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HOUSE BILL NO. 1919

Offered January 8, 2003

Prefiled January 7, 2003

A BILL to amend and reenact §§ 26-13, 26-15, and 26-20 of the Code of Virginia, relating to filing inventory of estate.

Patron—Almand

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That §§ 26-13, 26-15, and 26-20 of the Code of Virginia are amended and reenacted as follows:**

§ 26-13. Enforcing filing of such inventories.

If any ~~such~~ fiduciary ~~fail~~ fails to make the return required by § 26-12, the commissioner shall issue, through the sheriff or other proper officer, a summons to such fiduciary, requiring him to make such return; and if such return ~~be~~ is not made within ~~thirty~~ 30 days after the date of service of the summons, the commissioner shall report the fact to his court. The court shall immediately thereupon order a summons to the fiduciary, requiring him to appear; and upon his appearing unless excused for sufficient reason, he shall be fined by the court in a sum not to exceed \$500. If the fiduciary still ~~fail~~ fails to make the return within such time as the court may prescribe, he shall be deemed guilty of contempt of court, and be dealt with accordingly.

Whenever the commissioner reports to the court that a fiduciary, who is an attorney-at-law licensed to practice in the Commonwealth, has failed to make the required return within 30 days after the date of service of a summons, the commissioner shall also mail a copy of his report to the Virginia State Bar.

§ 26-15. Accounts of sales under deeds of trust, etc.

Within ~~six~~ 6 months after the date of a sale made under any recorded deed of trust, mortgage or assignment for benefit of creditors, otherwise than under a decree, the trustee shall return an account of sale to the commissioner of accounts of the court wherein the instrument was first recorded. Promptly after recording any trustee's deed, the trustee shall deliver to the commissioner of accounts a copy of the deed. The date of sale is the date specified in the notice of sale, or any postponement thereof, as required by subsection A of § 55-59.1. The commissioner shall state, settle and report to the court an account of the transactions of such trustee, and ~~the same~~ it shall be recorded as other fiduciary reports. Any trustee failing to comply with this section shall forfeit his commissions on such sale, unless such commissions are allowed by the court.

If the commissioner of accounts of the court wherein an instrument was first recorded becomes aware that an account as required by this section has not been filed, the commissioner and the court shall proceed against the trustee in like manner and impose like penalties as set forth in § 26-13, unless such trustee is excused for sufficient reason. If after a deed of trust is given on land lying in a county, and before sale thereunder, the land is taken within the limits of the incorporated city, the returns of the trustee and settlement of his accounts shall be before the commissioner of accounts of such city.

Whenever the commissioner reports to the court that a fiduciary, who is an attorney-at-law licensed to practice in the Commonwealth, has failed to make the required return within 30 days after the date of service of a summons, the commissioner shall also mail a copy of his report to the Virginia State Bar.

§ 26-20. Exhibition of accounts when sum does not exceed certain amount.

If the principal sum held by any fiduciary mentioned in § 26-17.3 does not exceed \$15,000, such fiduciary shall exhibit his accounts before the commissioner within ~~four months after the expiration of one year from the date of the order conferring his authority as the appropriate time period~~ provided in ~~§ 26-17.3~~ §§ 26-17.4 through 26-17.7, but thereafter the commissioner of accounts may permit the fiduciary to exhibit his accounts every ~~three~~ 3 years, which permission may be revoked by the commissioner on his own motion or upon request of any interested person. The provisions of this section shall apply to any case in which the corpus of the estate in the hands of the fiduciary has been reduced to \$15,000 or less although it formerly exceeded that amount. Any fiduciary exhibiting his accounts in accordance with the provisions of this section shall be entitled to compensation for his services.

INTRODUCED

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