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**HOUSE BILL NO. 2547**

Offered January 12, 2005

Prefiled January 12, 2005

A *BILL to amend and reenact §§ 26-1.2, 26-8.1, and 26-9 of the Code of Virginia, relating to fiduciaries; obligation to report nonresident status; penalty.*

Patron—Van Landingham

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:****1. That §§ 26-1.2, 26-8.1, and 26-9 of the Code of Virginia are amended and reenacted as follows:**

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

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

*Every qualified fiduciary who moves from Virginia and becomes resident in another state shall inform the clerk of his new address within 30 days of the date of the change in residency. Any person who fails to so inform the clerk shall be subject to a civil penalty of \$150. For purposes of this section, a person becomes resident in another state when he can no longer satisfy the residency requirements specified in § 38.2-1800.1.*

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

Commissioners of accounts, assistant commissioners of accounts and deputy commissioners of accounts shall have the power to issue subpoenas to require any person to appear before them and to issue subpoenas duces tecum to require the production of any documents or papers before them. Such commissioners shall not have the power to punish any person for contempt for failure to appear or to produce documents or papers, but may certify the fact of such nonappearance or failure to produce to the circuit court, which may impose penalties for civil contempt as if the court had issued the subpoena. *Such commissioners may certify the fact of a fiduciary's failure to inform the clerk of his nonresident status and new address pursuant to § 26-1.2 to the circuit court, which may impose a \$150 civil penalty.*

§ 26-9. Report on fiduciaries' bonds; "record of fiduciaries."

The clerk of each such court shall furnish his commissioner or commissioners of accounts at the end of each month a list of the fiduciaries authorized to act as such under orders entered during that month and examine as to each fiduciary whether he has given such bond as the law requires, and if it appear that he has given no bond or that his bond is defective shall report such fact to his court forthwith.

The commissioner or commissioners of accounts shall enter in separate columns in a book or other proper record to be kept by him and called the "record of fiduciaries":

(1) The name of every such fiduciary;

(2) The name of the decedent whose estate he represents or the name of the living person for whom he is acting in fiduciary capacity;

(3) The penalty of his bond;

(4) The names of his sureties;

(5) The date of the order conferring his authority;

(6) The date of any order revoking his authority;

(7) The date of the return of every inventory of the estate; and

(8) The date of each settlement of the accounts of the fiduciary.

The commissioner or commissioners of accounts shall index the book or other proper record in the name of the decedent or person represented by the fiduciary.

The clerk of the court shall certify to the commissioner or commissioners within ~~ten~~ 10 days the revocation of the authority of every such fiduciary. *The clerk shall certify to the commissioner or commissioners a fiduciary's nonresident status and new address within 30 days of receipt of notification from the fiduciary pursuant to § 26-1.2.*

Any commissioner failing to make such entry or any clerk failing to certify such revocation or change in resident status and address for ~~ten~~ 10 days after the time ~~herein~~ prescribed by this section shall for every such failure forfeit ~~twenty dollars~~ \$20.

INTRODUCED

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