

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 381

An Act to amend the Code of Virginia by adding a section numbered 8.01-15.2, relating to the Servicemembers Civil Relief Act.

[H 1379]

Approved April 8, 2004

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-15.2 as follows:

§ 8.01-15.2. Servicemembers Civil Relief Act, default judgment.

Notwithstanding the provisions of § 8.01-428, in any civil action or proceeding in which the defendant does not make an appearance, the court shall not enter a judgment by default until the plaintiff files with the court an affidavit (i) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or (ii) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service. Subject to the provisions of § 8.01-3, the Supreme Court shall prescribe the form of such affidavit, or the requirement for an affidavit may be satisfied by a written statement, declaration, verification or certificate, subscribed and certified or declared to be true under penalty of perjury. Any judgment by default entered by any court in any civil action or proceeding in violation of Title II of the Servicemembers Civil Relief Act (50 U.S.C. Appx. §§ 501 et seq.) may be set aside as provided by the Act.