

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 681

An Act to amend and reenact §§ 1-13.23:1, 3.1-358, 3.1-389, 8.01-2, 8.01-23, 8.01-33, 8.01-272, 8.01-282, 8.01-283, 8.01-331, 8.01-336, 8.01-426, 8.01-670, 9.1-406, 15.2-4119, 16.1-296, 17.1-124, 17.1-131, 17.1-213, 17.1-240, 17.1-249, 17.1-275, 17.1-278, as it is currently effective and as it may become effective, 17.1-279, 17.1-513, 17.1-520, 18.2-500, 18.2-507, 19.2-385, 19.2-386.13, 20-96, 26-21, 26-29, 31-8.1, 40.1-49.4, 43-62, 51.5-46, 53.1-70, 55-19, 55-277, 56-521, 56-522, 57-9, 57-16, 58.1-1727, 64.1-106 and 64.1-179 of the Code of Virginia, and to repeal §§ 8.01-270 and 8.01-284 of the Code of Virginia, relating to circuit court civil actions.

[S 1118]

Approved March 23, 2005

Be it enacted by the General Assembly of Virginia:

1. That §§ 1-13.23:1, 3.1-358, 3.1-389, 8.01-2, 8.01-23, 8.01-33, 8.01-272, 8.01-282, 8.01-283, 8.01-331, 8.01-336, 8.01-426, 8.01-670, 9.1-406, 15.2-4119, 16.1-296, 17.1-124, 17.1-131, 17.1-213, 17.1-240, 17.1-249, 17.1-275, 17.1-278, as it is currently effective and as it may become effective, 17.1-279, 17.1-513, 17.1-520, 18.2-500, 18.2-507, 19.2-385, 19.2-386.13, 20-96, 26-21, 26-29, 31-8.1, 40.1-49.4, 43-62, 51.5-46, 53.1-70, 55-19, 55-277, 56-521, 56-522, 57-9, 57-16, 58.1-1727, 64.1-106 and 64.1-179 of the Code of Virginia are amended and reenacted as follows:

§ 1-13.23:1. Process.

The word "process" shall be construed to include subpoenas ~~in chancery~~, notices to commence ~~actions at law~~ the summons and complaint in a civil action, and process in statutory actions.

§ 3.1-358. Jurisdiction to enjoin unlawful use of Label.

Any court of record ~~having general chancery jurisdiction in this~~ the Commonwealth shall have jurisdiction to enjoin the use of the Virginia Quality Label or of such label with the shield of the United States or any imitation or counterfeit likeness thereof used in violation of this article.

§ 3.1-389. Injunctions to prevent violations; exceptions as to certain publications.

In addition to the remedies hereinafter provided the Commissioner is authorized to apply to any court of record ~~having general chancery jurisdiction in this~~ the Commonwealth for, and such court shall have jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any provision of § 3.1-388, irrespective of whether or not there exists an adequate remedy at law. But whenever it appears to the satisfaction of the court in the case of a newspaper, magazine, periodical, or other publication, published at regular intervals, (1) that restraining the dissemination of a false advertisement in any particular issue of such publication would delay the delivery of such issue after the regular time therefor, and (2) that such delay would be due to the method by which the manufacture and distribution of such publication is customarily conducted by the publisher in accordance with sound business practice, and not to any method or device adopted for the evasion of this section or to prevent or delay the issuance of an injunction or restraining order with respect to such false advertisement or any other advertisement, the court shall exclude such issue from the operation of the restraining order or injunction.

§ 8.01-2. General definitions for this title.

As used in this title, unless the context otherwise requires, the term:

1. "Action" and "suit" may be used interchangeably and shall include all civil proceedings whether *upon claims* at law, in equity, or statutory in nature and whether in circuit courts or district courts;
2. "Decree" and "judgment" may be used interchangeably and shall include orders or awards;
3. "Fiduciary" shall include any one or more of the following:
 - a. guardian,
 - b. committee,
 - c. trustee,
 - d. executor,
 - e. administrator, and administrator with the will annexed,
 - f. curator of the will of any decedent, or
 - g. conservator;
4. "Rendition of a judgment" means the time at which the judgment is signed and dated;
5. "Person" shall include individuals, a trust, an estate, a partnership, an association, an order, a corporation, or any other legal or commercial entity;
6. "Person under a disability" shall include:
 - a. a person convicted of a felony during the period he is confined;
 - b. an infant;
 - c. a drug addict or an alcoholic as defined in § 37.1-1;

d. an incapacitated person as defined in § 37.1-134.6;
 e. an incapacitated ex-service person under § 37.1-134.20; or
 f. any other person who, upon motion to the court by any party to an action or suit or by any person in interest, is determined to be (i) incapable of taking proper care of his person, or (ii) incapable of properly handling and managing his estate, or (iii) otherwise unable to defend his property or legal rights either because of age or temporary or permanent impairment, whether physical, mental, or both;

7. "Sheriff" shall include deputy sheriffs and such other persons designated in § 15.2-1603;

8. "Summons" and "subpoena" may be used interchangeably and shall include a subpoena duces tecum for the production of documents and tangible things;

9. "Court of equity," "law and equity court," "law and chancery court," "chancery court," "corporation court," "the chancery side," "court exercising powers in chancery," "court with equitable jurisdiction," and "receivership court" shall mean the circuit court when entertaining equitable claims;

10. A "motion for judgment," "bill," "bill of complaint," or "bill in equity" shall mean a complaint in a civil action, as provided in the Rules of Supreme Court of Virginia;

11. "Equity practice," "equity procedure," "chancery practice," and "chancery procedure" shall mean practice and procedure in a civil action as prescribed by this Code and the Rules of Supreme Court of Virginia.

§ 8.01-23. Decree in suit when number of parties exceeds 30 and one of them dies.

When, in any suit ~~in equity~~ involving a decedent's estate or a trust, the number of parties exceeds ~~thirty~~ 30, and any one of the parties jointly interested with others in any question arising therein, ~~shall die~~ dies, the court may, notwithstanding, if in its opinion all classes of interests are represented and no one will be prejudiced thereby, proceed to render a decree in such suit as if such party were alive; decreeing to the heirs, devisees, legatees, distributees, or personal representatives, as the case may be, such interest as the deceased person, if alive, would be entitled to. The provisions of § 8.01-322 shall apply to decrees entered hereunder.

§ 8.01-33. Equitable relief in certain cases.

A court of equity shall not have jurisdiction of a suit grant equitable relief in a suit upon a bond, note, or writing, by an assignee or holder thereof, unless it ~~appear~~ appears that the plaintiff had ~~not~~ an adequate remedy thereon at law.

§ 8.01-272. Pleading several matters; joining tort and contract claims; separate trial in discretion of court; counterclaims.

In any civil action, a party may plead as many matters, whether of law or fact, as he shall think necessary. A party may join a claim in tort with one in contract provided that all claims so joined arise out of the same transaction or occurrence. The court, in its discretion, may order a separate trial for any claim. Any counterclaim brought in an action under Part Three of the Rules of Court shall be governed by such the Rules of Supreme Court of Virginia.

§ 8.01-282. Motion to strike evidence.

~~In any chancery cause~~ When a defendant moves the court to strike out all of the evidence, upon any grounds, and such motion is overruled by the court, such defendant shall not thereafter be precluded from introducing evidence in his behalf, and the procedure thereon shall be the same and shall have the same effect as the motion to strike the evidence in an action at law.

§ 8.01-283. Answer in equity proceeding.

Unless a complainant in a suit in equity shall, in his bill, request an answer or answer under oath to certain specified interrogatories, the answer of the defendant, though under oath, shall not be evidence in his favor, unless the cause be heard upon bill and answer only; but may, nevertheless, be used as an affidavit with the same effect as heretofore upon a motion to grant or dissolve any injunction, or upon any other incidental motion in the cause; but this section shall not apply to either pure bills of discovery or what are known as mixed bills of discovery, and shall not prevent a defendant from testifying in his own behalf, where he would otherwise be a competent witness. There shall be no requirement that a sworn answer in a proceeding on an equitable claim be rebutted by the testimony of two witnesses.

§ 8.01-331. Entry of cases on current dockets.

When any civil action is commenced in a circuit court, or any such action is removed to such court and the required writ tax and fees thereon paid, the clerk shall enter the same in the civil docket. Law cases shall be entered separately from equity cases on the docket. These dockets may be either (i) a substantial, well-bound loose-leaf book, (ii) a visible card index or (iii) automated data processing media. Each case shall be entered on the civil docket, on which shall be entered:

1. The short style of the suit or action,
2. The names of the attorneys,
3. The nature of the suit or action, and
4. The date filed and case file number.

In addition the docket may contain the following information applicable in an individual case as deemed appropriate:

1. The names of the parties,
2. The date of the issuance of process,

3. A memorandum of the service of process,
4. A memorandum of the orders and proceedings in the case, and
5. The hearing date(s) and type(s) of hearing(s) conducted on such date(s).

The clerk may enter the clerk's fees in the case on such docket instead of in the fee book ~~prescribed~~ by § 14.1-168.

Cases appealed from the juvenile and domestic relations district courts shall be docketed as provided in this section and, to the extent inconsistent with this section, § 16.1-302.

§ 8.01-336. Jury trial of right; waiver of jury trial; court-ordered jury trial; trial by jury of plea in equity; equitable claim.

A. The right of trial by jury as declared in Article I, Section 11 of the Constitution of Virginia and by statutes thereof shall be preserved inviolate to the parties.

B. Waiver of jury trial. - In any action at law in which the recovery sought is greater than \$100, exclusive of interest, unless one of the parties ~~demand~~ *demands* that the case or any issue thereof be tried by a jury, or in a criminal action in which trial by jury is dispensed with as provided by law, the whole matter of law and fact may be heard and judgment given by the court.

C. Court-ordered jury trial. - Notwithstanding any provision in this Code to the contrary, in any action *asserting a claim* at law in which there has been no demand for trial by jury by any party, a circuit court may on its own motion direct one or more issues, including an issue of damages, to be tried by a jury.

