits when functional replacement cost coverage is provided. Policies issued in violation of this section are binding upon the company issuing them, but the company is liable for the forfeitures by law prescribed for such violation. (1899, c. 54, ss. 39, 99; 1903, c. 438, s. 10; Rev., s. 4755; C.S., s. 6418; 1949, c. 295, s. 1; 1991, c. 644, s. 5; 2022-46, s. 14(hhh).)