

# VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

## CHAPTER 644

*An Act to amend and reenact §§ 26-1.2 and 26-8.1 of the Code of Virginia, relating to fiduciaries; obligation to report nonresident status; penalty.*

[H 2547]

Approved March 23, 2005

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

**1. That §§ 26-1.2 and 26-8.1 of the Code of Virginia are amended and reenacted as follows:**

§ 26-1.2. Information to be provided to clerk by fiduciary.

On and after July 1, 1998, every person seeking to qualify in any fiduciary capacity before the court or clerk shall provide to the court or clerk the information required to make the qualification on forms provided to the proposed fiduciary by the clerk. The forms, with appropriate instructions concerning their use, shall be provided to each clerk by the Office of the Executive Secretary of the Supreme Court. In lieu of any form, a computer-generated facsimile of the form may be used by any person seeking to qualify.

*Every qualified fiduciary who moves from Virginia and becomes resident in another state shall inform the clerk and the commissioners of accounts of the court in which he was qualified of his new address within 30 days of the date of the change in residency. Any person who fails to so inform the clerk and commissioners of accounts shall be subject to a civil penalty of \$50. For purposes of this section, a person becomes resident in another state when he can no longer satisfy the residency requirements specified in § 38.2-1800.1. This section shall not apply to any fiduciary whose cofiduciary is a Virginia resident.*

§ 26-8.1. Subpoena powers of commissioners, assistants and deputies; penalty.

Commissioners of accounts, assistant commissioners of accounts and deputy commissioners of accounts shall have the power to issue subpoenas to require any person to appear before them and to issue subpoenas duces tecum to require the production of any documents or papers before them. Such commissioners shall not have the power to punish any person for contempt for failure to appear or to produce documents or papers, but may certify the fact of such nonappearance or failure to produce to the circuit court, which may impose penalties for civil contempt as if the court had issued the subpoena. *Such commissioners may certify to the circuit court the fact of a fiduciary's failure to inform the clerk or commissioners of his nonresident status and new address pursuant to § 26-1.2. The court, upon a finding of a violation of § 26-1.2, may impose a \$50 civil penalty. Such penalties shall be paid to the state treasurer for deposit into the general fund.*