D. Trial by jury of plea in equity. - In any action in which a plea has been filed to an equitable claim, and the allegations of such plea are denied by the plaintiff, either party may have the issue tried by jury.

E. ~~Issue out of chancery~~ *Suit on equitable claim.* - In any suit ~~in equity~~ *on an equitable claim*, the court may, of its own motion or upon motion of any party, supported by such party's affidavit that the case will be rendered doubtful by conflicting evidence of another party, direct an issue to be tried ~~by a~~ *before an advisory jury*.

§ 8.01-426. "Judgment" includes decree.

A decree for land or specific personal property, and a decree or order requiring the payment of money, shall have the effect of a judgment for such land, property, or money, and be embraced by the word "judgment," where used in this chapter or in Chapters 18, 19 or 20 of this title or in Title 43; but a party may proceed to carry into execution a decree or order ~~in chancery~~ other than for the payment of money, as he might have done if this and the following section had not been enacted.

§ 8.01-670. In what cases awarded.

A. Except as provided by § 17.1-405, any person may present a petition for an appeal to the Supreme Court if he believes himself aggrieved:

1. By any judgment in a controversy concerning:

- a. The title to or boundaries of land,
- b. The condemnation of property,
- c. The probate of a will,

d. The appointment or qualification of a personal representative, guardian, conservator, committee, or curator,

e. A mill, roadway, ferry, wharf, or landing,

f. The right of the Commonwealth, or a county, or municipal corporation to levy tolls or taxes, or

g. The construction of any statute, ordinance, or county proceeding imposing taxes; or

2. By the order of a court refusing a writ of quo warranto or by the final judgment on any such writ; or

3. By a final judgment in any other civil case.

B. Except as provided by § 17.1-405, any party may present a petition for an appeal to the Supreme Court in any case ~~in chancery~~ *on an equitable claim* wherein there is an interlocutory decree or order:

1. Granting, dissolving or denying an injunction; or

2. Requiring money to be paid or the possession or title of property to be changed; or

3. Adjudicating the principles of a cause.

C. Except in cases where appeal from a final judgment lies in the Court of Appeals, as provided in § 17.1-405, any party may present a petition pursuant to § 8.01-670.1 for appeal to the Supreme Court.

§ 9.1-406. Appeals.

Appeals from judgments entered pursuant to this chapter shall be allowed as in ~~chancery matters~~ *civil actions* generally.

§ 15.2-4119. Effect on jurisdiction of courts.

Upon the effective date of the transition from city to town status, all criminal prosecutions then pending therein, whether by indictment, warrant or other complaint, and all suits, actions, motions, warrants, and other proceedings of a civil nature, ~~at law or chancery~~, with all the records of the courts of the city, shall stand ipso facto removed to the courts of concurrent or like jurisdiction of the appropriate county. The circuit and other courts having courthouses and records in and jurisdiction over the city shall, at some convenient time, as closely preceding the period of removal as practicable, by

formal orders entered of record, direct the removal of all such causes and proceedings, civil and criminal, ~~at law and in chancery~~, to the court or courts of concurrent or like jurisdiction of the county. The clerk of the court or courts to which the causes and proceedings have been removed shall thereupon proceed as in other cases of removal or changes of venue and such matters shall be docketed and handled as though initially filed in such court or courts. At the same time such clerk or clerks shall also deliver to the proper clerk or clerks of the county all the deed books, order or minute books, execution dockets, judgment dockets and other records of his office, of whatever kind or nature. The clerk or clerks of the court or courts to which the records are removed shall take charge of and preserve the records for reference and use in the same manner and with the same effect as though they were original records of his office.

§ 16.1-296. Jurisdiction of appeals; procedure.

A. From any final order or judgment of the juvenile court affecting the rights or interests of any person coming within its jurisdiction, an appeal may be taken within 10 days from the entry of a final judgment, order or conviction. However, in a case arising under the Uniform Interstate Family Support Act (§ 20-88.32 et seq.), a party may take an appeal pursuant to this section within 30 days from entry of a final order or judgment. Protective orders issued pursuant to § 16.1-279.1 in cases of family abuse and orders entered pursuant to § 16.1-278.2 are final orders from which an appeal may be taken.

B. Upon receipt of notice of such appeal the juvenile court shall forthwith transmit to the attorney for the Commonwealth a report incorporating the results of any investigation conducted pursuant to § 16.1-273, which shall be confidential in nature and made available only to the court and the attorney for the defendant (i) after the guilt or innocence of the accused has been determined or (ii) after the court has made its findings on the issues subject to appeal. After final determination of the case, the report and all copies thereof shall be forthwith returned to such juvenile court.

C. Where an appeal is taken by a child on a finding that he or she is delinquent and on a disposition pursuant to § 16.1-278.8, trial by jury on the issue of guilt or innocence of the alleged delinquent act may be had on motion of the child, the attorney for the Commonwealth or the circuit court judge. If the alleged delinquent act is one which, if committed by an adult, would constitute a felony, the child shall be entitled to a jury of 12 persons. In all other cases, the jury shall consist of seven persons. If the jury in such a trial finds the child guilty, disposition shall be by the judge pursuant to the provisions of § 16.1-278.8 after taking into consideration the report of any investigation made pursuant to § 16.1-237 or § 16.1-273.

C1. In any hearing held upon an appeal taken by a child on a finding that he is delinquent and on a disposition pursuant to § 16.1-278.8, the provisions of § 16.1-302 shall apply mutatis mutandis, except in the case of trial by jury which shall be open. If proceedings in the circuit court are closed pursuant to this subsection, any records or portions thereof relating to such closed proceedings shall remain confidential.

C2. Where an appeal is taken by a juvenile on a finding that he is delinquent and on a disposition pursuant to § 16.1-278.8 and the juvenile is in a secure facility pending the appeal, the circuit court, when practicable, shall hold a hearing on the merits of the case within 45 days of the filing of the appeal. Upon receipt of the notice of appeal from the juvenile court, the circuit court shall provide a copy of the order and a copy of the notice of appeal to the attorney for the Commonwealth within seven days after receipt of notice of an appeal. The time limitations shall be tolled during any period in which the juvenile has escaped from custody. A juvenile held continuously in secure detention shall be released from confinement if there is no hearing on the merits of his case within 45 days of the filing of the appeal. The circuit court may extend the time limitations for a reasonable period of time based upon good cause shown, provided the basis for such extension is recorded in writing and filed among the papers of the proceedings.

D. When an appeal is taken in a case involving termination of parental rights brought under § 16.1-283, the circuit court shall hold a hearing on the merits of the case within 90 days of the perfecting of the appeal. An appeal of the case to the Court of Appeals shall take precedence on the docket of the Court.

E. Where an appeal is taken by an adult on a finding of guilty of an offense within the jurisdiction of the juvenile and domestic relations district court, the appeal shall be dealt with in all respects as is an appeal from a general district court pursuant to §§ 16.1-132 through 16.1-137; however, where an appeal is taken by any person on a charge of nonsupport, the procedure shall be as is provided for appeals in prosecutions under Chapter 5 (§ 20-61 et seq.) of Title 20.

F. In all other cases on appeal, proceedings in the circuit court shall ~~conform to the equity practice where evidence is heard ore tenus; be heard without a jury~~; however, *hearing of an issue out of chancery by an advisory jury* may be allowed, in the discretion of the judge, upon the motion of any party. An appeal from an order of protection issued pursuant to § 16.1-279.1 shall be given precedence on the docket of the court over other civil appeals taken to the circuit court from the district courts, but shall otherwise be docketed and processed as other civil cases.

G. Costs, taxes and fees on appealed cases shall be assessed only in those cases in which a trial fee could have been assessed in the juvenile and domestic relations court and shall be collected in the

circuit court, except that the appeal to circuit court of any case in which a fee either was or could have been assessed pursuant to § 16.1-69.48:5 shall also be in accordance with § 16.1-296.2.

H. No appeal bond shall be required of a party appealing from an order of a juvenile and domestic relations district court except for that portion of any order or judgment establishing a support arrearage or suspending payment of support during pendency of an appeal. In cases involving support, no appeal shall be allowed until the party applying for the same or someone for him gives bond, in an amount and with sufficient surety approved by the judge or by his clerk if there is one, to abide by such judgment as may be rendered on appeal if the appeal is perfected or, if not perfected, then to satisfy the judgment of the court in which it was rendered. Upon appeal from a conviction for failure to support or from a finding of civil or criminal contempt involving a failure to support, the juvenile and domestic relations district court may require the party applying for the appeal or someone for him to give bond, with or without surety, to insure his appearance and may also require bond in an amount and with sufficient surety to secure the payment of prospective support accruing during the pendency of the appeal. An appeal will not be perfected unless such appeal bond as may be required is filed within 30 days from the entry of the final judgment or order. However, no appeal bond shall be required of the Commonwealth or when an appeal is proper to protect the estate of a decedent, an infant, a convict or an insane person, or the interest of a county, city or town.

If bond is furnished by or on behalf of any party against whom judgment has been rendered for money, the bond shall be conditioned for the performance and satisfaction of such judgment or order as may be entered against the party on appeal, and for the payment of all damages which may be awarded against him in the appellate court. If the appeal is by a party against whom there is no recovery, the bond shall be conditioned for the payment of any damages as may be awarded against him on the appeal.

This subsection shall not apply to release on bail pursuant to other subsections of this section or § 16.1-298.

I. In all cases on appeal, the circuit court in the disposition of such cases shall have all the powers and authority granted by the chapter to the juvenile and domestic relations district court. Unless otherwise specifically provided by this Code, the circuit court judge shall have the authority to appoint counsel for the parties and compensate such counsel in accordance with the provisions of Article 6 (§ 16.1-266 et seq.) of this chapter.

J. In any case which has been referred or transferred from a circuit court to a juvenile court and an appeal is taken from an order or judgment of the juvenile court, the appeal shall be taken to the circuit court in the same locality as the juvenile court to which the case had been referred or transferred.

§ 17.1-124. Order books.

