

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 38.2-2119 of the Code of Virginia, relating to fire insurance policies;*  
3 *repair or replacement with functionally equivalent property.*

4 [S 361]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 38.2-2119 of the Code of Virginia is amended and reenacted as follows:**

8 § 38.2-2119. Approval of forms or provisions for certain risks.

9 A. The Commission may approve and authorize the use of appropriate forms or provisions for  
10 supplemental contracts or extended coverage endorsements where the insured may be indemnified for (i)  
11 the difference between the actual cash value of the property at the time of loss and the cost of repair or  
12 replacement of the property on the same site with new materials of like kind and quality, within a  
13 reasonable time after the loss, and without deduction for depreciation, (ii) additional cost or loss by  
14 reason of any ordinance or law in force at the time of loss which necessitates the demolition of any  
15 portion of the insured property, (iii) any increased cost of repair or replacement by reason of any  
16 ordinance or law regulating construction or repair of the insured building, and (iv) loss from interruption  
17 of business, untenability, or termination of leasehold interest because of damage to or destruction of  
18 the property described in the policy. These forms or provisions shall apply to coverage provided to an  
19 insured having any interest in an insured building or structure which is a part of the building described  
20 in the policy, including service equipment for the building.

21 B. Where any policy of insurance issued or delivered in this Commonwealth pursuant to this chapter  
22 provides for the payment of the full replacement cost of property insured thereunder, the policy shall  
23 permit the insured to assert a claim for the actual cash value of the property without prejudice to his  
24 right to thereafter assert a claim for the difference between the actual cash value and the full  
25 replacement cost unless a claim for full replacement cost has been previously resolved. Any claim for  
26 such difference must be made within six months of (i) the last date on which the insured received a  
27 payment for actual cash value or (ii) date of entry of a final order of a court of competent jurisdiction  
28 declaratory of the right of the insured to full replacement cost, whichever shall last occur.

29 C. *Notwithstanding the provisions of § 38.2-2104, insurers may offer, as an option, coverage limited*  
30 *to the amount necessary to repair or replace damaged property with functionally equivalent property at*  
31 *a lower cost than would be required to repair or replace the damaged property with material of like*  
32 *kind and quality. Such policies may also permit, at the option of the insured, settlement based on the*  
33 *market value of the damaged property at the time of loss. No new policy or original premium notice of*  
34 *insurance covering property insured on a functional replacement cost basis shall be issued or delivered*  
35 *unless it contains the following statement printed in boldface type, or unless the statement is attached to*  
36 *the front of or is enclosed with the policy or premium notice:*

37 **Important Notice**

38 *The coverage under this policy applies on a functional replacement cost basis which means that,*  
39 *under certain conditions, claims may be settled for less than the actual cash value of the property*  
40 *insured.*

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