

LD7690126

**HOUSE BILL NO. 2288**

Offered January 23, 1995

*A BILL to amend and reenact § 38.2-2114 of the Code of Virginia, relating to fire insurance; termination of insurance.*

Patrons—Barlow and Cohen

Referred to Committee on Corporations, Insurance and Banking

**Be it enacted by the General Assembly of Virginia:****1. That § 38.2-2114 of the Code of Virginia is amended and reenacted as follows:**

§ 38.2-2114. Grounds and procedure for termination of policy; contents of notice; review by Commissioner; exceptions; immunity from liability.

A. Notwithstanding the provisions of § 38.2-2105, no policy or contract written to insure owner-occupied dwellings shall be cancelled by an insurer unless written notice is mailed or delivered to the named insured at the address stated in the policy, and cancellation is for one of the following reasons:

1. Failure to pay the premium when due;  
2. Conviction of a crime arising out of acts increasing the probability that a peril insured against will occur;

3. Discovery of fraud or material misrepresentation;

4. Willful or reckless acts or omissions increasing the probability that a peril insured against will occur as determined from a physical inspection of the insured premises; or

5. Physical changes in the property which result in the property becoming uninsurable as determined from a physical inspection of the insured premises.

B. No policy or contract written to insure owner-occupied dwellings shall be terminated by an insurer by refusal to renew except at the expiration of the stated policy period or term and unless the insurer or its agent acting on behalf of the insurer mails or delivers to the named insured, at the address stated in the policy, written notice of the insurer's refusal to renew the policy or contract.

C. A written notice of cancellation of or refusal to renew a policy or contract written to insure owner-occupied dwellings shall:

1. State the date that the insurer proposes to terminate the policy or contract, which shall be at least thirty days after mailing or delivering to the named insured the notice of cancellation or refusal to renew. However, when the policy is being terminated for the reason set forth in subdivision 1 of subsection A of this section, the date that the insurer proposes to terminate the policy may be less than thirty days but at least ten days from the date of mailing or delivery;

2. State the specific reason for terminating the policy or contract and provide for the notification required by the provisions of §§ 38.2-608 and 38.2-609 and subsection B of § 38.2-610. However, those notification requirements shall not apply when the policy is being cancelled or not renewed for the reason set forth in subdivision 1 of subsection A of this section;

3. Advise the insured that within ten days of receipt of the notice of termination he may request in writing that the Commissioner review the action of the insurer in terminating the policy or contract;

4. Advise the insured of his possible eligibility for fire insurance coverage through the Virginia Property Insurance Association; and

5. Be in a type size authorized by § 38.2-311.

D. Within ten days of receipt of the notice of termination any insured or his attorney shall be entitled to request in writing to the Commissioner that he review the action of the insurer in terminating a policy or contract written to insure owner-occupied dwellings. Upon receipt of the request, the Commissioner shall promptly initiate a review to determine whether the insurer's cancellation or refusal to renew complies with the requirements of this section and of § 38.2-2113, if sent by mail. The policy shall remain in full force and effect during the pendency of the review by the Commissioner except where the cancellation or refusal to renew is for reason of nonpayment of premium, in which case the policy shall terminate as of the date stated in the notice. Where the Commissioner finds from the review that the cancellation or refusal to renew has not complied with the requirements of this section or of § 38.2-2113, if sent by mail, he shall immediately notify the insurer, the insured, and any other person to whom notice of cancellation or refusal to renew was required to be given by the terms of the policy that the cancellation or refusal to renew is not effective. Nothing in this section authorizes the Commissioner to substitute his judgment as to underwriting for that of the insurer.

E. Nothing in this section shall apply:

INTRODUCED

HB2288

60 1. To any policy written to insure owner-occupied dwellings that has been in effect for less than  
61 ninety days when the notice of termination is mailed or delivered to the insured, unless it is a renewal  
62 policy;

63 2. If the insurer or its agent acting on behalf of the insurer has manifested its willingness to renew  
64 by issuing or offering to issue a renewal policy, certificate or other evidence of renewal, or has  
65 otherwise manifested its willingness to renew in writing to the insured. The written manifestation shall  
66 include the name of a proposed insurer, the expiration date of the policy, the type of insurance coverage  
67 and information regarding the estimated renewal premium;

68 3. If the named insured has notified the insurer or its agent in writing that he wishes the policy to be  
69 cancelled, or that he does not wish the policy to be renewed, or if, prior to the date of expiration, he  
70 fails to accept the offer of the insurer to renew the policy; or

71 4. To any contract or policy written through the Virginia Property Insurance Association or any  
72 residual market facility established pursuant to Chapter 27 (§ 38.2-2700 et seq.) of this title.

73 F. Each insurer shall maintain, for at least one year, records of cancellation and refusal to renew and  
74 copies of every notice or statement referred to in subsection E of this section that it sends to any of its  
75 insureds.

76 G. There shall be no liability on the part of and no cause of action of any nature shall arise against  
77 the Commissioner or his subordinates; any insurer, its authorized representative, its agents, its  
78 employees; or any firm, person or corporation furnishing to the insurer information as to reasons for  
79 cancellation or refusal to renew, for any statement made by any of them in complying with this section  
80 or for providing information pertaining to the cancellation or refusal to renew.

81 H. Nothing in this section requires an insurer to renew a policy written to insure owner-occupied  
82 dwellings, if the insured does not conform to the occupational or membership requirements of an insurer  
83 who limits its writings to an occupation or membership of an organization.

84 I. No insurer or agent shall refuse to renew a policy written to insure an owner-occupied dwelling,  
85 solely because of the age, sex, residence, race, color, creed, national origin, ancestry, marital status or  
86 lawful occupation, including the military service, of anyone who is insured any one or more of the  
87 following factors:

- 88 1. Age;
- 89 2. Sex;
- 90 3. Residence;
- 91 4. Race;
- 92 5. Color;
- 93 6. Creed;
- 94 7. National origin;
- 95 8. Ancestry;
- 96 9. Marital status;

97 10. Lawful occupation, including the military service; however, nothing in this subsection shall  
98 require any insurer to renew a policy for an insured where the insured's occupation has changed so as  
99 to materially increase the risk; or

100 11. Two or fewer claims relating to fire damage to an insured dwelling, where none of such damage  
101 was caused either wholly or partially by the named insured.

102 However, nothing in this subsection shall require any insurer to renew a policy for an insured where  
103 the insured's occupation has changed so as to materially increase the risk. Nothing in this section  
104 prohibits any insurer from setting rates in accordance with relevant actuarial data.

105 J. No insurer shall cancel or refuse to renew a policy written to insure an owner-occupied dwelling  
106 because an insured under the policy is a foster parent and foster children reside at the insured dwelling.