Except as otherwise provided herein, each circuit court clerk shall keep ~~two~~ order books; ~~to be known as the common-law order book and the chancery order book. In the common-law order book, recording all proceedings, orders and judgments of the court in all matters at common law shall be recorded. In the chancery order book, all decrees, and decretal orders of such court, in matters of equity and all matters pertaining to trusts, the appointment and qualification of trustees, committees, administrators, executors, conservators and guardians shall be recorded, except when the same are appointed by the clerk of court, in which event the order appointing such administrators or executors, shall be made and entered in the clerk's order book. In any circuit court, the clerk may, with the approval of the chief judge of the court, by order entered of record, divide the common-law order book into two sections, to be known as the civil common-law order book and the criminal common-law order book. All proceedings, orders and judgments of the court in all matters at civil common law shall be recorded in the civil common-law order book, and all proceedings, orders and judgments of the court in all matters at criminal law shall be recorded in the criminal common-law order book. The action of any court which has established a separate criminal common-law order book prior to July 1, 1973, is hereby validated.~~ In any proceeding brought for the condemnation of property, all proceedings, orders, judgments and decrees of the court shall be recorded in the ~~common-law~~ civil order book of the court. The recordation prior to January 1, 1974, of all proceedings, orders, judgments and decrees in such cases, whether entered in the common-law order book or the chancery order book of any court, is hereby declared a valid and proper recordation of the same. Orders in cases appealed from the juvenile and domestic relations district courts shall be maintained as provided in this section and, to the extent inconsistent with this section, § 16.1-302.

§ 17.1-131. Jurisdiction to issue writs of mandamus in matters pertaining to action of service district commission.

The circuit court of a county or city having original and general jurisdiction of ~~suits in chancery and civil cases at law~~, *civil actions* in which county or city is situated the seat of government of a service district, shall have original exclusive jurisdiction to issue writs of mandamus in all matters or proceedings arising from or pertaining to the action of the service district commission.

§ 17.1-213. Disposition of papers in ended cases.

A. All case files for cases ended prior to January 1, 1913, shall be permanently maintained in hardcopy form, either in the locality served by the circuit court where such files originated or in The

Library of Virginia in accordance with the provisions of §§ 42.1-83 and 42.1-86.

B. The following records for cases ending on or after January 1, 1913, may be destroyed in their entirety at the discretion of the clerk of each circuit court after having been retained for 10 years after conclusion:

1. Conditional sales contracts;
2. Concealed weapons permit applications;
3. Minister appointments;
4. Petitions for appointment of trustee;
5. Name changes;
6. Nolle prosequi cases;
7. ~~Law and chancery matters~~ *Civil actions* that are voluntarily dismissed, including nonsuits, cases that are dismissed as settled and agreed, cases that are dismissed with or without prejudice, cases that are discontinued or dismissed under § 8.01-335 and district court appeals dismissed under § 16.1-113 prior to 1988;
8. Misdemeanor and traffic cases, including those which were commenced on a felony charge but concluded as a misdemeanor;
9. Suits to enforce a lien;
10. Garnishments;
11. Executions except for those covered in § 8.01-484;
12. Miscellaneous oaths and qualifications, but only if the order or oath or qualification is spread in the appropriate order book; and
13. Civil cases pertaining to declarations of habitual offender status and full restoration of driving privileges.

C. All other records or cases ending on or after January 1, 1913, may be destroyed in their entirety at the discretion of the clerk of each circuit court subject to the following guidelines:

1. All civil ~~and chancery~~ case files to which subsection D does not pertain may be destroyed after 20 years from the court order date.
2. All criminal cases dismissed, including those not a true bill, acquittals and not guilty verdicts, may be destroyed after 10 years from the court order date.
3. All criminal case files involving a felony conviction may be destroyed (i) after 20 years from the sentencing date or (ii) when the sentence term ends, whichever comes later.

D. Under the provisions of subsections B and C, the entire file of any case deemed by the local clerk of court to have historical value, as defined in § 42.1-77, or genealogical or sensational significance shall be retained permanently as shall all cases in which the title to real estate is established, conveyed or condemned by an order or decree of the court. The final order for all cases in which the title to real estate is so affected shall include an appropriate notification thereof to the clerk.

E. Except as provided in subsection A, the clerk of a circuit court may cause (i) any or all ended records, papers, or documents pertaining to ~~law, chancery, civil~~ and criminal cases which have been ended for a period of three years or longer; (ii) any unexecuted search warrants and affidavits for unexecuted search warrants, provided at least three years have passed since issued; (iii) any abstracts of judgments; and (iv) original wills, to be destroyed if such records, papers, documents, or wills no longer have administrative, fiscal, historical, or legal value to warrant continued retention, provided such records, papers, or documents have been microfilmed or converted to an electronic format. Such microfilm and microphotographic processes and equipment shall meet state archival microfilm standards pursuant to § 42.1-82, or such electronic format shall follow state electronic records guidelines, and such records, papers, or documents so converted shall be placed in conveniently accessible files and provisions made for examining and using same. The clerk shall further provide security negative copies of any such microfilmed materials for storage in The Library of Virginia.

§ 17.1-240. Recording by microphotographic or electronic process.

A procedural microphotographic process, digital reproduction, or any other micrographic process which stores images of documents in reduced size or in electronic format, may be used to accomplish the recording of writings otherwise required by any provision of law to be spread in a book or retained in the circuit court clerk's office, including, but not limited to, the ~~Common Law Order Book, the Chancery Order Book, the Clerk's Order Books~~ *civil and criminal order books*, the Will Book and/or Fiduciary Account Book, the Juvenile Order Book, the Adoption Order Book, the Trust Fund Order Book, the Deed Book, the Plat Book, the Land Book, the Judgment Docket Book, the Partnership or Assumed Name Certificate Book, marriage records, and financing statements. Any such micrographic, microphotographic or electronic recording process shall meet archival standards as recommended by the The Library of Virginia.

§ 17.1-249. General indexes for clerks' offices; daily index.

A. There shall be kept in every clerk's office modern, family name or ledgerized alphabetical key-table general indexes to all deed books, miscellaneous liens, will books, judgment dockets and court order books. The clerk shall enter daily either in such general indexes or in the daily index to instruments admitted to record every deed, corrected or amended deed, deed of release, deed of trust,

contract of sale, or any addendum or memorandum relating to any of these instruments, indexing each instrument in the names of all parties listed in the first clause of each instrument as required by §§ 55-48 and 55-58. Any clerk, deputy clerk, or employee of any clerk who so indexes any such instrument shall index any name appearing in the first clause of the original instrument.

B. A deed made to one or more trustees to secure the payment of an indebtedness, and any certificate of satisfaction or certificate of partial satisfaction, assignment, loan modification agreement, substitution of trustees or similar instrument subsequently recorded with respect to such deed, shall be sufficiently indexed if the clerk enters in the appropriate places in the general index to deeds provided for in subsection A the names of the grantor and the name of the beneficiary or, in lieu of the name of the beneficiary, the first listed trustee as grantee. The beneficiary need not be named in the first clause of the deed as a condition of recordation.

C. A deed made by a person in a representative capacity, or by devisees or coparceners, shall be indexed in the names of the grantors and grantees and the name of the former record title owner listed in the first clause of the instrument.

D. The general indexes of ~~law and chancery~~ *civil* causes shall be sufficiently kept if the clerk indexes such causes under the short style or title thereof, except that in multiple suits brought under § 58.1-3968, the names of all of the defendants disclosed by the pleadings shall be entered in the general index or book.

E. Every deed of conveyance of real estate in which a vendor's lien is reserved shall be double indexed so as to show not only the conveyance from the grantor to the grantee in the instrument, but also the reservation of the lien as if it were a grant of the same from the grantee to the grantor by a separate instrument and the fact of the lien shall be noted in the index.

F. All deed books, miscellaneous liens, will books, judgment dockets, and court order books shall be numbered or otherwise adequately designated and the clerk upon the delivery of any writing to him for record required by law to be recorded shall duly index it upon the general index in the manner hereinbefore required. When the writing has been actually transcribed on the book, the clerk shall add to the general index the number of the book in which, and the page on which, the writing is recorded.

G. The clerk on receipt of any such writing for record may immediately index it in a book to be known as the "daily index of instruments admitted to record" and within ~~ninety~~ 90 days after its admission to record the clerk shall index all such writings indexed in the daily index in the appropriate general index as hereinbefore provided. The daily index book shall, at all times, be kept in the office of the clerk and conveniently available for examination by the public. During the period permitted for transfer from the daily index to the general index, indexing in the daily index shall be a sufficient compliance with the requirements of this section as to indexing.

H. The judge of any circuit court may make such orders as he deems advisable as to the time and method of indexing the order books in the clerk's office of the court and may dispense with a general index for order books of the court.

I. The clerk may maintain his indexes on computer, word processor, microfilm, microfiche, or other micrographic medium and, in addition, may maintain his grantor and grantee indexes on paper.

§ 17.1-275. Fees collected by clerks of circuit courts; generally.

A. A clerk of a circuit court shall, for services performed by virtue of his office, charge the following fees:

1. [Repealed.]

2. For recording and indexing in the proper book any writing and all matters therewith, or for recording and indexing anything not otherwise provided for, \$16 for an instrument or document consisting of ~~ten~~ 10 or fewer pages or sheets; \$30 for an instrument or document consisting of 11 to 30 pages or sheets; and \$50 for an instrument or document consisting of 31 or more pages or sheets. Whenever any writing to be recorded includes plat or map sheets no larger than eight and one-half inches by 14 inches, such plat or map sheets shall be counted as ordinary pages for the purpose of computing the recording fee due pursuant to this section. A fee of \$15 per page or sheet shall be charged with respect to plat or map sheets larger than eight and one-half inches by 14 inches. Only a single fee as authorized by this subdivision shall be charged for recording a certificate of satisfaction that releases the original deed of trust and any corrected or revised deeds of trust. One dollar and fifty cents of the fee collected for recording and indexing shall be designated for use in preserving the permanent records of the circuit courts. The sum collected for this purpose shall be administered by The Library of Virginia in cooperation with the circuit court clerks.

