

1997 SESSION

INTRODUCED

973627308

HOUSE BILL NO. 1997

Offered January 13, 1997

A BILL 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.

Patron—Johnson

Referred to Committee on Corporations, Insurance and Banking

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.

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