

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2942**

BY DELEGATE WESTFALL AND FRICH

[Introduced March 13, 2017; Referred  
to the Committee on Banking and Insurance then the  
Judiciary.]

1 A BILL to amend and reenact §33-17A-4 of the Code of West Virginia, 1931, as amended, relating  
 2 to prohibiting insurers from cancelling or failing to renew insurance policies do to the mere  
 3 filing of a claim that was later denied or making an inquiry about whether a loss was  
 4 potentially covered by a policy; and permitting insurers to cancel or not renew policies for  
 5 filing numerous frivolous or unfounded claims.

*Be it enacted by the Legislature of West Virginia:*

1 That §33-17A-4 of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted to read as follows:

**ARTICLE 17A. PROPERTY INSURANCE DECLINATION, TERMINATION AND  
 DISCLOSURE.**

**§33-17A-4. Notification and reasons for a transfer, declination or termination; prohibitions.**

1 (a) Upon declining to insure any real or personal property, subject to this article, the insurer  
 2 making a declination shall provide the insurance applicant with a written explanation of the specific  
 3 reason or reasons for the declination at the time of the declination. The provision of such  
 4 insurance application form by an insurer shall create no right to coverage on the behalf of the  
 5 insured to which the insured is not otherwise entitled.

6 (b) A notice of cancellation of property insurance coverage by an insurer shall be in writing,  
 7 shall be delivered to the named insured or sent by first class mail to the named insured at the last  
 8 known address of the named insured, shall state the effective date of the cancellation and shall  
 9 be accompanied by a written explanation of the specific reason or reasons for the cancellation.

10 (c) At least thirty days before the end of a policy period, as described in subsection (c),  
 11 section three of this article, an insurer shall deliver or send by first class mail to the named insured  
 12 at the last known address of the named insured, notice of its intention regarding the renewal of  
 13 the property insurance policy. Notice of an intention not to renew a property insurance policy shall  
 14 be accompanied by an explanation of the specific reasons for the nonrenewal: *Provided*, That no

15 insurer shall fail to renew an outstanding property insurance policy which has been in existence  
16 for four years or longer except for the reasons as set forth in section five of this article; or for other  
17 valid underwriting reasons which involve a substantial increase in the risk: *Provided, however,*  
18 That notwithstanding any other provision of this article, no property insurance coverage policy in  
19 force for at least four years, may be denied renewal or canceled solely as a result of:

20 (1) A single first party property damage claim within the previous thirty-six months and that  
21 arose from wind, hail, lightning, wildfire, snow or ice, unless the insurer has evidence that the  
22 insured unreasonably failed to maintain the property and that failure to maintain the property  
23 contributed to the loss, or

24 (2) Two first party property damage claims within the previous twelve months, both of  
25 which arose from claims solely due to an event for which a state of emergency is declared for the  
26 county in which the insured property is located, unless the insurer has evidence that the insured  
27 unreasonably failed to maintain the property and that failure to maintain the property contributed  
28 to the loss. "State of emergency" means the situation existing after the occurrence of a disaster  
29 in which a state of emergency has been declared by the Governor or by the Legislature pursuant  
30 to the provisions of section six, article five, chapter fifteen of this code or in which a major disaster  
31 declaration or emergency declaration has been issued by the President of the United States  
32 pursuant to the provisions of 42 U. S. C. §5122.

33 (d) Notwithstanding any other provisions in this article, no property insurance coverage  
34 policy subject to this article may be canceled or denied renewal as a result of filing a claim that  
35 was later denied.

36 (e) Notwithstanding any other provisions in this article, an insurer may not cancel or fail to  
37 renew a property insurance coverage policy solely because the insured has inquired about  
38 coverage or requested a coverage determination about a potentially covered loss or event.

39 (f) Notwithstanding the provisions of subsections (d) and (e) of this section, an insurer may  
40 cancel or decline to renew a policy if the policy holder has filed numerous frivolous or unfounded

41 claims.

NOTE: The purpose of this bill is to prohibit insurers from cancelling insurance policies due to the mere filing of a claim that was later denied or to the policy holders inquiry about whether a loss is covered under the policy. The bill permits the cancellation of policies for numerous frivolous or unfounded claims.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.