3. For appointing and qualifying any personal representative, committee, trustee, guardian, or other fiduciary, in addition to any fees for recording allowed by this section, \$20 for estates not exceeding \$50,000, \$25 for estates not exceeding \$100,000 and \$30 for estates exceeding \$100,000. No fee shall be charged for estates of \$5,000 or less.

4. For entering and granting and for issuing any license, other than a marriage license or a hunting and fishing license, and administering an oath when necessary, \$10.

5. For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths or affidavits, indexing and recording, \$10.

6. For making out any bond, other than those under § 17.1-267 or subdivision A 4, administering all necessary oaths and writing proper affidavits, \$3.
7. For all services rendered by the clerk in any garnishment or attachment proceeding, the clerk's fee shall be \$15 in cases not exceeding \$500 and \$25 in all other cases.
8. For making out a copy of any paper or record to go out of the office, which is not otherwise specifically provided for, a fee of \$.50 for each page. However, there shall be no charge to the recipient of a final order or decree to send an attested copy to such party.
9. For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying it, the clerk shall charge \$2 and for attaching the certificate of the judge, if the clerk is requested to do so, the clerk shall charge an additional \$.50.
10. In any case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk shall assess a fee of \$150 for each felony conviction and each felony disposition under § 18.2-251 which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and Treatment Fund.
11. In any case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk shall assess a fee for each misdemeanor conviction and each misdemeanor disposition under § 18.2-251, which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and Treatment Fund as provided in § 17.1-275.8.
12. Upon the defendant's being required to successfully complete traffic school or a driver improvement clinic in lieu of a finding of guilty, the court shall charge the defendant fees and costs as if he had been convicted.
13. In all *civil actions at law that include one or more claims for the award of monetary damages* the clerk's fee chargeable to the plaintiff shall be \$50 in cases *seeking recovery* not exceeding \$50,000, \$100 in cases *seeking recovery* not exceeding \$100,000, and \$150 in cases *seeking recovery* exceeding \$100,000; ~~and in condemnation cases;~~ A fee of \$25; ~~to~~ shall be paid by the plaintiff at the time of instituting ~~the action;~~ *this fee to be a condemnation case,* in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim or setoff in any pending action. However, the fees prescribed by this subdivision shall be charged upon the filing of a counterclaim *or a claim impleading a third-party defendant.* The fees prescribed above shall be collected upon the filing of papers for the commencement of civil actions. This subdivision shall not be applicable to cases filed in the Supreme Court of Virginia.
- 13a. For the filing of any petition seeking court approval of a settlement where no action has yet been filed, the clerk's fee, chargeable to the petitioner, shall be \$50, to be paid by the petitioner at the time of filing the petition.
14. In addition to the fees chargeable for *civil actions at law*, for the costs of proceedings for judgments by confession under §§ 8.01-432 through 8.01-440, the clerk shall tax as costs (i) the cost of registered or certified mail; (ii) the statutory writ tax, in the amount required by law to be paid on a suit for the amount of the confessed judgment; (iii) for the sheriff for serving each copy of the order entering judgment, \$12; and (iv) for docketing the judgment and issuing executions thereon, the same fees as prescribed in subdivision A 17.
15. For qualifying notaries public, including the making out of the bond and any copies thereof, administering the necessary oaths, and entering the order, \$10.
16. For each habeas corpus proceeding, the clerk shall receive \$10 for all services required thereunder. This subdivision shall not be applicable to such suits filed in the Supreme Court of Virginia.
17. For docketing and indexing a judgment from any other court of this Commonwealth, for docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment pursuant to § 8.01-452, a fee of \$5; and for issuing an abstract of any recorded judgment, when proper to do so, a fee of \$5; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee of \$20.
18. For all services rendered by the clerk in any court proceeding for which no specific fee is provided by law, the clerk shall charge ~~ten dollars~~ \$10, to be paid by the party filing said papers at the time of filing; however, this subdivision shall not be applicable in a divorce cause prior to and including the entry of a decree of divorce from the bond of matrimony.
- 19., 20. [Repealed.]
21. For making the endorsements on a forthcoming bond and recording the matters relating to such bond pursuant to the provisions of § 8.01-529, \$1.
22. For all services rendered by the clerk in any proceeding pursuant to § 57-8 or § 57-15, \$10.
23. For preparation and issuance of a subpoena duces tecum, \$5.
24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name, \$20; however, this subdivision shall not be applicable in cases where the change of name is incident to a divorce.
25. For providing court records or documents on microfilm, per frame, \$.10.

26. In all ~~chancery~~ *causes divorce and separate maintenance proceedings, and all civil actions that do not include one or more claims for the award of monetary damages*, the clerk's fee chargeable to the plaintiff shall be \$50 to be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly certified copy of the final decree. *The fees prescribed by this subdivision shall be charged upon the filing of a counterclaim or a claim impleading a third-party defendant.* However, no fee shall be charged for the filing of a ~~cross-bill~~ *cross-claim or setoff* in any pending suit. In divorce cases, when there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a vinculo, the above mentioned fee shall include the furnishing of a duly certified copy of both such decrees.

27. For the acceptance of credit cards in lieu of money to collect and secure all fees, including filing fees, fines, restitution, forfeiture, penalties and costs, the clerk shall collect a service charge of four percent of the amount paid.

28. For the return of any check unpaid by the financial institution on which it was drawn or notice is received from the credit card issuer that payment will not be made for any reason, the clerk shall collect, if allowed by the court, a fee of \$20 or 10 percent of the amount to be paid, whichever is greater, in accordance with § 19.2-353.3.

29. For all services rendered, except in cases in which costs are assessed pursuant to §§ 17.1-275.1, 17.1-275.2, 17.1-275.3, or § 17.1-275.4, in an adoption proceeding, a fee of \$20, in addition to the fee imposed under § 63.2-1246, to be paid by the petitioner or petitioners.

30. For issuing a duplicate license for one lost or destroyed as provided in § 29.1-334, a fee in the same amount as the fee for the original license.

31. For the filing of any petition as provided in §§ 33.1-124, 33.1-125 and 33.1-129, a fee of \$5 to be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in § 33.1-122, as well as for any order of the court relating thereto, the clerk shall charge the same fee as for recording a deed as provided for in this section, to be paid by the party upon whose request such certificate is recorded or order is entered.

32. For making up, certifying and transmitting original record pursuant to the Rules of the Supreme Court, including all papers necessary to be copied and other services rendered, except in cases in which costs are assessed pursuant to §§ 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or § 17.1-275.9, a fee of \$20.

33. For issuance of hunting and trapping permits in accordance with § 10.1-1154, \$.25.

34. For filings, etc., under the Uniform Federal Lien Registration Act (§ 55-142.1 et seq.), the fees shall be as prescribed in that Act.

35. For filing the appointment of a resident agent for a nonresident property owner in accordance with § 55-218.1, a fee of \$1.

36. [Repealed.]

37. For recordation of certificate and registration of names of nonresident owners in accordance with § 59.1-74, a fee of \$10.

38. For maintaining the information required under the Overhead High Voltage Line Safety Act (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

39. For lodging, indexing and preserving a will in accordance with § 64.1-56, a fee of \$2.

40. For filing a financing statement in accordance with § 8.9A-505, the fee shall be as prescribed under § 8.9A-525.

41. For filing a termination statement in accordance with § 8.9A-513, the fee shall be as prescribed under § 8.9A-525.

42. For filing assignment of security interest in accordance with § 8.9A-514, the fee shall be as prescribed under § 8.9A-525.

43. For filing a petition as provided in §§ 37.1-134.7 and 37.1-134.17, the fee shall be \$10.

44. For issuing any execution, and recording the return thereof, a fee of \$1.50.

45. For the preparation and issuance of a summons for interrogation by an execution creditor, a fee of \$5. If there is no outstanding execution, and one is requested herewith, the clerk shall be allowed an additional fee of \$1.50, in accordance with subdivision A 44.

B. In accordance with § 17.1-281, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29 and A 31 to be designated for courthouse construction, renovation or maintenance.

C. In accordance with § 17.1-278, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29 and A 31 to be designated for services provided for the poor, without charge, by a nonprofit legal aid program.

D. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29 and A 31 to be designated for public law libraries.

E. The provisions of this section shall control the fees charged by clerks of circuit courts for the services above described.

§ 17.1-278. (Expires July 1, 2006) Additional fees in certain courts; use by Virginia State Bar.

In addition to the fees prescribed by § 16.1-69.48:2 and subdivision A 13 of § 17.1-275 and to be

collected by the clerk of the circuit or general district court upon the filing of papers for the commencement of civil actions in such courts, the following additional fees shall be collected in all cities and counties in which civil legal representation is provided for the poor, without charge, by a nonprofit legal aid program organized under the auspices of the Virginia State Bar: (i) upon commencement of ~~an a civil action whether at law or in chancery~~ in such circuit court, an additional fee of \$5 and (ii) upon commencement of a civil action in such general district court, an additional fee of \$5.

The additional fees prescribed by this action shall be collected by the clerk at the time of the filing. The amounts so collected shall be paid by the clerk to the state treasury and credited as follows: (i) \$4 to a special fund within the Virginia State Bar fund to be designated the Legal Aid Services Fund, and (ii) \$1 to the general fund for funding of the district courts of the Commonwealth. Such amount for the district courts shall be used to assist indigent litigants. Such amounts credited to the Legal Aid Services Fund shall be disbursed by the Virginia State Bar by check from the State Treasurer upon a warrant of the Comptroller to nonprofit legal aid programs organized under the auspices of the Virginia State Bar through the Legal Services Corporation of Virginia to assist in defraying the costs of such programs. However, the additional fees prescribed by this section shall not be collected in actions initiated by any local government or by the Commonwealth.

§ 17.1-278. (Effective July 1, 2006) Additional fees in certain courts; use by Virginia State Bar.

