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**HOUSE BILL NO. 750**

Offered January 21, 2000

*A BILL to amend and reenact § 26-7.1 of the Code of Virginia, relating to designation of circuit court clerk as attorney for service of process.*

Patrons—Howell, Clement and McClure

Referred to Committee for Courts of Justice

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

**1. That § 26-7.1 of the Code of Virginia is amended and reenacted as follows:**

§ 26-7.1. Execution of fiduciary bond or appointment of agent designates clerk as attorney for service of process.

A. Every person who qualifies in a court or clerk's office of this Commonwealth as personal representative of a decedent, guardian, conservator, committee, trustee or receiver, and the surety upon any such fiduciary's bond, shall by executing the bond required of him, be deemed to have designated the clerk of the court in which the qualification is had and his successor in office, as the true and lawful attorney of such person upon whom service of any notice, process or rule issuing from a court of this Commonwealth or a commissioner of such court, of the nature hereinafter set forth, may be executed, whenever the said person cannot be found and served within the Commonwealth of Virginia after the exercise of due diligence; provided, however, that the object of the proceeding shall relate relates to the proper administration or distribution of the fiduciary estate, including a proceeding to assert a claim against the estate or to remove the fiduciary or to obtain a personal judgment against him and his surety, either or both, for nonfeasance, misfeasance or malfeasance in the performance of the fiduciary's duties; and provided, further, that the foregoing designation shall terminate and be no longer in effect when the fiduciary's final account shall "stand confirmed," as provided in § 26-33, or by order of court.

B. Every nonresident trustee who, pursuant to § 64.1-73 or § 64.1-73.1, files a consent in writing with a clerk of circuit court that any service of process or notice may be by service upon a resident of this Commonwealth at such address as the trustee may appoint in the written instrument filed with the clerk shall, by filing such consent, be deemed to have designated the clerk of the court in which the consent is filed, and his successor in office, as the true and lawful attorney of such nonresident trustee upon whom service of any such notice, process or rule issuing from a court of this Commonwealth may be executed, whenever the resident appointed to receive service cannot be found and served within the Commonwealth after the exercise of due diligence.

INTRODUCED

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