

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 377

An Act to amend and reenact § 38.2-2226 of the Code of Virginia, relating to insurance, notice of intention to rely on certain defenses; execution of nonwaiver of rights agreement.

[H 1997]

Approved March 15, 1997

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-2226 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-2226. Insurer to give notice to claimant of intention to rely on certain defenses and of execution of nonwaiver of rights agreement.

Whenever any insurer on a policy of liability insurance discovers a breach of the terms or conditions of the insurance contract by the insured ~~and the insurer intends to rely on the breach in defense of liability for any claim within the terms of the policy,~~ the insurer shall notify the claimant or the claimant's counsel of record of its intention to rely on the breach as a defense. Notification shall be given within ~~twenty~~ forty-five days after discovery by the insurer ~~or any of its agents~~ of the breach or of the claim, whichever is later. Whenever, *on account of such breach*, a nonwaiver of rights ~~or similar~~ agreement is executed by the insurer and the insured, *or a reservation of rights letter is sent by the insurer to the insured*, notice of ~~the nonwaiver of rights~~ such action shall be given to the claimant or the claimant's counsel of record within ~~ten~~ forty-five days after that agreement is executed *or the letter is sent, or after notice of the claim is received, whichever is later*. Failure to ~~serve~~ give the notice within ~~ten~~ forty-five days will result in a waiver of the defense *based on such breach* to the extent of the claim by operation of law.