In addition to the fees prescribed by §§ 16.1-69.48:2 and *subdivision A 13 of § 17.1-275 A 13* and to be collected by the clerk of the circuit or general district court upon the filing of papers for the commencement of civil actions in such courts, the following additional fees shall be collected in all cities and counties in which civil legal representation is provided for the poor, without charge, by a nonprofit legal aid program organized under the auspices of the Virginia State Bar: (i) upon commencement of ~~an a civil action whether at law or in chancery~~ in such circuit court, an additional fee of ~~four dollars~~ \$4 and (ii) upon commencement of a civil action in such general district court, an additional fee of ~~four dollars~~ \$4.

The additional fees prescribed by this action shall be collected by the clerk at the time of the filing. The amounts so collected shall be paid by the clerk to the state treasury and credited as follows: (i) ~~three dollars~~ \$3 to a special fund within the Virginia State Bar fund to be designated the Legal Aid Services Fund, and (ii) ~~one dollar~~ \$1 to the general fund for funding of the district courts of the Commonwealth. Such amount for the district courts shall be used to assist indigent litigants. Such amounts credited to the Legal Aid Services Fund shall be disbursed by the Virginia State Bar by check from the State Treasurer upon a warrant of the Comptroller to nonprofit legal aid programs organized under the auspices of the Virginia State Bar through the Legal Services Corporation of Virginia to assist in defraying the costs of such programs. However, the additional fees prescribed by this section shall not be collected in actions initiated by any local government or by the Commonwealth.

§ 17.1-279. Additional fee to be assessed by circuit court clerks for information technology.

A. In addition to the fees otherwise authorized by this chapter, the clerk of each circuit court shall assess a \$5 fee, known as the "Technology Trust Fund Fee," in each ~~law and chancery~~ civil action, upon each instrument to be recorded in the deed books, and upon each judgment to be docketed in the judgment lien docket book. Such fee shall be deposited by the State Treasurer into a trust fund. The State Treasurer shall maintain a record of such deposits.

B. Four dollars of every \$5 fee shall be allocated by the Compensation Board from the trust fund for the purposes of: (i) developing and updating individual land records automation plans for individual circuit court clerks' offices; (ii) implementing automation plans to modernize land records in individual circuit court clerks' offices and provide secure remote access to land records throughout the Commonwealth; (iii) obtaining and updating office automation and information technology equipment including software and conversion services; (iv) preserving, maintaining and enhancing court records, including, but not limited to, the costs of repairs, maintenance, service contracts and system upgrades; and (v) improving public access to court records. The Compensation Board in consultation with circuit court clerks and other users of court records shall develop and update policies governing the allocation of funds for these purposes. However, such funds shall not be used for personnel costs within the circuit court clerks' offices. The Compensation Board policies governing the allocation of funds shall require that a clerk submit to the Compensation Board a written certification that the clerk's proposed technology improvements of his land records will accommodate secure remote access to those land records on a statewide basis.

The annual budget submitted by each circuit court clerk pursuant to § 15.2-1636.7 may include a request for technology improvements in the upcoming fiscal year to be allocated by the Compensation Board from the trust fund. Such request shall not exceed the deposits into the trust fund credited to that locality. The Compensation Board shall allocate the funds requested by the clerks in an amount not to exceed the deposits into the trust fund credited to their respective localities.

C. The remaining \$1 of each such fee may be allocated by the Compensation Board from the trust fund (i) for the purposes of funding studies to develop and update individual land-records automation plans for individual circuit court clerks' offices, at the request of and in consultation with the individual

circuit court clerk's offices, and (ii) for the purposes enumerated in subsection B to implement the plan to modernize land records in individual circuit court clerks' offices and provide secure remote access to land records throughout the Commonwealth. The allocations pursuant to this subsection may give priority to those individual clerks' offices whose deposits into the trust fund would not be sufficient to implement its modernization plan. The Compensation Board policies governing the allocation of funds shall require that a clerk submit to the Compensation Board a written certification that the clerk's proposed technology improvements of his land records will accommodate secure remote access to those land records on a statewide basis.

D. Secure remote access to land records shall be by paid subscription service through individual circuit court clerk's offices pursuant to § 17.1-276, or through designated application service providers. Compliance with security standards developed by the Virginia Information Technologies Agency pursuant to § 2.2-3808.2 shall be certified by the individual circuit court clerks' offices to the Virginia Information Technologies Agency and the Compensation Board. The individual circuit court clerk's office or its designated application service provider shall certify compliance with such security standards. Nothing in this section shall prohibit the Compensation Board from allocating trust fund money to individual circuit court clerks' offices for the purpose of complying with such security standards.

E. Such fee shall not be assessed to any instrument to be recorded in the deed books nor any judgment to be docketed in the judgment lien docket books tendered by any federal, state or local government.

F. If a circuit court clerk has implemented an automation plan for his land records that will accommodate secure remote access on a statewide basis, then that clerk may apply to the Compensation Board for an allocation from the Technology Trust Fund for automation and technology improvements in the ~~law and chancery~~ civil divisions, or the criminal division, of his office. Such request shall not exceed the deposits into the trust fund credited to that locality. The Compensation Board in approval of such application shall consider what local funds have been spent by the jurisdiction to accelerate the implementation of the technology plan approved by the Virginia Information Technologies Agency in each circuit court clerk's office.

G. Information regarding the technology programs adopted by the circuit court clerks shall be shared with the Virginia Information Technologies Agency, The Library of Virginia, and the Office of the Executive Secretary of the Supreme Court.

H. Nothing in this section shall be construed to diminish the duty of local governing bodies to furnish supplies and equipment to the clerks of the circuit courts pursuant to § 15.2-1656. Revenue raised as a result of this section shall in no way supplant current funding to circuit court clerks' offices by local governing bodies.

I. It is the intent of the General Assembly that all circuit court clerks provide secure remote access to land records on or before July 1, 2006.

§ 17.1-513. Jurisdiction of circuit courts.

The circuit courts shall have jurisdiction of proceedings by quo warranto or information in the nature of quo warranto and to issue writs of mandamus, prohibition and certiorari to all inferior tribunals created or existing under the laws of this Commonwealth, and to issue writs of mandamus in all matters of proceedings arising from or pertaining to the action of the boards of supervisors or other governing bodies of the several counties for which such courts are respectively held or in other cases in which it may be necessary to prevent the failure of justice and in which mandamus may issue according to the principles of common law. They shall have appellate jurisdiction in all cases, civil and criminal, in which an appeal may, as provided by law, be taken from the judgment or proceedings of any inferior tribunal.

They shall have original and general jurisdiction of all ~~eases in chancery and~~ civil cases ~~at law~~, except cases ~~at law upon claims~~ to recover personal property or money not of greater value than \$100, exclusive of interest, and except such cases as are assigned to some other tribunal; also in all cases for the recovery of fees in excess of \$100; penalties or cases involving the right to levy and collect toll or taxes or the validity of an ordinance or bylaw of any corporation; and also, of all cases, civil or criminal, in which an appeal may be had to the Supreme Court. They shall also have original jurisdiction of all indictments for felonies and of presentments, informations and indictments for misdemeanors.

They shall have appellate jurisdiction of all cases, civil and criminal, in which an appeal, writ of error or supersedeas may, as provided by law, be taken to or allowed by such courts, or the judges thereof, from or to the judgment or proceedings of any inferior tribunal. They shall also have jurisdiction of all other matters, civil and criminal, made cognizable therein by law and when a motion to recover money is allowed in such tribunals, they may hear and determine the same, although it is to recover less than \$100.

§ 17.1-520. What tried at a special term.

At any such special term:

1. Any civil case may be tried which could lawfully have been but was not tried at the last preceding term that was or should have been held;

2. Any motion ~~for a judgment or other motion~~ cognizable by such court may be heard and determined, whether it was pending at the preceding term or not;

3. Any criminal case may be tried at such special term as if it were a regular term, although at the preceding regular term the same may not have been pending in the court or may have been continued; and

4. Any cause or matter of controversy, ~~at law or in chancery~~, then ready for hearing or which may be made ready by consent of parties, may, with the consent of the parties to such cause or controversy, be heard and determined, although it could not lawfully have been heard at the preceding term that was or should have been held.

§ 18.2-500. Same; civil relief; damages and counsel fees; injunctions.

A. Any person who shall be injured in his reputation, trade, business or profession by reason of a violation of § 18.2-499, may sue therefor and recover three-fold the damages by him sustained, and the costs of suit, including a reasonable fee to plaintiff's counsel, and without limiting the generality of the term, "damages" shall include loss of profits.

B. Whenever a person shall duly file a ~~bill in chancery~~ *civil action* in the circuit court of any county or city against any person alleging violations of the provisions of § 18.2-499 and praying that such party defendant be restrained and enjoined from continuing the acts complained of, such court shall have jurisdiction to hear and determine the issues involved, to issue injunctions pendente lite and permanent injunctions and to decree damages and costs of suit, including reasonable counsel fees to complainants' and defendants' counsel.

§ 18.2-507. Injunctions against violation of § 18.2-505.

Whenever a college, university or other institution of higher learning in this Commonwealth shall duly file a ~~bill in chancery~~ *civil action* in the circuit court of any county or city against any person alleging violations of the provisions of § 18.2-505, and praying that such party defendant be restrained and enjoined from continuing the acts complained of, such court shall have jurisdiction to hear and determine the issues involved, to issue injunctions pendente lite and permanent injunctions and to decree damages and costs of suit, including reasonable counsel fees to complainants' counsel.

§ 19.2-385. Writ of error and supersedeas.

For the purpose of review on a writ of error or supersedeas, a final judgment or order in the cause shall be deemed a final judgment or order ~~in a civil case (not in chancery)~~ within the meaning of *subsection A of § 8.01-670*.

§ 19.2-386.13. Writ of error and supersedeas.

For the purpose of review on a writ of error or supersedeas, a final judgment or order in the cause shall be deemed a final judgment or order ~~in a civil case (not in chancery)~~ within the meaning of *subsection A of § 8.01-670*.

§ 20-96. Jurisdiction of suits for annulment, affirmance or divorce.

