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HOUSE BILL NO. 18

Offered January 12, 2000

Prefiled December 7, 1999

A BILL to amend and reenact §§ 16.1-77, 16.1-92, and 16.1-122 of the Code of Virginia, relating to removal of actions from general district court to circuit court.

Patron—Armstrong

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-77, 16.1-92, and 16.1-122 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-77. Civil jurisdiction of general district courts.

Except as provided in Article 5 (§ 16.1-122.1 et seq.) of this chapter, each general district court shall have, within the limits of the territory it serves, civil jurisdiction as follows:

(1) Exclusive original jurisdiction of any claim to specific personal property or to any debt, fine or other money, or to damages for breach of contract or for injury done to property, real or personal, or for any injury to the person, which would be recoverable by action at law or suit in equity, when the amount of such claim does not exceed ~~\$3,000~~ 5,000 exclusive of interest and any attorney's fees contracted for in the instrument, and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds ~~\$3,000~~ 5,000 but does not exceed \$15,000, exclusive of interest and any attorney's fees contracted for in the instrument. However, this \$15,000 limit shall not apply with respect to distress warrants under the provisions of § 55-230.

(2) Jurisdiction to try and decide attachment cases when the amount of the plaintiff's claim does not exceed \$15,000 exclusive of interest and any attorney's fees contracted for in the instrument.

(3) Jurisdiction of actions of unlawful entry or detainer as provided in Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01, and in Chapter 13 (§ 55-217 et seq.) of Title 55, and the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim for damages sustained or rent proved to be owing where the premises were used by the occupant primarily for business, commercial or agricultural purposes.

(4) Except where otherwise specifically provided, all jurisdiction, power and authority over any civil action or proceeding conferred upon any general district court judge or magistrate under or by virtue of any provisions of the Code of Virginia.

(5) Jurisdiction to try and decide suits in interpleader involving personal property where the amount of money or value of the property is not more than the maximum jurisdictional limits of the general district court. The action shall be brought in accordance with the procedures for interpleader as set forth in § 8.01-364. However, the general district court shall not have any power to issue injunctions. Actions in interpleader may be brought by either the stakeholder or any of the claimants. The initial pleading shall be either by motion for judgment or by warrant in debt. The initial pleading shall briefly set forth the circumstances of the claim and shall name as defendant all parties in interest who are not parties plaintiff.

(6) Jurisdiction to try and decide any cases pursuant to § 2.1-346 of the Virginia Freedom of Information Act (§ 2.1-340 et seq.), for writs of mandamus or for injunctions.

(7) Concurrent jurisdiction with the circuit courts having jurisdiction in such territory to adjudicate habitual offenders pursuant to the provisions of Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title 46.2.

§ 16.1-92. Removal of action involving more than \$5,000.

When the amount in controversy in any action at law except cases of unlawful entry and detainer in a general district court exceeds the sum of ~~\$3,000~~ 5,000, exclusive of interest, attorney's fees contracted for in the instrument, and costs, the judge shall, at any time on or before the return day of the process, or within ten days after such return day, if trial of the case has not commenced and if judgment has not been rendered, upon the application of any defendant, the filing by him of an affidavit of himself, his agent or attorney, that he has a substantial defense to the action, exclusive of the sole issue of the amount or computation of damages, which affidavit shall state the grounds of such defense, and the payment by him of the costs accrued to the time of removal, the writ tax as fixed by law, and the costs in the court to which it is removed as fixed by subdivision 13 of § 17.1-275, remove the action and all the papers thereof to a court having jurisdiction of appeals from the court wherein the action was brought; and the clerk if there be one, or the judge if there be no clerk of the court, shall promptly

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HB18

60 transmit the papers in the case and the writ tax and costs to the clerk of the court to which the action is
61 removed. If the defendant fails to pay the accrued costs, writ tax, and the costs in the court to which the
62 case is removed at the time the application for removal is filed, the judge shall proceed to try the case.

63 On the trial of the case in the circuit court the proceedings shall conform as nearly as may be to
64 proceedings prescribed by the Rules of Court for other actions at law, but the court may permit all
65 necessary amendments, including amendments to increase the amount of the claim above the
66 jurisdictional amount set forth in § 16.1-77, enter such orders, and direct such proceedings as may be
67 necessary or proper to correct any defects, irregularities and omissions in the pleadings and bring about
68 a trial of the merits of the controversy.

69 In no event shall an objection to venue be considered by the circuit court unless raised by a
70 defendant in his affidavit of substantial defense filed in the general district court.

71 The limits for removal of cases under the Tort Claims Act (§ 8.01-195.1 et seq.) shall be governed
72 by the jurisdictional amounts set forth in that act.

73 § 16.1-122. Removal or appeal.

74 If the money or property claimed in any such proceeding is more than ~~\$3,000~~ 5,000 in value, the
75 proceeding may be removed to a circuit court and heard and disposed of therein as provided in
76 § 16.1-92. If the property or money claimed in any such proceeding is more than fifty dollars in value,
77 an appeal of right may be had to the judgment or order of the court as provided in § 16.1-106. The
78 limits for removal of cases under the Tort Claims Act (§ 8.01-195.1 et seq.) shall be governed by the
79 jurisdictional amounts set forth in that act.