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HOUSE BILL NO. 2070

Offered January 10, 2001

Prefiled January 10, 2001

A BILL to amend and reenact § 26-3 of the Code of Virginia, relating to bonds of fiduciaries.

Patron—Howell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 26-3 of the Code of Virginia is amended and reenacted as follows:

§ 26-3. When court may require new bond, or revoke authority; giving new bond upon motion of fiduciary, surety or other party in interest.

A. The court under whose order or under the order of whose clerk any such fiduciary derives his authority, on the application of any surety or his personal representative, shall, or, (i) upon motion of the fiduciary, or (ii) when it appears proper on report of the clerk or a commissioner or on evidence adduced before it by any party interested, may, at any time, whether such fiduciary shall or shall not have before given bond, or whether he shall have given one with or without sureties, order him to give before the court, or clerk, a new bond or additional bond in a reasonable time to be prescribed by it in such penalty and with or without sureties as may appear to it to be proper. The new bond or additional bond shall have the effect provided by § 49-14. In all cases where the fiduciary qualified pursuant to an order issued by a clerk, the clerk shall have the same power regarding bond and surety. If the order of the court or clerk is not complied with, or whenever from any cause it appears proper, the court may revoke and annul the powers of any such fiduciary. However, no such order shall be made unless reasonable notice appears to have been given to the fiduciary by (i) the commissioner who made the report, (ii) the surety or his representative making the application or (iii) the service of a rule or otherwise. No order or revocation shall invalidate any previous act of such fiduciary.

Upon motion of the fiduciary, surety or other party in interest, a new bond may be given before the court or clerk, in such penalty and with such sureties as may appear to the court or the clerk to be proper. The new bond shall have the effect provided by § 49-14.

B. When the court or clerk orders a new bond, additional bond, or a reduction in bond, the court or clerk shall, in lieu of requiring a personal appearance by the fiduciary for the execution thereof, allow the fiduciary's execution to be made by the fiduciary's agent under a power of attorney expressly authorizing the same.

INTRODUCED

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