The circuit court, ~~on the chancery side~~, shall have jurisdiction of suits for annulling or affirming marriage and for divorces, *and claims for separate maintenance, and such suits shall be heard by the judge as equitable claims*.

§ 26-21. Certification and recording of accounts settled in a judicial proceeding.

When the account of any fiduciary is settled in a ~~chancery cause~~ *judicial proceeding*, it shall be the duty of the clerk of the court in which such cause is, as soon as may be after a final *order or decree* therein, to certify to the clerk of the court wherein the fiduciary qualified, a copy of such account so far as the same has been confirmed, with a memorandum at the foot thereof stating the style of the suit and the date of such final *order or decree*. The account and memorandum so certified shall be recorded by the clerk to whom it is certified, in the book in which accounts of fiduciaries are required to be recorded under § 26-35, and if in a proceeding subsequent to such final *order or decree*, by appeal or otherwise, the account shall be reformed or altered, a copy of such reformed or altered account shall in like manner be certified and recorded, together with a memorandum stating the style of the suit and the date of the *order or decree* of confirmation. When the clerk of the court in which the cause may be is also clerk of the court in which or before whom the fiduciary qualified, he shall make the memoranda and recordings required by this section, and shall for such purpose use the original papers. For making any copy under this section, the clerk shall be entitled to the fees prescribed in like cases, and for recording such account of the fiduciary he shall be entitled to the fees allowed for recording accounts settled ex parte. The fees for copying and recording shall be paid as the court, in which the cause may be, or the judge thereof, shall direct.

§ 26-29. Who may insist or object before commissioner.

Any person who is interested, or appears as next friend for another interested in any such account, may, before the commissioner, insist upon or object to anything which could be insisted upon or objected to by him, or for such other, if the commissioner were acting under an order of a *circuit court of chancery* for the settlement thereof, made in a suit to which he or such other was a party.

§ 31-8.1. Parental duty of support.

A. Notwithstanding the provisions of § 31-8, a guardian of a minor's estate shall not make any distribution of income or corpus to or for the benefit of a ward who has a living parent, whether or not

the guardian is such parent, except to the extent that the distribution is authorized by (i) the deed, will or other instrument under which the estate is derived, or (ii) the court, upon a finding that (a) the parent is unable to completely fulfill the parental duty of supporting the child, (b) the parent cannot for some reason be required to provide such support, or (c) a proposed distribution is beyond the scope of parental duty of support in the circumstances of a specific case. The existence of a parent-child relationship shall be determined in accordance with the provisions of § 64.1-5.1. The court's authorization may be contained in the order appointing the guardian or it may be obtained at any time prior to the disbursement in question; however, in extenuating circumstances where the interests of equity so require, the court's authorization may be obtained after the disbursement in question.

B. A guardian who desires to make any distribution specified in subsection A when neither (i) an existing court order nor (ii) the deed, will or other instrument under which the estate is derived authorizes it, shall file a petition in the court wherein his accounts may be settled, naming the ward as a defendant and setting forth the reasons why such distribution is appropriate. The court or clerk shall appoint an attorney-at-law as guardian ad litem to represent the ward. Proceedings on the petition shall otherwise conform in all respects to a ~~bill in chancery~~, *except that the procedures governing a civil action*; the evidence may be taken orally and the petition may be filed in court upon five days' notice to the ward, unless it is shown that he is under the age of ~~fourteen~~ 14. No ~~attorney's~~ *attorneys'* fees shall be taxed in the costs, nor shall there be any writ tax upon the petition. The court may fix reasonable attorney's' fees for services in connection with the filing of the petition, and the court shall fix the guardian ad litem's fee. Such fees shall be paid out of the estate unless the court directs that they be paid by the petitioner. The clerk shall receive a fee as provided in subdivision A 18 of § 17.1-275 for all services rendered thereon, to be paid by the guardian, out of the estate. Any notice required to be served under this section may be served by any person other than the guardian. Notwithstanding the preceding provisions of this subsection, if the court determines that an emergency exists, an order authorizing a distribution may be entered without the appointment of a guardian ad litem, with the court making such further provisions in its order for the protection of the ward's estate as it may deem proper in each case.

§ 40.1-49.4. Enforcement of this title and standards, rules or regulations for safety and health; orders of Commissioner; proceedings in circuit court; injunctions; penalties.

A. 1. If the Commissioner has reasonable cause to believe that an employer has violated any safety or health provision of Title 40.1 or any standard, rule or regulation adopted pursuant thereto, he shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation or violations, including a reference to the provision of this title or the appropriate standards, rules or regulations adopted pursuant thereto, and shall include an order of abatement fixing a reasonable time for abatement of each violation.

2. The Commissioner may prescribe procedures for calling to the employer's attention de minimis violations which have no direct or immediate relationship to safety and health.

3. No citation may be issued under this section after the expiration of six months following the occurrence of any alleged violation.

4. (a) The Commissioner shall have the authority to propose civil penalties for cited violations in accordance with subsections G, H, I, and J of this section. In determining the amount of any proposed penalty he shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations. In addition, the Commissioner shall have authority to assess interest on all past-due penalties and administrative costs incurred in the collection of penalties for such violations consistent with § 2.2-4805.

(b) After, or concurrent with, the issuance of a citation and order of abatement, and within a reasonable time after the termination of an inspection or investigation, the Commissioner shall notify the employer by certified mail or by personal service of the proposed penalty or that no penalty is being proposed. The proposed penalty shall be deemed to be the final order of the Commissioner and not subject to review by any court or agency unless, within ~~fifteen~~ 15 working days from the date of receipt of such notice, the employer notifies the Commissioner in writing that he intends to contest the citation, order of abatement or the proposed penalty or the employee or representative of employees has filed a notice in accordance with subsection B of this section and any such notice of proposed penalty, citation or order of abatement shall so state.

B. Any employee or representative of employees of an employer to whom a citation and order of abatement has been issued may, within ~~fifteen~~ 15 working days from the time of the receipt of the citation and order of abatement by the employer, notify the Commissioner, in writing, that they wish to contest the abatement time before the circuit court.

C. If the Commissioner has reasonable cause to believe that an employer has failed to abate a violation for which a citation has been issued within the time period permitted for its abatement, which time shall not begin to run until the entry of a final order in the case of any contest as provided in subsection E of this section initiated by the employer in good faith and not solely for delay or avoidance of penalties, a citation for failure to abate will be issued to the employer in the same manner as

prescribed by subsection A of this section. In addition, the Commissioner shall notify the employer by certified mail or by personal service of such failure and of the penalty proposed to be assessed by reason of such failure. If, within ~~fifteen~~ 15 working days from the date of receipt of the notice of the proposed penalty, the employer fails to notify the Commissioner that he intends to contest the citation or proposed assessment of penalty, the citation and assessment as proposed shall be deemed a final order of the Commissioner and not subject to review by any court or agency.

D. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund of the Treasurer of the Commonwealth. The Commissioner shall prescribe procedures for the payment of proposed assessments of penalties which are not contested by employers. Such procedures shall include provisions for an employer to consent to abatement of the alleged violation and pay a proposed penalty or a negotiated sum in lieu of such penalty without admission of any civil liability arising from such alleged violation.

Final orders of the Commissioner or the circuit courts may be recorded, enforced and satisfied as orders or decrees of a circuit court upon certification of such orders by the Commissioner or the court as appropriate.

E. Upon receipt of a notice of contest of a citation, proposed penalty, order of abatement or abatement time pursuant to subdivision A 4 (b), subsection B or C of this section, the Commissioner shall immediately notify the attorney for the Commonwealth for the jurisdiction wherein the violation is alleged to have occurred and shall file a *civil action* with the circuit court a ~~bill of complaint~~. Upon issuance and service of a ~~subpoena in chancery process~~, the circuit court shall promptly set the matter for hearing without a jury. The circuit court shall thereafter issue a written order, based on findings of fact and conclusions of law, affirming, modifying or vacating the Commissioner's citation or proposed penalty, or directing other appropriate relief, and such order shall become final ~~twenty-one~~ 21 days after its issuance. The circuit court shall provide affected employees or their representatives and employers an opportunity to participate as parties to hearings under this subsection.

F. 1. In addition to the remedies set forth above, the Commissioner may file a ~~bill of complaint~~ *civil action* with the clerk of the circuit court having equity jurisdiction over the employer or the place of employment involved asking the court to temporarily or permanently enjoin any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this title. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct or remove such imminent danger and prohibit the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct or remove such imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner. No order issued without prior notice to the employer shall be effective for more than five working days. Whenever and as soon as the Commissioner concludes that conditions or practices described in this subsection exist in any place of employment and that judicial relief shall be sought, he shall immediately inform the affected employer and employees of such proposed course of action.

2. Any court described in this section shall also have jurisdiction, upon petition of the Commissioner or his authorized representative, to enjoin any violations of this title or the standards, rules or regulations promulgated thereunder.

3. If the Commissioner arbitrarily or capriciously fails to seek relief under subdivision 1 of this subsection, any employee who may be injured by reason of such failure, or the representative of such employee, may bring an action against the Commissioner in a circuit court of competent jurisdiction for a writ of mandamus to compel the Commissioner to seek such an order and for such further relief as may be appropriate.

G. Any employer who has received a citation for a violation of any safety or health provision of this title or any standard, rule or regulation promulgated pursuant thereto and such violation is specifically determined not to be of a serious nature may be assessed a civil penalty of up to \$7,000 for each such violation.

H. Any employer who has received a citation for a violation of any safety or health provision of this title or any standard, rule or regulation promulgated pursuant thereto and such violation is determined to be a serious violation shall be assessed a civil penalty of up to \$7,000 for each such violation.

I. Any employer who fails to abate a violation for which a citation has been issued within the period permitted for its abatement (which period shall not begin to run until the entry of the final order of the circuit court) may be assessed a civil penalty of not more than \$7,000 for each day during which such violation continues.

J. Any employer who willfully or repeatedly violates any safety or health provision of this title or any standard, rule or regulation promulgated pursuant thereto may be assessed a civil penalty of not more than \$70,000 for each such violation.

