

# VIRGINIA ACTS OF ASSEMBLY -- 2000 SESSION

## CHAPTER 321

*An Act to amend and reenact §§ 64.1-116 and 64.1-118 of the Code of Virginia, relating to administration of wills.*

[H 759]

Approved April 3, 2000

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 64.1-116 and 64.1-118 of the Code of Virginia are amended and reenacted as follows:**

§ 64.1-116. When and to whom administration, with the will annexed, may be granted.

If there be no executor appointed by the will or if all the executors therein named refuse the executorship or fail to give bond when required, which shall amount to such refusal, or having qualified die, resign or are removed from office, the court or clerk may grant administration with the will annexed to a person who is a residual or a substantial legatee under the will, or his designee, and upon the failure of any such person so to apply within thirty days, to a person who would have been entitled to administration if there had been no will, upon his taking such oath and giving such bond; provided that administration shall not be granted to any person unless the court or clerk is satisfied that he is suitable and competent to perform the duties of his office. *If any beneficiary of the estate objects, no husband, wife or parent who has been barred from all interest in the estate because of desertion or abandonment as provided under § 64.1-16.3 shall be suitable to serve as an administrator of the estate of the deceased spouse or child, as the case may be.*

§ 64.1-118. What clerk or court to appoint administrator of estate; who to be preferred.

In the case of a person dying intestate the jurisdiction to hear and determine the right of administration of his estate shall be in the same court or before the same clerk who would have jurisdiction as to the probate of his will, if there were a will. Administration shall be granted to the distributees who apply therefor, preferring first the husband or wife and then such of the others entitled to distribution as the court or clerk shall see fit. But any of the distributees may at any time waive his right to qualify in favor of any other person to be designated by him. If no distributee apply for administration within thirty days from the death of the intestate, the court or clerk may grant administration to one or more of the creditors or to any other person, provided such creditor or other person shall certify that he has made diligent search to find an address for the husband or wife entitled to preference under the provisions hereof, and has given not less than thirty days notice by certified mail of his intention to apply for administration to the last known address or addresses of the husband or wife discovered or alternatively, that he has not been able to find any such address; and provided, further, that administration shall be granted to persons entitled to preference under the provisions hereof who apply therefor before the expiration of the thirty-day period. Qualification of a creditor or person other than a distributee shall not be subject to challenge on account of a failure to have made the certification herein required. Administration shall not be granted to any person unless the court or clerk is satisfied that he is suitable and competent to perform the duties of his office. *If any beneficiary of the estate objects, no husband, wife or parent who has been barred from all interest in the estate because of desertion or abandonment as provided under § 64.1-16.3 shall be suitable to serve as an administrator of the estate of the deceased spouse or child, as the case may be.*