K. Any employer who willfully violates any safety or health provisions of this title or standards,

rules or regulations adopted pursuant thereto, and that violation causes death to any employee, shall, upon conviction, be punished by a fine of not more than \$70,000 or by imprisonment for not more than six months, or by both such fine and imprisonment. If the conviction is for a violation committed after a first conviction of such person, punishment shall be a fine of not more than \$140,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

L. In any proceeding before a judge of a circuit court parties may obtain discovery by the methods provided for in the Rules of the Supreme Court of Virginia.

M. No fees or costs shall be charged the Commonwealth by a court or any officer for or in connection with the filing of the complaint, pleadings, or other papers in any action authorized by this section or § 40.1-49.5.

N. Every official act of the circuit court shall be entered of record and all hearings and records shall be open to the public, except any information subject to protection under the provisions of § 40.1-51.4:1.

O. The provisions of Chapter 30 (§ 59.1-406 et seq.) of Title 59.1 shall be considered safety and health standards of the Commonwealth and enforced as to employers pursuant to this section by the Commissioner of Labor and Industry.

§ 43-62. Lien for farm products consigned to commission merchant.

Whenever any farm products shall have been consigned to any commission merchant for sale, and he shall have made sale thereof and become insolvent or die before paying over the proceeds of the sale thereof to, or on account of, the consignor or owner of the farm products, the claim of such consignor or owner, when legally proved, shall be a lien on the estate of the commission merchant subject only to such liens as were created on the estate and recorded prior to his insolvency or death.

The benefit of this section shall not accrue to any consignor or owner who, without requesting payment, shall allow such proceeds to remain with such commission merchant at interest, nor to any consignor or owner who, without requesting payment, shall allow such proceeds to remain in the hands of such commission merchant more than ~~thirty~~ 30 days after becoming informed of such sale.

Jurisdiction is hereby given to ~~courts exercising circuit court powers in chancery courts~~ to enforce the provisions of this section.

§ 51.5-46. Remedies.

A. Any circuit court having ~~chancery~~ jurisdiction and venue pursuant to Title 8.01, on the petition of any person with a disability, shall have the right to enjoin the abridgement of rights set forth in this chapter and to order such affirmative equitable relief as is appropriate and to award compensatory damages and to award to a prevailing party reasonable attorneys' fees, except that a defendant shall not be entitled to an award of attorneys' fees unless the court finds that the claim was frivolous, unreasonable or groundless, or brought in bad faith. Compensatory damages shall not include damages for pain and suffering. Punitive or exemplary damages shall not be awarded.

B. An action may be commenced pursuant to this section any time within one year of the occurrence of any violation of rights under this chapter. However, such action shall be forever barred unless such claimant or his agent, attorney or representative has commenced such action or has filed by registered mail a written statement of the nature of the claim with the potential defendant or defendants within 180 days of the occurrence of the alleged violation. Any liability for back pay shall not accrue from a date more than 180 days prior to the filing of the notice or ~~bill of complaint~~ *the initial pleading in such civil action* and shall be limited to a total of 180 days, reduced by the amount of other earnings over the same period. The petitioner shall have a duty to mitigate damages.

C. The relief available for violations of this chapter shall be limited to the relief set forth in this section.

D. In any action in which the petitioner is represented by the Virginia Office for Protection and Advocacy, no attorneys' fees shall be awarded, nor shall the Virginia Office for Protection and Advocacy have the authority to institute any class action under this chapter.

§ 53.1-70. Jurisdiction of court to enforce orders of Board; proceedings.

Any circuit court in any county or city which maintains and operates any local correctional facility or lock-up, or in any county in which is situated any town which maintains and operates any local correctional facility or lock-up, affected by any such order of the Board, shall have jurisdiction to enforce such order by an injunction or other appropriate remedy at the suit of the Board. In the City of Richmond such jurisdiction shall be vested in the Circuit Court, Division I. Such proceeding shall be commenced by a petition of the Board in the name of the Commonwealth and shall, insofar as possible, conform to rules of procedure applicable to ~~chancery practice~~ *a civil action*. The governing body of each county, city or town which maintains and operates any local correctional facility or lock-up affected by the order of the Board, and the officer in charge of each such facility, shall be made parties defendant. In every such proceeding the court shall hear all relevant evidence, including evidence with regard to the condition of the local correctional facility or lock-up and any other evidence bearing upon the propriety of the Board's action. The court may refuse to grant the injunction if it appears that the action of the Board was not warranted.

§ 55-19. Estates in trust subject to debts of beneficiaries; exception for certain trusts.

A. Except as otherwise provided in this section, all trust estates shall be subject to the debts and

charges of the persons who are beneficiaries of such trusts as if those persons owned a similar interest in the trust estate.

B. Any trust estate may be held in trust upon condition that the trust corpus and income, or either of them, shall in the case of a simple trust or, in the case of a complex trust, may in the discretion of the fiduciary be paid to or applied by the fiduciary for the benefit of the beneficiaries without being subject to their liabilities or to alienation by them. However, no such trust shall operate to the prejudice of any existing creditor of the creator of such trust. The exception for spendthrift trusts shall not apply to an interest in a trust, contract, or other fund maintained in conjunction with an employee benefit plan, as defined in § 1002 (3) of Title 29 of the United States Code, or a similar plan or arrangement regardless of whether the beneficiary may claim the exemption provided under § 34-34. In addition, as to any claim first accruing on or after the effective date of the 1990 amendments to this section, and subject to the limitation of subsection D, no such trust condition shall operate to the prejudice of the United States or this Commonwealth or any county, city or town. As to any claim for child support, no such condition shall operate to the prejudice of a judgment against a beneficiary for the support of the beneficiary's child.

C. If the creator of a trust is also a beneficiary of the trust and the creator's interest is held upon condition that it is not subject to the creator's liabilities or to alienation by the creator, such condition is invalid against creditors and transferees of the creator, but shall not otherwise affect the validity of the trust. A transferee or creditor of the creator may, in addition to amounts required to be paid to or for the benefit of the creator, also reach the maximum amount that the trustee, in the exercise of discretion, could pay to or for the benefit of the creator under the trust instrument, which shall not exceed the amount of the creator's proportionate contribution to the trust. When a trust is funded by amounts attributable to any claim possessed by a beneficiary, whether paid pursuant to a structured settlement or otherwise, the beneficiary shall be considered a creator of the trust to the extent so funded.

D. Notwithstanding any contrary condition in the trust instrument, if a statute or regulation of the United States or the Commonwealth makes a beneficiary liable for reimbursement to the Commonwealth or any agency or instrumentality thereof, for public assistance, including medical assistance, furnished or to be furnished to the beneficiary, the Attorney General or the head of the state agency having responsibility for the program may file a petition ~~in chancery~~ in an appropriate circuit court having jurisdiction over the trustee seeking reimbursement without first obtaining a judgment. The beneficiary, or his guardian, conservator or committee, if any, shall be made a party. Following its review of the circumstances of the case, the court may:

1. Order the trustee to satisfy all or part of the liability out of all or part of the amounts to which the beneficiary is entitled, whether presently or in the future, to the extent the beneficiary has the right under the trust to compel the trustee to pay income or principal or both to or for the benefit of the beneficiary. A duty in the trustee under the instrument to make disbursements in a manner or in amounts that do not cause the beneficiary to suffer a loss of eligibility for public assistance to which the beneficiary might otherwise be entitled shall not be considered a right possessed by the beneficiary to compel such payments.

2. Whether or not the beneficiary has the right to compel the trustee to pay income or principal or both to or for the benefit of the beneficiary, order the trustee to satisfy all or part of the liability out of all or part of the future payments, if any, that the trustee chooses to make to or for the benefit of the beneficiary in the exercise of discretion granted under the trust.

No order shall be made pursuant to this subsection D if the beneficiary is an individual who has a medically determined physical or mental disability that substantially impairs his ability to provide for his care or custody and constitutes a substantial handicap.

§ 55-277. Commutation of certain life estates.

Whenever a party as tenant for life or in any other manner, has a life interest in an estate which has been sold under a suit for partition or has been reduced to money, stocks, bonds or notes, susceptible of division and when the total cost of holding such money, stocks, bonds or notes intact amounts to more than eight percent of the gross annual income, and when the party owning such life estate is willing to accept a lump sum in lieu of such annual income, upon the application of such person entitled to such annual income to any court of record having ~~general chancery jurisdiction~~ and having jurisdiction over the subject matter, the court may, in the discretion of the court, decree that such party or parties having charge of such money, stocks, bonds or notes shall pay to the party having the right to receive such annual income a lump sum in accordance with § 55-269.1. This section shall not affect any spendthrift trust, heretofore or hereafter created.

§ 56-521. Restoring possession to utility.

Whenever the authorized representatives of any such utility shall notify the Governor, in writing, stating that the utility is in position to and can and will resume operations and render normal public service, and shall satisfy the Governor, or his designated agent of the correctness of such statement, the Governor, or such agent, upon the request of the utility management, shall restore to the possession of the utility its properties and facilities. In the event that the Governor or such agent for any reason refuses such restoration of possession, the utility shall have the right to have a rule issued by ~~any court~~

~~of general chancery jurisdiction~~ *the circuit court* in the City of Richmond, or the judge thereof in vacation, to show cause why such possession should not be restored. The rule shall provide for ~~ten~~ 10 days' notice to the Governor or such agent before cause is required to be shown. The decision of such court, or the judge thereof in vacation, on such question shall be final as to conditions then existing, but shall not be a bar to subsequent requests by the utility for restoration of possession. Nothing in this section shall be construed as denying to the Governor the right to restore possession at any time when, in his judgment, the public interest so requires.

§ 56-522. Compensation to utility.

The utility shall be entitled to receive reasonable, proper and lawful compensation for the use of its business, facilities and properties by the Commonwealth. In the event the parties in interest are unable to agree upon the amount of such compensation either party may file a petition in the court rendering judgment requiring delivery of possession of the utility, or in the event no such judgment was rendered, in any court mentioned in § 56-516, for the purpose of having the same judicially determined. The court shall, without a jury, hear such evidence and argument of counsel as may be deemed appropriate and render judgment thereon or may refer to a commissioner such questions as are considered proper and act upon the commissioner's report as ~~in ordinary chancery permitted in the statutes and rules governing commissioners'~~ proceedings. An appeal shall be to the Supreme Court from any final judgment of the court rendered under this section. If the amount of compensation so determined shall be less than the sum paid to the utility under the provisions of § 56-520 the utility shall return the excess by paying the same to the State Treasurer to be credited as the Governor may direct in accordance with the provisions of § 56-518.

§ 57-9. How property rights determined on division of church or society.

If a division has heretofore occurred or shall hereafter occur in a church or religious society, to which any such congregation is attached, the communicants, pewholders, and pewowners of such congregation, over ~~eighteen~~ 18 years of age, may, by a vote of a majority of the whole number, determine to which branch of the church or society such congregation shall thereafter belong. Such determination shall be reported to the circuit court of the county; or ~~circuit or corporation court of the~~ city, wherein the property held in trust for such congregation or the greater part thereof is; and if the determination be approved by the court, it shall be so entered in ~~its chancery~~ *the court's civil* order book, and shall be conclusive as to the title to and control of any property held in trust for such congregation, and be respected and enforced accordingly in all of the courts of ~~this the~~ Commonwealth. If a division has heretofore occurred or shall hereafter occur in a congregation, which in its organization and government is a church or society entirely independent of any other church or general society, a majority of the members of such congregation, entitled to vote by its constitution as existing at the time of the division, or where it has no written constitution, entitled to vote by its ordinary practice of custom, may decide the right, title and control of all property held in trust for such congregation. Their decision shall be reported to such court, and if approved by it, shall be so entered as aforesaid, and shall be final as to such right of property so held.

§ 57-16. Property held, etc., by ecclesiastical officers.

(1) How property acquired, held, transferred, etc. - Whenever the laws, rules or ecclesiastic polity of any church or religious sect, society or denomination commits to its duly elected or appointed bishop, minister or other ecclesiastical officer, authority to administer its affairs, such duly elected or appointed bishop, minister or other ecclesiastical officer shall have power to acquire by deed, devise, gift, purchase or otherwise, any real or personal property, for any purpose authorized and permitted by its laws, rules or ecclesiastic polity, and not prohibited by the laws of Virginia, and the power to hold, improve, mortgage, sell and convey the same in accordance with such laws, rules and ecclesiastic polity, and in accordance with the laws of Virginia.

(2) Transfer, removal, resignation or death of ecclesiastical officer. - In the event of the transfer, removal, resignation or death of any such bishop, minister, or other ecclesiastical officer, the title and all rights with respect to any such property shall pass to and become vested in his duly elected or appointed successor immediately upon election or appointment, and pending election or appointment of such successor, such title and rights shall be vested in such person or persons as shall be designated by the laws, rules, or ecclesiastical polity of such church or religious sect, society or denomination.

(3) Validation of deeds, etc. - All deeds, deeds of trust, mortgages, wills or other instruments made prior to March 18, 1942, to or by a duly elected or appointed bishop, minister or other ecclesiastical officer, who at the time of the making of any such deed, deed of trust, mortgage, will or other instrument, or thereafter, had authority to administer the affairs of any church or religious sect, society or denomination under its laws, rules or ecclesiastic polity, transferring property, real or personal, of any such church or religious sect, society or denomination, are hereby ratified and declared valid. All transfers of title and rights with respect to property, prior to such date from a predecessor bishop, minister or other ecclesiastical officer who has resigned or died, or has been transferred or removed, to his duly elected or appointed successor, by the laws, rules or ecclesiastic polity of any such church or religious sect, society or denomination, either by written instruments or solely by virtue of the election or appointment of such successor, are also hereby ratified and declared valid.

(4) Insufficient designation of beneficiaries or objects of trust. - No gift, grant, bequest or devise made on or after March 18, 1942, to any such church or religious sect, society or denomination or the duly elected or appointed bishop, minister or other ecclesiastical officer authorized to administer its affairs, shall fail or be declared void for insufficient designation of the beneficiaries in, or the objects of, any trust annexed to such gift, grant, bequest or devise; but such gift, grant, bequest or devise shall be valid; provided, that whenever the objects of any such trust shall be undefined, or so uncertain as not to admit of specific enforcement by the ~~chancery~~ courts of the Commonwealth, such gift, grant, bequest or devise shall be held, managed, and the principal or income appropriated, for the religious and benevolent uses of such church or religious sect, society or denomination by its duly elected or appointed bishop, minister or other ecclesiastical officer authorized to administer its affairs.

(5) Limitation on amount of land to be held. - This section shall not be construed, however, so as to authorize any parish or congregation of such church to hold more land, money, securities or other personal estate than authorized under the provisions of § 57-12, as amended from time to time.

(6) Rights and remedies cumulative. - The rights created and the remedies provided in this section shall be construed as cumulative and not exclusive.

(7) No implied repeal of other provisions. - This section shall not be so construed as to effect an implied repeal of any other provisions of this chapter.

§ 58.1-1727. Taxes on suits or writ taxes generally.

A tax of ~~five dollars~~ \$5 is hereby imposed upon (i) the commencement of every *civil* action, ~~in law or chancery~~, in a court of record, whether commenced by petition or notice, ejectment or attachment, other than a summons to answer a suggestion; (ii) the removal or appeal of a cause of action from a district court to a court of record; (iii) the appeal from the decision of the governing body of a county, city or town to a court of record, including the appeal of any decision of a board of zoning appeals; (iv) an attachment returnable to a court of record; and (v) a writ of mandamus sued out of any court, except the Supreme Court of Virginia. However, when the debt or demand for damages exceeds \$50,000 but does not exceed \$100,000, the tax shall be \$15; and when the debt or demand for damages exceeds \$100,000, the tax shall be \$25.

This section shall not be applicable to any original jurisdiction proceeding filed in the Supreme Court of Virginia.

§ 64.1-106. Distribution of fund when presumption of death not applicable.

If in any ~~chancery~~ *civil action* wherein any estate or fund is to be distributed the interest of any person therein depends upon his having been alive at a particular time and it is not known and cannot be shown by the exercise of reasonable diligence whether such person was alive at that time and the case is one in which the legal presumption of death does not apply, the court may, if it sees no cause to the contrary, enter its decree distributing the estate or fund among those who would be entitled thereto if it were shown that such person above referred to were dead at such particular time. However, a proper refunding bond shall be given, with condition to account for the estate or fund to any person who may establish title thereto adverse to that of the distributees, or to the heirs, personal representatives or assigns of such person.

No motion shall be made hereunder except after reasonable notice to all parties upon whom service may be had. Nothing in this section shall be construed to affect in any way any requirement of law as to service or publication of process.

§ 64.1-179. Order to creditors to show cause against distribution of estate to legatees or distributees; their liability to refund.

When a report of the accounts of any personal representative and of the debts and demands against his decedent's estate has been filed in the office of a clerk of a court, whether under §§ 64.1-171 and 64.1-172 or in a ~~suit in chancery~~ *civil action*, the court, after six months from the qualification of the personal representative, may, on motion of the personal representative, or a successor or substitute personal representative, or on motion of a legatee or distributee of his decedent, make an order for the creditors and all other persons interested in the estate of the decedent to show cause on some day to be named in the order against the payment and delivery of the estate of the decedent to his legatees or distributees. A copy of the order shall be published once a week for two successive weeks, in one or more newspapers, as the court directs. On or after the day named in the order, the court may order the payment and delivery to the legatees or distributees of the whole or a part of the money and other estate not before distributed, with or without a refunding bond, as it prescribes. However, every legatee or distributee to whom any such payment or delivery is made, and his representatives, may, in a suit brought against him within five years afterward, be adjudged to refund a due proportion of any claims enforceable against the decedent or his estate which have been finally allowed by the commissioner of accounts or the court, or which were not presented to the commissioner of accounts, and the costs attending their recovery. In the event any claim shall become known to the fiduciary after the notice for debts and demands but prior to the entry of an order of distribution, the claimant, if the claim is disputed, shall be given notice in the form provided in § 64.1-171 and the order of distribution shall not be entered until after expiration of ~~ten~~ 10 days from the giving of such notice. If the claimant shall, within such ~~ten-day~~ 10-day period, indicate his desire to pursue the claim, the commissioner shall

schedule a date for hearing the claim and for reporting thereon if action thereon is contemplated under § 64.1-171.

Any such personal representative who has in good faith complied with the provisions of this section and has, in compliance with or, as subsequently approved by, the order of the court, paid and delivered the money or other estate in his hands to whomsoever the court has adjudged entitled thereto shall be fully protected against the demands of creditors and all other persons.

Any such personal representative who has in good faith complied with the provisions of this section and has, in compliance with, or as subsequently approved by, the order of the court, paid and delivered the money or other estate in his hands to whomsoever the court has adjudged entitled thereto, even if such distribution shall be prior to the expiration of the period of one year provided in §§ 64.1-13, 64.1-89, 64.1-96 or § 64.1-151.5, shall be fully protected against the demands of spouses, persons seeking to impeach the will or establish another will, or purchasers of real estate from the personal representative, provided that the personal representative shall have contacted any surviving spouse known to it having rights of renunciation and ascertained that he had no plan to renounce the will, such intent to be stated in writing in the case of renunciation under § 64.1-13, and that the personal representative shall not have been notified in writing of any person's intent to impeach the will or establish a later will in the case of persons claiming under § 64.1-89 or § 64.1-96 or under a later will.

In the case of such distribution prior to the expiration of such one-year period, the personal representative shall take refunding bonds, without surety, to the next of kin or legatees to whom distribution is made, to protect against the contingencies specified in this and the preceding paragraphs. The cost of such publication shall be paid by the petitioner or applicant.

2. That §§ 8.01-270 and 8.01-284 of the Code of Virginia are repealed.

3. That the provisions of this act shall become effective on January 1, 2006.